

# **CENTER JOINT UNIFIED SCHOOL DISTRICT**

[www.centerusd.k12.ca.us](http://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 2, 2010 - 6:00 p.m.**

### **STATUS**

**I. CALL TO ORDER & ROLL CALL - 5:30 p.m.**

**II. ANNOUNCEMENT OF ITEMS TO BE DISCUSSED IN CLOSED SESSION**

1. Public Employee Performance Evaluation (Certificated) Superintendent (G.C.§54957)
2. Conference with Labor Negotiator, George Tigner, Re: CSEA
3. Student Expulsions/Readmissions (G.C. §54962)

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

**IV. CLOSED SESSION - 5:30 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. Media Communications Academy Student Recognition - MCA Staff
2. Perfect Attendance - Scott Loehr

**X. REPORTS/PRESENTATIONS (8 minutes each)**

Info

- Curriculum
1. CHS Athletic Handbook - Mike Jordan

*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 5, 2010 Regular Meeting   |
| ↓                | 2.  | Approve Adoption of Minutes from May 19, 2010 Regular Meeting  |
| Personnel        | 3.  | Approve Certificated Personnel Transactions  |
| ↓                | 4.  | Approve Classified Personnel Transactions  |
| ↓                | 5.  | Approve CSEA 2010/2012 Bargaining Agreement Contract Language Revisions: Article IV-CSEA Rights, Article VII-Holidays, Article IX-Safety, Article XI-Transportation, Article XII-Alarm/Security Procedures, Article XIV-Leaves, Article XVII-Layoff Procedures, Article XIX-Wages, Article XXIV-Completion of Negotiations, Article XXVI-Contracting Out |
| Curriculum       | 6.  | Approve 2009/2010 Individual Service Agreements<br>2009/10-217 Odyssey   |
| ↓                | 7.  | Approve Athletic Trainer for 2010/11 at Center High School   |
| Facilities & Op. | 8.  | Approve Resolution of Intention: Resolution #30/2009-10  |
| ↓                | 9.  | Approve Resolution of Intention: Resolution #31/2009-10  |
| ↓                | 10. | Approve Deferred Maintenance Program   |
| Business         | 11. | Approve Proposed Change of Banking Services to UMPQUA Bank   |

**XIV. BUSINESS ITEMS**

- |            |           |  |        |
|------------|-----------|--|--------|
| Curriculum | <b>A.</b> | <b><u>CHS Athletic Fees</u></b><br>Beginning August 2010, Center High School would like to begin asking for donations to play sports. The money will go directly into the CHS Athletic Fund and be used for uniform rotations, officials, EMTs, equipment, transportation overages, etc. | Action |
| Governance | <b>B.</b> | <b><u>2010-2011 Board of Trustees Meeting Schedule</u></b><br>The Board is being given 2 possible schedule to review and vote on.  | Action |
| ↓          | <b>C.</b> | <b><u>First Reading: Board Policies/Regulations/Exhibits</u></b><br><b>(No Significant Changes)</b>  | Action |

**BP 1330.1 - Joint Use Agreements**  
(BP added)

New optional policy is for use by districts that have entered, or are considering entering, into joint use agreements with public or private entities for the shared use of either district or community facilities for recreational activities, library services, health centers or other purposes. Policy addresses the philosophy of joint use, process for developing joint use agreements, and the components to include in an agreement.

**First Reading: Board Policies/Regulations/Exhibits (continued)**  
**(No Significant Changes)**

**BP 4030 - Nondiscrimination in Employment**

(BP revised; AR deleted) Policy updated to reflect **NEW FEDERAL LAW** (P.L. 110-233) which prohibits employers from discriminating against employees and job applicants on the basis of "genetic information," as defined. Policy also contains new note reflecting new **EEOC GUIDANCE** re: religious discrimination in the workplace. Unnecessary regulation deleted. Material formerly in AR re: filing of complaints, trainings, and notification moved into BP. Material re: other remedies moved to AR 4031 - Complaints Concerning Discrimination in Employment.

**AR 4031 - Complaints Concerning Discrimination in Employment**

(AR revised) Regulation substantially updated and reorganized to reflect the elements of the complaint process recommended by **EEOC GUIDANCE**, including providing a clear explanation of the process, protecting against retaliation, designating multiple individuals authorized to receive complaints, providing a mechanism for a prompt and impartial investigation, and providing information about timelines for filing federal or state charges.

**AR 4154/4254/4354 - Health and Welfare Benefits**

(AR revised) Updated regulation (section on "Temporary Subsidized Premium for COBRA/Cal-COBRA") reflects **NEW FEDERAL LAW** (P.L. 111-144) which extends eligibility for the subsidized COBRA/Cal-COBRA premium to include employees (1) who were involuntarily terminated (other than by reason of gross misconduct) between September 1, 2008, and March 31, 2010, or (2) whose COBRA eligibility was caused by a reduction in hours and who subsequently experienced an involuntary termination between March 2, 2010, and March 31, 2010. Regulation also reflects **NEW FEDERAL LAW** (P.L. 111-118) which extends the period of the subsidy to 15 months.

**BP/AR 4157/4257/4357 - Employee Safety**

(BP/AR revised) Policy and regulation updated to reflect **NEW TITLE 8 REGULATIONS** which require all employers to make provisions in advance to ensure that employees receive prompt medical treatment for serious injury or illness. Policy also deletes material on eye protection devices which is covered in AR. Regulation also deletes requirement to keep records of steps taken to implement the district's injury and illness prevention program (not applicable to public agencies) and expands section on "Hearing Protection" to include major components of hearing conservation program.

**AR 4161.2/4261.2/4361.2 - Personal Leaves**

(AR revised) Updated **MANDATED** regulation reflects **NEW LAW** (AB 485) which requires districts with more than 15 employees to provide at least 10 days per year of leave to employees who volunteer with the Civil Air Patrol and are directed to respond to an emergency operational mission.

**AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave**

(AR revised) Regulation updated to reflect **NEW FEDERAL LAW** (P.L. 111-84) which expands eligibility for both military caregiver leave and military family leave due to qualifying exigencies. Regulation also revised to reflect **NEW FEDERAL LAW** (P.L. 110-233) prohibiting the collection of an employee or family member's genetic information, as defined, except as necessary to comply with a certification requirement for family care and medical leave.

**BP 5127 - Graduation Ceremonies and Activities**

(BP revised) Revised policy adds new section on student conduct at graduation ceremonies and reflects **NEW LAW** (AB 1463) which allows graduating students who are in active military service to wear their military dress uniforms to graduation ceremonies. Policy also deletes section on elementary/middle school promotion exercises.

**BP/AR 5131.7 - Weapons and Dangerous Instruments**

(BP/AR revised) Updated **MANDATED** policy reflects **NEW LAW** (AB 1390) which requires the principal or designee to notify law enforcement when a student possesses a firearm or explosive, or sells or furnishes a firearm, at school. Updated regulation reflects **NEW LAW** (AB 870) which expands the list of prohibited weapons and dangerous instruments to include razor blades and box cutters.

**First Reading: Board Policies/Regulations/Exhibits (continued)**  
**(No Significant Changes)**

**AR 5141.26 - Tuberculosis Testing**

(BP deleted; AR revised) Unnecessary policy deleted. Regulation expanded and reorganized to clarify legal requirements pertaining to the circumstances under which students must be screened or tested for tuberculosis and the circumstances under which students subject to the tests will be admitted to or excluded from school.

**AR 5141.4 - Child Abuse Prevention and Reporting**

(AR revised) Regulation updated to reflect **NEW COURT DECISION** which held that it was unconstitutional for a social worker and law enforcement official to interview a student on school grounds regarding allegations of child abuse without a warrant, court order, exigent circumstances, or parent/guardian consent. See section entitled "Victim Interviews by Social Services."

**AR 5144.1 - Suspension and Expulsion/Due Process**

(AR revised) **MANDATED** regulation (section on "Notification to Law Enforcement Authorities") revised to reflect **NEW LAW** (AB 1390) which requires the principal or designee to notify law enforcement authorities when a student possesses a firearm or explosive or sells or furnishes a firearm at school.

**AR 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities)**

(AR revised) Regulation (section on "Notification to Law Enforcement Authorities") revised to delete detailed notification requirements since these requirements are the same as for all students as reflected in AR 5144.1 - Suspension and Expulsion/Due Process

**E 5145.6 - Parental Notifications**

(E revised) Updated Exhibit adds notifications related to asbestos inspections, response actions or post-response actions (page (c)) and type 2 diabetes information (page (e)); adds legal cites to special education parental rights notice (page (k)); and revises notice of intent to audio-record IEP meeting to reflect terminology in law (page (k)).

**BP/AR 6142.7 - Physical Education and Activity**

(BP/AR revised) Policy and regulation retitled and revised to incorporate opportunities for physical activity outside of the regular physical education curriculum. Policy also adds Board approval of courses that qualify for P.E. credit and establishes expectation that 50 percent of P.E. class time will be spent in moderate to vigorous physical activity. Regulation also adds sections on "Definitions" and "Monitoring of Moderate to Vigorous Physical Activity," and adds optional language on providing physical fitness test results to parents/guardians.

**D. First Reading: Board Policies/Regulations/Exhibits**  
**(Significant Changes)**

Action

**BP/AR 1240 - Volunteer Assistance**

(BP/AR revised) Policy and regulation revised to reflect **NEW LAW** (AB 1025) which, beginning July 1, 2010, requires any volunteer who supervises, directs, or coaches a student activity program sponsored by or affiliated with the district to obtain an Activity Supervisor Clearance Certificate from the Commission on Teacher Credentialing (CTC). Policy also deletes material re: directing volunteers to leave campus if they violate school rules, which repeated material in BP/AR 3515.2 - Disruptions. Regulation also clarifies prohibitions against registered sex offenders serving as volunteers and reflects **NEW LAW** (AB 307) which expands the circumstances under which registered sex offenders must disclose their status.

**BP/AR 3320 - Claims and Actions Against the District**

(BP/AR revised) Policy and regulation revised to add language regarding the claims management functions performed by the district's Joint Powers Authority (JPA) or insurance carrier, including reviewing the claim for sufficiency and requiring the Superintendent to forward all claims to the JPA. Reorganized regulation also includes new language re: contents of the claim, formerly in E(1), and deletes language, no longer required by law, which specified that the district must provide a claim form.



**First Reading: Board Policies/Regulations/Exhibits (continued)**  
**(Significant Changes)**

**BP/AR 3515.2 - Disruptions**

(BP/AR revised) Policy updated to reflect NEW LAW (AB 1390) which requires the principal to inform law enforcement when anyone possesses a firearm or explosive or sells or furnishes a firearm on school grounds, and NEW LAW (AB 870) which prohibits razor blades and box cutters on school grounds or at school activities. Regulation reorganized and expanded to clarify the circumstances under which the principal or designee may direct persons to leave school grounds and to reflect NEW LAW (SB 492) which makes it a misdemeanor for anyone to loiter around a school and enhances penalties for specified loiterers.

**BP/AR 4127/4227/4327 - Temporary Athletic Team Coaches**

(BP/AR revised) Policy and regulation revised to reflect NEW LAW (AB 1025) which, beginning July 1, 2010, requires any noncertificated or volunteer athletic team coach to obtain an Activity Supervisor Clearance Certificate from the CTC. Policy also revised to reflect Title 5 regulations re: employment of athletic team coaches as temporary employees and to clarify law giving certificated employees a hiring advantage if they meet required qualifications. Regulation contains new section on "High School Coaching Education Program" which expands material formerly in BP.

**BP/E 5145.11 - Questioning and Apprehension by Law Enforcement**

(BP revised; AR deleted; E added) Retitled policy updated to reflect NEW COURT DECISION which held that it was unconstitutional for law enforcement officials to interview a student on school grounds regarding allegations of child abuse without a warrant, court order, exigent circumstances, or parent/guardian consent. Policy contains new language directing the principal or designee to request that law enforcement certify that appropriate legal authority for the interview exists and that the principal maintain a record of student interviews. New Exhibit provides a sample form for this purpose. Delete this unnecessary regulation; material formerly in regulation re: record of interviews moved to policy.

**BP 5145.3 - Nondiscrimination/Harassment**

(BP revised) Policy revised to include prohibited bases of discrimination and to specify that a student may need to be provided with accommodations to protect him/her from threatened or actual harassing or discriminatory behavior. Specific language re: filing a complaint deleted to instead require that complaints be filed in accordance with the site-level grievance procedures specified in AR 5145.7 - Sexual Harassment.

**XV. ADVANCE PLANNING**

Info

**a. Future Meeting Dates:**

*i. Wednesday, June 16, 2010 @ 6:00 p.m. - Center High School Theater*

**b. Suggested Agenda Items:**

**XVI. CONTINUATION OF CLOSED SESSION (Item IV)**

Action

**XVII. ADJOURNMENT**

Action

## *Center Unified School District*

**AGENDA REQUEST FOR:**

**Dept./Site:** Center High School

**Date:** May 20, 2010

**To:** CUSD Board of Trustees

**From:** Mike Jordan

**Principal's Initials** MJ

**Action Item** \_\_\_\_\_

**Information Item** X

**# Attached Pages** 0

**SUBJECT:** Media Communications Academy Student Recognition

The Staff of the Media Communications Academy (MCA) would like to recognize several students at the June 2<sup>nd</sup> board meeting who have received awards from the Tower of Youth Film Festival and the SEVA Awards.

**RECOMMENDATION:** Allow MCA staff to recognize MCA students.



# *Center Unified School District*

**AGENDA REQUEST FOR:**

**Dept./Site:** Center High School

**Date:** 5/24/2010

**To:** Board Members

**From:** Michael Jordan, Principal

**Action Item** \_\_\_\_\_

**Information Item** X

**# Attached Pages** 0

**Principal's Initials:** MJ

**SUBJECT:**

I would like to give a brief presentation of the new athletic handbook and answer any questions.

# *Center Joint Unified School District*

**AGENDA REQUEST FOR:**

**Dept./Site:** Superintendent's Office

**Action Item**   X  

**To:** Board of Trustees

**Information Item**           

**Date:** June 2, 2010

**#Attached Pages**   5  

**From:** Scott A. Loehr, Superintendent

**Principal's Initials:**           

**SUBJECT:** Adoption of Minutes

The minutes from the following meeting are being presented:

May 5, 2010 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 - Multipurpose Room  
3909 North Loop Blvd., Antelope, CA 95843

Wednesday, May 5, 2010

### MINUTES

**CALL TO ORDER** - President Williams called the meeting to order at 5:30 p.m.

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

Administrators Present: Scott Loehr, Superintendent  
George Tigner, Chief Administrative Officer  
Craig Deason, Assist. Supt., Operations & Facilities  
Jeanne Bess, Director of Fiscal Services

### ANNOUNCEMENT OF ITEMS TO BE DISCUSSED IN CLOSED SESSION

1. Public Employee Performance Evaluation (Certificated) Superintendent (G.C.§54957)
2. Conference with Labor Negotiator, George Tigner, Re: CSEA and CUTA
3. Student Expulsions/Readmissions (G.C. §54962)

**PUBLIC COMMENTS REGARDING ITEMS TO BE DISCUSSED IN CLOSED SESSION** - none

**CLOSED SESSION** - 5:30 p.m.

**OPEN SESSION - CALL TO ORDER – 6:10 p.m.**

**FLAG SALUTE** - led by Renate Gagne

### ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

President Williams announced that there was no action taken in Closed Session.

3. Student Expulsions/Readmissions (G.C. §54962)  
Student Expulsion #09-10.36 - Recommendation approved.

**Motion:** Friedman  
**Second:** Blenner

**Ayes:** Anderson, Blenner, Friedman, Williams, Wilson

1. Public Employee Performance Evaluation (Certificated) Superintendent  
It was announced that Scott Loehr received a satisfactory evaluation.

Trustee Williams thanked Mr. Loehr, Mr. Tigner and all of the district staff for their work this year. She also thanked the site administrators and staff for their work this year.

**ADOPTION OF AGENDA** - approved adoption of agenda as presented.

**Motion:** Wilson  
**Second:** Blenner

**Ayes:** Anderson, Blenner, Friedman, Williams, Wilson

**STUDENT PERFORMANCE:** The Oak Hill students performed a number from "Willie Wonka" under the direction of Penny Rittenhouse.

#### **STUDENT BOARD REPRESENTATIVE REPORTS**

##### **Center High School - Christine Sung**

- 16 more schools days left in the year
- they are in the middle of AP testing and will continue next week
- April 17 the Senior Ball was at Arden Hills Country Club and it was a great night
- Purple Cord Dinner was on April 30
- Sports-o-Rama is May 7
- Senior Awards Night is May 18
- Moving Up Rally is May 21
- "Save the Last Dance" dance is on May 21
- Graduation is on May 27 at Gerety Stadium
- Anthony Mendoza will be next year's Student Board Representative (FBLA President)

**McClellan High School - Carmen Villalobos** was not available to report.

##### **Antelope View Charter School - Raymond Houston**

- May 25<sup>th</sup> will be the 8<sup>th</sup> grade promotion and Senior Graduation ceremonies at CHS Theater
- there will be an 8<sup>th</sup> grade Promotion Breakfast and for Seniors a pizza and salad lunch
- May 18<sup>th</sup> is the Academic Awards Ceremony
- the 1<sup>st</sup> AVCS yearbook has arrived
- finished star testing earlier this month
- disaster drill was successful, with only a few things to improve upon
- Monday was a Staff Appreciation Lunch provided by the School Advisory Board parents
- teacher of the year is Mr. Osborne
- Mr. Shira is the classified of the year.
- 4 students are being honored at Senator Darrell Steinberg's Annual Graduation Event.
- Mr. Stack's Personal Finance class had two teams placed 1<sup>st</sup> and 2<sup>nd</sup> place in the Stock Market Game. There will be an awards ceremony at the Sacramento Bee auditorium on May 20.

##### **Global Youth Charter School - Prentice Wysingle**

- entering the end of the year
- currently finished the STAR testing
- May 14<sup>th</sup> is the Senior Project presentations
- Saturday is the Prom at the community center
- Mr. Hodges is Teacher of the Year
- starting recruitment for next year
- Senior Breakfast for graduating Seniors
- Graduation is at the ARC Theater on May 26

The Student Board Representatives were each presented with a certificate for serving as their site representative for the 2009-10 school year.

## **REPORTS/PRESENTATIONS**

### **1. Board of Trustees Meeting Dates & Location(s) for 2010/2011 School Year**

The Board discussed whether they would like to rotate locations or keep the meetings at one site. After talking about the pros and cons of both possibilities they decided to rotate between North Country and Oak Hill. Howard Ballin, community member, noted that rotating between two sites doesn't solve the problem of keeping the equipment stored on site. Mr. Grimes, Oak Hill Principal noted that he probably doesn't have a place to store the equipment. Trustee Blenner suggested that we rotate every semester. Mr. Deason stated that he could figure out the storage problem. The Board agreed on North Country to start and Oak Hill for the last half of the year.

## **COMMENTS FROM THE AUDIENCE REGARDING ITEMS NOT ON THE AGENDA**

Steven, student at CHS, asked why community service is required. Trustee Wilson was asked to address that question.

Douglas Higgins, CUTA President, thanked Mr. Tigner and Mr. Loehr for meeting with teachers over the OCR situation at Riles Middle School. He also thanked the administrators at the DO and Riles MS for putting together the 7<sup>th</sup> and 8<sup>th</sup> grade G.A.T.E. Academy. This should help attract more students to our district. He also thanked the district for the District Teacher Appreciation Day on Monday. He also noted that he appreciates the speed the district is taking to work on the rescinded lay-offs.

Rene, student at CHS, noted that if students and community members could raise money we could prevent lay-offs. She asked what could we do to raise that kind of money.

Trustee Wilson asked that when we make the announcement about our class sizes in a couple of weeks, let everyone know. People will want to enroll their children in our district; more students more money and more teaching jobs.

## **BOARD/SUPERINTENDENT REPORTS**

### **Mr. Blenner**

- thanked the students for their performance tonight.
- noted that AP testing is this week; and wished everyone good luck.
- glad that there are only 16 days left.
- wished everyone a happy Cinco de Mayo.

### **Mrs. Anderson**

- thanked Mr. Higgins for his service with CUTA. He helped solve issues with his group.
- thanked Mrs. Huggins as well.
- invited the Board to the Workability Fair on Monday the 10<sup>th</sup> at 6:30 at the CHS Cafeteria.
- thanked our Seniors and Student Representatives for their work this year. Wished them luck on their careers.

### **Mr. Friedman**

- attended the Purple Cord Dinner; great to hear where the students are moving on to.
- announced that October 8<sup>th</sup> the Endowment is hosting a Golf Tournament.
- congratulated the Seniors.

### **Mr. Wilson**

- toured Wilson C. Riles; liked the game bikes in PE.
- wasn't able to attend the Purple Cord Dinner, because of the Oak Hill Ice Cream Social.
- noted that Mr. Houston is getting an internship at the State Capital this summer.



**BOARD/SUPERINTENDENT REPORTS (continued)**

**Mrs. Williams**

- thanked the staff at the high school for the Purple Cord Dinner; 87 students have been accepted at 1 or more colleges.
- toured McClellan with Mr. Loehr; noted that things are really turning there.
- thanked the students that performed tonight.
- thanked the staff that have worked with us this year.

**Mr. Loehr**

- attended the Purple Cord Dinner.
- noted that Open Houses have started.
- toured Riles and McClellan.
- will be attending the Top Ten Dinner next week.
- thanked George and Becky for the wonderful teacher recognition on Monday.
- thanked Mr. Deason on the Disaster Drill that occurred last Friday.

**CONSENT AGENDA**

1. Approved Adoption of Minutes from April 21, 2010 Regular Meeting
2. Approved Adoption of Minutes from April 21, 2010 Special Meeting
3. Approved Certificated Personnel Transactions
4. Approved Career Technical Education Application for Funding - Carl D. Perkins Career and Technical Education Improvement Act of 2006
5. Approved 2010/2011 Contract with Dr. Robert A. Hoffman O.D. MCT Vision Screening Contract
6. Approved 2009/2010 Master Contracts:  
Crossroads aka (Lane Education Center)
7. Approved 2009/2010 Individual Service Agreements:  
2009/10-91 Red Rock Canyon School (Amended)  
2009/10-215 Crossroads
8. Approved Transition of Title 1 Program - North Country
9. Approved Center High School FBLA Attendance at State Officer Meeting, Santa Clara CA
10. Approved Center High School FBLA Attendance at National Leadership Conference
11. Approved Joint Use Agreement Between Antelope Springs Church and Center Joint Unified School District

Trustee Williams asked for clarification on item number 11. Mr. Deason gave an update on what the church gets and what the district gets with this agreement.

**Motion:** Wilson  
**Second:** Blenner

**Ayes:** Anderson, Blenner, Friedman, Williams,  
Wilson

**BUSINESS ITEMS**

**A. APPROVED - Resolution #29/2009-10: Declaring An Election Be Held In Its Jurisdiction and Requesting Election Services by the Placer County Clerk**

**Motion:** Wilson  
**Second:** Blenner

**Ayes:** Anderson, Blenner, Friedman, Williams,  
Wilson

**BUSINESS ITEMS (continued)**

**B. APPROVED - Resolution #28/2009-10: Resolution Calling for General District Election - Sacramento County**

**Motion:** Wilson  
**Second:** Blenner

**Ayes:** Anderson, Blenner, Friedman, Williams, Wilson

**C. APPROVED - Declaration of Need for Fully Qualified Educators 2010/11 SY**

Scott Loehr noted that if there wasn't a qualified credentialed teacher this would allow the district to use an intern in an emergency. Trustee Anderson inquired on what is needed to qualify for an emergency credential.

**Motion:** Blenner  
**Second:** Wilson

**Ayes:** Anderson, Blenner, Friedman, Williams, Wilson

Mr. Loehr announced that at Monday's Teacher Recognition we recognized the retired teachers and the teachers selected as Teacher of the Year for each site. He also noted that Leslie Macek was announced as the Center Joint Unified School District Teacher of the Year.

Trustee Anderson asked if the district could have a gathering for the retirees at one time and one place.

**ADVANCE PLANNING**

**a. *Future Meeting Dates:***

- i. Wednesday, May 19, 2010 @ 6:00 p.m. - Oak Hill Elementary School Multipurpose Room*

**b. *Suggested Agenda Items:***

**ADJOURNMENT – 7:21 p.m.**

**Motion:** Blenner  
**Second:** Wilson

**Ayes:** Anderson, Blenner, Friedman, Williams, Wilson

Respectfully submitted,

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Scott A. Loehr, Superintendent  
Secretary to the Board of Trustees

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Gary N. Blenner, Clerk  
Board of Trustees

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Adoption Date

*Center Joint Unified School District*

## AGENDA REQUEST FOR:

Dept./Site: Superintendent's Office

Action Item   X  

To: Board of Trustees

Information Item           

Date: June 2, 2010

#Attached Pages   5  

From: Scott A. Loehr, Superintendent

Principal's Initials:           **SUBJECT: Adoption of Minutes****The minutes from the following meeting are being presented:**

May 19, 2010 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 - Multipurpose Room  
3909 North Loop Blvd., Antelope, CA 95843

Wednesday, May 19, 2010

### MINUTES

**CALL TO ORDER** - Trustee Williams called the meeting to order at 5:30 p.m.

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

Administrators Present: Scott Loehr, Superintendent  
George Tigner, Chief Administrative Officer  
Craig Deason, Assist. Supt., Operations & Facilities  
Jeanne Bess, Director of Fiscal Services

#### ANNOUNCEMENT OF ITEMS TO BE DISCUSSED IN CLOSED SESSION

1. Student Expulsions/Readmissions (G.C. §54962)
2. Conference with Labor Negotiator, George Tigner, Re: CSEA and CUTA
3. Student Matters: Parental Appeal of Denial of an Interdistrict Transfer Request: 10/11-01

**PUBLIC COMMENTS REGARDING ITEMS TO BE DISCUSSED IN CLOSED SESSION** - none

**CLOSED SESSION** - 5:30 p.m.

**OPEN SESSION - CALL TO ORDER** – 6:08 p.m.

**FLAG SALUTE** - led by Douglas Higgins

#### ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION

President Williams announced that there was no action taken in Closed Session. The following items had action taken during Open Session:

1. Student Expulsions/Readmissions (G.C. §54962)  
**Student Expulsion #09-10.37** - Recommendation approved.

<b>Motion:</b>	Blenner	<b>Ayes:</b>	Anderson, Blenner, Friedman, Williams,
<b>Second:</b>	Anderson		Wilson

**Student Expulsion #09-10.38** - Recommendation approved.

<b>Motion:</b>	Anderson	<b>Ayes:</b>	Anderson, Blenner, Friedman, Williams,
<b>Second:</b>	Blenner	<b>Abstain:</b>	Wilson

**ANNOUNCEMENT OF ACTION TAKEN IN CLOSED SESSION (continue)**

**Student Expulsion #09-10.39** - Recommendation approved.

<b>Motion:</b>	Blenner	<b>Ayes:</b>	Anderson, Blenner, Friedman, Williams,
<b>Second:</b>	Anderson		Wilson

3. Student Matters: Parental Appeal of Denial of an Interdistrict Transfer Request:  
**Interdistrict Transfer Appeal 10/11-01** – Recommendation approved.

<b>Motion:</b>	Friedman	<b>Ayes:</b>	Anderson, Blenner, Friedman, Williams,
<b>Second:</b>	Blenner		Wilson

**ADOPTION OF AGENDA** - approved adoption of agenda as amended: pull from Consent Agenda Item #7, then pull Consent Agenda Items #8, 9 & 10 for separate consideration.

<b>Motion:</b>	Friedman	<b>Ayes:</b>	Anderson, Blenner, Friedman, Williams,
<b>Second:</b>	Blenner		Wilson

**STUDENT / STAFF RECOGNITIONS**

1. Oak Hill Elementary School Staff Recognitions - David Grimes, Principal at Oak Hill, noted that they wanted to recognize all of the Oak Hill staff for their hard work in achieving the "California Distinguished School Award". Certificates were presented to each staff member.
2. AVCS Personal Finance Class, 1<sup>st</sup> and 2<sup>nd</sup> Place in the Stock Market Game - Scott Stack, teacher at Antelope View Charter School, introduced his two teams of students who earned 1<sup>st</sup> and 2<sup>nd</sup> place in the Stock Market Game for the region in the high school division.

It was announced that Troop 44 was in attendance tonight to work towards checking off the Citizenship in the Community Merit Badge so they can earn their Eagle Badge.

**ORGANIZATION REPORTS**

1. CUTA - Douglas Higgins, President, introduced Heather Woods as the next CUTA President for the next 2 years. He noted that at the last negotiation meeting the teachers did offer and brought forward to extend the Memorandum of Understanding on class size that we had in 2009-10 to extend into 2010-11. He also noted that we have a very unique relationship between the union and the district; we are able to sit down and come to resolutions. He sees that continuing into the future and that thanked the district. He then reflected on what he has seen here in the last 3 years with the following list: commended the Board, they have matured as a group; they are united as a group; the Board's demeanor is exemplary; the Board has the right people in the right positions and they let them do their job; works with both sides through financial touch times, and have let people do their jobs to get us through. He then specifically addressed each Board member: to Mr. Blenner, he noted that every Board should have a teacher on it; Mrs. Anderson, noted that it is hard to find someone who is so committed to every person in this district; Mr. Friedman, the ultimate and consummate diplomat; Mr. Wilson, noted that he has a unique situation because he went through the system here and came back to raise his family and serve here; Mrs. Williams, the heart and soul of this community and she conducts the meetings in an orderly fashion. In conclusion Mr. Higgins asked that the Board consider going to only one meeting a month.

## **ORGANIZATION REPORTS (continued)**

2. **CSEA - Marie Huggins, President**, noted that the cookies placed on the table for the Board were made this morning. They are in recognition of Classified School Employees Week. Commended that Board for a year that we made it through together. Mrs. Huggins announced the Classified Employees of the Year from each site: Center High - Judy Ketcherside, Riles Middle School - Ron Baioni, Oak Hill - Lorenzo Garcia, Dudley - Elizabeth Heath, MHS – Terry McCauley, Spinelli – Otis Berry, North Country – Mike Benefeld, DO - Laura Davis and Lois Bolton. She noted that they recognized two retirees, Otis Berry and Manuel Azevedo. She then announced the Classified employee Senior Scholarship winners. She then introduced Sandy Wise and Angela Espinoza, who gave information about the effects of classified employee layoffs (families losing their homes), and noted that they intend to interview, select and endorse school board candidates.

Mrs. Williams noted that this is something that we deal with every day; we are see for sale signs go up in all of the neighborhoods. Mr. Friedman thanked the classified union for their hard work. Mr. Blenner thanked the classified employees for their hard work that they do every day. He sees the work that they do for the school sites. Mrs. Anderson thanked the classified staff for everything they do for the schools and their community. Mr. Wilson noted that he is glad to see that someone did this work to put out this information. Mr. Loehr thanked the classified staff and everyone for all they do. He noted that he has the privilege of working with Mrs. Huggins.

## **REPORTS/PRESENTATIONS**

1. **Center High School Athletics Update - Mike Jordan**

Mr. Loehr noted that he discussed this item with Mr. Jordan prior to the meeting and determined that this item should be postponed to a meeting in June.

2. **Accounting for Retiree Health & Welfare Costs - Jeanne Bess, Director of Fiscal Services**, shared with the Board the information about the retiree health benefits and welfare costs, and the recommendations that have been given to the district.

Mrs. Bess then shared with the Board the type of information that she is hoping to get from the May Revise Workshop tomorrow.

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

## **BOARD/SUPERINTENDENT REPORTS**

### **Mr. Blenner**

- thanked Mr. Higgins for his service to the district and as union President.
- thanked CSEA for their hard work and determination (and for the cookies).
- toured North Country on May 12; thanked that site
- looking forward to the end of the year and the graduations.
- thanked everyone for their hard work this year.
- noted that he is looking forward to vacation.

### **Mrs. Anderson**

- thanked Mr. Higgins and wished him well in the future.
- told Oak Hill staff that they have done a wonderful job in achieving the award.
- wanted to recognize the Boy Scouts who were here tonight.
- thanked Scott for the wonderful job he has done this year.

**BOARD/SUPERINTENDENT REPORTS (continued)**

**Mr. Friedman**

- agreed with the other Board members: we are lucky to have the dedicated staff in our district.
- noted that he took his daughter to see North Country's play a week ago; great production.
- announced that October 8 there will be a Golf Tournament to benefit the Endowment.
- noted that he is looking forward to vacation.

**Mr. Wilson**

- noted that he toured North Country; enjoyed the mouse "project" and the reading lab.
- stated that he will miss Mr. Higgins.

**Mr. Loehr**

- enjoyed touring the schools and open houses.
- noted that he is looking forward to the graduations and promotions.
- thanked Douglas for his help this year; looking forward to working with Heather Woods.
- announced that the Center Girls Softball team had a 5 pm game at the tournament and is now in the 7 pm game.

**Mrs. Williams**

- noted that she attending the Top Ten Dinner.
- thanked Mr. Grimes for leading his staff to where they are.
- to the Cub Scouts and CSEA – we love you.
- gave her thanks to Douglas Higgins.
- noted that graduations are very emotional; we have a full schedule Tuesday through Friday.
- noted that there are those who are retiring that we will miss.

**Mr. Tigner**

- thanked both union Presidents for working with him; they were able to come together and get through this.
- noted that Mr. Higgins is a good friend of his.

**CONSENT AGENDA**

1. Approve Certificated Personnel Transactions
2. Approve 2009/2010 Individual Service Agreements
  - 2009/10-208-212 Med Trans
  - 2009/10-213-214 JabberGym
  - 2009/10-215 Crossroads at Lane Education
  - 2009/10-216 Augmentative Alternative Communication & Assistive Tech Support Services
3. Approved 2009/2010 Master Contract
  - Augmentative Alternative Communication & Assistive Tech Support Services
4. Approved 2010-2011 Contract with Sacramento Hearing Services Center, Inc.
5. Approved 2010/2011 Sierra Outdoor School, Sonora, CA - Oak Hill
6. Approved Center High School CIF Representatives 2010-2011
7. *This item has been pulled from the agenda.*
8. *This item was pulled for separate consideration.*
9. *This item was pulled for separate consideration.*
10. *This item was pulled for separate consideration.*

**Motion:** Friedman  
**Second:** Blenner

**Ayes:** Anderson, Blenner, Friedman, Williams  
Wilson

**CONSENT AGENDA ITEMS PULLED FOR SEPARATE CONSIDERATION**

8. Approved Center High School Baseball Fields Upgrade Agreement for Architectural Services

**Motion:** Friedman  
**Second:** Blenner

**Ayes:** Anderson, Blenner, Friedman, Williams  
**Abstain:** Wilson

9. Approved Payroll Orders: July 2009 - April 2010

**Motion:** Blenner  
**Second:** Friedman

**Ayes:** Anderson, Blenner, Friedman, Williams  
**Abstain:** Wilson

10. Approved Supplemental Agenda (Vendor Warrants)

**Motion:** Blenner  
**Second:** Friedman

**Ayes:** Anderson, Blenner, Friedman, Williams  
**Abstain:** Wilson

**INFORMATION ITEMS**

1. Conference: "2010 AVID Summer Institute" - J. Slay, D. Stout, L. Day, B. Cunningham, T. Meloy & S. Wildman (WCR)

**ADVANCE PLANNING**

**a. Future Meeting Dates:**

*i. Wednesday, June 2, 2010 @ 6:00 p.m. - Center High School Theater*

**b. Suggested Agenda Items: discuss number of meetings for next year**

**ADJOURNMENT – 7:40 p.m.**

**Motion:** Blenner  
**Second:** Anderson

**Vote:** General Consent

Respectfully submitted,

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Scott A. Loehr, Superintendent  
Secretary to the Board of Trustees

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Gary N. Blenner, Clerk  
Board of Trustees

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Adoption Date



# *Center Joint Unified School District*

**AGENDA REQUEST FOR:**

**Dept./Site:** Personnel Department

**Action Item** X

**Date:** June 2, 2010

**Information Item**

**To:** Board of Trustees

**# Attached Pages** 2

**From:** George Tigner, Chief Administrative Officer



**Subject:** Certificated Personnel Transactions

**Leaves of Absence**

Wendy Hollis, Center High School  
Tracy Ramirez, Spinelli Elementary School

**Rescissions of Layoff**

Sherry Cline, Wilson Riles Middle School  
Allison Wiggin, Wilson Riles Middle School

**Recommendation:** Approve Certificated Personnel Transactions as Submitted

**CONSENT AGENDA**

### **Leaves of Absence**

Wendy Hollis has requested a leave of absence from her position as Counselor, Center High School, effective August 2, 2010. through December 31, 2010.

Tracy Ramirez has requested a leave of absence from her .5 FTE position as Special Education Teacher, Spinelli Elementary School, from August 2, 2010, through May 27, 2011.

### **Rescissions of Layoff**

Sherry Cline's layoff has been rescinded and she will be returning for the 2010/11 school year, effective August 2, 2010.

Allison Wiggin's layoff has been rescinded and she will be returning for the 2010/11 school year, effective August 2, 2010.

AGENDA ITEM # XIII-4

## Center Joint Unified School District

### AGENDA REQUEST FOR:

Dept./Site: Personnel Department

Date: June 2, 2010

Action Item X

To: Board of Trustees

Information Item     

From: George Tigner,  
Chief Administrative Officer

# Attached Pages 1

**SUBJECT: CLASSIFIED PERSONNEL TRANSACTIONS**

**RESIGNATION:** Esther Baker, Office Assistant  
Otis Berry, IS/PH/Autism  
Mary Mellado, Cashier

**RELEASED:** Anthony Cozzi, Bus Driver  
Jessica Brott, Instructional Assistant  
Rebecca Anderson, Instructional Assistant

**RECOMMENDATION:** Approve Classified Personnel Transactions as  
Submitted

**CONSENT AGENDA**

AGENDA ITEM # XIII-4

Esther Baker has resigned from her position as Office Assistant, North Country Elementary School, effective May 28, 2010.

Otis Berry has resigned from his position as Instructional Specialist/PH/Autism, Spinelli Elementary School, effective May 27, 2010.

Mary Mellado has resigned from her position as Cashier, Oak Hill Elementary School, effective May 27, 2010.

Anthony Cozzi has been released from his position as Bus Driver effective May 13, 2010.

Jessica Brott has been released from her position as Instructional Assistant and Noon Duty Aide at North Country Elementary School effective May 27, 2010.

Rebecca Anderson has been released from her position as Instructional Assistant at North Country Elementary School effective May 27, 2010.

## ***Center Joint Unified School District***

		<b>AGENDA REQUEST FOR:</b>
<b>Dept./Site:</b>	<b>Personnel Department</b>	
<b>Date:</b>	<b>June 2, 2010</b>	<b>Action Item</b> <u>  X  </u>
<b>To:</b>	<b>Board of Trustees</b>	<b>Information Item</b>
<b>From:</b>	<b>George Tigner</b> <b>Chief Administrative Officer</b>	<b># Attached Pages</b>

**SUBJECT: CSEA 2010/2012 Bargaining Agreement**

**The Classified Employees Association and Center Joint Unified School District have agreed upon contract language revisions for the following articles:**

**Article IV – CSEA Rights**  
**Article VII – Holidays**  
**Article IX – Safety**  
**Article XI – Transportation**  
**Article XII – Alarm/Security Procedures**  
**Article XIV – Leaves**  
**Article XVII – Layoff Procedures**  
**Article XIX – Wages**  
**Article XXIV – Completion of Negotiations**  
**Article XXVI – Contracting Out**

**RECOMMENDATION: Approve Contract Language Revisions**

## **ARTICLE IV**

### **CSEA RIGHTS**

- A. CSEA may use school buildings for meetings subject to the availability of the facility. Prior approval from the site supervisor is required.
- B.
  - 1. At least one (1) bulletin board per work site will be provided in spaces where employees normally congregate. The bulletin board will be of sufficient size to post CSEA's written communications.
  - 2. The CSEA site representative shall be responsible for the posting and contents of all such communications.
- C. CSEA may use the District mail service and employee mailboxes for official communications, provided that the CSEA name is clearly shown. CSEA shall not use District mail service for the purpose of urging the support or defeat of any ballot measure or candidate, including but not limited to, any candidate for election to the governing board of the District.
- D. Upon written request from the CSEA President or LRR to the Chief Administrative Officer, the District will provide or make available lawfully required public information necessary for CSEA to perform its role as exclusive representative.
- E. CSEA may use equipment, materials and supplies provided that in doing so it does not interfere with the normal student instruction or work production of the District. CSEA shall pay for the cost of materials and supplies incident to each use. CSEA agrees to leave equipment used in a clean and orderly condition. CSEA shall not use District equipment, materials or supplies for the purpose of urging the support or defeat of any ballot measure or candidate, including but not limited to, any candidate for election to the governing board of the District.
- F. A reasonable number of CSEA representatives shall have the right to receive reasonable periods of release time when meeting and negotiating and for the processing of grievances. Meeting and negotiating includes only time spent at the negotiating table, caucusing incident to the negotiation process, mediation and factfinding. Meeting and negotiating does not include the time necessary to prepare for negotiations.
- G. Any CSEA correspondence addressed to the District and related to the negotiation process or grievance procedure, shall be directed to the Chief Administrative Officer.
- H. The District shall provide the CSEA President/Designee and LRR a copy of the agenda for Board meetings with back up material and a copy of Board meeting minutes. The CSEA President shall provide the name of designee.

- I.
  - 1. The Personnel Department shall provide the CSEA President a copy of the seniority lists(s) for up to two (2) classifications within five (5) business days of receipt of written request.
  - 2. The Personnel Department shall provide the CSEA President a copy of the seniority list(s) for three (3) or more classifications with fifteen (15) business days of receipt of written request.
- J. The Personnel Department shall provide the CSEA President or LRR a listing of bargaining unit employees that include their name, employee number, work site, daily work hours, monthly gross salary and home mailing address within fifteen (15) business days of receipt of written request.
- K. The CSEA President shall provide the Chief Administrative Officer and the District's LRR a written list of the names, mailing addresses and telephone numbers of the officers and authorized representatives of CSEA #610 on/about January 31st of each year.
- L.
  - 1. Representatives of CSEA shall have the right of access at reasonable times to areas in which employees work. Reasonable times are defined as:
    - (a) Before the workday begins.
    - (b) During the duty-free lunch period.
    - (c) At the end of the workday.
    - (d) During off-duty times.
    - (e) Group orientations for bargaining unit employees.
    - (f) Other times mutually agreed to by the site supervisor.
  - 2. CSEA Representatives shall not interfere with or interrupt employees during the normal school day, at times when employees are performing their duties. CSEA Representatives may meet with employees during work hours when investigating or processing grievances, or disciplinary cases when an appeal has been filed and where the employee is not the grievant or subject of the disciplinary action.
  - 3. CSEA Representatives shall provide reasonable advance notice to the employee's work site supervisor or Chief Administrative Officer prior to meeting with any employee while on duty in order to identify a mutually convenient date and time.. Notification shall also include the approximate length of time of the meeting.
- M. The District shall post the Agreement on its website for unit members to access. The District shall provide a copy of the current Agreement to each unit member at the time of initial employment and thereafter upon request.
- N.
  - 1. The CSEA President/designee shall be entitled to five (5) days leave per year

for the purpose of conducting CSEA business, provided that CSEA reimburses the District for all compensation paid the CSEA President/designee on account of the leave.

2. CSEA President/designee leave days shall require at least forty-eight (48) hours advance notice when practical and mutual agreement between the CSEA President/designee and Chief Administrative Officer of the specific days to be used.
3. By mutual agreement of the CSEA President and the Chief Administrative Officer, two (2) additional days may be authorized.



## **ARTICLE VII**

### **HOLIDAYS**

**A. Full-time employees shall earn the following thirteen (13) paid holidays:**

Independence Day	Christmas Day
Labor Day	New Years Day
Veterans Day	Martin Luther King Day
Thanksgiving	Lincoln's Birthday
Admissions Day	Washington's Birthday
(Day after Thanksgiving)	Spring Recess Day
Christmas Eve Day	Memorial Day

**B. Part-time employees shall earn (12) twelve paid holidays.**

**C. 1. When a holiday falls on a Sunday, the following Monday shall be considered to be the holiday in lieu of the day observed.**

**2. When a holiday falls on a Saturday, the preceding Friday shall be considered to be the holiday in lieu of the day observed.**

**D. Every day declared by the President or Governor of the State, as provided in subdivisions (b) and (c) of Section 37220 of the Education Code, which requires schools to be closed and any day declared a holiday by the Board which requires schools to be closed, shall be a paid holiday for eligible employees.**

## **ARTICLE IX**

### **SAFETY**

- A. Employees shall not be required to work under unsafe or hazardous conditions, or to perform tasks, which unduly endanger their health or safety.
- B. Team lifting is encouraged for weight loads above fifty (50) pounds.
- C. An employee has a responsibility to report in writing to his/her immediate supervisor any and all conditions, which are unsafe or might unduly endanger health.
- D. Upon receiving a written report of alleged unsafe or unhealthy condition, the District shall determine whether, in fact, an unsafe or unhealthy condition exists and what, if any, action is required to correct a condition determined to be unsafe or unhealthy.
- E. Security Cameras:
  - 1. The District shall post written notices and/or signage at locations, including but not limited to school buses, where security cameras are in operation and which reasonably apprise all persons that security cameras are in use.
  - 2. Security cameras shall not be used to visually observe any bathroom, shower, locker room, or other area where employees regularly remove clothing and, therefore, reasonably expect privacy.
  - 3. Security cameras installed in school buses shall begin recording when the ignition key is in the "on" position and continue recording for than five (5) minutes after the ignition key is turned to the "off", unless students are on board, to accommodate employee privacy.
  - 4. Security camera recordings which directly relate to an identifiable employee shall be deemed a "personnel record" if the District intends to rely upon the recording for purposes of disciplinary action. Such personnel records shall be made available to the affected employee for inspection. The District shall give the employee written notice of any such security camera recording within ten (10) work days of the District's decision to preserve any such recording. The notice shall afford the employee an opportunity to review and comment in writing on the recording as appropriate to the disciplinary action.

**ARTICLE XI**  
**TRANSPORTATION**

**A. Work Schedule**

1. The District shall determine the number of annual work/duty days based on the necessary days as determined by the district.
2. The District shall publish a calendar identifying the transportation work/duty days as determined by the district at the beginning of each school year 182 days.
3. School Bus Driver schedules/Route's shall be calculated in 15 minute increments.
4. The District shall determine and provide drivers with a set schedule.
5. Bus drivers are expected to be at their assigned work sites as scheduled.

**B. Route Bidding Assignments and Procedures**

1. The District shall determine/maintain all routes and bus assignments.
2. Route bidding will occur during the Transportation Department calendared school year as determined/established by the District in September following the beginning of the school year.
3. The days and time of Route Bidding shall be posted in the Transportation office five (5) days prior to bidding.
4. The posted routes will contain clock-in and out times, the run time, the area and schools which the route services. The route will be available to drive not less than forty-eight (48) hours prior to bidding.
5. When additional runs are permanently assigned to routes, they will be assigned by both seniority and availability to accommodate the additional times without exceeding eight (8) hours.
6. Permanent route vacancies or route increases of thirty (30), minutes or more will follow route bidding assignment and procedures.
7. Route bidding shall occur in the order of seniority.
8. Any bus driver who will be absent from Route bidding may submit a bid by written proxy, listing all routes in order of preference.

**C. Post Route Bidding Preparation**

1. Bus Drivers shall be allotted time and expected to familiarize themselves with their route by driving the route in the appropriate type bus prior to the first day of school.
2. The dispatcher will communicate Special Ed Route schedules to the parent/guardian of the student prior to the first day of school.
3. The dispatcher will maintain updates to the route and communicate all changes to the parent/guardian throughout the school year.

**D. Vacancies-Temporary**

1. Any extra runs or temporary assignments will be assigned in following order:
  - a. Available drivers by seniority without exceeding eight (8) hrs.
  - b. Un-routed bus drivers

**E. Safety**

1. The District shall establish protocol and communicate that protocol to School bus drivers regarding school lock downs.
2. The District shall communicate when a school goes into a lock down to all on duty bus drivers.

**F. Certification**

1. All Drivers shall be required to demonstrate proficiency on all buses as allowed their School Bus Certificate and may be required to drive any bus as permitted.
2. All Drivers are responsible to maintain all necessary credentials and keep them current.
3. The District shall be responsible for providing a T01 training calendar to be published at the beginning of each school year.
4. The District shall schedule a minimum of two (2) hours per month of T01 training.
5. The District shall cover the cost of Certificate Renewal Testing with the CHP.
6. The District shall cover the cost for the DL-51 medical exam.
7. The District shall allow necessary release time to obtain the DL-51 exam.
8. The District shall annually make available, American Red Cross First Aid training.
9. In the event the District requires an employee to have immunizations, and or screenings for infectious diseases, the district shall incur the expense and allow for the necessary release time.

## **ARTICLE XII**

### **ALARM/SECURITY PROCEDURES**

#### **A. Coverage**

1. Maintenance/custodial/grounds/mechanic employees may volunteer for alarm/security duty.
2. Volunteers will be on a weekly rotation system from 4:30 p.m. through 8:00 a.m. Monday through Friday and all day Saturday/Sunday/Holidays.
3. Employees on alarm/security during their normal working hours are required to complete their regularly assigned number of hours and duties.
4. The Director of Maintenance, Operations, Facilities and Technology D/MOFAT) will normally be responsible for security coverage at all other times.
5.
  - a. D/MOFAT shall verify the criteria per Section C.4. & C.5.
  - b. The active list normally includes up to six (6) employees.

#### **B. Training**

1. The D/MOFT will schedule training on alarm and security systems at sites as necessary.
2. The D/MOFT will schedule meetings with representatives from the alarm companies, fire, police and sheriff to explain and clarify roles and responsibilities.

#### **C. Duty**

1. Employees on duty will be supplied with a sign for their vehicle, pager, cell phone, keys, flashlight, vest and updated information including a "call out" binder.
2. Employees shall wear their "District Identification" when on duty at any District site.
3. The employee shall respond to any district cell-phone within five (5) minutes.
4. If a response to any District site/facility is necessary, the employee shall arrive at that site/facility within thirty (30) minutes of notification.
5. The employee shall make any routine repairs as necessary but will call the D/MOFT prior to contacting a contractor, other school personnel, etc. he/she will keep the D/MOFT informed and updated.

6. The employee will fill out an emergency response sheet for each call, listing site, reason for response and any work performed. It will be turned into the D/MOFT the next day.
7. While on duty employees will follow all District rules, regulations and policies regarding alcohol, drugs, etc. (Board Policy 4020, Education Code 44011). Each employee will be provided a copy.

**D. Compensation**

1. A stipend of two hundred dollars (\$200) per week will be paid for monitoring of this duty.
2. The employee will be paid one (1) hour minimum in accordance with the hourly wage schedule for responding to a call at the site/facility and performing any necessary repairs (emergency or non-emergency) at the rate of one and one-half (1 ½) times the hourly rate.
3. Employees who use their own vehicles in performing this duty shall be reimbursed per ARTICLE XIX WAGES, D.
4. Failure of the assigned employee to respond in a timely manner or failure to perform listed duties satisfactorily may result in forfeiture of not less than one (1) hour pay and up to loss of eligibility for the duty.

**E. This article may be revised by request of either party.**

## **ARTICLE XIV**

### **LEAVES**

#### **A. Sick Leave**

1. Every employee employed five (5) days a week and twelve (12) months per year by the District shall be entitled to twelve (12) days of absence for illness or injury, exclusive of all days he/she is not required to render services to the District, with full pay for a fiscal year of service.
2. An employee employed five (5) days per week who is employed for less than a full fiscal year is entitled to that proportion of twelve (12) days leave of absence for illness or injury as the number of months he/she is employed bears to twelve (12).
3. An employee employed less than five (5) days per week shall be entitled for a fiscal year of service to that proportion of twelve (12) days leave of absence for illness or injury as the number of days he/she is employed per week bears to five (5). When such persons are employed for less than a full fiscal year of service, this and the preceding paragraph shall determine the proportion of leave of absence for illness or injury to which they are entitled.
4. Pay for any day of such absence shall be the same as the pay, which would have been received, had the employee served during the day.
5. Credit for sick leave need not be accrued prior to taking such leave and such leave may be taken at any time during the year. However, a new employee of the District shall not be eligible to take more than six (6) days until the first day of the calendar month after completion of six (6) months of active service with the District.
6. If such employee does not take the full amount of leave allowed in any year allowed under this Article, the amount not taken shall be accumulated from year-to year.
7. Each employee shall notify his/her immediate supervisor as soon as possible prior to his/her assigned shift beginning if unable to perform his/her work pursuant to his Article.
8. Each employee shall complete and submit a District approved form as a claim for salary during absence due to illness or injury for each such absence.
9. When the District has a reasonable basis to believe an employee may be abusing leave privileges, the immediate supervisor may require a physician or other verification as to any employee's claimed reason for absence. The District shall

notify the employee in advance of any period for which verification of absence is required and the reason for such notification. A District request for verification of absence shall not be arbitrary or capricious.

10. Use of sick leave for illnesses caused or contributed to by pregnancy, childbirth, miscarriage, or recovery therefore shall be considered as other illnesses for the purposes of sick leave.
11. The employer may convert unused sick leave to retirement credit, if requested by the employee, in accordance with Government Code Section 20862.5 or its successor, if the employee is filing a request for retirement where required by law.
12.
  - a. Doctor and dentist appointments scheduled during the employee's regular work day shall be deducted from sick leave in no less than quarter (1/4) hour increments.
  - b. Employees shall attempt to schedule these appointments at times that are least disruptive to the operational and educational needs of the District.

**B. Extended Illness**

1. On July 1 of each year, each employee shall be credited with a total of not less 100 working days of sick leave including both current and accumulated sick leave credits.
2. The additional days beyond the employee's current and accumulated sick leave, as provided by this section, shall be compensated at 50% of the employee's regular salary.
3. The 100 days begin on the first day of the employee's absence and shall run concurrently with current and accumulated sick leave.

**Example**

If an employee has 12 current and 15 accumulated days of sick leave, he/she shall be entitled to 73 working days of sick leave compensated at fifty percent (50%) of his/her regular salary.

100	Days sick leave
- 12	Current sick leave days
<u>-15</u>	Accumulated sick leave days
73	Days paid at 50%

4. Whenever an employee is absent due to extended illness, the District may require a medical release to return to work.



**C. Personal Necessity Leave**

1. Upon prior approval, current and accumulated sick leave may be used by the employee, at his/her election, in cases of personal necessity.
2. The following are reasons in which personal necessity leave may be used.
  - a. Death of a member of the employee's or spouse's immediate family as defined in Bereavement Leave.
  - b. Accident involving the employee, a member of his/her family, or his/her personal property or the personal property of a member of his/her family.
  - c. Serious or critical illness of a member of the immediate family.
  - d. Required appearance in court as litigant or witness under an official order.
  - e. Paternity Leave at the birth of a child.
  - f. Illness of daycare or continuing care provider for family members.
  - g. Confidential Days up to a maximum of three (3) days per school year.
  - h. Such other reasons as may be approved by the Director of Personnel.
3.
  - a. Personal necessity leave or confidential day leave scheduled during the employee's regular work day shall be deducted in no less than quarter (1/4) hour increments.
  - b. Employees shall attempt to schedule this leave at times that are least disruptive to the operational and educational needs of the District.
4. The employee shall submit a completed personal necessity leave report form to the school principal or immediate supervisor at least two (2) working days in advance of the leave, except in cases of emergency. (Emergency is defined as 2a, b, c, d, and f.) The employee must submit a completed absence form to the principal or immediate supervisor upon return to duty.
5. In situations where absences are due to subpoena or an official order, the employee must provide evidence from a certified clerk or authorized officer of a court or other governmental jurisdiction
6. Personal Necessity Leave under 2. g. above, shall not be granted to extend a vacation period, school break or provide additional days off immediately preceding or following a holiday. Exceptions to this rule shall be made on a case-by-case basis, based on the employee's personal reason and operational need of the District. Each request shall be individually considered by the site/department supervisor and the Director of Personnel and shall not serve as a precedent for any other or future request.

**D. Bereavement Leave**

1. Every employee shall be granted necessary leave of absence, not to exceed three (3) days or five (5) days if required travel is at least three hundred seventy-five (375) miles one (1) way because of the death of any member of the employee's immediate family.
2. No deduction shall be made from the employee's salary nor from leave granted by other Sections of this contract.
3. The immediate family is defined as the spouse of the employee or the following relations of the employee or spouse:
  - mother/father
  - son/daughter
  - grandmother/grandfather
  - grandson/granddaughter
  - son-in-law/daughter-in-law
  - brother/sister
  - aunt/uncle
  - niece/nephew
  - relative living in the employee's home
4. Additional bereavement leave days required shall be deducted from personal necessity leave.
5. If five (5) days bereavement is taken, the District may require verification of travel greater than three hundred seventy-five (375) miles.

**E. Jury Duty**

1. An employee shall be entitled to paid leave for time required to perform jury duty.
2. To qualify, the employee shall pay to the District the amount received for jury duty. Any meals, mileage and/or parking allowance provided the employee for jury duty shall not be considered in the amount received for duty.
3. An employee, notified to appear for jury duty shall, upon receipt of such notification, inform his/her immediate supervisor.

**F. Military Leave**

An employee shall be entitled to any Military Leave provided by law and shall retain all rights and privileges granted by law.

**G. Industrial Accident and Illness Leave**

1. An employee suffering an injury or illness arising out of and in the course and scope of his/her employment shall be entitled to leave of up to sixty (60) working days in any one (1) fiscal year for the same accident or illness. This leave shall not accumulate from year-to-year. When any leave overlaps a fiscal year, the employee shall be entitled to only that amount remaining at the end of the fiscal year in which the injury or illness occurs.
2. The leave shall commence no earlier than the first day of absence, provided such absence has been ordered by a licensed physician who has examined the employee and/or the employee is receiving temporary disability payments from the District's Worker's Compensation Insurance carrier for wage lost.
3. Payment for wages lost on any day shall not, when added to an award granted the employee under the Workers' Compensation laws of this state, exceed the normal wage for the day.
4. This leave is to be used in lieu of normal sick leave benefits
5. When entitlement to leave under this Section has been exhausted, entitlement to other sick leave or vacation may then be used. If, however, an employee is still receiving temporary disability payments under Workers' Compensation at the time of the exhaustion of benefits under this Section, he/she shall be entitled to only so much of his/her accumulated and available sick leave which, when added to the Workers' Compensation award, provides for a regular and daily amount of pay.

**H. General**

When no other leaves are available, a paid or unpaid leave of absence may be granted to an employee at any time upon terms acceptable to the District and the employee. Leaves under this Section shall be at the discretion of the District and shall not serve as precedent for any other request.

## **ARTICLE XVII**

### **LAYOFF PROCEDURES**

- A.
  - 1. A layoff shall be an involuntary separation of a probationary or permanent employee from active service for lack of work or lack of funds as determined solely and exclusively by the District. Employees who take voluntary demotions or reductions in hours in lieu of layoff shall be granted the same rights as persons subject to layoff.
    - a. In the event of a layoff, the District and CSEA shall meet and negotiate upon the request of either party regarding the effects of the layoff.
    - b. In the event of a reduction in hours, the District and CSEA shall meet and negotiate upon the request of either party regarding the decision and effects of the reduction in hours.
  - 2.
    - a. Layoffs shall be made on a District-wide basis, in inverse order of seniority within each classification.
    - b. Classification is defined as a position with a designated title and job description (Appendix A).
  - 3. Seniority in each classification is defined as:
    - a. Prior to July 1, 1992, seniority shall be frozen at 'hours in paid status' as determined June 30, 1992.
    - b. Effective July 1, 1992, seniority shall be determined by date of hire or promotion in to each classification that **in which** an employee has rendered paid service.
    - c. If two (2) or more employees within a classification have the same hire date, the order of seniority shall be determined by ranking the employees from lowest to highest according to the last four digits of their social security number, with the lower number deemed less senior than the next higher number.
- B.
  - 1. After the Board has determined that there is a lack of work or a lack of funds and has made the decision to layoff, the District will provide written notice to each affected employee.
  - 2. The notice shall be personally served or sent by U.S. Certified Mail with Proof of Service to the most recent address provided by the employee to the Personnel Office.
  - 3. The notice shall be sent no less than forty-five (45) calendar days prior to the effective layoff date.

4. The notice shall inform the employee of the effective layoff date, displacement rights, if any and reemployment/reinstatement rights and obligations.
- C.
1. An employee laid off in one (1) classification, who previously held permanent/probationary status in an equal or lower classification, may bump into that equal or lower classification and shall displace the least senior employee in that equal or lower classification with the same or most nearly the same number of hours, if his/her seniority is greater than the least senior employee in that equal or lower classification.
  2. An employee, displaced by being bumped, shall have the same rights as listed in Section C.1, above.
- D.
1. Employees laid off shall be placed on a reemployment list for a period of thirtynine (39) months.
  2. Employees who voluntarily consent to a reduction of hours or accept an assignment in a lower classification to avoid layoff shall be maintained on the reemployment list for an additional twenty-four (24) months.
  3. Employees placed on the reemployment list shall be offered, by seniority, the opportunity to return to a position in their former classification with any number of hours as vacancies become available.
- E.
1. Reemployment is defined as an employee's return to service in the classification and at no less than the duty hours in effect at the time of layoff.
  2. Offers of reemployment shall be made in reverse order of layoff, within each classification, as vacancies occur.
  3. An employee shall have five (5) workdays to respond to a written offer of reemployment sent by the District through U.S. Certified /Registered Mail.
  4. Failure to reply within the five (5) workday timeline specified above, refusal of reemployment, or failure to report for duty as agreed, shall cause that employee to be permanently removed from the reemployment list.
  5. An employee may notify the Personnel Office, in advance and in writing, of his/her unavailability to accept reemployment and shall not be notified of vacancies until the employee again notifies the Personnel Office, in writing, that he/she is available for reemployment.
- F.
1. Reinstatement is defined as an employee's return to service in his/her former classification with fewer hours in effect at the time of layoff or to a lower classification with increased, equal, or fewer hours.

2. Offers of reinstatement shall be made in reverse order of layoff within each classification, as vacancies occur.
  3. An employee shall have five (5) workdays to respond to an offer or reinstatement.
  4. Failure of an employee to respond within the five (5) workday timeline specified above or refusal of reinstatement, shall permit the District to proceed to the next appropriate name on the seniority list. That employee shall, however, remain on the thirty-nine (39) month reemployment list.
  5. Failure of an employee who is offered reinstatement to report for duty as agreed, shall cause that employee to be permanently removed from the reemployment list.
  6. An employee may notify the Personnel Office, in advance and in writing, of his/her unavailability to accept reinstatement and shall not be notified of vacancies until the employee again notifies the Personnel Office, in writing, that he/she is available for reinstatement.
- G.
1. Vacation time earned and unused shall be computed and paid to affected employees at the time of layoff.
  2. Credit toward sick leave, longevity and vacation shall not be counted while on layoff.
  3. Sick leave earned and unused at the time of layoff shall be restored upon reemployment/reinstatement.
- H.
1. The District will provide CSEA with a seniority roster and a list of employees to be laid off, within twenty (20) workdays of the Board's action.
  2. The District will provide an employee to be laid off the contractual District premium contribution amount towards health, dental and vision insurance for two (2) calendar months following the effective day of layoff.
  3. If an employee feels that he/she was improperly laid off, he/she may file a grievance at Level III.
- I.
- Any employee on the reemployment list due to layoff, or demotion or voluntary reduction in hours in lieu of layoff, shall be employed in preference to new applicants to any vacant position, for which the employee meets the specified job qualifications and applies, in order of seniority.

## **ARTICLE XIX**

### **WAGES**

- A. The Hourly Wage Schedule is under Appendix B.
- B.
  - 1. Employees must have been in a paid status at least 75% of their prior work year for their classification to be eligible for any step increase.
  - 2.
    - a. All employees hired after July 1, 1992 shall be on a July/June fiscal year.
    - b. Employees promoted into a new classification and who have served no less than 50% of their probationary status shall be eligible for any step increase.
- C. Employees new to the District or returning after a break in service shall be allowed experience credit up to Step 3 on the salary schedule.
- D. Employees who may be required to use their own automobiles in the performance of their assigned duties shall be reimbursed for that travel at the current IRS allowable mileage rate.
- E. Longevity
  - 1. Eligible part-time and full-time employees will be given a longevity bonus payable each year as follows:
    - .....After 8 continuous years District service \$250
    - .....After 10 continuous years District service \$500
    - .....After 13 continuous years District service \$750
    - .....After 15 continuous years District service \$1000
  - 2. This shall be one (1) lump sum payment included in the employee's regular salary for that month and shall be subject to PERS credit.
  - 3. This payment shall be payable on the first pay cycle following the anniversary date reflecting the employee's years of continuous District service.
- F. Eleven (11) or Twelve (12) Month Pay Option
  - 1. Effective 7/1/04, eleven (11) month employees shall have the option of electing an eleven (11) (August to June) or twelve (12) (July to June) month pay schedule.
  - 2. Employees, who work eleven (11) months and wish to change pay options, may do so one (1) time annually, between June 1 and June 30.

3. If an employee is promoted, reassigned, or transferred and that causes a change in pay schedule, that employee may remain on their current pay schedule for an additional one (1) year.

- G.
  1. If an employee has received wages prior to providing service and leaves the District for any reason, he/she will be responsible for returning any prepaid wages to the District.
  2. Employees leaving District employment prior to the end of their designated work year shall be paid for the total number of hours actually worked plus earned holidays and vacation.

H. Out of Class Duties/Pay

Any employee working out of class in a position with a higher hourly wage range shall have their hourly rate adjusted to the lowest step of the higher range that represents no less than a two and one-half percent (2½%) increase.

- I.
  1. CSEA and District agree to implement the "PERS PICK UP" program.
  2. There shall be no cost to the District except for normal payroll costs.
  3. Both parties shall follow all procedures of PERS, County Office of Education, IRS and all other regulating agencies in implementing this program.



## **ARTICLE XXIV**

### **COMPLETION OF -NEGOTIATIONS**

This Agreement constitutes the full and complete commitment between the parties and shall supersede and cancel all previous Agreements, whether written or oral. Except as otherwise specified, CSEA and the District agrees that neither party is obligated to meet and negotiate with respect to any subject or matter within the scope of representation, whether referred to or covered in the Agreement or not, even though any such specific subject or matter may not have been within the knowledge of contemplation of either or both the District and CSEA at the time they met and negotiated on and executed this Agreement.

## **ARTICLE XXV**

### **DURATION AND REOPENERS**

- A. Should one (1) or both parties elect to terminate the current Collaborative Bargaining Memo of Agreement (Appendix D), Section B., C., D., below shall then be in effect.
- B. This Agreement shall become effective upon ratification by both parties and shall be in effect through June 30, 2012.
- C. Reopeners for each school year shall be limited to:
  - 1. Salary
  - 2. Health and Welfare Benefits
  - 3. Two (2) Article selected by each party.
- D. CSEA shall commence the negotiation process to amend this Agreement no earlier than May 1 of each school year.

## **ARTICLE XXVI**

### **CONTRACTING OUT**

In order to ensure the District has the administrative flexibility necessary to effectively manage District operations in the most cost effective manner, the District reserves the right to contract out work to the extent permitted by law.

Prior to contracting out for work currently and customarily performed by employees in the CSEA bargaining unit, the District shall notify CSEA of its intent to contract out bargaining unit work.

The District shall offer to meet and negotiate regarding the decision and the effects of contracting out bargaining unit work where the decision to do so is based upon labor cost savings.

The District shall offer to meet and negotiate regarding the effects of contracting out bargaining unit work where the decision to do so is based upon considerations other than labor cost savings.

***Center Joint Unified School District***

**AGENDA REQUEST FOR:**

**Dept./Site:** Special Education

**Date:** June 2, 2010

**Action Item**   X  

**To:** Board of Trustees

**Information Item**

**From:** Scott Loehr, Superintendent

**# Attached Pages**

**Initials:** S.L.

**SUBJECT:** 2009/2010 Individual Service Agreements

Please approve the following Individual Service Agreements for special education students to receive services at nonpublic schools/agencies during the 2009/10 fiscal year.

2009/10- 217

Odyssey

\$6,300.00

**RECOMMENDATION:** CJUSD Board of Trustees to approve an Individual Service Agreements for the 2009/2010 school year.

**CONSENT AGENDA**

# Center Joint Unified School District

AGENDA REQUEST FOR:

Dept/Site: Business Department

Date: 6/02/10

Action Item   X  

To: Board of Trustees

Information Item       

From: Jeanne Bess *JB*  
Director of Fiscal Services

# Attached Page       

SUBJECT:

**Athletic Trainer for 2010/11  
At Center High School**

Jeanne Bess, Director of Fiscal Services is requesting approval for the 2010/11 Athletic Trainer Contract.

This contract covers the service to all of the Center High School athletic teams beginning in August 9, 2010 and ending in June 3, 2011. This is a vital and necessary component of the Center High School Athletic Program.

The cost for the annual contract is \$23,000.

**RECOMMENDATION:** To approve the athletic trainer contract for 2010/11.

**CONSENT AGENDA**

## **ATHLETIC TRAINER SUPPORT AGREEMENT**

AGREEMENT, dated as of the 19<sup>th</sup> day of April 2010, between THE PHYSICAL THERAPY CLINICS, INC ("PT CLINICS") and CENTER HIGH SCHOOL (the "SCHOOL").

### **WITNESSETH:**

WHEREAS, PT CLINICS maintains and operates an outpatient physical therapy facility with Certified Athletic Trainers and support employees;

WHEREAS, the SCHOOL is a fully accredited secondary educational institution offering academic and athletic opportunities to its students; and

WHEREAS, PT CLINICS desires to assist the SCHOOL in developing and maintaining an athletic program and the SCHOOL desires to obtain the assistance of PT CLINICS to compliment its interscholastic athletic events.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby covenant and agree as follows:

1. The SCHOOL shall provide and maintain an appropriate level of athletic training supplies and provide appropriate space for the conduct of any athletic training program, including appropriate equipment for the development of preventative programs. The SCHOOL agrees to provide appropriate support for the development of a student athletic training program. The SCHOOL shall be solely responsible for determining the times of practice and for scheduling all athletic programs. The SCHOOL agrees to identify one or more duly licensed physicians who will be available and serve as "team physicians".
2. PT CLINICS agrees to provide certified athletic trainers, who shall be employees of, or under contract with, PT CLINICS. PT CLINICS shall be responsible for the payment of all compensation and for providing all employment support and benefits, including workers' compensation coverage, for such athletic trainers. PT CLINICS with the consent of the SCHOOL, shall designate an individual to serve as the primary athletic trainer. The primary athletic trainer shall coordinate alternate coverage with the athletic director of the SCHOOL.

3. PT CLINICS, using the services of the athletic trainer, shall provide the services listed on Exhibit A hereto. PT CLINICS athletic trainer will attend the practices and games of the SCHOOL as set forth on Exhibit B, except where the SCHOOL has scheduled two or more events at the same time. In the event of a conflict in the scheduling of the practices or games, PT CLINICS' athletic trainer, in conjunction with the SCHOOL's athletic director, will determine which athletic events are to be covered.
4. The hours provided by PT CLINICS hereunder shall not exceed 40 hours per week. In the event that the SCHOOL desires PT CLINICS' athletic trainer to cover other SCHOOL sporting events, PT CLINICS and the SCHOOL will attempt to mutually agree on the coverage of the event and the additional fee for such coverage.
5. The compensation to be paid by the SCHOOL and the payment terms are set forth on Exhibit C hereto. Such compensation will cover all the expenses of PT CLINICS' athletic trainer, except when the SCHOOL requests PT CLINICS' athletic trainer to participate in an out-of-town athletic event requiring travel and/or overnight lodging. In such situations, the SCHOOL shall provide and pay the direct costs of such additional expenses as they are incurred by or on behalf of PT CLINICS' athletic trainer.
6. PT CLINICS will be responsible for providing general liability and professional liability insurance for its services provided under this Agreement. The SCHOOL will be responsible for providing general liability and professional liability insurance for the activities of its employees and agents. Upon written request, both parties shall substantiate to the satisfaction of the other party that such insurance is in full force and effect. The SCHOOL's team physician shall be responsible for providing their own professional liability insurance.
7. Nothing in this Agreement shall be construed to consider either party or their respective employees as the agents or employees of the other party. Without limiting the generality of the foregoing, PT CLINICS shall not, and shall not be considered, to exercise any control over the SCHOOL's team physician or their professional judgment.
8. This Agreement shall be effective from the date written above. The term of this agreement shall begin on August 9<sup>th</sup>, 2010 and terminate on June 3rd, 2011 subject to the right of either party to terminate this Agreement, for any reason, upon 30 days prior written notice to the other party hereto. Should PT CLINICS be unable to supply a qualified Athletic Trainer for any reason this agreement shall be terminated immediately upon such notice. This Agreement supercedes and replaces all prior agreements between the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives on the day and year written above.

**The Physical Therapy Clinics, Inc.**

By: Mark A. McCoy P.T.

Name Mark A. McCoy, P.T.  
Title: President / Co-Owner

Address: 10390 Coloma Road, Suite 7  
Rancho Cordova, CA 95670  
Phone: (916) 858-0950

**Center High School**

By: John Gallagher

Name: John Gallagher  
Title: Athletic Director

Address: 3111 CENTER ct Lane  
San Jose, CA  
Phone: 916-338-6366

## **EXHIBIT A**

### **Services provided by PT CLINICS**

1. Coordinate the establishment of an athletic training room at the SCHOOL.
2. Advise the SCHOOL as to the supplies and training equipment needed for the athletic training program.
3. Assist the SCHOOL faculty and athletic coaching staff in the design and implementation of a student athletic training program.
4. Assist the SCHOOL faculty and athletic coaching staff in the design and implementation of a continuing education program for the SCHOOL's athletic coaching staff.
5. Provide conditioning and flexibility training suggestions to the SCHOOL coaching staff with the advice and consent of the team physician.
6. Assist team physician in designing and implementing a medical records system for athletic injuries.
7. The services provided under this agreement are limited to services that can legally be provided by a Certified Athletic Trainer in California, and will only be provided on campus or at game venues.
8. Coordinate and provide injury follow-up and evaluation for the team physicians.



## **EXHIBIT B**

### **Games, Events and Practice Coverage**

1. Athletic trainer is to provide 20-25 hours per week of Athletic Training coverage of all athletic practices occurring on school grounds and during after school hours, during football and basketball seasons.
2. Athletic Trainer is to provide 20-25 hours per week of Athletic training coverage of all athletic practices occurring on school grounds and during after school hours, during the spring athletic season.
3. Athletic Trainer is to provide 20-25 hours per week of Athletic Training coverage for all home athletic contests occurring during after school hours, during football and basketball seasons.
4. Athletic Trainer is to provide 20-25 hours per week of Athletic Training coverage for all home athletic contests during after school hours, during the spring athletic season.
5. The Athletic trainer may provide coverage for all football games home and away with the permission of the Athletic Director.
6. School will allow PT CLINICS to display company banner at all home football and basketball games as space allows

## **EXHIBIT C**

### **Compensation and Payment Terms**

The SCHOOL will pay a total of \$ 23,000.<sup>00</sup> per year to PT CLINICS for the services hereunder, payable in Ten (10) monthly installments of \$ 2,300.<sup>00</sup> beginning August 2010 until paid in full.

Monthly invoices shall be sent from the PT CLINICS to the SCHOOL at the following address:

Address: 8408 Watt Avenue  
Antelope, CA 95843

ATT: \_\_\_\_\_

PO#: \_\_\_\_\_

*Center Joint Unified School District*

**AGENDA REQUEST FOR:**

**Dept./Site:** Facilities & Operations Department

**To:** Board of Trustees

**Action Item**   X  

**Date:** June 2, 2010

**Information Item**       

**From:** Craig Deason, Assist. Supt.

**# Attached Pages**   6  

**Assist. Supt. Initials:**   CD  

**SUBJECT:** Resolution of Intention: Resolution No. 30/2009-10

The attached Resolution of Intention, Resolution No. 30/2009-10, is the first step in granting easements to Antelope Springs Church for water. The resolution includes a public meeting time for input from the community before the Board adopts the resolution authorizing the dedication of the easements.

**RECOMMENDATION:** That the Board of Trustees approve the attached Resolution of Intention

**CONSENT AGENDA**

***CENTER JOINT UNIFIED SCHOOL DISTRICT***

**RESOLUTION NO. 30/2009-10:  
OF THE BOARD OF TRUSTEES  
GIVING NOTICE OF INTENTION TO GRANT A WATERLINE EASEMENT  
TO ANTELOPE SPRING BAPTIST CHURCH  
(WILSON C. RILES SCHOOL SITE)**

**WHEREAS**, the Center Joint Unified School ("District") owns the Wilson C. Riles Middle School, located at 4747 PFE Road, Roseville, California 95747, APN 023-221-011-000 (Placer County); APN 203-1100-065-0000; APN 203-1100-066-0000 (Sacramento County) ("School Site");

**WHEREAS**, the Antelope Springs Baptist Church of Sacramento, California, Inc. ("Church") owns property known as the Antelope Springs Church adjacent to the School Site at 4555 PFE Road, Roseville, CA 95747, APN 023-221-012-000 (Placer County) ("Church Property");

**WHEREAS**, the Church intends to construct a new multi-purpose building ("Multi-Purpose Building") on Church Property and needs a waterline easement to obtain water for the Multi-Purpose Building;

**WHEREAS**, the District and the Church have entered into a Joint Use Agreement for shared use of the Multi-Purpose Building;

**WHEREAS**, the District desires to provide a temporary waterline easement to the Church for the construction, operation and maintenance of a waterline, and the respective necessary fixtures and appurtenances thereto ("Waterline Easement");

**WHEREAS**, the terms and conditions of the conveyance of the temporary Waterline Easement are set forth in the Waterline Easement Agreement ("Waterline Easement Agreement") on file in the Office of the Superintendent, Center Joint Unified School District, 8408 Watt Avenue Street, Antelope, California 94943-9116, which is available to the public for review;

**WHEREAS**, the District and the community will benefit from the conveyance of the Waterline Easement;

**WHEREAS**, the Waterline Easement area is described in Exhibit "A" ("Legal Description and Map of Waterline Easement"), attached hereto;

**WHEREAS**, the District's governing board must, prior to conveying the Waterline Easement, adopt a resolution declaring its intention to convey such Waterline Easement in a regular open meeting by two-thirds (2/3) vote of all of its members;

**WHEREAS**, the School District's governing board must fix a time at its regular place of meeting for a public hearing upon the question making the dedication of the Waterline Easement;

**WHEREAS**, the District shall post copies of this Resolution, signed by the Board, in three (3) public places within the District's boundaries not less than ten (10) days before the public hearing, and publish notice once, not less than five (5) days before the public hearing in a newspaper of general circulation published in the District, if there is one, or, if there is no such newspaper published in the District, then in a newspaper published in the county which has a general circulation in the District.

**NOW, THEREFORE, THE BOARD DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:**

**Section 1.** That the above recitals are all true and correct.

**Section 2.** That the District's Board of Trustees ("Board") declares its intent to grant the Waterline Easement to the Church upon the terms and conditions set forth in the recitals.

**Section 3.** That the Board establishes June 16, 2010, for a public hearing on the question of the District's intent to dedicate the Waterline Easement to the Church. The public hearing shall be held during the Board's regular meeting which begins at 6:00 p.m. The meeting will be held at Center High School Theater, 3111 Center Court Lane, Antelope, California 95843

**Section 4.** The District staff shall post this resolution in three (3) public places within the District's boundaries and publish notice of the adoption of this resolution in as set forth above.

ADOPTED, SIGNED AND APPROVED this 2<sup>nd</sup> day of June, 2010.

---

Libby Williams, President of the Board of Trustees  
for the Center Joint Unified School District

---

Nancy Anderson, Trustee, Board of Trustees for the  
Center Joint Unified School District

---

Gary Blenner, Trustee, Board of Trustees for the  
Center Joint Unified School District

---

Matthew Friedman, Trustee, Board of Trustees for  
the Center Joint Unified School District

\_\_\_\_\_  
Donald Wilson, Trustee, Board of Trustees for the  
Center Joint Unified School District

I, \_\_\_\_\_, Clerk of the Board of Trustees of Center  
Joint Unified School District, do hereby certify that the foregoing Resolution was adopted by the  
Board of Trustees of said District at a meeting of said Board held on the 2<sup>nd</sup> day of June, 2010,  
and that it was so adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Clerk of the Board of Trustees of  
Center Joint Unified School District



GARY TIMOTHY WONG, P.L.S. 5035  
EXPIRES: 12-31-2011

DATE \_\_\_\_\_

ALL THAT REAL PROPERTY SITUATE IN THE COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

A PORTION OF LOT 66, AS SAID LOT 66 IS SHOWN ON THAT CERTION PLAT ENTITLED 'ANTELOPE OAKS UNIT NO. 2', FILED IN THE OFFICE OF THE RECORDER OF SACRAMENTO COUNTY, IN BOOK 192 OF MAPS, MAP NO. 18, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A STRIP OF LAND 10.00 FEET IN WIDTH, THE CENTERLINE DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF PEARL WOOD WAY AS SHOWN ON SAID PLAT FROM WHICH THE INTERSECTION OF THE SOUTH LINE SAID LOT 66 AND SAID EAST LINE OF PEARL WOOD WAY BEARS SOUTH 12°23'31" EAST 15.26 FEET; THENCE LEAVING SAID POINT OF BEGINNING AND PARALLEL WITH THE SAID SOUTH LINE OF LOT 66 NORTH 88°15'59" EAST 87.51 FEET TO A POINT LOCATED 27.60 FEET WESTERLY, MEASURED AT RIGHT ANGLES, TO THE WEST LINE OF WALTERGA ROAD AS SHOWN ON SAID PLAT; THENCE PARALLEL WITH THE SAID WEST LINE OF WALTERGA ROAD NORTH 01°44'01" WEST 285.06 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 66, SAID POINT BEING THE TERMINAL POINT OF SAID STRIP OF LAND.

THIS LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION ACCORDING TO SECTION 8761.1 OF THE PROFESSIONAL LAND ACT.

10' WATER EASEMENT

EXHIBIT "A"

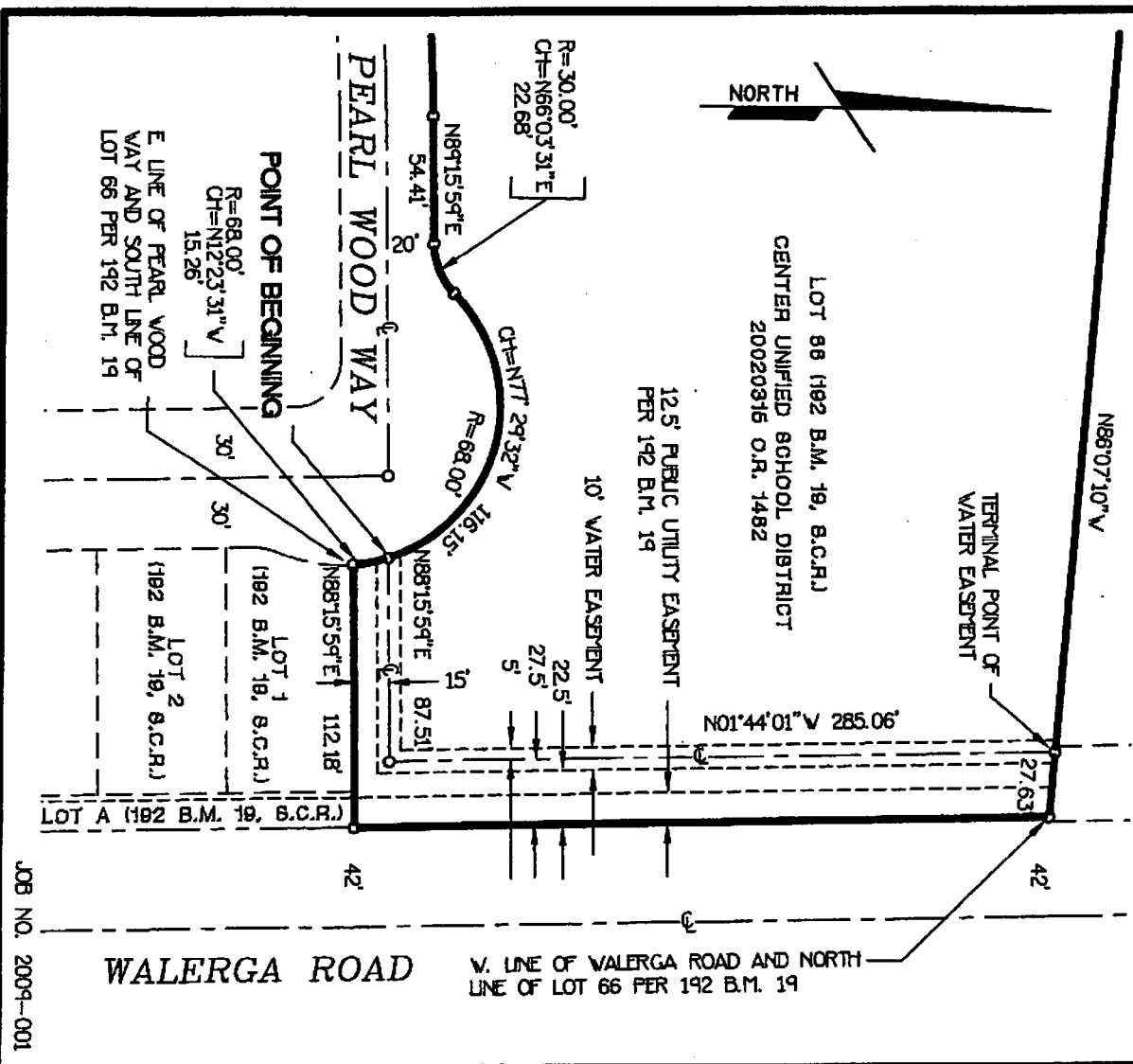
# EXHIBIT "B"

## TO ACCOMPANY LEGAL DESCRIPTION

COUNTY OF SACRAMENTO STATE OF CALIFORNIA

MAY, 2010 SCALE: 1"=60'

SHEET 1 OF 2





**EXHIBIT "B"**  
**TO ACCOMPANY LEGAL DESCRIPTION**  
COUNTY OF SACRAMENTO      STATE OF CALIFORNIA  
MAY, 2010      SCALE: NONE  
SHEET 2 OF 2

**LEGEND**

o	DIMENSION POINT, NOTHING FOUND OR SET
B. M.	BOOK OF MAPS
S. C. R.	SACRAMENTO COUNTY RECORDS
O. R.	OFFICIAL RECORDS

**BASIS OF BEARINGS**

THE BEARINGS ON THE MAP OF THIS SURVEY IS IDENTICAL  
WITH THAT OF THE CENTERLINE OF WALERGA ROAD, AS SHOWN  
ON 192 B. M. 19; THAT BEARING BEING N01° 44' 01" W.



JOB NO. 2009-001

*Center Joint Unified School District*

**AGENDA REQUEST FOR:**

**Dept./Site:** Facilities & Operations Department

**To:** Board of Trustees

**Action Item**   X  

**Date:** June 2, 2010

**Information Item**       

**From:** Craig Deason, Assist. Supt.

**# Attached Pages**   6  

**Assist. Supt. Initials:**   CD  

**SUBJECT:** Resolution of Intention: Resolution No. 31/2009-10

The attached Resolution of Intention, Resolution No. 31/2009-10, is the first step in granting easements to Antelope Springs Church for sewer. The resolution includes a public meeting time for input from the community before the Board adopts the resolution authorizing the dedication of the easements.

**RECOMMENDATION:** That the Board of Trustees approve the attached Resolution of Intention

**CONSENT AGENDA**

***CENTER JOINT UNIFIED SCHOOL DISTRICT***

**RESOLUTION NO. 31/2009-10  
OF THE BOARD OF TRUSTEES  
GIVING NOTICE OF INTENTION TO GRANT A SEWER EASEMENT  
TO ANTELOPE SPRING BAPTIST CHURCH  
(WILSON C. RILES SCHOOL SITE)**

**WHEREAS**, the Center Joint Unified School ("District") owns the Wilson C. Riles Middle School, located at 4747 PFE Road, Roseville, California 95747, APN 023-221-011-000 (Placer County); APN 203-1100-065-0000; APN 203-1100-066-0000 (Sacramento County) ("School Site");

**WHEREAS**, the Antelope Springs Baptist Church of Sacramento, California, Inc. ("Church") owns property known as the Antelope Springs Church adjacent to the School Site at 4555 PFE Road, Roseville, CA 95747, APN 023-221-012-000 (Placer County) ("Church Property");

**WHEREAS**, the Church intends to construct a new multi-purpose building ("Multi-Purpose Building") on Church Property and needs a temporary easement to construct and maintain sewer lines for the Multi-Purpose Building;

**WHEREAS**, the District and the Church have entered into a Joint Use Agreement for shared use of the Multi-Purpose Building;

**WHEREAS**, the District desires to provide a temporary sewer easement to the Church for the construction, operation, and maintenance of sewer lines, and the respective necessary fixtures and appurtenances thereto ("Sewer Easement");

**WHEREAS**, the terms and conditions of the conveyance of the temporary Sewer Easement are set forth in the Sewer Easement Agreement ("Sewer Easement Agreement") on file in the Office of the Superintendent, Center Joint Unified School District, 8408 Watt Avenue Street, Antelope, California 94943-9116, which is available to the public for review;

**WHEREAS**, the District and the community will benefit from the conveyance of the Sewer Easement;

**WHEREAS**, the Sewer Easement area is described in Exhibit "C" ("Legal Description and Map of Sewer Easement"), attached hereto;

**WHEREAS**, the District's governing board must, prior to conveying the Sewer Easement, adopt a resolution declaring its intention to convey such Sewer Easement in a regular open meeting by two-thirds (2/3) vote of all of its members;

**WHEREAS**, the School District's governing board must fix a time at its regular place of meeting for a public hearing upon the question making the dedication of the Sewer Easement;

**WHEREAS**, the District shall post copies of this Resolution, signed by the Board, in three (3) public places within the District's boundaries not less than ten (10) days before the public hearing, and publish notice once, not less than five (5) days before the public hearing in a newspaper of general circulation published in the District, if there is one, or, if there is no such newspaper published in the District, then in a newspaper published in the county which has a general circulation in the District.

**NOW, THEREFORE, THE BOARD DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:**

**Section 1.** That the above recitals are all true and correct.

**Section 2.** That the District's Board of Trustees ("Board") declares its intent to grant the Sewer Easement to the Church upon the terms and conditions set forth in the recitals.

**Section 3.** That the Board establishes June 16, 2010, for a public hearing on the question of the District's intent to dedicate the Sewer Easement to the Church. The public hearing shall be held during the Board's regular meeting which begins at 6:00 p.m. The meeting will be held at Center High School Theater, 3111 Center Court Lane, Antelope, California 95843

**Section 4.** The District staff shall post this resolution in three (3) public places within the District's boundaries and publish notice of the adoption of this resolution in as set forth above.

ADOPTED, SIGNED AND APPROVED this 2<sup>nd</sup> day of June, 2010.

---

Libby Williams, President of the Board of Trustees  
for the Center Joint Unified School District

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Nancy Anderson, Trustee, Board of Trustees for the  
Center Joint Unified School District

---

Gary Blenner, Trustee, Board of Trustees for the  
Center Joint Unified School District

---

Matthew Friedman, Trustee, Board of Trustees for  
the Center Joint Unified School District

---

Donald Wilson, Trustee, Board of Trustees for the  
Center Joint Unified School District

I, \_\_\_\_\_, Clerk of the Board of Trustees of Center  
Joint Unified School District, do hereby certify that the foregoing Resolution was adopted by the  
Board of Trustees of said District at a meeting of said Board held on the 2<sup>nd</sup> day of June, 2010,  
and that it was so adopted by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

---

Clerk of the Board of Trustees of  
Center Joint Unified School District

## EXHIBIT "C"

### 10' SEWER EASEMENT

ALL THAT REAL PROPERTY SITUATE IN THE COUNTY OF SACRAMENTO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

A PORTION OF LOT 66, AS SAID LOT 66 IS SHOWN ON THAT CERTION PLAT ENTITLED "ANTELOPE OAKS UNIT NO. 2", FILED IN THE OFFICE OF THE RECORDER OF SACRAMENTO COUNTY, IN BOOK 192 OF MAPS, MAP NO. 19, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

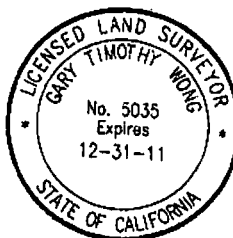
A STRIP OF LAND 10.00 FEET IN WIDTH, THE CENTERLINE DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF PEARL WOOD WAY AS SHOWN ON SAID PLAT FROM WHICH THE INTERSECTION OF THE SOUTH LINE SAID LOT 66 AND SAID EAST LINE OF PEARL WOOD WAY BEARS SOUTH 08°04'04" EAST 5.03 FEET; THENCE LEAVING SAID POINT OF BEGINNING AND PARALLEL WITH THE SAID SOUTH LINE OF LOT 66 NORTH 88°15'59" EAST 95.24 FEET TO A POINT LOCATED 17.50 FEET WESTERLY, MEASURED AT RIGHT ANGLES, TO THE WEST LINE OF WALERGA ROAD AS SHOWN ON SAID PLAT; THENCE PARALLEL WITH THE SAID WEST LINE OF WALERGA ROAD NORTH 01°44'01" WEST 294.08 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 66, SAID POINT BEING THE TERMINAL POINT OF SAID STRIP OF LAND.

THIS LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION ACCORDING TO SECTION 8761.1 OF THE PROFESSIONAL LAND ACT.

GARY TIMOTHY WONG, P.L.S. 5035  
EXPIRES: 12-31-2011

DATE



# EXHIBIT "D"

## TO ACCOMPANY LEGAL DESCRIPTION

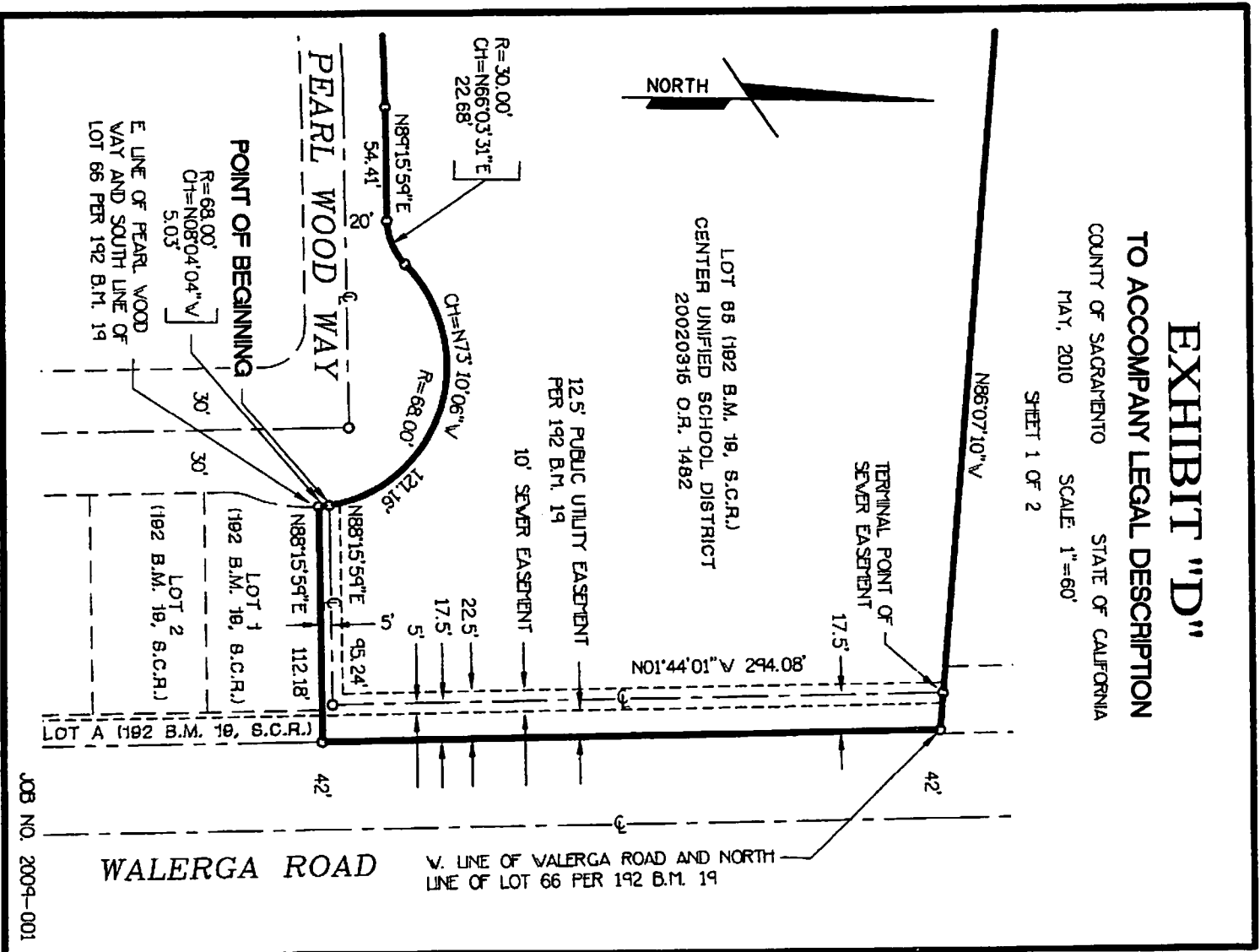
COUNTY OF SACRAMENTO

STATE OF CALIFORNIA

MAY, 2010

SCALE: 1"=60'

SHEET 1 OF 2



**EXHIBIT "D"**  
**TO ACCOMPANY LEGAL DESCRIPTION**  
COUNTY OF SACRAMENTO      STATE OF CALIFORNIA  
MAY, 2010      SCALE: NONE  
SHEET 2 OF 2

**LEGEND**

o	DIMENSION POINT, NOTHING FOUND OR SET
B. M.	BOOK OF MAPS
S. C. R.	SACRAMENTO COUNTY RECORDS
O. R.	OFFICIAL RECORDS

**BASIS OF BEARINGS**

THE BEARINGS ON THE MAP OF THIS SURVEY IS IDENTICAL  
WITH THAT OF THE CENTERLINE OF WALERGA ROAD, AS SHOWN  
ON 192 B. M. 19; THAT BEARING BEING N01° 44' 01" W.



JOB NO. 2009-001



*Center Joint Unified School District*

**AGENDA REQUEST FOR:**

**Dept./Site:** Facilities & Operations Department

**To:** Board of Trustees

**Action Item**   X  

**Date:** June 2, 2010

**Information Item**       

**From:** Craig Deason, Assist. Supt.

**# Attached Pages**   3  

**Assist. Supt. Initials:**   CD  

**SUBJECT: Deferred Maintenance Program**

Attached is our Deferred Maintenance Report that shows the State what we plan to repair or rebuild with State Deferred Maintenance Funds over the next four years. The report also shows what we have accomplished in the 2009-2010 year. This report needs Board approval prior to mailing to the State.

**RECOMMENDATION:** That the Board of Trustees approve the Deferred Maintenance Five Year Plan.

**CONSENT AGENDA**

## GENERAL INFORMATION

This Form is a summary of proposed deferred maintenance projects the applicant district plans on completing annually over the next five fiscal years using the Basic Grant, pursuant to Education Code Section 17591. The fiscal year the plan commences is determined by the fiscal year in which it was filed. New and revised plans are accepted on a continuous basis for the current fiscal year up to the last working day in June. Revisions are not accepted for prior fiscal years.

## SPECIFIC INSTRUCTIONS

### Part I—Authorized District Representative

Complete to designate or change the authorized district representative. Enter the name of the district employee that can act on behalf of the district. A consultant who is on contract with the district to communicate with the OPSC on behalf of the district's board may be listed.

### Part II—Estimated Fiscal Year Data

ITEM	DESCRIPTION	INSTRUCTIONS
1	Number of Projects	List the number of eligible projects in each of the project categories shown (refer to Regulation Section 1866.4.1).
2-6	Current and subsequent fiscal years	Enter the total estimated costs in each project category for each fiscal year identified for the projects reported in column 1.
7	Total Estimated Cost	For each project category enter the totals of columns 2-6.
8	Grand Total	Total all columns.
9	Remarks	Include any additional information for each category. If the district is applying for extreme hardship grants for any of the projects listed on the plan, identify those projects in this space. If additional space is needed, you may attach a separate sheet with your remarks to this form.
10	School Information	List the facilities where deferred maintenance projects are planned as reported in column 1 on this Five Year Plan (refer to Regulation Section 1866.4.1). If additional space is needed, you may attach a separate sheet.
11	Certification	Review and complete (refer to Regulation Section 1866.4. and EC Section 17584.1).

When completed mail this form to:

Office of Public School Construction  
Attn: Deferred Maintenance Program  
1130 K Street, Suite 400  
Sacramento, CA 95814

**NOTE:** Any Five Year Plan, SAB 40-20, not conforming to State Allocation Board (SAB) guidelines will be returned to the district. If you need assistance in completing this form, please contact the Office of Public School Construction, at 916.445.3160.

**FIVE YEAR PLAN****DEFERRED MAINTENANCE PROGRAM**

SAB 40-20 (REV 01/05)

SCHOOL DISTRICT Center Joint Unified School District	FIVE-DIGIT DISTRICT CODE NUMBER (SEE CALIFORNIA PUBLIC SCHOOL DIRECTORY) 73973
COUNTY Sacramento	CURRENT FISCAL YEAR 2009/2010

**The district:**

- ☐ has not previously submitted a Five Year Plan.  
☒ is submitting this updated/revised Five Year Plan which supersedes the plan currently on file with SAB.

**Part I—Authorized District Representative**

The following individual has been designated as a district representative by the school board minutes:

DISTRICT REPRESENTATIVE Craig Deason	TITLE Assistant Superintendent
BUSINESS ADDRESS 8408 Watt Avenue, Antelope, CA 95843	TELEPHONE NUMBER 916-338-6337
E-MAIL ADDRESS cdeason@centerusd.org	FAX NUMBER 916-338-6339

**Part II—Estimated Fiscal Year Data**

PROJECT CATEGORY	1. NUMBER OF PROJECTS	2. CURRENT FISCAL YEAR	3. SECOND FISCAL YEAR	4. THIRD FISCAL YEAR	5. FOURTH FISCAL YEAR	6. FIFTH FISCAL YEAR	7. TOTAL ESTIMATE COST
Asbestos							0.00
Classroom Lighting					20,000.00	20,000.00	40,000.00
Electrical			20,000.00				20,000.00
Floor Covering	6	55,702.00	30,000.00	30,000.00	30,000.00	30,000.00	175,702.00
HVAC	2	20,666.00	50,000.00	50,000.00	50,000.00	50,000.00	220,666.00
Lead							0.00
Painting			80,000.00	80,000.00	80,000.00	80,000.00	320,000.00
Paving			120,000.00	120,000.00	120,000.00	120,000.00	480,000.00
Plumbing	2	2,665.00	10,000.00	10,000.00	10,000.00	10,000.00	42,665.00
Roofing	5	9,260.00	40,000.00	40,000.00	40,000.00	40,000.00	169,260.00
Underground Tanks							0.00
Wall Systems	10	31,005.00	50,000.00	50,000.00	50,000.00	50,000.00	231,005.00
8. Grand Total	25	119,298.00	400,000.00	380,000.00	400,000.00	400,000.00	1,699,298.00

**9. Remarks**

**10. List the school names where deferred maintenance projects are planned in this Five Year Plan:**

Dudley Elementary School  
North Country Elementary School  
Oak Hill Elementary School  
Spinelli Elementary School  
Wilson Riles Middle School  
Center High School  
McClellan High School  
Old Junior High School

**11. Certifications**

I certify as District Representative that:

- this work does not include ineligible items and that all work will be completed in accordance with program requirements, applicable laws and regulations. The district shall maintain proper documentation in the event of an audit; and,
- the district understands that should an audit reveal that these funds were expended for other than eligible deferred maintenance costs, the SAB will require the district to return all inappropriately expended funds; and,
- the plans and proposals for expenditures of funds as outlined in this report were discussed in a public hearing at a regularly scheduled school board meeting on June 2, 2010; and the district has complied with all the other requirements of Education Code Sections 17584.1 and 17584.2; and,
- Beginning with the 2005/2006 fiscal year, the district has complied with Education Code Section 17070.75 (e) by establishing a facilities inspection system to ensure that each of its schools is maintained in good repair; and,
- This Form is an exact duplicate (verbatim) of the form provided by the OPSC. In the event a conflict should exist, then the language in the OPSC form will prevail.
- I certify under penalty of perjury under the laws of the State of California that the statements in this application and supporting documents are true and correct.

SIGNATURE OF DISTRICT REPRESENTATIVE

*Craig Deason*

DATE

*5/21/10*

# *Center Joint Unified School District*

**AGENDA REQUEST FOR:**

**Dept/Site:** Business Department

**Date:** 6/02/10

**Action Item**   X  

**To:** Board of Trustees

**Information Item**       

**From:** Jeanne Bess   
Director of Fiscal Services

**# Attached Page**       

**SUBJECT:**

**Proposed Change of Banking Services  
To UMPQUA Bank**

Rising costs at WestAmerica bank prompted an inquiry into possible savings to the District if a change was made for our Student Body, Revolving, Clearing, and Cafeteria local accounts. A comparison was made for services between WestAmerica and UMPQUA banks.

UMPQUA bank is a local bank that supports our District and community and is expanding in deposits and services it offers. By changing to UMPQUA bank, we are able to save the District over \$7,200 per year. We would continue to have the same service for our accounts.

**RECOMMENDATION:** To approve the change from WestAmerica to UMPQUA bank.

**CONSENT AGENDA**



**UMPQUA**  
**B · A · N · K**

**Center Unified School District**

**ANALYSIS SUMMARY**

	February 2010	March 2010	Total
Westamerica Bank	(\$804.02)	(\$933.21)	(\$1,737.23)
Umpqua Bank	(\$221.99)	(\$310.34)	(\$532.33)
Monthly Savings with Umpqua Bank	582.03	622.87	1,204.90
<b>Avg. Annual Savings w/Umpqua \$7,229.40</b>			

# Center Unified School District

**AGENDA REQUEST FOR:**

Dept./Site: Center High School

Date: 5/24/2010

To: Board Members

From: Michael Jordan, Principal

Action Item   X  

Information Item

# Attached Pages   0  

Principal's Initials:   m.j.  

**SUBJECT:**

Beginning August, 2010, Center High School would like to begin asking for donations to play sports. The donation structure would be as follows:

Per student/Per year

First sport = \$75.00

Second sport = \$50.00

Third sport = \$25.00

All other = Free

Family Maximum = \$300.00

The money will go directly into the CHS Athletic Fund and be used for uniform rotations, officials, EMTs, equipment, transportation overages, etc.

This is a donation request. Athletes not able to pay can work it off in the snack bar, etc. Per Education Code, students will still be allowed to play if they can't/won't pay the donation request.

*Center Joint Unified School District***AGENDA REQUEST FOR:****Dept./Site:** Superintendent's Office**Action Item** \_\_\_\_\_**To:** Board of Trustees**Information Item** \_\_\_\_\_**Date:** June 2, 2010**# Attached Pages** \_\_\_\_\_**From:** Scott A. Loehr, Superintendent**Principal/Administrator Initials:** \_\_\_\_\_**SUBJECT: 2010-2011 Board Meeting Schedule**

Attached are two possible schedules for the Board Meetings for the 2010-2011 school year. One schedule lists the meetings as the 1<sup>st</sup> and 3<sup>rd</sup> Wednesday of each month (with a few cancelled dates listed), beginning in August 2010 and ending with June 2011. The other schedule lists the Board Meeting as the 3<sup>rd</sup> Wednesday of each month only, with the exception of one on the 2<sup>nd</sup> Wednesday. Both presented schedules do not have regular Board Meetings scheduled for July 2010.

**RECOMMENDATION:** CJUSD Board of Trustees approve one of the two proposed 2010-2011 Board Meeting Schedules.



# **CENTER JOINT UNIFIED SCHOOL DISTRICT BOARD OF TRUSTEES MEETING SCHEDULE 2010-2011**

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 2010-2011 SY**

<b>August</b>	<b>18*</b>	North Country Elementary School - MP Room 3901 Little Rock Drive, Antelope, CA 95843
<b>September</b>	<b>15*</b>	North Country Elementary School - MP Room 3901 Little Rock Drive, Antelope, CA 95843
<b>October</b>	<b>20*</b>	North Country Elementary School - MP Room 3901 Little Rock Drive, Antelope, CA 95843
<b>November</b>	<b>3 &amp; 17</b>	North Country Elementary School - MP Room 3901 Little Rock Drive, Antelope, CA 95843
<b>December</b>	<b>15*</b>	North Country Elementary School - MP Room 3901 Little Rock Drive, Antelope, CA 95843
<b>January</b>	<b>5 &amp; 19</b>	Oak Hill Elementary School - MP Room 3909 North Loop Blvd., Antelope, CA 95843
<b>February</b>	<b>2 &amp; 16</b>	Oak Hill Elementary School - MP Room 3909 North Loop Blvd., Antelope, CA 95843
<b>March</b>	<b>2 &amp; 16</b>	Oak Hill Elementary School - MP Room 3909 North Loop Blvd., Antelope, CA 95843
<b>April</b>	<b>6*</b>	Oak Hill Elementary School - MP Room 3909 North Loop Blvd., Antelope, CA 95843
<b>May</b>	<b>4 &amp; 18</b>	Oak Hill Elementary School - MP Room 3909 North Loop Blvd., Antelope, CA 95843
<b>June</b>	<b>1 &amp; 15</b>	Oak Hill Elementary School - MP Room 3909 North Loop Blvd., Antelope, CA 95843

**\* These dates have been cancelled:**

July 7 & July 21 - summer vacation  
August 4 - Start of school year  
September 1 - SCOE Teacher of the Year dinner  
October 6 - No school  
December 1 - CSBA Conference  
April 20 - No school

# **CENTER JOINT UNIFIED SCHOOL DISTRICT BOARD OF TRUSTEES MEETING SCHEDULE 2010-2011**

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

## **DATES & LOCATIONS OF BOARD MEETINGS FOR 2010-2011 SY**

<b>August</b>	<b>18</b>	North Country Elementary School - MP Room 3901 Little Rock Drive, Antelope, CA 95843
<b>September</b>	<b>15</b>	North Country Elementary School - MP Room 3901 Little Rock Drive, Antelope, CA 95843
<b>October</b>	<b>20</b>	North Country Elementary School - MP Room 3901 Little Rock Drive, Antelope, CA 95843
<b>November</b>	<b>17</b>	North Country Elementary School - MP Room 3901 Little Rock Drive, Antelope, CA 95843
<b>December</b>	<b>15</b>	North Country Elementary School - MP Room 3901 Little Rock Drive, Antelope, CA 95843
<b>January</b>	<b>19</b>	Oak Hill Elementary School - MP Room 3909 North Loop Blvd., Antelope, CA 95843
<b>February</b>	<b>16</b>	Oak Hill Elementary School - MP Room 3909 North Loop Blvd., Antelope, CA 95843
<b>March</b>	<b>16</b>	Oak Hill Elementary School - MP Room 3909 North Loop Blvd., Antelope, CA 95843
<b>April</b>	<b>13*</b>	Oak Hill Elementary School - MP Room 3909 North Loop Blvd., Antelope, CA 95843
<b>May</b>	<b>18</b>	Oak Hill Elementary School - MP Room 3909 North Loop Blvd., Antelope, CA 95843
<b>June</b>	<b>15</b>	Oak Hill Elementary School - MP Room 3909 North Loop Blvd., Antelope, CA 95843

*\* April 20 - No school, meeting moved up 1 week*

*Center Joint Unified School District*

**AGENDA REQUEST FOR:**

**Dept./Site:** Superintendent's Office

**Action Item**       X      

**To:** Board of Trustees

**Information Item**                     

**Date:** June 2, 2010

**# Attached Pages**                     

**From:** Scott A. Loehr, Superintendent

**Principal/Administrator Initials:**                     

**SUBJECT: First Reading: Board Policies/Regulations/Exhibits**  
(No Significant Changes)

Add	BP	1330.1	Joint Use Agreements
Replace	BP	4030	Nondiscrimination in Employment
Delete	AR	4030	Nondiscrimination in Employment
Replace	AR	4031	Complaints Concerning Discrimination in Employment
Replace	AR	4154/4254/4354	Health and Welfare Benefits
Replace	BP/AR	4157/4257/4357	Employee Safety
Replace	AR	4161.2/4261.2/4361.2	Personal Leaves
Replace	AR	4161.8/4261.8/4361.8	Family Care and Medical Leave
Replace	BP	5127	Graduation Ceremonies and Activities
Replace	BP/AR	5131.7	Weapons and Dangerous Instruments
Delete	BP	5141.26	Tuberculosis Testing
Replace	AR	5141.26	Tuberculosis Testing
Replace	AR	5141.4	Child Abuse Prevention and Reporting
Replace	AR	5144.1	Suspension and Expulsion/Due Process
Replace	AR	5144.2	Suspension and Expulsion/Due Process (Students with Disabilities)
Replace	E	5145.6	Parental Notifications
Replace	BP/AR	6142.7	Physical Education and Activity

**RECOMMENDATION:** CUSD Board of Trustees approve the first reading of presented policies/regulations/exhibits.

# Add

## Community Relations

BP 1330.1(a)

### JOINT USE AGREEMENTS

Note: The following **optional** policy is for use by districts that elect to establish formal agreements with public or private entities to jointly use either school facilities or community facilities in order to share costs and risks. In adopting policy on this topic, districts are encouraged to review CSBA's policy brief Maximizing Opportunities for Physical Activity Through Joint Use of Facilities and CSBA's publication Building Healthy Communities: A School Leader's Guide to Collaboration and Community Engagement for tips regarding successful collaboration, information about funding sources for joint use, suggested components of joint use agreements, model agreements, and additional resources.

Use of school facilities by the community also may be accomplished through the Civic Center Act (Education Code 38130-38138) and programs such as the After School Education and Safety Program (Education Code 8482-8484.6) and 21st Century Community Learning Centers (20 USC 7171-7176; Education Code 8484.7-8484.9); see BP/AR 1330 - Use of School Facilities and BP/AR 5148.2 - Before/After School Programs.

In order to ensure the efficient use of public resources and increase access to needed services, the Governing Board may enter into an agreement with any public agency, public institution, and/or community organization to use community facilities for school programs or to make school facilities or grounds available for use by those entities. Such an agreement shall be based on an assessment of student and community needs and may be designed to increase access to spaces for recreation and physical activity, library services, school health centers, preschool programs, child care centers, before- or after-school programs, or other programs that benefit students and the community.

*(cf. 1020 - Youth Services)*  
*(cf. 1330 - Use of School Facilities)*  
*(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)*  
*(cf. 5030 - Student Wellness)*  
*(cf. 5141.6 - School Health Services)*  
*(cf. 5148 - Child Care and Development)*  
*(cf. 5148.2 - Before/After School Programs)*  
*(cf. 5148.3 - Preschool/Early Childhood Education)*  
*(cf. 6142.7 - Physical Education and Activity)*  
*(cf. 6145.2 - Athletic Competition)*  
*(cf. 6163.1 - Library Media Centers)*  
*(cf. 7000 - Concepts and Roles)*  
*(cf. 7131 - Relations with Local Agencies)*

When it is determined that joint use of facilities is in the best interest of the district and community, the Superintendent or designee shall identify a potential partner agency, institution, or organization. He/she shall involve that partner, appropriate district and school staff, and community members in establishing planning processes, goals and priorities for joint use, locations where programs or facilities are most needed, and protocols for ongoing communication and coordination between the partners.

*(cf. 1220 - Citizen Advisory Committees)*

## **JOINT USE AGREEMENTS (continued)**

The Superintendent or designee shall work with the partner agency, institution, or organization to develop a written site-specific joint use agreement that delineates the terms and conditions for joint use of the district or community facilities and the responsibilities of all parties. As appropriate, the agreement may address:

1. The underlying philosophy or reasons for entering into the joint use agreement
2. The specific district or community facilities or grounds that will be made available to the other party and areas that will be restricted
3. Priorities for use of the property
4. Hours that the property will be available for use by the district, the partner, or other parties
5. Projected capital costs, if any, and operating costs

*(cf. 7110 - Facilities Master Plan)*  
*(cf. 7150 - Site Selection and Development)*  
*(cf. 7210 - Facilities Financing)*

6. Resources to be allocated by the district and the partner

*(cf. 3100 - Budget)*

Note: Education Code 38134 authorizes the district to charge a facilities usage fee to nonprofit organizations that promote youth and school activities, provided that the amount does not exceed the district's direct costs and that the Governing Board first adopts a policy specifying which activities will be charged the fee. See BP 1330 - Use of School Facilities for language implementing this mandate.

7. Rental or other fees, if any, to be charged to either party or third parties using the facilities
8. Responsibilities for management, scheduling, maintenance, on-site supervision, accounting, and other operations
9. Procedures and timelines for requesting use of the facilities
10. Code of conduct for users of the facilities and consequences for violations of the code

*(cf. 3513.3 - Tobacco-Free Schools)*  
*(cf. 3515.2 - Disruptions)*  
*(cf. 5131 - Conduct)*  
*(cf. 5131.5 - Vandalism and Graffiti)*

## **JOINT USE AGREEMENTS (continued)**

11. Provision for regular inspection and notification of damage, as well as restitution and repair of property

*(cf. 3515.4 - Recovery for Property Loss or Damage)*

*(cf. 3517 - Facilities Inspection)*

12. Safety and security measures

*(cf. 0450 - Comprehensive School Safety Plan)*

*(cf. 3515 - Campus Security)*

*(cf. 3516 - Emergencies and Disaster Preparedness Plan)*

*(cf. 5142 - Safety)*

Note: In general, the California Tort Claims Act, also known as the Government Claims Act, (Government Code 814-825.6, 830-840.6) protects the district against liability for injuries to individuals using school property, although some conditions or circumstances could result in the district being held liable in the event of an injury. Education Code 38134 requires the district to bear the cost of insuring and defending itself against any risk caused by the district's negligence in the ownership and maintenance of district property. Education Code 38134 also requires any organized group using the facilities to carry insurance and to defend itself in the event of any injuries arising from the group's negligence in the use of the facility. See AR 1330 - Use of School Facilities.

CSBA's policy brief Maximizing Opportunities for Physical Activity Through Joint Use of Facilities recommends that districts minimize liability by adequately maintaining the property, ensuring they have proper insurance, requiring that organized groups who use the property maintain the proper insurance, and, when feasible, sharing or passing on the risk to the partner through an indemnity clause in the joint use agreement. The district should consult its legal counsel, joint powers authority or insurance carrier, and/or risk manager regarding potential risks and liability prior to entering into a joint use agreement.

13. Liability, insurance, and risk management issues

*(cf. 3320 - Claims and Actions Against the District)*

*(cf. 3530 - Risk Management/Insurance)*

*(cf. 9260 - Legal Protection)*

14. Duration of the agreement, process for amending the agreement, and the bases for cancelling or terminating the agreement before the expiration date
15. Process for resolving disputes regarding any aspect of the agreement
16. How any equipment purchased or other investments made through the agreement will be disposed of at the termination of the agreement

The agreement shall be reviewed by legal counsel and approved by the Board.

## **JOINT USE AGREEMENTS (continued)**

<p>Note: The following <b>optional</b> paragraph should be revised to reflect indicators that will be used to evaluate program effectiveness as agreed upon by the Board and Superintendent and/or program partner.</p>
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The Superintendent or designee shall provide regular reports to the Board regarding progress toward project goals, including, but not limited to, levels of participation in joint use programs held at school or community facilities, feedback from program participants, and any report of damage to property or harm to individuals resulting from the joint use. As needed, the Superintendent or designee shall recommend amendments to the joint use agreement.

*(cf. 0500 - Accountability)*

*Legal Reference: (see next page)*

## **JOINT USE AGREEMENTS (continued)**

### *Legal Reference:*

#### EDUCATION CODE

8482-8484.6 *After School Education and Safety Program*

8484.7-8484.9 *21st Century Community Learning Centers*

10900-10914.5 *Community recreation programs*

17051-17052 *Joint use*

17077.40-17077.45 *Eligibility for joint use funding*

17565-17592 *Board duties re property maintenance and control*

35200-35214 *Liabilities*

37220 *School holidays; use of facilities when school is closed*

38130-38138 *Civic Center Act, use of school property for public purposes*

44808 *Exemption from liability when students not on school property*

#### BUSINESS AND PROFESSIONS CODE

25608 *Alcoholic beverages on school premises*

#### GOVERNMENT CODE

814-825.6 *Liability of public entities and employees*

830-840.6 *Liability; dangerous conditions on property*

895-895.8 *Liability; agreement between public entities*

989-991.2 *Local public entity insurance*

#### UNITED STATES CODE, TITLE 20

7171-7176 *21st Century Community Learning Centers*

7905 *Equal access to public facilities*

### *Management Resources:*

#### CSBA PUBLICATIONS

*Maximizing Opportunities for Physical Activity Through Joint Use of Facilities*, Policy Brief, rev. February 2010

*Building Healthy Communities: A School Leader's Guide to Collaboration and Community Engagement*, 2009

#### NATIONAL POLICY AND LEGAL ANALYSIS NETWORK TO PREVENT CHILDHOOD OBESITY PUBLICATIONS

*Model California Joint Use Agreements*

*Liability for Use of School Property After Hours: An Overview of California Law*, July 2009

*Checklist for Developing Joint Use Agreements*, March 2009

#### PUBLIC HEALTH LAW AND POLICY PUBLICATIONS

*Opening School Grounds to the Community After Hours: A Toolkit for Increasing Physical Activity Through Joint Use Agreements*, 2010

#### WEB SITES

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

California Project LEAN (Leaders Encouraging Activity and Nutrition):

<http://www.californiaprojectlean.org>

Cities Counties and Schools Partnership: <http://www.ccspartnership.org>

Joint Use Statewide Task Force: <http://www.jointuse.org>

National Policy and Legal Analysis Network: <http://www.nplan.org>

Public Health Law and Policy: <http://www.phlpnet.org>



## NONDISCRIMINATION IN EMPLOYMENT

Note: The following policy reflects the provisions, including the prohibited bases of discrimination, of Title VI of the Civil Rights Act of 1964 (42 USC 2000d-2000d-7), Title VII of the Civil Rights Act of 1964 (42 USC 2000e-2000e-17), Title IX of the Education Amendments of 1972 (20 USC 1681-1688), the Americans with Disabilities Act (42 USC 12101-12213), Section 504 of the Rehabilitation Act of 1973 (29 USC 794), and the California Fair Employment and Housing Act (FEHA) (Government Code 12900-12996). For policy addressing sexual harassment by employees, see BP/AR 4119.11/4219.11/4319.11 - Sexual Harassment.

For purposes of FEHA, Government Code 12926 defines "sex" in the same terms as in Penal Code 422.56. This extends the FEHA prohibition against discrimination to discrimination based on an individual's gender, regardless of whether the perceived gender characteristics are different from those traditionally associated with the individual's sex at birth.

In its 2008 publication Questions and Answers: Religious Discrimination in Employment, the Equal Employment Opportunity Commission states that Title VII protects all aspects of religious observance and practice and defines religion broadly to include not only traditional, organized religion, but also religious beliefs that are new, uncommon, not part of a formal church or section, only subscribed to by a small number of people, or that seem illogical or unreasonable to others.

As added by P.L. 110-233, 42 USC 2000ff-2000ff-11, the Genetic Information Nondiscrimination Act prohibit employers from discriminating on the basis of "genetic information." 42 USC 2000ff defines genetic information as information about an individual's genetic tests and the tests of his/her family members as well as information about an individual's family medical history.

The Governing Board prohibits discrimination against and/or harassment of district employees and job applicants at any district site or activity on the basis of actual or perceived race, religion, color, national origin, ancestry, age, marital status, pregnancy, physical or mental disability, medical condition, genetic information, veteran status, gender, sex, or sexual orientation.

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

*(cf. 4032 - Reasonable Accommodation)*

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

*(cf. 4119.41/4219.41/4319.41 - Employees with Infectious Disease)*

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

*(cf. 5145.7 - Sexual Harassment)*

Prohibited discrimination or harassment consists of unwelcome conduct, whether verbal, physical, or visual, based on any of the prohibited categories of discrimination listed above that it is so severe and pervasive that it adversely affects an individual's employment opportunities or has the purpose or effect of unreasonably interfering with his/her work performance or creating an intimidating, hostile, or offensive work environment.

Note: For a sample procedure to be used by district employees or job applicants to complain about perceived discrimination in employment, see AR 4031 - Complaints Concerning Discrimination in Employment.

## **NONDISCRIMINATION IN EMPLOYMENT (continued)**

The Board also prohibits retaliation against any district employee or job applicant who complains, testifies, assists, or in any way participates in the district's complaint procedures instituted pursuant to this policy.

Any district employee who engages or participates in prohibited discrimination or harassment, or who aids, abets, incites, compels, or coerces another to engage or attempt to engage in such behavior, shall be in violation of this policy and shall be subject to disciplinary action, up to and including dismissal.

*(cf. 4117.4 - Dismissal)*

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

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

Note: Pursuant to 34 CFR 104.7 and 106.8, the district is required to designate the person(s) responsible for the overall implementation of the requirements of Title IX and Section 504, which prohibit discrimination on the basis of sex and disability.

The Board designates the following position(s) as Coordinator(s) for Nondiscrimination in Employment:

Chief Administrative Officer  
8408 Watt Avenue, Antelope, CA 95843  
(916 338-6413)

Any employee or job applicant who believes that he/she has been or is being discriminated against or harassed in violation of district policy or regulation should immediately contact his/her supervisor, the Coordinator, or the Superintendent who shall advise the employee or applicant about the district's procedures for filing, investigating, and resolving any such complaints.

Complaints regarding employment discrimination or harassment shall immediately be investigated in accordance with AR 4031 - Complaints Concerning Discrimination in Employment.

*(cf. 4031 - Complaints Concerning Discrimination in Employment)*

Note: 2 CCR 7287.6 and case law provide that, in certain instances, an employee's (especially a supervisor's) knowledge or notice of harassment may subject the district to liability. Therefore, it is recommended that the district require its employees with knowledge of harassment or discrimination to report the incident to the appropriate district authorities. In addition, Government Code 12940 provides that an employer may also be responsible for the sexual harassment of employees by nonemployees where the employer knows or should have known of the conduct and failed to take immediate and corrective action. See BP/AR 4119.11/4219.11/4319.11 - Sexual Harassment.

## **NONDISCRIMINATION IN EMPLOYMENT (continued)**

Any supervisory or management employee who observes or has knowledge of an incident of prohibited discrimination or harassment shall report the incident to his/her supervisor, the Coordinator, or Superintendent as soon as practical after the incident. All other employees are encouraged to report such incidents to their supervisor immediately.

### **Training and Notifications**

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 for information regarding sexual harassment training.

Although not required by law, risk managers and legal counsel often recommend that all employees receive training regarding harassment in order to help mitigate damages in the event of litigation.

The Superintendent or designee shall provide training to employees about how to recognize harassment and discrimination, how to respond appropriately, and components of the district's policies and regulations regarding discrimination.

*(cf. 4131- Staff Development)*

*(cf. 4231- Staff Development)*

*(cf. 4331- Staff Development)*

Note: Pursuant to 34 CFR 100.6(d) and 106.9 and 28 CFR 35.106, the district is required to continually notify employment applicants that it does not discriminate on the basis of race, color, national origin, sex, disability, or age.

The Superintendent or designee shall regularly publicize, within the district and in the community, the district's nondiscrimination policy and the availability of complaint procedures. Such publication shall be included in each announcement, bulletin, or application form that is used in employee recruitment. (34 CFR 100.6, 106.9)

The district's policy shall be posted in all schools and offices including staff lounges and student government meeting rooms. (5 CCR 4960)

#### *Legal Reference:*

##### EDUCATION CODE

*200-262.4 Prohibition of discrimination*

##### CIVIL CODE

*51.7 Freedom from violence or intimidation*

##### GOVERNMENT CODE

*11135 Unlawful discrimination*

*12900-12996 Fair Employment and Housing Act*

*Legal Reference continued: (see next page)*

## NONDISCRIMINATION IN EMPLOYMENT (continued)

### *Legal Reference: (continued)*

#### PENAL CODE

422.56 Definitions, hate crimes

#### CODE OF REGULATIONS, TITLE 2

7287.6 Terms, conditions and privileges of employment

#### CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary education

#### UNITED STATES CODE, TITLE 20

1681-1688 Title IX of the Education Amendments of 1972

#### UNITED STATES CODE, TITLE 29

621-634 Age Discrimination in Employment Act

794 Section 504 of the Rehabilitation Act of 1973

#### UNITED STATES CODE, TITLE 42

2000d-2000d-7 Title VI, Civil Rights Act of 1964, as amended

2000e-2000e-17 Title VII, Civil Rights Act of 1964, as amended

2000ff-2000ff-11 Genetic Information Nondiscrimination Act of 2008

2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964

12101-12213 Americans with Disabilities Act

#### CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act

#### CODE OF FEDERAL REGULATIONS, TITLE 34

100.6 Compliance information

104.7 Designation of responsible employee for Section 504

104.8 Notice

106.8 Designation of responsible employee and adoption of grievance procedures

106.9 Dissemination of policy

#### COURT DECISIONS

Shephard v. Loyola Marymount, (2002) 102 CalApp.4th 837

### *Management Resources:*

#### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

Questions and Answers: Religious Discrimination in the Workplace, 2008

Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, October 2002

Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999

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

Notice of Non-Discrimination, January 1999

#### WEB SITES

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

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

U.S. Equal Employment Opportunity Commission: <http://www.eeoc.gov>

# **Board Policy**

## **Nondiscrimination In Employment**

**BP 4030**

**Personnel**

The Governing Board prohibits unlawful discrimination against and/or harassment of district employees and job applicants on the basis of actual or perceived race, color, national origin, ancestry, religion, age, marital status, pregnancy, physical or mental disability, medical condition, veteran status, gender, sex or sexual orientation at any district site and/or activity. The Board also prohibits retaliation against any district employee or job applicant who complains, testifies or in any way participates in the district's complaint procedures instituted pursuant to this policy.

(cf. 4031 - Complaints Concerning Discrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

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

(cf. 4119.41/4219.41/4319.41 - Employees with Infectious Disease)

Any district employee who engages or participates in unlawful discrimination, or who aids, abets, incites, compels or coerces another to discriminate, is in violation of this policy and is subject to disciplinary action, up to and including dismissal.

(cf. 4117.4 - Dismissal)

(cf. 4118 - Suspension/Disciplinary Action)

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

Any district employee who observes or has knowledge of an incident of unlawful discrimination or harassment shall report the incident to the principal, district administrator or Superintendent as soon as practical after the incident. Failure of a district employee to report discrimination or harassment may result in disciplinary action.

The Superintendent or designee shall regularly publicize, within the district and in the community, the district's nondiscrimination policy and the availability of complaint procedures. Such publication shall be included in each announcement, bulletin or application form that is used in employee recruitment. (34 CFR 100.6, 106.9)

The district's policy and administrative regulation shall be posted in all schools and offices including staff lounges and student government meeting rooms. (5 CCR 4960)

The Board designates the following position as Coordinator for Nondiscrimination in Employment:

**Director of Personnel and Pupil Services**

8408 Watt Avenue  
Antelope, CA 95843  
(916) 338-6409

### Other Remedies

An employee may, in addition to filing a discrimination complaint with the district, file a complaint with either the California Department of Fair Employment and Housing (DFEH) or the Equal Employment Opportunity Commission (EEOC). The time limits for filing such complaints are as follows:

1. To file a valid complaint with DFEH, the employee must file his/her complaint within one year of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code 12960. (Government Code 12960)
2. To file a valid complaint directly with EEOC, the employee must file his/her complaint within 180 days of the alleged discriminatory act(s). To file a valid complaint with EEOC after filing a complaint with DFEH, the employee must file the complaint within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by DFEH, whichever is earlier. (42 USC 2000e-5)

Employees wishing to file complaints with the DFEH and EEOC should contact the nondiscrimination coordinator for more information.

### Legal Reference:

#### CIVIL CODE

51.7 Freedom from violence or intimidation

#### GOVERNMENT CODE

11135 Unlawful discrimination

12900-12996 Fair Employment and Housing Act

#### PENAL CODE

422.56 Definitions, hate crimes

#### CODE OF REGULATIONS, TITLE 2

7287.6 Terms, conditions and privileges of employment

#### CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance

#### UNITED STATES CODE, TITLE 20

1681-1688 Discrimination based on sex or blindness, Title IX

#### UNITED STATES CODE, TITLE 29

794 Section 504 of the Rehabilitation Act of 1973

#### 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

2000h-2-2000h-6 Title IX, 1972 Education Act Amendments

12101-12213 Americans with Disabilities Act  
CODE OF FEDERAL REGULATIONS, TITLE 28  
35.101-35.190 Americans with Disabilities Act  
CODE OF FEDERAL REGULATIONS, TITLE 34  
100.6 Compliance information  
104.8 Notice  
106.8 Designation of responsible employee and adoption of grievance procedures  
106.9 Dissemination of policy  
COURT DECISIONS  
Carter v. California Department of Veterans Affairs (2003) 2003 Cal.LEXIS 5694  
Shephard v. Loyola Marymount (2002) 102 CalApp.4th 837

**Management Resources:**

**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999

Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, March, 1999

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

Notice of Non-Discrimination, January, 1999

**WEB SITES**

EEOC: <http://www.eeoc.gov>

OCR: <http://www.ed.gov/offices/OCR>

DFEH: <http://www.dfeh.ca.gov>

**Policy CENTER UNIFIED SCHOOL DISTRICT**

adopted: March 3, 2004      Antelope, California

*Delete*

## **Administrative Regulation**

### **Nondiscrimination In Employment**

**AR 4030**

#### **Personnel**

Unlawful discrimination or harassment of an individual includes:

1. Slurs, epithets, threats or verbal abuse
2. Derogatory or degrading comments, descriptions, drawings, pictures or gestures
3. Unwelcome jokes, stories, teasing or taunting
4. Any other verbal, written, visual or physical conduct against the individual which:
  - a. Adversely affects his/her employment opportunities, or
  - b. Has the purpose or effect of unreasonably interfering with his/her work performance or creating an intimidating, hostile or offensive work environment

Any employee or job applicant who feels that he/she has been or is being unlawfully discriminated against or harassed should immediately contact his/her supervisor, the nondiscrimination coordinator or the Superintendent in order to obtain procedures for reporting a complaint. Such complaints shall be filed in accordance with AR 4031 - Complaints Concerning Discrimination in Employment. An employee may bypass his/her supervisor when the supervisor is the alleged offender.

(cf. 4031 - Complaints Concerning Discrimination in Employment)  
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

Any supervisor who receives a discrimination/harassment complaint shall immediately notify the nondiscrimination coordinator or the Superintendent, who shall ensure that the complaint is appropriately investigated in accordance with district policy and regulations.

The Superintendent or designee shall ensure that annual training is provided to all employees regarding the issues of discrimination.

Regulation    CENTER UNIFIED SCHOOL DISTRICT  
approved: December 15, 1999      Antelope, California



## COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT

Note: The following **optional** administrative regulation details procedures for use by employees or job applicants for filing a complaint concerning discrimination or harassment. See BP 4030 - Nondiscrimination in Employment for prohibited bases of discrimination or harassment pursuant to state and federal law.

### Complaint Procedure

Note: Courts have held that an employer may mitigate liability when (1) the employer took reasonable care to prevent and promptly correct the harassment (i.e., enforcement of a complaint procedure) and (2) the aggrieved employee unreasonably failed to take advantage of corrective opportunities offered by the employer (i.e., failure to file a complaint). In its June 1999 Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, the Equal Employment Opportunity Commission (EEOC) outlines the elements of an effective complaint procedure to include (1) a clear explanation of the process; (2) protection against retaliation; (3) designation of multiple individuals authorized to receive complaints; (4) a mechanism for prompt, thorough, and impartial investigation; (5) assurance of immediate and appropriate corrective action; and (6) information about time frames for filing charges with the EEOC or the state Department of Fair Employment and Housing (DFEH).

While the EEOC's guidance recommends a "prompt" investigation, neither the law nor the EEOC delineates a specific time frame for resolution. The EEOC's guidance acknowledges that whether an investigation is considered "prompt" may vary depending on the seriousness and complexity of the circumstances and that intermediate measures may be necessary to prevent further harassment during the investigation.

The following section, including the listed timelines, is consistent with the EEOC's guidance and should be modified to reflect district practice.

Any complaint by an employee or job applicant alleging discrimination or harassment shall be addressed in accordance with the following procedures:

1. **Notice and Receipt of Complaint:** Any employee or job applicant (the "complainant") who believes he/she has been subjected to prohibited discrimination or harassment shall promptly inform his/her supervisor, the district's Coordinator for Nondiscrimination in Employment, or the Superintendent.

The complainant may file a written complaint in accordance with this procedure, or if he/she is an employee, may first attempt to resolve the situation informally with his/her supervisor.

A supervisor or manager who has received information about an incident of discrimination or harassment, or has observed such an incident, shall report it to the Coordinator, whether or not the complainant files a written complaint.

The written complaint should contain the complainant's name, the name of the individual who allegedly committed the act, a description of the incident, the date and location where the incident occurred, any witnesses who may have relevant information, other evidence of the discrimination or harassment, and any other pertinent information which may assist in investigating and resolving the complaint.

## COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT (continued)

*(cf. 4032 - Reasonable Accommodation)*

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

2. **Investigation Process:** The Coordinator shall initiate an impartial investigation of an allegation of discrimination or harassment within five school days of receiving notice of the behavior, regardless of whether a written complaint has been filed or whether the written complaint is complete.

The Coordinator shall meet with the complainant to describe the district's complaint procedure and discuss the actions being sought by the complainant in response to the allegation. The Coordinator shall inform the complainant that the allegations will be kept confidential to the extent possible, but that some information may be revealed as necessary to conduct an effective investigation.

*(cf. 3580 - District Records)*

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

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

If the Coordinator determines that a detailed fact-finding investigation is necessary, he/she shall begin the investigation immediately. As part of this investigation, the Coordinator should interview the complainant, the person accused, and other persons who could be expected to have relevant information.

When necessary to carry out his/her investigation or to protect employee or student safety, the Coordinator may discuss the complaint with the Superintendent or designee, district legal counsel, or the district's risk manager.

The Coordinator also shall determine whether interim measures, such as scheduling changes, transfers, or leaves, need to be taken before the investigation is completed to ensure that further incidents do not occur. The Coordinator shall ensure that such interim measures do not constitute retaliation.

3. **Written Report on Findings and Corrective Action:** No more than 30 days after receiving the complaint, the Coordinator 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 shall notify the complainant 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 a determination has been made that discrimination or harassment occurred, the report also shall include any corrective action(s) that have been or will be taken to address the behavior, correct the effect on the complainant, and ensure that retaliation or further discrimination or harassment does not occur.

**COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT** (continued)

The report shall be presented to the complainant, the person accused, and the Superintendent or designee.

5. **Appeal to the Governing Board:** The complainant or the person accused may appeal any findings to the Board within 10 working days of receiving the written report of the Coordinator's findings. The Superintendent or designee shall provide the Board with all information presented during the investigation. Upon receiving an appeal, the Board shall schedule a hearing as soon as practicable. Any complaint against a district employee shall be addressed in closed session in accordance with law. The Board shall render its decision within 10 working days.

*(cf. 1312.1 - Complaints Concerning District Employees)*

*(cf. 9321 - Closed Session Purposes and Agendas)*

**Other Remedies**

Note: The EEOC's guidance states that it is important for employers' nondiscrimination policies to contain information about time frames for filing charges of unlawful discrimination or harassment with the EEOC or DFEH. Employees should be informed that the deadline for filing charges starts to run from the last date of the unlawful act, not from the conclusion of the employer's complaint investigation. Pursuant to DFEH procedures, DFEH will automatically forward any complaint it has accepted for investigation to the EEOC when the matter falls within the EEOC's jurisdiction.

Items #1-3 below state the time limits within which employees must file their complaints.

In addition to filing a discrimination or harassment complaint with the district, a person may also file a complaint with either the California Department of Fair Employment and Housing (DFEH) or the Equal Employment Opportunity Commission (EEOC). The time limits for filing such complaints are as follows:

Note: Pursuant to Government Code 12960, an employee has one year to file a complaint with DFEH, although that period may be extended under certain circumstances, such as when a person obtains knowledge of the unlawful practice after the expiration of the one-year period.

1. To file a valid complaint with DFEH, within one year of the alleged discriminatory act(s), unless an exception exists pursuant to Government Code 12960 (Government Code 12960)

Note: 42 USC 2000e-5 specifies that a person must file a discrimination complaint with the EEOC within 180 days of the alleged discriminatory act. P.L. 111-2 amended 42 USC 2000e-5 to specify that the 180-day timeline for compensation discrimination starts when the discriminatory paycheck is received and that each discriminatory paycheck restarts the timeline for the filing of a complaint.

2. To file a valid complaint directly with EEOC, within 180 days of the alleged discriminatory act(s) (42 USC 2000e-5)

## COMPLAINTS CONCERNING DISCRIMINATION IN EMPLOYMENT (continued)

3. To file a valid complaint with EEOC after first filing a complaint with DFEH, within 300 days of the alleged discriminatory act(s) or within 30 days after the termination of proceedings by DFEH, whichever is earlier (42 USC 2000e-5)

### *Legal Reference:*

#### EDUCATION CODE

200-262.4 *Prohibition of discrimination*

#### GOVERNMENT CODE

12920-12921 *Nondiscrimination*

12940-12948 *Discrimination prohibited; unlawful practices, generally*

#### UNITED STATES CODE, TITLE 20

1681-1688 *Title IX of the Education Amendments of 1972*

#### UNITED STATES CODE, TITLE 29

621-634 *Age Discrimination in Employment Act*

794 *Section 504 of the Rehabilitation Act of 1973*

#### UNITED STATES CODE, TITLE 42

2001d-2001d-7 *Title VI, Civil Rights Act of 1964*

2001e-2001e-17 *Title VII, Civil Rights Act of 1964, as amended*

2000ff-2000ff-11 *Genetic Information Nondiscrimination Act of 2008*

2001h-2-2001h-6 *Title IX of the Civil Rights Act of 1964*

12101-12213 *Americans with Disabilities Act*

#### CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 *Americans with Disabilities Act*

#### CODE OF FEDERAL REGULATIONS, TITLE 34

106.8 *Designation of responsible employee for Title IX*

### *Management Resources:*

#### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

*Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, October 2002*

*Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, June 1999*

#### WEB SITES

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

U.S. Equal Employment Opportunity Commission: <http://www.eeoc.gov>

# **Administrative Regulation**

## **Complaints Concerning Discrimination In Employment**

**AR 4031**

### **Personnel**

The following procedures shall be used when a district employee or job applicant has a complaint alleging that a specific action, policy, procedure or practice discriminates against him/her on any basis specified in the district's nondiscrimination policies.

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

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

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

1. The complaint should be initiated promptly after a complainant knew, or should have known, of the alleged discrimination.
2. All parties involved in allegations of discrimination shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made. The parties also shall be notified of their right to appeal the decision to the next level.
3. When a complaint is brought against the individual responsible for the complaint process at any level, the complainant may address the complaint directly to the next appropriate level.
4. Meetings related to a complaint shall be held at times the district determines appropriate to the circumstances.
5. For the protection of all the parties involved, complaint proceedings shall be kept confidential insofar as appropriate.
6. All documents, communications and records dealing with the investigation of the complaint shall be placed in a confidential district personnel complaint file and not in the employee's individual personnel file.

(cf. 1340 - Access to District Records)

(cf. 3580 - District Records)

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

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

7. Time limits specified in these procedures may be revised only by written agreement of all parties involved. If the district fails to respond within a specified or adjusted time limit, a complainant may proceed to the next level. If a complainant fails to take the complaint to the next step within the prescribed time, the complaint shall be considered settled at the preceding

step.

#### **Level I**

The complainant shall first meet informally with his/her supervisor or the administrator of the school where the alleged discriminatory act occurred. A complaint regarding discrimination away from the school site should be discussed informally with the complainant's supervisor. If the complainant's concerns are not clear or cannot be resolved through informal discussion, the supervisor or other administrator shall prepare, within 10 working days, a written summary of his/her meeting(s) with the complainant. This report shall be made available to the nondiscrimination coordinator (coordinator) designated by the Governing Board in BP 4030 - Nondiscrimination in Employment.

#### **Level II**

If a complaint cannot be resolved to the satisfaction of the complainant at Level I, he/she may submit a formal written complaint to the coordinator within 10 working days of his/her attempt to resolve the complaint informally. The written complaint shall include the following:

1. The complainant's name, address and telephone number
2. The name and work location of the district staff member who committed the alleged violation
3. A description of the alleged discriminatory act(s) or omission(s)
4. The discriminatory basis alleged
5. A specific description of the time, place, nature, participants in and witnesses to the alleged violation
6. Other pertinent information which may assist in investigating and resolving the complaint
7. The complainant's signature or that of his/her representative

The coordinator shall assign a staff member to assist the complainant with this writing if such help is needed. The coordinator shall respond to the complaint in writing within 10 working days.

The coordinator shall conduct any investigation necessary to respond to the complaint, including discussion with the complainant, person(s) involved, appropriate staff members and students, and review of the Level I report and all other relevant documents. If a response from third parties is necessary, the coordinator may designate up to 10 additional working days for investigation of the complaint.

#### **Level III**

If the complaint cannot be resolved at Level II, either party may present the complaint to the Superintendent or designee within 10 working days. The Superintendent or designee shall review the Level II investigation file, including the written complaint and all responses from district staff. The Superintendent or designee shall respond to the complaint in writing within 10 working days.

If the Superintendent or designee finds it necessary to conduct further investigation, he/she may designate up to 10 additional working days for such investigation and shall respond to the complaint in writing within 10 working days of completing the investigation.

#### **Level IV**

If the matter is not resolved at Level III, either party may file a written appeal to the Board within 10 working days after receiving the Level III response. The Superintendent or designee shall provide the Board with all information presented at previous levels.

The Board shall grant the hearing request for the next regular Board meeting for which the matter can be placed on the agenda. Any complaint against a district employee shall be addressed in closed session in accordance with law. The Board shall render its decision within 10 working days.

(cf. 1312.1 - Complaints Concerning District Employees)  
(cf. 9321 - Closed Session Purposes and Agendas)

The Board may appoint a hearing panel to review the complaint and previous decisions and make recommendations to the Board. The panel shall hear the appeal and render its decision within 10 working days.

#### **Other Remedies**

Complainants may appeal the Board's action to the California Department of Education. The Superintendent or designee shall ensure that complainants are informed that injunctions, restraining orders and other civil law remedies may also be available to them. This information shall be published with the district's nondiscrimination complaint procedures and included in any related notices. (Education Code 262.3)

#### **Legal Reference:**

##### **EDUCATION CODE**

200-262.4 Prohibition of discrimination

##### **GOVERNMENT CODE**

12920-12921 Nondiscrimination

12940-12948 Discrimination prohibited; unlawful practices, generally

##### **UNITED STATES CODE, TITLE 29**

621-634 Age Discrimination in Employment Act

794 Section 504 of the Rehabilitation Act of 1973  
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  
2000h-2-2000h-6 Title IX, 1972 Education Act Amendments  
12101-12213 Americans with Disabilities Act  
CODE OF FEDERAL REGULATIONS, TITLE 28  
35.101-35.190 Americans with Disabilities Act

**Management Resources:**

**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

**Enforcement Guidance: Reasonable Accommodation and Undue Hardship under the Americans with Disabilities Act, March, 1999**

**OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS  
GENERAL**

**Protecting Students from Harassment and Hate Crime, January, 1999**

**WEB SITES**

**EEOC:** <http://www.eeoc.gov>

**OCR:** <http://www.ed.gov/offices/OCR>

**Regulation      CENTER UNIFIED SCHOOL DISTRICT**  
**approved: December 15, 1999      Antelope, California**



**All Personnel**

AR 4154(a)

4254

**Health And Welfare Benefits**

4354

**Retired Certificated Employees**

Any former certificated employee who retired from the district under any public retirement system and his/her spouse/domestic partner shall be permitted to enroll in the health and welfare and/or dental care benefit plan currently provided for certificated employees. The plan also shall be available to any surviving spouse/domestic partner of a former certificated employee who either retired from the district or was, at the time of death, employed by the district and a member of the State Teachers' Retirement System. (Education Code 7000)

A retired certificated employee or surviving spouse/domestic partner shall be allowed to enroll in the coverage within 30 days of losing active employee coverage. (Education Code 7000)

If a retired certificated employee or surviving spouse/domestic partner fails to enroll during the initial enrollment period, further opportunity to do so shall be denied. A person who has previously received but then voluntarily terminated coverage also shall be excluded from obtaining further coverage.

**COBRA/Cal-COBRA Continuation Coverage**

Covered district employees and their qualified beneficiaries shall be offered the opportunity to continue health and disability insurance coverage when they otherwise would lose coverage due to one of the following qualifying events: (Health and Safety Code 1366.21, 1366.23, 1373; Insurance Code 10128.51, 10128.53, 10277; 26 USC 4980B; 26 CFR 54.4980B-4)

**1. Death of the covered employee**

2. Termination or reduction in hours of the covered employee's employment, other than termination by reason of the employee's gross misconduct

(cf. 4117.4 - Dismissal)

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

**3. Divorce or legal separation of the covered employee****4. Covered employee's becoming entitled to Medicare benefits****5. A dependent child ceasing to be a dependent child of the covered employee**

Continuation health coverage shall be the same as provided to similarly situated individuals under the group benefit plan. (Health and Safety Code 1366.23; Insurance Code 10128.53; 26 USC 4980B)

**HEALTH AND WELFARE BENEFITS COACHES (continued)**

The Superintendent or designee shall notify the health care service plan administrator of a qualifying event listed in item #1, 2, or 4 above, within 30 days of the event. A covered employee or qualified beneficiary shall notify the service plan administrator of a qualifying event listed in item #3 or 5 above within 60 days of the event or of the date that the beneficiary would lose coverage, whichever is later. (26 USC 4980B; 29 USC 1163, 1166)

Continuation coverage shall be terminated in accordance with the district's insurance plan and federal and state law. (26 USC 4980B; 26 CFR 54.4980B-6; Health and Safety Code 1373.621; Insurance Code 10116.5)

However, a former employee who, prior to January 1, 2005, worked for the district for at least five years and who was age 60 or older on the date employment ended, or his/her qualified beneficiaries which includes dependent children or spouse/former spouse/domestic partner, may continue benefits until the earlier of any of the following events: (Health and Safety Code 1373.621; Insurance Code 10116.5)

1. The date the individual reaches age 65
2. The date the individual is covered under any other group health plan not maintained by the district, regardless of whether that coverage is less valuable
3. The date the individual becomes entitled to Medicare benefits
4. For a qualified beneficiary, five years from the date on which continuation coverage was scheduled to end for the qualified beneficiary
5. The date on which the district terminates its agreement with the health service plan and ceases to provide coverage for any active employees through that plan, in which case the former employee and/or his/her qualified beneficiary shall have a right to a conversion plan

The Superintendent or designee shall notify covered employees and qualified beneficiaries of the availability of conversion and continuation coverage. This notification shall include the statement in Labor Code 2800.2 encouraging individuals to examine their options carefully before declining such coverage. (Labor Code 2800.2)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

**Temporary Subsidized Premium for COBRA/Cal-COBRA**

Under either of the following circumstances, a former employee and his/her qualified beneficiaries shall pay 35 percent of the premium amount they would otherwise be required

**HEALTH AND WELFARE BENEFITS COACHES (continued)**

to pay for health care continuation coverage: (26 USC 139C, 6432 Note; Health and Safety Code 1366.25; Insurance Code 10128.55)

1. The employee is involuntarily terminated, other than by reason of gross misconduct, between September 1, 2008 and March 31, 2010, or a later date if extended by law
2. The employee's eligibility for continuation coverage is due to a reduction in hours and he/she subsequently experiences an involuntary termination between March 2, 2010 and March 31, 2010, or a later date if extended by law

The district shall seek reimbursement of district payments toward the normal employee share of the premium as allowed by law. (26 USC 139C, 6432; Health and Safety Code 1366.25; Insurance Code 10128.55)

The premium reduction shall apply until one of the following dates, whichever comes first: (26 USC 6432 Note)

1. Fifteen months after the first day of the first month for which the premium reduction applies to the assistance eligible individual
2. The first date that the assistance eligible individual becomes eligible for Medicare coverage or other group health plan coverage, with certain exceptions specified in law
3. The date the assistance eligible individual ceases to be eligible for continuation coverage for other reasons as noted in the section "Continuation of Coverage" above

Because the premium reduction will be offset by an increase in income tax liability for individuals who earn more than \$125,000 for the tax year (or \$250,000 for married couples filing a joint federal income tax return), such individuals may choose to permanently waive their right to the subsidy. (26 USC 139C)

The Superintendent or designee shall, within 14 days of receiving notice of the qualifying event, notify assistance eligible individuals of the availability of the subsidy and the option to enroll in different coverage if the district permits assistance eligible individuals to elect enrollment in different coverage. Assistance eligible individuals shall have 60 days from the date the notice is provided to elect coverage. (26 USC 6432 Note; Health and Safety Code 1366.24, 1366.25; Insurance Code 10128.55)

In order to receive reimbursement of district payments toward the normal employee share of the premium as allowed by law, the Superintendent or designee shall maintain records

**HEALTH AND WELFARE BENEFITS COACHES (continued)**

regarding assistance eligible individuals and the amounts paid by the district in accordance with 26 USC 6432.

**Disability Insurance**

The Superintendent or designee shall give notice of disability insurance rights and benefits to each new employee and each employee leaving work due to pregnancy, nonoccupational illness or injury, or the need to provide care for any sick or injured family member, or the need to bond with a minor child within the first year of the child's birth or placement in connection with foster care or adoption. (Unemployment Insurance Code 2613)

(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)

(cf. 4161/4261/4361 - Leaves)

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

(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)

(cf. 4261.1 - Personal Illness and Injury Leave)

When disabled by an injury resulting from a violent act sustained while performing his/her job duties, a certificated or classified employee may continue in the district health and dental care plans upon meeting criteria specified by law. The employee shall pay all employer and employee premiums and related administrative costs. (Education Code 7008)

# **Administrative Regulation**

## **Health And Welfare Benefits**

**AR 4154 4254,4354**

### **Personnel**

#### **Retired Certificated Employees**

Any former certificated employee who retired from the district under any public retirement system and his/her spouse/domestic partner shall be permitted to enroll in the health and welfare and/or dental care benefit plan currently provided for certificated employees. The plan also shall be available to any surviving spouse/domestic partner of a former certificated employee who either retired from the district or was, at the time of death, employed by the district and a member of the State Teachers' Retirement System. (Education Code 7000)

A retired certificated employee or surviving spouse/domestic partner shall be allowed to enroll in the coverage within 30 days of losing active employee coverage. (Education Code 7000)

If a retired certificated employee or surviving spouse/domestic partner fails to enroll during the initial enrollment period, further opportunity to do so shall be denied. A person who has previously received but then voluntarily terminated coverage also shall be excluded from obtaining further coverage.

#### **COBRA/Cal-COBRA Continuation Coverage**

Covered district employees and their qualified beneficiaries shall be offered the opportunity to continue health and disability insurance coverage when they otherwise would lose coverage due to one of the following qualifying events: (Health and Safety Code 1366.21, 1366.23, 1373; Insurance Code 10128.51, 10128.53, 10277; 26 USC 4980B; 26 CFR 54.4980B-4)

1. Death of the covered employee
2. Termination or reduction in hours of the covered employee's employment, other than termination by reason of the employee's gross misconduct

(cf. 4117.4 - Dismissal)

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

3. Divorce or legal separation of the covered employee
4. Covered employee's becoming entitled to Medicare benefits
5. A dependent child ceasing to be a dependent child of the covered employee

Continuation health coverage shall be the same as provided to similarly situated individuals under the group benefit plan. (Health and Safety Code 1366.23; Insurance Code 10128.53; 26 USC 4980B)

The Superintendent or designee shall notify the health care service plan administrator of a qualifying event listed in item #1, 2, or 4 above, within 30 days of the event. A covered employee or qualified beneficiary shall notify the service plan administrator of a qualifying event listed in item #3 or 5 above within 60 days of the event or of the date that the beneficiary would lose coverage, whichever is later. (26 USC 4980B; 29 USC 1163, 1166)

Continuation coverage shall be terminated in accordance with the district's insurance plan and in accordance with 26 USC 4980B and 26 CFR 54.4980B-6.

However, a former employee who, prior to January 1, 2005, worked for the district for at least five years and who was age 60 or older on the date employment ended, or his/her qualified beneficiaries which includes dependent children or spouse/former spouse/domestic partner, may continue benefits until the earlier of any of the following events: (Health and Safety Code 1373.621; Insurance Code 10116.5)

1. The date the individual reaches age 65
2. The date the individual is covered under any other group health plan not maintained by the district, regardless of whether that coverage is less valuable
3. The date the individual becomes entitled to Medicare benefits
4. For a qualified beneficiary, five years from the date on which continuation coverage was scheduled to end for the qualified beneficiary
5. The date on which the district terminates its agreement with the health service plan and ceases to provide coverage for any active employees through that plan, in which case the former employee and/or his/her qualified beneficiary shall have a right to a conversion plan

The Superintendent or designee shall notify covered employees and qualified beneficiaries of the availability of conversion and continuation coverage. This notification shall include the statement in Labor Code 2800.2 encouraging individuals to examine their options carefully before declining such coverage. (Labor Code 2800.2)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

#### **Temporary Subsidized Premium for COBRA/Cal-COBRA**

Employees whose employment is involuntarily terminated, other than by reason of gross misconduct, between September 1, 2008 and December 31, 2009, and their qualified beneficiaries shall pay 35 percent of the premium amount they would otherwise be required to pay for health care continuation coverage, with the remainder to be subsidized through the

American Recovery and Reinvestment Act. (26 USC 6432; Health and Safety Code 1366.25; Insurance Code 10128.55)

The premium reduction shall apply until one of the following dates, whichever comes first: (26 USC 6432 Note)

1. Nine months after the first day of the first month for which the premium reduction applies to the assistance eligible individual
2. The first date that the assistance eligible individual becomes eligible for Medicare coverage or other group health plan coverage, with certain exceptions specified in law
3. The date the assistance eligible individual ceases to be eligible for continuation coverage for other reasons as noted in the section "Continuation of Coverage" above

Because the premium reduction will be offset by an increase in income tax liability for individuals who earn more than \$125,000 for the tax year (or \$250,000 for married couples filing a joint federal income tax return), such individuals may choose to permanently waive their right to the subsidy. (26 USC 139C)

The Superintendent or designee shall, within 14 days of receiving notice of the qualifying event, notify assistance eligible individuals of the availability of the subsidy and the option to enroll in different coverage if the district permits assistance eligible individuals to elect enrollment in different coverage. Assistance eligible individuals shall have 60 days from the date the notice is provided to elect coverage. (26 USC 6432 Note; Health and Safety Code 1366.24, 1366.25; Insurance Code 10128.55)

In order to receive reimbursement of district payments toward the normal employee share of the premium as allowed by law, the Superintendent or designee shall maintain records regarding assistance eligible individuals and the amounts paid by the district in accordance with 26 USC 6432.

### Disability Insurance

The Superintendent or designee shall give notice of disability insurance rights and benefits to each new employee and each employee leaving work due to pregnancy, nonoccupational illness or injury, or the need to provide care for any sick or injured family member, or the need to bond with a minor child within the first year of the child's birth or placement in connection with foster care or adoption. (Unemployment Insurance Code 2613)

(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)

(cf. 4161/4261/4361 - Leaves)

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

(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)

(cf. 4261.1 - Personal Illness and Injury Leave)

When disabled by an injury resulting from a violent act sustained while performing his/her job duties, a certificated or classified employee may continue in the district health and dental care plans upon meeting criteria specified by law. The employee shall pay all employer and employee premiums and related administrative costs. (Education Code 7008)

Regulation    CENTER UNIFIED SCHOOL DISTRICT  
approved: November 4, 2009 Antelope, California



**All Personnel**

BP 4157(a)  
4257  
4357

**EMPLOYEE SAFETY**

Note: The following **optional** policy and accompanying administrative regulation may be subject to collective bargaining agreements and should be modified to reflect district practice. Pursuant to Government Code 3543.2, safety conditions of employment are within the scope of bargaining.

The Governing Board is committed to maximizing employee safety and believes that workplace safety is every employee's responsibility. Working conditions and equipment shall comply with standards prescribed by federal, state, and local laws and regulations.

*(cf. 0450 - Comprehensive Safety Plan)*

No employee shall be required or permitted to be in any place of employment which is unsafe or unhealthful. (Labor Code 6402)

The Board expects all employees to use safe work practices and, to the extent possible, correct any unsafe conditions which may occur. If an employee is unable to correct an unsafe condition, he/she shall immediately report the problem to the Superintendent or designee.

The Superintendent or designee shall promote safety and correct any unsafe work practices through education and enforcement.

*(cf. 4117.4 - Dismissal)*

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

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

Note: Labor Code 6401.7 requires every employer to establish, implement, and maintain an effective injury prevention program. See the accompanying administrative regulation for required program elements.

The Superintendent or designee shall establish and implement a written injury and illness prevention program in accordance with law. (Labor Code 6401.7)

*(cf. 3514 - Environmental Safety)*

*(cf. 3514.1 - Hazardous Substances)*

*(cf. 3516 - Emergencies and Disaster Preparedness Plan)*

*(cf. 4119.41/4219.41/4319.41 - Employees with Infectious Disease)*

*(cf. 4119.42/4219.42/4319.42 - Exposure Control Plan for Bloodborne Pathogens)*

*(cf. 4119.43/4219.43/4319.43 - Universal Precautions)*

*(cf. 4157.2/4257.2/4357.2 - Ergonomics)*

*(cf. 4158/4258/4358 - Employee Security)*

Note: 8 CCR 3400, as amended by Register 2009, No. 35, requires all employers to make provisions in advance to ensure that employees receive prompt medical treatment for serious injury or illness. See the accompanying administrative regulation for specific requirements.

The Superintendent or designee shall ensure the ready availability of first aid materials at district workplaces and shall make effective provisions, in advance, for prompt medical treatment in the event of an employee's serious injury or illness. (8 CCR 3400)

## **EMPLOYEE SAFETY (continued)**

No employee shall be discharged or discriminated against for making complaints, instituting proceedings, or testifying with regard to employee safety or health or for participating in any occupational health and safety committee established pursuant to Labor Code 6401.7. (Labor Code 6310)

### *Legal Reference:*

#### EDUCATION CODE

32030-32034 Eye safety

32225-32226 Communications devices in classrooms

32280-32289 School safety plans

44984 Required rules for industrial accident and illness leave of absence

#### GOVERNMENT CODE

3543.2 Scope of bargaining

#### LABOR CODE

3300 Definitions

6305 Occupational safety and health standards; special order

6310 Retaliation for filing complaint prohibited

6400-6413.5 Responsibilities and duties of employers and employees, especially:

6401.7 Injury and illness prevention program

#### CODE OF REGULATIONS, TITLE 8

3203 Injury and illness prevention program

3400 Medical services and first aid

5095-5100 Control of noise exposure

#### CODE OF FEDERAL REGULATIONS, TITLE 29

1910.95 Noise standards

### *Management Resources:*

#### DEPARTMENT OF INDUSTRIAL RELATIONS PUBLICATIONS

Guide to Developing Your Workplace Injury and Illness Prevention Program, rev. August 2005

#### WEB SITES

California Department of Industrial Relations, Occupational Safety and Health:

[http://www.dir.ca.gov/occupational\\_safety.html](http://www.dir.ca.gov/occupational_safety.html)

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

National Hearing Conservation Association: <http://www.hearingconservation.org>

National Institute for Occupational Safety and Health: <http://www.cdc.gov/niosh>

U.S. Department of Labor, Occupational Safety and Health Administration: <http://www.osha.gov>

# **Board Policy**

## **Employee Safety**

**BP 4157 4257,4357**

### **Personnel**

The Governing Board is committed to maximizing employee safety and believes that safety is every employee's responsibility. Working conditions and equipment shall be maintained in compliance with standards prescribed by federal, state and local laws and regulations.

No employee shall be required or permitted to be in any place of employment which is unsafe or unhealthful. (Labor Code 6402)

The Board expects all employees to use safe work practices and to correct any unsafe conditions which may occur. If an employee is unable to correct an unsafe condition, he/she shall immediately report the problem to the Superintendent or designee.

The Superintendent or designee shall promote safety and correct any unsafe work practice through education, training and enforcement.

The Superintendent or designee shall establish and implement a written injury and illness prevention program in accordance with law. (Labor Code 6401.7)

(cf. 3514 - Environmental Safety)

(cf. 3514.1 - Hazardous Substances)

(cf. 4119.41/4219.41/4319.41 - Employees with Infectious Disease)

(cf. 4119.42/4219.42/4319.42 - Exposure Control Plan for Bloodborne Pathogens)

(cf. 4119.43/4219.43/4319.43 - Universal Precautions)

(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)

(cf. 4157.2/4257.2/4357.2 - Ergonomics)

(cf. 4158/4258/4358 - Employee Security)

The Board shall ensure that the Superintendent or designee provides eye protective devices as specified in law and administrative regulation.

No employee shall be discharged or discriminated against for making complaints, instituting proceedings or testifying with regard to employee safety or health, or for participating in any occupational health and safety committee established pursuant to Labor Code 6401.7. (Labor Code 6310)

**Legal Reference:**

**EDUCATION CODE**

32066 Safety: public and private institutions

**LABOR CODE**

6305 Occupational safety and health standards; special order

6310 Retaliation for filing complaint prohibited

6401.7 Injury prevention programs

6400-6413.5 Responsibilities and duties of employers and employees

**CODE OF REGULATIONS, TITLE 8**

3203 Injury and illness prevention program

5095-5100 Control of noise exposure

**CODE OF FEDERAL REGULATIONS, TITLE 29**

1910.95 Noise standards

**Management Resources:**

**CAL/OSHA PUBLICATIONS**

Guide to Developing Your Workplace Injury and Illness Prevention Program, revised April 1998

**DHHS PUBLICATIONS**

Preventing Occupational Hearing Loss - A Practical Guide, June 1996, Department of Health and Human Services (National Institute for Occupational Safety and Health)

**WEB SITES**

OSHA: <http://www.osha.gov>

Cal/OSHA: [http://www.dir.ca.gov/occupational\\_safety.html](http://www.dir.ca.gov/occupational_safety.html)

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

National Institute for Occupational Safety and Health: <http://www.cdc.gov/niosh>

National Hearing Conservation Association: <http://www.hearingconservation.org>

**Policy CENTER UNIFIED SCHOOL DISTRICT**

adopted: January 5, 2000     Antelope, California

**All Personnel**

AR 4157(a)

4257

**EMPLOYEE SAFETY**

4357

The Superintendent or designee shall provide and implement safety devices, safeguards, methods, and processes that are reasonably adequate to render the employment and place of employment safe and healthful. (Labor Code 6401)

*(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)*

*(cf. 4157.2/4257.2/4357.2 - Ergonomics)*

*(cf. 4161.11/4361.11 - Industrial Accident/Illness Leave)*

*(cf. 4261.1 - Industrial Accident/Illness Leave)*

**Injury and Illness Prevention Program**

Note: The following section reflects the requirements of Labor Code 6401.7 and 8 CCR 3203 for a written injury and illness prevention program. When developing such a program, districts are encouraged to review the Department of Industrial Relations' Guide to Developing Your Workplace Injury and Illness Prevention Program.

The district's injury and illness prevention program shall cover all district employees and all other workers whom the district controls or directs and directly supervises on the job to the extent that the workers are exposed to hazards specific to their worksite and job assignment. The obligation of contractors or other employers who control or direct and supervise their own employees on the job shall not be affected by the district's injury and illness prevention program. (Labor Code 6401.7)

The district's injury and illness prevention program shall include: (Labor Code 6401.7; 8 CCR 3203)

1. The name/position of the person(s) with authority and responsibility for implementing the program.
2. A system for ensuring that employees comply with safe and healthful work practices, which may include, but not be limited to:
  - a. Recognition of employees who follow safe and healthful work practices

*(cf. 4156.2/4256.2/4356.2 - Awards and Recognition)*

- b. Training and retraining programs
  - c. Disciplinary actions

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

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

Note: Pursuant to 8 CCR 3203, districts with fewer than 10 employees may fulfill the communication requirements of item #3 below by providing oral instruction in general safe work practices and the hazards unique to the employees' assignments.

**EMPLOYEE SAFETY (continued)**

3. A system for communicating with employees, in a form readily understandable by all employees, on matters related to occupational health and safety, including provisions designed to encourage employees to report hazards at the worksite without fear of reprisal. The communications system may include, but not be limited to:
  - a. Meetings
  - b. Training programs
  - c. Posting
  - d. Written communications
  - e. A system of anonymous notification by employees about hazards

Note: Districts may use a labor/management safety and health committee to communicate the contents of the injury and illness prevention program, as long as the committee satisfies the requirements specified below in the section on "Labor/Management Safety and Health Committee."

- f. A labor/management safety and health committee
4. Procedures for identifying and evaluating workplace hazards, including scheduled periodic inspections to identify unsafe conditions and work practices. Such inspections shall be made:

Note: Pursuant to 8 CCR 3203, districts should have identified and evaluated workplace hazards when the program was first established in 1991. Hazards should be reevaluated under the conditions specified below.

- a. Whenever new substances, processes, procedures, or equipment that represents a new occupational safety or health hazard is introduced into the workplace
  - b. Whenever the district is made aware of a new or previously unrecognized hazard

*(cf. 3514 - Environmental Safety)*  
*(cf. 3514.1 - Hazardous Substances)*

5. A procedure for investigating occupational injury or illness.

## **EMPLOYEE SAFETY (continued)**

6. Methods and/or procedures for correcting unsafe or unhealthful conditions, work practices, and work procedures in a timely manner, based on the severity of the hazard, when the hazard is observed or discovered.

When an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property, these procedures shall call for the removal of all exposed staff from the area except those necessary to correct the hazardous condition. Employees needed to correct the condition shall be provided necessary safeguards.

7. Provision of training and instruction as follows:

Note: Pursuant to 8 CCR 3203, districts should have provided training and instruction when the program was first established in 1991. Additional training and instruction should be provided under the conditions specified below.

- a. To all new employees
- b. To all employees given new job assignments for which training has not previously been received
- c. Whenever new substances, processes, procedures, or equipment is introduced into the workplace and represents a new hazard
- d. Whenever the district is made aware of a new or previously unrecognized hazard
- e. To supervisors, to familiarize them with the safety and health hazards to which employees under their immediate direction and control may be exposed

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

## **Labor/Management Safety and Health Committee**

Note: The following optional section is for use by districts that choose to use a labor/management safety and health committee to comply with the requirements of 8 CCR 3203 regarding communication with employees as specified in item #3 above in the section title "Injury and Illness Prevention Program." Pursuant to 8 CCR 3203, if the committee adheres to the following practices, the district shall be deemed to be in substantial compliance with the communications requirements of the law.

## **EMPLOYEE SAFETY (continued)**

The district's labor/management safety and health committee shall: (8 CCR 3203)

1. Meet regularly, but not less than quarterly.
2. Prepare and make available to affected employees written records of the safety and health issues discussed at committee meetings and maintained for review by the California Department of Industrial Relations' Division of Occupational Safety and Health (Cal/OSHA) upon request. These records shall be maintained for at least one year.
3. Review results of the periodic, scheduled worksite inspections.
4. Review investigations of occupational accidents and causes of incidents resulting in occupational injury or illness or exposure to hazardous substances. As appropriate, the committee may submit suggestions to the Superintendent or designee regarding the prevention of future incidents.
5. Review investigations of alleged hazardous conditions brought to the attention of any committee member. When determined necessary by the committee, it may conduct its own inspection and investigation to assist in remedial solutions.
6. Submit recommendations to assist in the evaluation of employee safety suggestions.
7. Upon request of Cal/OSHA, verify abatement action taken by the district to abate citations issued by Cal/OSHA.

### **Hearing Protection**

Whenever employee noise exposure equals or exceeds the standards specified in law, the Superintendent or designee shall implement a hearing conservation program in accordance with state and federal regulations, including, when required, monitoring of sound levels, audiometric testing of affected employees, the provision of hearing protectors, and employee training. (8 CCR 5095-5100; 29 CFR 1910.95)

### **Eye Safety Devices**

Eye safety devices shall be worn by employees whenever they are engaged in or observing an activity involving hazards or hazardous substances likely to cause injury to the eyes. (Education Code 32030-32034)



## **EMPLOYEE SAFETY (continued)**

### **First Aid and Medical Services**

Note: The following optional section reflects requirements of 8 CCR 3400, as amended by Register 2009, No. 35.

The Superintendent or designee shall ensure the ready availability of medical personnel for advice and consultation on matters of industrial health or injury. Whenever a workplace is not in close proximity to an infirmary, clinic, or hospital where all injured employees may be treated, the Superintendent or designee shall ensure that at least one employee is adequately trained to provide first aid. (8 CCR 3400)

The Superintendent or designee shall make adequate first aid materials readily available for employees at every worksite. Such materials shall be approved by a consulting physician and shall be kept in a sanitary and usable condition. The Superintendent or designee shall frequently inspect all first aid materials and replenish them as necessary. (8 CCR 3400)

Note: 8 CCR 3400, as amended by Register 2009, No. 35, requires all employers to make provisions in advance, using one or a combination of the provisions specified in items #1-3 below, to ensure that employees receive prompt medical treatment for serious injury or illness. The district should select the provision(s) that will be used by the district.

To avoid unnecessary delay in medical treatment in the event of an employee's serious injury or illness, the Superintendent or designee shall use one or more of the following: (8 CCR 3400)

1. A communication system for contacting a physician or emergency medical service, such as access to 911 or equivalent telephone system. The communication system or the employees using the system shall have the ability to direct emergency services to the location of the injured or ill employee.
2. Readily accessible and available on-site treatment facilities suitable for treatment of reasonably anticipated injury and illness.

*(cf. 5141.6 - School Health Services)*

3. Proper equipment for prompt medical transport when transportation of injured or ill employees is necessary and appropriate.

# **Administrative Regulation**

## **Employee Safety**

**AR 4157 4257,4357**

### **Personnel**

The Superintendent or designee shall provide safety devices, safeguards, methods and processes for staff that are reasonably adequate to render the employment and place of employment safe.

(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)

(cf. 4157.2/4257.2/4357.2 - Ergonomics)

### **Injury and Illness Prevention Program**

The district's injury and illness prevention program shall cover all district employees and all other workers whom the district controls or directs and directly supervises on the job to the extent that workers are exposed to hazards specific to their worksite and job assignment. The obligation of contractors or other employers who control or direct and supervise their own employees on the job shall not be affected by the district's injury prevention program. (Labor Code 6401.7)

The district's injury and illness prevention program shall include: (Labor Code 6401.7; 8 CCR 3203)

1. The name/position of the person(s) with authority and responsibility for implementing the program.

2. A system for ensuring that employees comply with safe and healthful work practices, which may include but not be limited to:

a. Recognition of employees who follow safe and healthful work practices

(cf. 4156.2/4256.2/4356.2 - Awards and Recognition)

b. Training and retraining programs

c. Disciplinary actions

(cf. 4117.4 - Dismissal)

(cf. 4118 - Suspension/Disciplinary Action)

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

3. A system for communicating with employees in a form readily understandable by all employees on matters related to occupational health and safety, including provisions designed to

encourage employees to report hazards at the worksite without fear of reprisal. This system may include but not be limited to:

- a. Meetings
  - b. Training programs
  - c. Posting
  - d. Written communications
  - e. A system of anonymous notification by employees about hazards
4. Procedures for identifying and evaluating workplace hazards, including scheduled periodic inspections to identify unsafe conditions and work practices. Such inspections shall be made:
- a. Whenever introducing into the workplace new substances, processes, procedures or equipment that represent a new occupational safety or health hazard
  - b. Whenever the district is made aware of a new or previously unrecognized hazard
- (cf. 3514 - Environmental Safety)  
(cf. 3514.1 - Hazardous Substances)
5. A procedure for investigating occupational injury or illness.
6. Methods and/or procedures for correcting unsafe or unhealthful conditions, work practices and work procedures in a timely manner based on the severity of the hazard when observed or discovered.

When an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property, these procedures shall call for the removal of all exposed staff from the area except those necessary to correct the hazardous condition. Employees needed to correct the condition shall be provided necessary safeguards.

7. Training and instruction:
- a. To all new employees
  - b. To all employees given new job assignments for which training has not previously been received
  - c. Whenever new substances, processes, procedures or equipment are introduced into the workplace and represent a new hazard

- d. Whenever the district is made aware of a new or previously unrecognized hazard
- e. To familiarize supervisors with the safety and health hazards to which employees under their immediate direction and control may be exposed

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Records of the steps taken to implement and maintain the injury and illness prevention program shall be kept in accordance with 8 CCR 3203.

#### Hearing Protection

When information indicates that any employee's exposure to noise may equal or exceed an eight-hour average sound level of 85 decibels, the Superintendent or designee shall implement a hearing conservation program in accordance with state and federal regulations. (8 CCR 5097, 29 CFR 1910.95)

#### Eye Safety Devices

Eye safety devices shall be worn by employees whenever they are engaged in or observing an activity involving hazards or hazardous substances likely to cause injury to the eyes. (Education Code 32030)

Such activities include, but are not limited to, the following: (Education Code 32031)

1. Working with hot molten metal
2. Milling, sawing, turning, shaping, cutting, grinding and stamping of any solid materials
3. Heat treating, tempering, or kiln firing of any metal or other materials
4. Gas or electric arc welding
5. Repair or servicing of any vehicles, machinery or equipment
6. Working with hot liquids or solids or with chemicals which are flammable, toxic, corrosive to living tissues, irritating, strongly sensitizing, radioactive, or which generate pressure through heat, decomposition, or other means

(cf. 5142 - Safety)

approved: January 5, 2000 Antelope, California

## **All Personnel**

AR 4161.2(a)

4261.2

## **PERSONAL LEAVES**

4361.2

Note: The following administrative regulation is subject to collective bargaining agreements.

The following regulation reflects Family Code 297.5 which extends to registered domestic partners the same rights that are available under state law to spouses. However, not all of the other state codes (e.g., Education Code, Military and Veterans Code) include this provision. Consistent with the definition below, throughout the following regulation, the term "spouse" also includes "registered domestic partner." Districts should consult legal counsel if a question arises as to leave provisions relative to an employee's domestic partner.

For the purpose of any personal leave offered pursuant to state law, 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. (Family Code 297.5)

Whenever possible, employees shall request personal leaves in advance and prepare suitable lesson plans or instructions for a substitute employee.

*(cf. 4121 - Temporary/Substitute Personnel)*

## **Bereavement**

Note: Education Code 44985 and 45194 allow the Governing Board to expand the class of relatives listed below and enlarge the benefits provided by law. The following two paragraphs may be revised to reflect district practice.

Employees are entitled to a leave of up to three days, or five days if out-of-state travel is required, upon the death of any member of the employee's immediate family. No deduction shall be made from the employee's salary, nor shall such leave be deducted from any other leave to which the employee is entitled. (Education Code 44985, 45194)

*(cf. 4161/4261/4361 - Leaves)*

Members of the immediate family include: (Education Code 44985, 45194)

1. The mother, father, grandmother, grandfather, or grandchild of the employee or of the employee's spouse
2. The employee's spouse, son, son-in-law, daughter, daughter-in-law, brother, or sister
3. Any relative living in the employee's immediate household

At the employee's request, bereavement leave may be extended under personal necessity leave provisions as provided below. (Education Code 44981, 45207)

## PERSONAL LEAVES (continued)

### Personal Necessity

Note: Employees may use a maximum of seven days of accumulated personal illness/injury leave (sick leave) for reasons of personal necessity pursuant to Education Code 44981 (certificated employees) and 45207 (classified employees). Pursuant to Education Code 44981, a higher maximum may be set for certificated employees if specified in a collective bargaining agreement. Education Code 45207 similarly allows a higher maximum to be set for classified employees if specified in a collective bargaining agreement or, if there is no exclusive representative, in a Board resolution. Districts that have established a higher maximum number of days than seven should modify the following paragraph accordingly.

Education Code 45207 clarifies that provisions pertaining to personal necessity leave also apply to districts that have adopted the merit system for classified employees in accordance with Education Code 45240-45320.

~~Employees may use a maximum of seven days of their accrued personal illness/injury leave during each school year for reasons of personal necessity.~~ Upon prior approval, current and accumulated sick leave may be used by the employee, at his/her election, in cases of personal necessity. (Education Code 44981, 45207)

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

*(cf. 4261.1 - Personal Illness/Injury Leave)*

Acceptable reasons for the use of personal necessity leave include:

1. Death of a member of the employee's immediate family when the number of days of absence exceeds the limits set by bereavement leave provisions (Education Code 44981, 45207)
2. An accident involving the employee's person or property or the person or property of a member of the employee's immediate family (Education Code 44981, 45207)

Note: Education Code 44981 provides that a certificated employee may use personal necessity leave for the serious illness of a member of his/her immediate family. The Board may extend these provisions to classified employees under the authority granted to the Board by Education Code 45207. Districts are cautioned to consult legal counsel regarding any interaction of Education Code provisions with Labor Code 233, which states that any employer who provides personal illness/injury leave for employees must permit employees to use personal illness/injury leave to attend to the illness of a child, parent, spouse, registered domestic partner, or registered domestic partner's child. See AR 4161.1/4361.1 - Personal Illness/Injury Leave and AR 4261.1 - Personal Illness/Injury Leave. Also see AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave for federal and state provisions related to leaves for the birth, adoption, or foster placement of a new child; the care of a seriously ill child, parent, or spouse/registered domestic partner; or the employee's own serious health condition.

3. A serious illness of a member of the certificated employee's immediate family (Education Code 44981)

## **PERSONAL LEAVES (continued)**

*(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)*

Note: Education Code 45207 provides that classified employees may use personal illness/injury leave for required court appearances as provided in item #4 below. Circumstances under which employees may take time off, with pay, for court appearances are described in the section on "Legal Duties" below.

4. A classified employee's appearance in any court or before any administrative tribunal as a litigant, party, or witness under subpoena or other order (Education Code 45207)

Note: Items #5 and #6 are **optional** and may be deleted or modified to reflect district practice.

5. Fire, flood, or other immediate danger to the home of the employee
6. Personal business of a serious nature which the employee cannot disregard

Leave for personal necessity may be allowed for other reasons at the discretion of the Superintendent or designee. However, no such leave shall be granted for purposes of personal convenience, for the extension of a holiday or vacation, or for matters which can be taken care of outside of working hours. The Superintendent or designee shall have final discretion as to whether a request reflects personal necessity.

Note: If the district has extended to classified employees the same rights granted to certificated employees to use personal necessity leave for the serious illness of a family member (see item #3 above), the district may choose to modify the last sentence of the following paragraph so as not to require advance permission for classified employees under those circumstances.

Advance permission shall not be required of any employee in cases involving the death of a member of the employee's immediate family or an accident involving the employee's person or property or the person or property of a member of his/her immediate family. For certificated employees, advance permission also shall not be required in cases involving the serious illness of a member of the employee's immediate family. (Education Code 44981, 45207)

Note: Education Code 44981 and 45207 **mandate** the adoption of regulations requiring and prescribing the manner of proof of personal necessity. The following paragraph may be revised to fulfill this mandate.

After any absence due to personal necessity, the employee shall verify the absence by submitting a completed and signed district absence form to his/her immediate supervisor.

## **Legal Duties**



AR 4161.2(d)  
4261.2  
4361.2

## **PERSONAL LEAVES (continued)**

Classified employees called for jury duty shall be granted leave with pay up to the amount of the difference between the employee's regular earnings and any amount received for jury fees. (Education Code 44037)

Note: The following **optional** paragraph is for use by districts that choose to provide leave of absence with pay for certificated employees called for jury duty, as authorized but not required by Education Code 44036. **Districts that do not extend such leave should delete this paragraph.**

Certificated employees also shall be granted leave for jury duty with pay up to the amount of the difference between the employee's regular earnings and any amount received as juror's fees.

Note: Education Code 44036 allows the Board, at its discretion, to provide paid leaves for employees to appear as witnesses in court other than as litigants or to respond to orders from another governmental jurisdiction. The following paragraph is **optional**. **Districts that do not grant such leave should delete this paragraph.**

Employees shall be granted leaves to appear in court as witnesses other than litigants or to respond to an official order from another governmental jurisdiction for reasons not brought about through the connivance or misconduct of the employee. Such employees shall receive pay up to the amount of the difference between the employee's regular earnings and any amount received for witness fees.

Note: Labor Code 230 prohibits the discharge of or discrimination or retaliation against an employee for taking time off for the activities specified in items #1-2 below.

An employee may take time off work in order to: (Labor Code 230)

1. Serve on an inquest jury or trial jury
2. Comply with a subpoena or other court order to appear as a witness

Notices, summons, and subpoenas for court appearances shall be submitted to the district office when requesting leave.

## **Leaves for Crime Victims**

Note: Labor Code 230.2 prohibits employers from taking adverse employment action against employees who take leave as described below.

An employee may be absent from work in order to attend judicial proceedings related to a crime when he/she is a victim, immediate family member of a victim, registered domestic

## **PERSONAL LEAVES (continued)**

partner of a victim, or child of a registered domestic partner of a victim of the following crimes: (Labor Code 230.2)

1. A violent felony as defined in Penal Code 667.5(c)
2. A serious felony as defined in Penal Code 1192.7(c)
3. A felony provision of law proscribing theft or embezzlement

Note: Pursuant to Labor Code 230.2, employees may use any of the types of leave listed in the following paragraph, unless otherwise provided by a collective bargaining agreement, although a collective bargaining agreement cannot diminish the entitlement of any employee. The district should modify the following paragraph as necessary to reflect the terms of its collective bargaining agreement(s).

For these purposes, the employee may use vacation, personal leave, personal illness/injury leave, compensatory time off that is otherwise available to the employee, or unpaid leave. (Labor Code 230.2)

Prior to taking time off, an employee shall give his/her supervisor a copy of the notice of each scheduled proceeding that is provided by the responsible agency, unless advance notice is not feasible. When advance notice is not feasible or an unscheduled absence occurs, the employee shall, within a reasonable time after the absence, provide documentation evidencing the judicial proceeding from the court or government agency setting the hearing, the district attorney or prosecuting attorney's office, or the victim/witness office that is advocating on behalf of the victim. (Labor Code 230.2)

The district shall keep confidential any records pertaining to the employee's absence from work. (Labor Code 230.2)

### **Leaves for Victims of Domestic Violence or Sexual Assault**

Note: Labor Code 230 prohibits employers from taking adverse employment action against victims of sexual assault or domestic violence who take leave as described in the following section.

An employee who is a victim of domestic violence or sexual assault as defined by law may take time off work to obtain or attempt to obtain any relief including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or his/her child. (Labor Code 230)

Note: Labor Code 230.1 requires districts with 25 or more employees to grant time off to employees who are victims of sexual assault or domestic violence for the following additional reasons. **Districts with fewer than 25 employees may use or delete items #1-4 below at their discretion.**

**PERSONAL LEAVES (continued)**

In addition, an employee who is a victim of domestic violence or sexual assault may take time off work to attend to the following activities: (Labor Code 230.1)

1. Seek medical attention for injuries caused by domestic violence or sexual assault
2. Obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence or sexual assault
3. Obtain psychological counseling related to an experience of domestic violence or sexual assault
4. Participate in safety planning and take other actions to increase safety from future domestic violence or sexual assault, including temporary or permanent relocation

Note: The remainder of this section applies to all districts. Pursuant to Labor Code 230 and 230.1, employees may use any of the types of leave listed in the following paragraph, unless otherwise provided by a collective bargaining agreement, although a collective bargaining agreement cannot diminish the entitlement of any employee. The district should modify the following paragraph as necessary to reflect the terms of its collective bargaining agreement(s).

An employee who is a victim of domestic violence or sexual assault may use vacation, personal leave, or compensatory time off that is otherwise available to the employee under the applicable terms of employment. (Labor Code 230, 230.1)

Prior to taking time off, an employee shall give reasonable notice to his/her supervisor, unless advance notice is not feasible. When an unscheduled absence occurs, the employee shall provide, within a reasonable period of time, certification of the absence in the form of any of the following documents: (Labor Code 230, 230.1)

1. A police report indicating that the employee was a victim of domestic violence or sexual assault
2. A court order protecting or separating the employee from the perpetrator of an act of domestic violence or sexual assault, or other evidence from the court or prosecuting attorney that the employee has appeared in court
3. Documentation from a medical professional, domestic violence advocate or advocate for victims of sexual assault, health care provider, or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting from an act of domestic violence or sexual assault

AR 4161.2(g)  
4261.2  
4361.2

## **PERSONAL LEAVES (continued)**

The district shall maintain the confidentiality of such an employee to the extent authorized by law. (Labor Code 230, 230.1)

### **Personal Leave for a Child's School Activities**

Note: Pursuant to Labor Code 230.8, the following section applies to districts employing 25 or more employees at the same location. Districts with fewer than 25 employees at the same location may use or delete this section at their discretion.

Any employee who is a parent/guardian, or grandparent having custody of one or more children who are enrolled in grades K-12, or who attend a licensed day care facility, may use up to 40 hours of personal leave, vacation, or compensatory time off each school year in order to participate in school or day care activities. Such leave shall not exceed eight hours in any month of the year, and the employee shall give reasonable advance notice of the absence. (Labor Code 230.8)

*(cf. 1240 - Volunteer Assistance)*

Note: Labor Code 230.8 provides that the employee may use time off without pay to the extent the employer makes it available. The following optional paragraph may be revised to reflect district practice.

In lieu of using vacation, personal leave, or compensatory time off, eligible employees giving reasonable advance notice may take up to 40 hours without pay each school year for this purpose, not to exceed eight hours in any month.

If both parents/guardians of a child are employed at the same work site, this leave shall be allowed for the first parent/guardian who applies. Simultaneous absence by the second parent may be granted by the Superintendent or designee. (Labor Code 230.8)

Upon request by the Superintendent or designee, the employee shall provide documentation from the school or licensed day care facility that he/she participated in school or licensed day care facility activities on a specific date and at a particular time. (Labor Code 230.8)

Note: Pursuant to Labor Code 230.8, an employee who is discharged, threatened with discharge, demoted, suspended, or otherwise discriminated against for using the above leave is entitled to reinstatement and reimbursement for lost wages and benefits, and an employer who willfully refuses to rehire, promote, or otherwise reinstate such an employee is subject to a civil penalty equal to three times the amount of the lost wages and benefits.

## **Service on Education Boards, Committees, and State or Employee Organizations**

## **PERSONAL LEAVES (continued)**

Upon request, certificated employees shall be granted up to 20 school days of paid leave per school year for service performed within the state on any education boards, commissions, committees, or groups authorized by Education Code 44987.3 provided that all of the following conditions are met: (Education Code 44987.3)

1. The service is performed in the state of California.
2. The board, commission, organization, or group informs the district in writing of the service.
3. The board, commission, organization, or group agrees, prior to service, to reimburse the district, upon the district's request, for compensation paid to the employee's substitute and for actual related administrative costs.

Note: Education Code 44987 and 45210 provide that certificated and classified employees may take time off without loss of compensation to serve as elected officers of their local, statewide, or national employee organization. Following the district's payment to the employee for the leave of absence, the employee organization must reimburse the district. This leave of absence is in addition to the release time granted to representatives of an employee organization pursuant to Government Code 3543.1.

Upon request, certificated and classified employees shall be granted a leave of absence without loss of compensation to serve as an elected officer of a district employee organization or any statewide or national employee organization with which the local organization is affiliated. The leave shall include, but is not limited to, absence for purposes of attending periodic, stated, special, or regular meetings of the body of the organization. (Education Code 44987, 45210)

### **Religious Leave**

Note: The following **optional** section is for districts that choose to grant religious leave and may be revised to reflect district practice. **Districts that do not grant such leave should delete this section.**

The Superintendent or designee may grant employees up to three days of leave per year for religious purposes, provided that the leave is requested in advance and that it does not cause additional district expenditures, the neglect of assigned duties, or any other unreasonable hardship on the district.

Note: The following **optional** paragraph reflects the California Supreme Court's interpretation of Article I, Section 8 of the California Constitution as stated in Rankin v. Commission on Professional Competence.

The Superintendent or designee shall deduct the cost of a substitute, when required, from the wages of the employee who takes religious leave.

## **PERSONAL LEAVES (continued)**

No employee shall be discriminated against for using this leave or any additional days of unpaid leave granted for religious observances at the discretion of the Superintendent or designee.

### **Spouse on Leave from Military Deployment**

Note: Military and Veterans Code 395.10 requires any employer with 25 or more employees to allow up to 10 days of unpaid leave to an employee whose spouse is on leave from military deployment. Districts with fewer than 25 employees may use the following section at their discretion. In addition, 29 USC 2612 authorizes an employee to take up to 26 work weeks of unpaid military caregiver leave or up to 12 weeks of "exigency" leave; see AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave.

An employee who works an average of 20 hours or more per week and whose spouse is a member of the United States Armed Forces, National Guard, or reserves may take up to 10 days of unpaid leave during a period that his/her spouse is on leave from deployment during a military conflict, as defined in Military and Veterans Code 395.10. (Military and Veterans Code 395.10)

The employee shall provide the Superintendent or designee with notice, within two business days of receiving official notice that his/her spouse will be on leave from deployment, of his/her intention to take the leave. The employee shall submit written documentation certifying that his/her spouse will be on leave from deployment during the time that the leave is requested. (Military and Veterans Code 395.10)

### **Leave for Emergency Duty**

Note: Labor Code 230.3 prohibits a district from discharging or discriminating against an employee who takes time off to perform emergency duty as specified below. Labor Code 230.3 defines emergency rescue personnel as a member of a federal, state, local, or private fire department or agency, as well as a sheriff or police department.

An employee may take time off to perform emergency duty as a volunteer firefighter, a reserve peace officer, or emergency rescue personnel. (Labor Code 230.3)

Note: Labor Code 230.4 requires a district with 50 or more employees to grant an employee who is a volunteer firefighter temporary leaves of absence for up to 14 days per calendar year for activities as specified below. Districts with fewer than 50 employees may use or delete this paragraph at their discretion.

An employee who is a volunteer firefighter shall be permitted to take temporary leaves of absence, not to exceed an aggregate total of 14 days per calendar year, for the purpose of engaging in fire or law enforcement training. (Labor Code 230.4)

## PERSONAL LEAVES (continued)

### Civil Air Patrol Leave

Note: Labor Code 1500-1507, added by AB 485 (Ch. 242, Statutes of 2009), requires a district with more than 15 employees to provide at least 10 days per year of leave, beyond any leave otherwise available to employees, to employees who volunteer with the Civil Air Patrol and are directed to respond to an emergency operational mission, as provided below. Labor Code 1503 specifies that a district may not require an employee to first exhaust all accrued vacation, personal, sick, or any other available leave in order to use Civil Air Patrol leave.

If the district chooses to offer more than 10 days of such leave per year or to provide paid leave, it should modify the following paragraph accordingly. Districts with 15 or fewer employees may use or delete this section at their discretion.

An employee may take up to 10 days of unpaid leave per calendar year, beyond any leave otherwise available to employees, to respond to an emergency operational mission of the California Civil Air Patrol, provided that the employee has been employed by the district for at least a 90-day period immediately preceding the leave. Such leaves shall not exceed three days for a single emergency operational mission, unless an extension is granted by the governmental entity authorizing the mission and is approved by the Superintendent or designee. (Labor Code 1501, 1503)

The employee shall give the district as much advance notice as possible of the intended dates of the leave. The Superintendent or designee may require certification from the proper Civil Air Patrol authority to verify the eligibility of the employee for the leave and may deny the leave if the employee fails to provide the required certification. (Labor Code 1503)

#### *Legal Reference:*

##### EDUCATION CODE

- 44036-44037 Leaves of absence for judicial and official appearances
- 44963 Power to grant leaves of absence (certificated)
- 44981 Leave of absence for personal necessity (certificated)
- 44985 Leave of absence due to death in immediate family (certificated)
- 44987 Service as officer of employee organization (certificated)
- 44987.3 Leave of absence to serve on certain boards, commissions, etc.
- 45190 Leaves of absence and vacations (classified)
- 45194 Bereavement leave of absence (classified)
- 45198 Effect of provisions authorizing leaves of absence
- 45207 Personal necessity (classified)

*Legal Reference continued: (see next page)*

## **PERSONAL LEAVES (continued)**

### *Legal Reference: (continued)*

#### EDUCATION CODE (continued)

45210 Service as officer of employee organization (classified)

45240-45320 Merit system, classified employees

#### FAMILY CODE

297-297.5 Registered domestic partner rights, protections, and benefits

#### GOVERNMENT CODE

3543.1 Release time for representatives of employee organizations

#### LABOR CODE

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

230.3 Leave for emergency personnel

230.4 Leave for volunteer firefighters

230.8 Leave to visit child's school

233 Illness of child, parent, spouse, domestic partner or domestic partner's child

234 Absence control policy

1500-1507 Civil Air Patrol leave

#### MILITARY AND VETERANS CODE

395.10 Leave when spouse on leave from military deployment

#### PENAL CODE

667.5 Violent felony, defined

1192.7 Serious felony, defined

#### CALIFORNIA CONSTITUTION

Article 1, Section 8 Religious discrimination

#### UNITED STATES CODE, TITLE 29

2612 Family and Medical Leave Act, leave requirements

#### UNITED STATES CODE, TITLE 42

2000d-2000d-7 Title VII, Civil Rights Act of 1964

#### COURT DECISIONS

Rankin v. Commission on Professional Competence, (1988) 24 Cal.3d 167

### *Management Resources:*

#### WEB SITES

California Federation of Teachers: <http://www.cft.org>

California School Employees Association: <http://www.csea.com>

California Teachers Association: <http://www.cta.org>



# **Administrative Regulation**

## **Personal Leaves**

AR 4161.2 4261.2, 4361.2

### **Personnel**

Whenever possible, employees shall request personal leaves in advance and prepare suitable lesson plans or instructions for a substitute employee.

### **Bereavement**

Employees are entitled to a leave of up to three days, or five days if required travel is at least 375 miles one way, upon the death of any member of the employee's immediate family. No deduction shall be made from the employee's salary, nor shall such leave be deducted from any other leave to which the employee is entitled. (Education Code 44985, 45194)

(cf. 4161/4261 - Leaves)

(cf. 4361 - Leaves)

Members of the immediate family include: (Education Code 44985, 45194; Family Code 297.5)

1. The mother, father, grandmother, grandfather, or grandchild of the employee or of the employee's spouse/domestic partner
2. The employee's spouse/domestic partner, son, son-in-law, daughter, daughter-in-law, brother, or sister
3. Any relative living in the employee's immediate household

At the employee's request, bereavement leave may be extended under personal necessity leave provisions as provided below. (Education Code 44981, 45207)

### **Personal Necessity**

Employees may use up to seven days of their accrued sick leave during each contract year for reasons of personal necessity. (Education Code 44981, 45207)

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

(cf. 4261.1 - Personal Illness/Injury Leave)

Acceptable reasons for the use of personal necessity leave include:

1. Death of a member of the employee's immediate family when the number of days of absence exceeds the limits set by bereavement leave provisions (Education Code 44981, 45207)

2. An accident involving the employee's person or property or the person or property of a member of the employee's immediate family (Education Code 44981, 45207)
  3. A serious illness of a member of the certificated employee's immediate family (Education Code 44981)
- (cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)
4. A classified employee's appearance in any court or before any administrative tribunal as a litigant, party or witness under subpoena or other order (Education Code 45207)
  5. Fire, flood or other immediate danger to the home of the employee
  6. Personal business of a serious nature which the employee cannot disregard

Leave for personal necessity may be allowed for other reasons at the discretion of the Superintendent or designee. However, no such leave shall be granted for purposes of personal convenience, for the extension of a holiday or vacation, or for matters which can be taken care of outside of working hours. The Superintendent or designee shall have final discretion as to whether a request reflects true personal necessity.

Advance permission shall not be required of any employee in cases involving the death of a member of the employee's immediate family or an accident involving the employee's person or property or the person or property of a member of his/her immediate family. For certificated employees, advance permission also shall not be required in cases involving the serious illness of a member of the employee's immediate family. (Education Code 44981, 45207)

After any absence due to personal necessity, the employee shall verify the absence by submitting a completed and signed district absence form to his/her immediate supervisor.

#### Legal Duties

Classified employees called for jury duty shall be granted leave with pay up to the amount of the difference between the employee's regular earnings and any amount received for jury or witness fees. (Education Code 44037)

Certificated employees also shall be granted leave for jury duty with pay up to the amount of the difference between the employee's regular earnings and any amount received as juror's fees.

Employees shall be granted leaves to appear in court as witnesses other than litigants or to respond to an official order from another governmental jurisdiction for reasons not brought about through the connivance or misconduct of the employee. Such employees shall receive pay up to the amount of the difference between the employee's regular earnings and any amount received for witness fees.

**An employee may take time off work in order to: (Labor Code 230)**

- 1. Serve on an inquest jury or trial jury**
- 2. Comply with a subpoena or other court order to appear as a witness**

**Notices, summons and subpoenas for court appearances shall be submitted to the district office when requesting leave.**

#### **Leaves for Crime Victims**

**An employee may be absent from work in order to attend judicial proceedings related to a crime when he/she is a victim, immediate family member of a victim, registered domestic partner of a victim, or child of a registered domestic partner of a victim of the following crimes: (Labor Code 230.2)**

- 1. A violent felony as defined in Penal Code 667.5(c)**
- 2. A serious felony as defined in Penal Code 1192.7(c)**
- 3. A felony provision of law proscribing theft or embezzlement**

**For these purposes, the employee may use vacation, personal leave, sick leave, compensatory time off that is otherwise available to the employee, or unpaid leave. (Labor Code 230.2)**

**Prior to taking time off, an employee shall give his/her supervisor a copy of the notice of each scheduled proceeding that is provided by the responsible agency, unless advance notice is not feasible. When advance notice is not feasible or an unscheduled absence occurs, the employee shall, within a reasonable time after the absence, provide documentation evidencing the judicial proceeding from the court or government agency setting the hearing, the district attorney or prosecuting attorney's office, or the victim/witness office that is advocating on behalf of the victim. (Labor Code 230.2)**

**The supervisor and Superintendent or designee shall keep confidential any records pertaining to the employee's absence from work. (Labor Code 230.2)**

#### **Leaves for Victims of Domestic Violence or Sexual Assault**

**An employee who is a victim of domestic violence or sexual assault as defined by law may take time off work to obtain or attempt to obtain any relief, including but not limited to a temporary restraining order, restraining order or other injunctive relief to help ensure the health, safety or welfare of the employee or his/her child. (Labor Code 230)**

**In addition, an employee who is a victim of domestic violence or sexual assault may take time off work to attend to the following activities: (Labor Code 230.1)**

1. Seek medical attention for injuries caused by domestic violence or sexual assault
2. Obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence or sexual assault
3. Obtain psychological counseling related to an experience of domestic violence or sexual assault
4. Participate in safety planning and take other actions to increase safety from future domestic violence or sexual assault, including temporary or permanent relocation

An employee who is a victim of domestic violence or sexual assault may use vacation, personal leave or compensatory time off that is otherwise available to the employee under the applicable terms of employment. (Labor Code 230, 230.1)

Prior to taking time off, an employee shall give reasonable notice to his/her supervisor, unless advance notice is not feasible. When an unscheduled absence occurs, the employee shall provide, within a reasonable time, certification of the absence in the form of any of the following documents: (Labor Code 230, 230.1)

1. A police report indicating that the employee was a victim of domestic violence or sexual assault
2. A court order protecting or separating the employee from the perpetrator of an act of domestic violence or sexual assault, or other evidence from the court or prosecuting attorney that the employee has appeared in court
3. Documentation from a medical professional, domestic violence advocate or advocate for victims of sexual assault, health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting from an act of domestic violence or sexual assault

The supervisor and Superintendent or designee shall maintain the confidentiality of such an employee to the extent authorized by law. (Labor Code 230, 230.1)

#### **Personal Leave for a Child's School Activities**

Any employee who is a parent/guardian or grandparent having custody of one or more children who are enrolled in grades K-12, or who attend a licensed day care facility, may use up to 40 hours of personal leave, vacation or compensatory time off each school year in order to participate in school or day care activities. Such leave shall not exceed eight hours in any month of the year, and the employee shall give reasonable advance notice of the absence. (Labor Code 230.8)

(cf. 1240 - Volunteer Assistance)

In lieu of using vacation, personal leave or compensatory time off, eligible employees giving reasonable advance notice may take up to 40 hours without pay each school year for this purpose, not to exceed eight hours in any month.

If both parents of a child are employed at the same work site, this leave shall be allowed for the first parent who applies; simultaneous absence by the second parent may be granted by the Superintendent or designee. (Labor Code 230.8)

Upon request by the Superintendent or designee, the employee shall provide documentation from the school or licensed day care facility that he/she participated in school or licensed day care facility activities on a specific date and at a particular time. (Labor Code 230.8)

#### **Service on Education Boards, Committees and State or Employee Organizations**

Employees shall be granted up to 20 school days of paid leave per school year for service performed within the state on any education boards, commissions, committees or groups authorized by Education Code 44987.3 or statute, provided that all of the following conditions are met: (Education Code 44987.3)

1. The service is in the state of California.
2. The board, commission, organization or group informs the district in writing of the service.
3. The board, commission, organization or group agrees, prior to service, to reimburse the district, upon the district's request, for compensation paid to the employee's substitute and for actual related administrative costs.

Employees may take a leave of absence without loss of compensation to serve as an elected officer of a district employee organization or any statewide or national employee organization with which the local organization is affiliated. The leave shall include, but is not limited to, absence for purposes of attending periodic, stated, special or regular meetings of the body of the organization. (Education Code 44987, 45210)

#### **Religious Leave**

The Superintendent or designee may grant employees up to three days of leave per year for religious purposes, provided that the leave is requested in advance and that it does not cause additional district expenditures, the neglect of assigned duties or any other unreasonable hardship on the district.

The Superintendent or designee shall deduct the cost of a substitute, when required, from the wages of the employee who takes religious leave.

No employee shall be discriminated against for using this leave or any additional days of unpaid leave granted for religious observances at the discretion of the Superintendent or designee.

## **Leave for Emergency Duty**

**An employee may take time off to perform emergency duty as a volunteer firefighter, a reserve peace officer, or emergency rescue personnel. (Labor Code 230.3)**

**An employee who is a volunteer firefighter shall be permitted to take temporary leaves of absence, not to exceed an aggregate total of 14 days per calendar year, for the purpose of engaging in fire or law enforcement training. (Labor Code 230.4)**

### **Legal Reference:**

#### **EDUCATION CODE**

**44036-44037 Leaves of absence for judicial and official appearances**  
**44963 Power to grant leaves of absence (certificated)**  
**44981 Leave of absence for personal necessity (certificated)**  
**44985 Leave of absence due to death in immediate family (certificated)**  
**44987 Service as officer of employee organization (certificated)**  
**44987.3 Leave of absence to serve on certain boards, commissions, etc.**  
**45190 Leaves of absence and vacations (classified)**  
**45194 Bereavement leave of absence (classified)**  
**45198 Effect of provisions authorizing leaves of absence**  
**45207 Personal necessity (classified)**  
**45210 Service as officer of employee organization (classified)**  
**45240-45320 Merit system, classified employees**

#### **FAMILY CODE**

**297-297.5 Registered domestic partner rights, protections and benefits**

#### **GOVERNMENT CODE**

**3543.1 Release time for representatives of employee organizations**

#### **LABOR CODE**

**230-230.2 Leave for victims of domestic violence, sexual assault or specified felonies**  
**230.3 Leave for emergency personnel**  
**230.4 Leave for volunteer firefighters**  
**230.8 Leave to visit child's school**  
**233 Illness of child, parent, spouse, domestic partner or domestic partner's child**  
**234 Absence control policy**

#### **MILITARY AND VETERANS CODE**

**395.10 Leave when spouse on leave from military deployment**

#### **PENAL CODE**

**667.5 Violent felony, defined**  
**1192.7 Serious felony, defined**

#### **CALIFORNIA CONSTITUTION**

**Article 1, Section 8 Religious discrimination**

#### **UNITED STATES CODE, TITLE 29**

**2612 Leave requirements**

#### **UNITED STATES CODE, TITLE 42**

2000d-2000d-7 Title VII, Civil Rights Act of 1964

**COURT DECISIONS**

Rankin v. Commission on Professional Competence, (1988) 24 Cal.3d 167

**Management Resources:**

**WEB SITES**

California Teachers Association: <http://www.cta.org>

California Federation of Teachers: <http://www.cft.org>

California School Employees Association: <http://www.csea.com>

**Regulation     CENTER UNIFIED SCHOOL DISTRICT**

**approved: February 20, 2008 Antelope, California**

## 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 many 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 those 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.

The district shall not interfere with, restrain, or deny the exercise of any right for family care and medical leave provided to an eligible employee, as defined below, under the law. In addition, 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)

### Definitions

Any word or phrase defined below shall have the same meaning throughout this administrative regulation except where otherwise specifically defined.

*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 been employed with the district for at least 12 months and who has at least 1,250 hours of service with the district during the previous 12-month period. (29 USC 2611; 29 CFR 825.110; Government Code 12945.2)

*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:



## **FAMILY CARE AND MEDICAL LEAVE (continued)**

- a. A period of incapacity of more than three consecutive full 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
- 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 (e.g., military caregiver leave, qualifying 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. (1 USC 7; 29 CFR 825.122; Family Code 297.5, 300; 2 CCR 7297.0)

### **Eligibility**

Note: Pursuant to Government Code 12945.2 and 29 USC 2611, a district is required to grant family care and medical leave to an eligible employee for any of the reasons stated 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 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)

AR 4161.8(c)  
4261.8  
4361.8

## **FAMILY CARE AND MEDICAL LEAVE (continued)**

1. Because of the birth of a child of the employee or placement of a child with the employee in connection with the employee's adoption or foster care of the child
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, except that CFRA leave shall not cover an employee's disability on account of pregnancy, childbirth, or related medical conditions

Note: Pursuant to 29 USC 2612, as amended by the National Defense Authorization Act of 2010 (P.L. 111-84), entitlement to FMLA military family leave for qualifying exigencies has been extended to families of members of the Armed Forces who are on active duty, or are called to active duty, in a foreign country. In addition, 29 USC 2612, as amended, has extended the military caregiver leave to families of veterans undergoing medical treatment, recuperation, or therapy or who are otherwise in out-patient status for serious injury or illness incurred or aggravated in the line of duty on active duty. For requirements related to qualifying exigency leave and military caregiver leave, see sections on "Military Family Leave Resulting from Qualifying Exigencies" and "Military Caregiver Leave" below.

4. Because of any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a covered military member on covered active duty (or has been notified of an impending call or order to covered active duty)
5. To care for a covered servicemember with a serious injury or illness if the employee is the spouse, child, parent, or next of kin, as defined, of the servicemember

In addition to FMLA leave for disability on account of a pregnancy, childbirth, or related medical conditions pursuant to item #3 above, a female employee disabled by pregnancy, childbirth, or related medical conditions may be entitled to take leave for a reasonable period of time, not to exceed four months. (Government Code 12945)

### **Terms of Leave**

An eligible employee shall be entitled to a total of 12 work weeks of family care and medical leave during any 12-month period, except in the case of leave to care for a covered servicemember as provided under "Military Caregiver Leave" below. (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. **Whichever option is selected must be applied uniformly to all employees.**

AR 4161.8(d)  
4261.8  
4361.8

## **FAMILY CARE AND MEDICAL LEAVE (continued)**

**~~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)

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

Note: Except in the situations described below, Government Code 12945.2 provides that leave granted under the CFRA must run concurrently with leave granted under the FMLA. Thus, CFRA leave and FMLA leave may not be combined so that total leave could exceed 12 work 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 for disability on account of pregnancy, childbirth, or related medical conditions. FMLA leave taken for these purposes shall run concurrently with the California pregnancy disability leave granted pursuant to Government Code 12945. CFRA leave related to the birth of a child 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 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)

AR 4161.8(e)  
4261.8  
4361.8

## **FAMILY CARE AND MEDICAL LEAVE (continued)**

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 or not the parents are married, not married, or registered domestic partners. (29 USC 2612; Government Code 12945.2)

### **Use/Substitution of Paid Leave**

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 leave taken under the CFRA for the employee's own serious health condition, the district can only require him/her 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. 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, 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 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)

AR 4161.8(f)  
4261.8  
4361.8

## **FAMILY CARE AND MEDICAL LEAVE (continued)**

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, a California Court of Appeal held that an employee need not specifically mention the CFRA (or the FMLA) 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, 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)

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 below entitled "Notifications." Districts that do not require 30 days advance notice should modify the following paragraph accordingly.

## **FAMILY CARE AND MEDICAL LEAVE (continued)**

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.

At the time of the employee's request for leave for his/her own or his/her child's, parent's, or spouse's serious health condition, or within five business days of the request, the Superintendent or designee shall request that the employee provide certification by a health care provider 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)

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

**FAMILY CARE AND MEDICAL LEAVE (continued)**

- 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

Note: Pursuant to 42 USC 2000ff-1, the Genetic Information Nondiscrimination Act (P.L. 110-233), it is unlawful for any district to request, require, or purchase an employee's or his/her family member's individual genetic information except where the request or requirement is made in order to comply with medical certification requirements for FMLA/CFRA purposes, or where the employee provided to the district prior, knowing, voluntary, and written authorization. Any such information received by the district must be kept confidential.

The Superintendent or designee shall not request any genetic information, as defined in 42 USC 2000ff, from any employee or his/her family member except as necessary to comply with a certification requirement for FMLA/CFRA leave purposes or with the prior written authorization of the employee. Any such genetic information received by the district shall be kept confidential in accordance with law. (42 USC 2000ff-1, 2000ff-5)

When an employee has provided sufficient medical certification to enable the district to determine whether the employee's leave request is FMLA-eligible, the Superintendent or designee shall notify the employee within five business days whether the leave is FMLA-eligible. The Superintendent or designee 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)

## **FAMILY CARE AND MEDICAL LEAVE (continued)**

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, 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 825.312, 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. However, such an employee has no greater right to reinstatement or other benefits than he/she would have if he/she had been continuously employed. In addition, in certain situations described below, the district may be relieved of the obligation to reinstate an employee.

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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## **FAMILY CARE AND MEDICAL LEAVE (continued)**

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.

*(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 work 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)*

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)

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## **FAMILY CARE AND MEDICAL LEAVE (continued)**

### **Military Family Leave Resulting from Qualifying Exigencies**

Note: 29 USC 2612 authorizes an eligible 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 on call to active duty status in the National Guard or Reserves. Pursuant to 29 USC 2611, as amended by the National Defense Authorization Act of 2010 (P.L. 111-84), employees who are spouses, children, or parents of servicemembers of the regular Armed Forces on deployment to a foreign country are now also eligible for the leave.

Pursuant to 29 CFR 825.200, an employee is entitled to 12 work weeks of qualifying exigency leave during each 12-month period established by the district; see section entitled "Terms of Leave" above. According to the U.S. Department of Labor's (DOL) 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.

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 covered active duty or call to covered active duty status for one or more qualifying exigencies. (29 USC 2612)

*Covered military member* means an employee's spouse, son, daughter, or parent on covered active duty or call to covered active duty status. (29 CFR 825.126)

*Covered active duty* means duty during the deployment of a member of the regular Armed Forces to a foreign country or duty during the deployment of a member of the National Guard or Reserves to a foreign country under a call or order to active duty. (29 USC 2611)

Note: 29 CFR 825.126 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 DOL'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: (29 CFR 825.126)

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

**FAMILY CARE AND MEDICAL LEAVE (continued)**

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
8. Address any other event that the employee and district agree is a qualifying exigency

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 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 certification of the qualifying exigency containing the information specified in 29 CFR 825.309. The DOL 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. The certification shall contain 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)

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## **FAMILY CARE AND MEDICAL LEAVE (continued)**

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 "Use/Substitution of Paid 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 regarding an employee's use of his/her accrued vacation leave and any other accrued paid or unpaid time off, as specified in "Use/Substitution of Paid Leave" above, shall apply.

### **Military Caregiver Leave**

Note: 29 USC 2612 authorizes an eligible employee to take up to 26 work weeks of unpaid military caregiver leave, as defined below. As is the case with other FMLA leaves, this law applies 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 DOL's Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers, 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, but rather is inclusive of, the 12 work weeks of leave that may be taken for other FMLA qualifying reasons. (29 USC 2611, 2612; 29 CFR 825.127)

Note: The National Defense Authorization Act of 2010 (P.L. 111-84) has amended 29 USC 2611 to expand the definition of "covered servicemember" to include any veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness incurred or aggravated in the line of duty on active duty, provided that he/she was a member of the Armed Forces, National Guard, or Reserves at any time during the five-year period before he/she began treatment.

*Covered servicemember* may be either: (29 USC 2611)

1. A member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list for a serious injury or illness

## **FAMILY CARE AND MEDICAL LEAVE (continued)**

2. A veteran who, within the five years preceding his/her undergoing of medical treatment, recuperation, or therapy for a serious injury or illness, was a member of the Armed Forces, including the National Guard or Reserves

Note: Unlike the provisions for other FMLA/CFRA leave, 29 CFR 825.127 places no age limit on the definition of "son or daughter," as detailed below. In addition, 29 CFR 825.127 defines "next of kin" of a covered servicemember in relation to military caregiver leave.

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

Note: The National Defense Authorization Act of 2010 (P.L. 111-84) amended 29 USC 2611 to expand the definition of "serious injury or illness." For active members of the Armed Forces, serious injury or illness now includes any injury or illness that existed before a member's active duty if such injury or illness was aggravated by service in the line of duty on active duty and rendered the member medically unfit to perform the duties of his/her office, grade, rank, or rating. For veterans, serious injury or illness includes any injury or illness incurred or aggravated in service in the line of duty on active duty, whether or not the injury or illness manifested itself before or after the member became a veteran.

*Serious injury or illness* means: (29 USC 2611; 29 CFR 825.127)

1. For a member of the Armed Forces, an injury or illness incurred or aggravated by the member's service 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
2. For a veteran, an injury or illness incurred or aggravated by the member's service in the line of duty on active duty in the Armed Forces, including the National Guard or Reserves, that manifested itself before or after the member became a veteran

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## **FAMILY CARE AND MEDICAL LEAVE (continued)**

Note: As is the case for other types of FMLA/CFRA leave, 29 CFR 825.302 and 825.303 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 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 FMLA/CFRA 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 health care provider of the servicemember that contains the information specified in 29 CFR 825.310.

Note: Pursuant to 29 CFR 825.127, an employee may take up to a total of 26 work weeks of leave for both regular FMLA and military caregiver leave 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 DOL'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 to require or give employees discretion to substitute paid leave when taking FMLA/CFRA leave; see Options 1 and 2 in section entitled "Use/Substitution of Paid Leave" above. Whichever option is selected by the district with regards to FMLA/CFRA leave is also applicable to military caregiver leave.

## **FAMILY CARE AND MEDICAL LEAVE (continued)**

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

### **Notifications**

Note: Both 29 CFR 825.300 and 2 CCR 7297.9 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 California Department of Fair Employment and Housing and the DOL.

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:

1. **General Notice:** Information explaining the provisions of the FMLA/CFRA and employee rights and obligations shall be posted in a conspicuous place on district premises, or electronically, and 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)

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, within five business days, provide notification to the employee of his/her eligibility to take such leave. (29 CFR 825.300)

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### **FAMILY CARE AND MEDICAL LEAVE (continued)**

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 and the appropriate 12-month entitlement period, 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.
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- 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," potential consequence that restoration may be denied following the FMLA leave, and explanation of the conditions required for such denial
- 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 insurance premiums paid by the district during the employee's unpaid FMLA leave should the employee not return to service after the leave



## **FAMILY CARE AND MEDICAL LEAVE (continued)**

Any time the information provided in the above notice changes, the Superintendent or designee shall, within five business days of his/her receipt of an employee's first notice of need for leave, provide the employee with a written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

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, within five business days, provide written notification 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)

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)

Note: 29 CFR 825.300 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 "Use/Substitution of Paid Leave" and "Fitness for Duty Upon Return to Work" above. The following paragraph should be revised to reflect district practice.

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 that requirement.

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. Pursuant to 42 USC 2000ff-1, as added by the Genetic Information Nondiscrimination Act (P.L. 110-233), any individually identifiable genetic information possessed by the district must be treated as a confidential medical record of the employee involved.

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## **FAMILY CARE AND MEDICAL LEAVE (continued)**

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; 42 USC 2000ff-1; 29 CFR 825.500; Government Code 12946)

### *Legal Reference:*

#### EDUCATION CODE

44965 *Granting of leaves of absence for pregnancy and childbirth*

#### 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*

#### UNITED STATES CODE, TITLE 42

2000ff-1-2000ff-11 *Genetic Information Nondiscrimination Act of 2008*

#### 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/whd/fmla>

# **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 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**
  - 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

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

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)

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 service member with a serious injury or illness if the employee is the spouse, child, parent, or designated next of kin of the service member.
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)

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)

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.

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)
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)

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 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 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)

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)

(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 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**

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)

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)

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**

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

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**

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)

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**

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)

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)

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**

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)

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)

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.

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

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)

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**

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)

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)

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)

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

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

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)

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)

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

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)

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)

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**

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:**

##### **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>**

**Regulation      CENTER UNIFIED SCHOOL DISTRICT**

**approved: June 3, 2009      Antelope, California**

**GRADUATION CEREMONIES AND ACTIVITIES**

Note: The following **optional** policy is for use by any district that maintains a high school and should be modified to reflect district practice.

High school graduation ceremonies shall be held to recognize those students who have earned a diploma by successfully completing the required course of study, satisfying district standards, and passing any required assessments. The Governing Board believes that these students deserve the privilege of a public celebration that recognizes the significance of their achievement and encourages them to continue the pursuit of learning throughout their lives.

*(cf. 6011 - Academic Standards)*

*(cf. 6143 - Courses of Study)*

*(cf. 6146.1 - High School Graduation Requirements)*

*(cf. 6162.52 - High School Exit Examination)*

*(cf. 6146.4 - Differential Graduation and Competency Standards for Students with Disabilities)*

At the discretion of the Superintendent or designee, a student who will complete graduation requirements during the summer may participate in graduation exercises without receiving his/her diploma. When the requirements have been satisfied, a diploma shall be sent to the student.

Note: On its web site, the California Department of Education indicates that a student's General Educational Development (GED) Test results may not be used by the district to satisfy the minimum course requirements for graduation. The following **optional** paragraph parallels this concept with regard to use of results of the GED and California High School Proficiency Examination for participation in graduation ceremonies.

High school students who have passed the California High School Proficiency Examination or the General Educational Development Test must also meet district graduation requirements in order to participate in graduation ceremonies.

*(cf. 6146.2 - Certificate of Proficiency/High School Equivalency)*

Note: School-sponsored and school-directed prayer at public high school graduation ceremonies has been ruled unconstitutional by both the U.S. Supreme Court (Lee v. Weisman) and the California Supreme Court (Sands v. Morongo Unified School District). However, the law is unclear as to whether student-led, student-initiated prayer at graduation ceremonies is constitutional. In Cole v. Oroville Union High School District, the 9th Circuit Court of Appeals found that it would be unconstitutional for a district to allow a student to give a sectarian and proselytizing invocation at graduation. In that case, the district had developed a policy whereby students determined whether an invocation would be granted and, if so, would then select a fellow student to deliver it. The principal would then review the content of the student invocation for proselytizing messages. The court upheld the policy authorizing principal review, but did not rule on the underlying policy allowing the invocation in the first place. Some attorneys have argued that the U.S. Supreme Court's decision in Santa Fe Independent School District v. Doe, which found unconstitutional a district policy allowing student-led, student-initiated prayers at football games, would also apply to student-led, student-initiated prayer and invocations at graduation ceremonies.

Option 1 is for use by districts that prohibit prayer at graduation ceremonies. Option 2 is for use by those districts that allow a student-initiated, student-led prayer at graduation ceremonies. However, because the issue has not yet been authoritatively resolved by the courts, it is strongly recommended that districts selecting Option 2 consult legal counsel prior to the adoption of this policy and/or any other procedure allowing prayer at graduation ceremonies.

## **GRADUATION CEREMONIES AND ACTIVITIES (continued)**

~~**OPTION 1:** Invocations, prayers, or benedictions shall not be included in graduation ceremonies. The school or district shall not sponsor other ceremonies or programs for graduates that include prayer.~~

**OPTION 2:** The school or district shall not direct invocations, prayers, or benedictions at graduation ceremonies.

*(cf. 1330 - Use of School Facilities)*

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

### **Honors and Awards**

Note: The following **optional** section may be modified to reflect district practice. Districts that choose to recognize students for outstanding academic performance should adopt procedures for selecting honorees and notifying students and their parents/guardians. Such rules, procedures, and criteria may be added to this section.

To honor superior academic achievement, graduation ceremonies shall include recognition of valedictorian(s) and salutatorian(s). Valedictorian(s) and salutatorian(s) shall be selected based on established criteria and procedures that use multiple measures of academic performance.

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

The Superintendent or designee shall identify other school-sponsored awards which may be given during graduation exercises. A separate awards program may be held to recognize graduating students receiving other school and nonschool awards.

*(cf. 5126 - Awards for Achievement)*

### **Conduct at Graduation Ceremonies**

Note: The following section is **optional**. Graduation ceremonies are school-sponsored and/or school-related activities over which school boards have authority. Thus, the Governing Board may regulate student behavior at such events.

Any student participating in a graduation ceremony shall comply with district policies and regulations pertaining to student conduct.

*(cf. 5131 - Conduct)*

Note: Under the authority granted the Board to regulate student conduct, the Board may require graduating students to wear ceremonial attire, such as cap and gown, at the ceremony. However, Education Code 35183.3, as added by AB 1463 (Ch. 296, Statutes of 2009), allows graduating students who are in active military service to wear their military dress uniforms to graduation ceremonies.



## **GRADUATION CEREMONIES AND ACTIVITIES (continued)**

The Superintendent or designee may require graduating students to wear ceremonial attire, such as cap and gown, at the ceremony.

However, any graduating student who has completed basic training and is an active member of any branch of the United States Armed Forces may, at his/her option, wear his/her military dress uniform at the ceremony. (Education Code 35183.3)

### **Disciplinary Considerations**

Note: The withholding of a diploma is governed by Education Code 48904 and is separate from the denial of participation in graduation ceremonies; see AR 5125.2 - Withholding Grades, Diploma or Transcripts and BP 6161.2 - Damaged or Lost Instructional Materials. Even though the graduation ceremony is not an essential component to the granting of a diploma, it is an important symbolic event. Therefore, it is recommended that districts provide some due process before denying a student the privilege of participating in the ceremony.

In order to encourage high standards of student conduct and behavior, the principal may deny a student the privilege of participating in graduation ceremonies and/or activities in accordance with school rules. Prior to denial of the privilege, the student, and where practicable his/her parent/guardian, shall be made aware of the grounds for such denial and shall be given an opportunity to respond. If a privilege is to be denied, the student and parent/guardian shall receive written notice of the denied privilege and the means whereby he/she may appeal the decision.

*(cf. 5125.2 - Withholding Grades, Diploma or Transcripts)*

*(cf. 5144 - Discipline)*

*(cf. 6161.2 - Damaged or Lost Instructional Materials)*

*Legal Reference: (see next page)*

## GRADUATION CEREMONIES AND ACTIVITIES (continued)

### *Legal Reference:*

#### EDUCATION CODE

35183.3 *Graduation ceremonies; military dress uniforms*

38119 *Lease of personal property; caps and gowns*

48904 *Liability of parent or guardian; withholding of grades, diplomas, transcripts*

51225.5 *Honorary diplomas; foreign exchange students*

51410-51412 *Diplomas*

#### COURT DECISIONS

*Cole v. Oroville Union High School District*, (2000, 9th Cir.) 228 F.3d 1092

*Santa Fe Independent School District v. Doe*, (2000) 530 U.S. 290

*Lee v. Weisman*, (1992) 505 U.S. 577

*Sands v. Morongo Unified School District*, (1991) 53 Cal. 3d 863

*Lemon v. Kurtzman*, (1971) 403 U.S. 602

### *Management Resources:*

#### WEB SITES

California Department of Education, High School: <http://www.cde.ca.gov/ci/gs/hs/>

# **Board Policy**

## **Graduation Ceremonies And Activities**

**BP 5127**

**Students**

High school graduation ceremonies shall be held to recognize those students who have earned a diploma by successfully completing the required course of study, satisfying district standards, and passing any required assessments. The Governing Board believes that these students deserve a public celebration that recognizes the significance of their achievement and encourages them to continue the pursuit of learning throughout their lives.

(cf. 3260 - Fees and Charges)

(cf. 6011 - Academic Standards)

(cf. 6143 - Courses of Study)

(cf. 6146.1 - High School Graduation Requirements)

(cf. 6162.52 - High School Exit Examination)

(cf. 6146.4 - Differential Graduation and Competency Standards for Students with Disabilities)

At the discretion of the Superintendent or designee, a student who will complete graduation requirements during the summer may participate in graduation exercises without receiving his/her diploma. When the requirements have been satisfied, a diploma shall be sent to the student.

High school students who have passed the California High School Proficiency Examination or the General Education Development Test must also meet district graduation requirements in order to participate in graduation ceremonies.

(cf. 6146.2 - Certificate of Proficiency/High School Equivalency)

The school or district shall not direct invocations, prayers or benedictions at graduation ceremonies.

(cf. 1330 - Use of School Facilities)

(cf. 5145.2 - Freedom of Speech/Expression: Publications Code)

### **Disciplinary Considerations**

In order to encourage high standards of student conduct and behavior, the principal may deny a student the privilege of participating in graduation ceremonies and/or activities in accordance with school rules. School rules shall ensure that prior to denial of the privilege(s), the student, and where practicable his/her parent/guardian, is made aware of the grounds for such denial and that the student is given an opportunity to respond to the proposed denial. If privilege(s) are to be denied, the student and parent/guardian shall receive written notice of the denied privilege and

the means whereby he/she may appeal this decision.

(cf. 5125.2 - Withholding Grades, Diploma or Transcripts)

(cf. 5144 - Discipline)

(cf. 6161.2 - Damaged or Lost Instructional Materials)

#### **Honors and Awards**

To honor superior academic achievement, graduation ceremonies shall include recognition of valedictorian(s) and salutatorian(s). The Superintendent or designee shall establish procedures that ensure a fair determination of the valedictorian(s) and salutatorian(s).

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

The Superintendent or designee shall identify other school-sponsored awards which may be given during graduation exercises. A separate awards program may be held to recognize graduating students receiving other school and nonschool awards.

(cf. 5126 - Awards for Achievement)

Foreign exchange students may receive honorary diplomas during the graduation ceremony.  
(Education Code 51225.5)

(cf. 6145.6 - International Exchange)

#### **Legal Reference:**

##### **EDUCATION CODE**

38119 Lease of personal property; caps and gowns

48904 Liability of parent or guardian; withholding of grades, diplomas, transcripts

51225.5 Honorary diplomas; foreign exchange students

51400-51403 Elementary school diploma

51410-51412 Diplomas

##### **COURT DECISIONS**

Cole v. Oroville Union High School District, (2000, 9th Cir.) 228 F.3d 1092

Santa Fe Independent School District v. Doe, (2000) 530 U.S. 290

Lee v. Weisman, (1992) 112 S.Ct. 2649

Sands v. Morongo Unified School District, (1991) 53 Cal. 3d 863

Lemon v. Kurtzman, (1971) 403 U.S. 602

#### **Management Resources:**

##### **CDE PROGRAM ADVISORIES**

0615.89 Granting credit for passing GED, SPB:88/89-11

##### **WEB SITES**

CDE: <http://www.cde.ca.gov>

**Policy CENTER UNIFIED SCHOOL DISTRICT**  
**adopted: December 19, 2001 Antelope, California**

## WEAPONS AND DANGEROUS INSTRUMENTS

The Governing Board recognizes that students and staff have the right to a safe and secure campus free from psychological and physical harm and desires to protect them from the dangers presented by firearms and other weapons.

*(cf. 0450 - Comprehensive Safety Plan)*

*(cf. 5116.1 - Intradistrict Open Enrollment)*

*(cf. 5131 - Conduct)*

*(cf. 5144 - Discipline)*

### Possession of Weapons

The Board prohibits any student from possessing weapons, imitation firearms, or dangerous instruments of any kind in school buildings, on school grounds or buses, at school-related or school-sponsored activities away from school, or while going to or coming from school.

*(cf. 3515.3 - District Police/Security Department)*

Note: 20 USC 7151 and Education Code 48915 require the mandatory expulsion of a student who has possessed a firearm, brandished a knife, or committed any other acts listed in Education Code 48915(c). See AR 5144.1 - Suspension and Expulsion/Due Process for grounds for suspension and expulsion and expulsion procedures.

During the Categorical Program Monitoring (CPM) process, California Department of Education (CDE) staff expect to see policy language requiring the expulsion, for not less than one year, of any student who is determined to have brought a firearm to school or to have possessed a firearm at school in accordance with 20 USC 7151 and Education Code 48915. The following paragraph, or similar language in AR 5144.1 - Suspension and Expulsion/Due Process (provided that that regulation has been approved by the Governing Board), may be submitted to the CDE for compliance purposes.

Unless he/she has obtained prior written permission as specified below, any student who is determined to have brought a firearm to school or possessed a firearm at school, as verified by a school employee, shall be expelled for not less than one year, except that the Board may set an earlier date for readmission on a case-by-case basis, in accordance with Board policy and administrative regulation. (20 USC 7151; Education Code 48915)

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

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

Students possessing or threatening others with any weapon, dangerous instrument, or imitation firearm shall be subject to suspension and/or expulsion in accordance with law, Board policy, and administrative regulations.

Under the power granted to the Board to maintain order and discipline in the schools and to protect the safety of students, staff, and the public, any school employee is authorized to confiscate a weapon, dangerous instrument, or imitation firearm from any student on school grounds.

*(cf. 4158/4258/4358 - Employee Security)*

**WEAPONS AND DANGEROUS INSTRUMENTS (continued)**

Note: Pursuant to 20 USC 7151, any district receiving federal funds under the No Child Left Behind Act is **mandated** to have a policy requiring that any student who brings a firearm to school be referred to the criminal justice or juvenile delinquency system. This mandate reinforces Education Code 48902, which requires the principal or designee to notify law enforcement authorities of violations of Penal Code 245, 626.9, and 626.10 and Education Code 48900(c) and (d). In addition, Education Code 48902, as amended by AB 1390 (Ch. 292, Statutes of 2009), requires the principal or designee to notify law enforcement authorities when a student possesses a firearm or explosive or sells or furnishes a firearm at school. During CPM reviews, CDE staff will expect to see policy language regarding referral to law enforcement, as specified below. See AR 5144.1 - Suspension and Expulsion/Due Process for comparable compliance statements.

The principal or designee shall notify law enforcement authorities when any student possesses a firearm, explosive, or other dangerous weapon or instrument without permission, sells or furnishes a firearm, or commits any act of assault with a firearm or other weapon. (20 USC 7151; Education Code 48902; Penal Code 245, 626.9, 626.10)

(*cf.* 3515.2 - Disruptions)

**Advance Permission for Possession of a Weapon for Educational Use**

Note: 20 USC 7151 allows firearms on school grounds when (1) the firearm is lawfully stored in a locked vehicle and (2) the principal authorizes possession for approved activities and the district has adopted appropriate safeguards to ensure student safety. Federal law is consistent with Penal Code 626.10 which authorizes students to possess certain weapons with written permission of the principal when necessary for a school-sponsored activity or class.

The following **optional** section is for use by districts that wish to allow such possession of firearms and other weapons and should be modified to reflect specific safeguards and timelines adopted by the district.

A student who desires to possess a firearm, imitation firearm, or other prohibited weapon on school grounds for an educational purpose shall request prior permission from the principal at least five school days in advance of the planned possession. The student's parent/guardian shall provide written permission explaining the planned use of the weapon and the duration. The student shall also submit a written explanation from the staff person responsible for the school-sponsored activity or class.

On a case-by-case basis, the principal shall determine whether to grant permission for such possession when necessary for a school-sponsored activity or class or as part of the educational program. Factors that shall be considered include, but are not limited to, the planned use of the weapon, the duration and location of the planned use, whether an audience is expected, and any perceived adverse effects to the safety and well-being of students or staff. If the principal grants such permission, he/she shall provide the student and staff person with a written explanation regarding any limitations and the permissible duration of the student's possession.

**WEAPONS AND DANGEROUS INSTRUMENTS (continued)**

When the principal or designee grants permission, he/she shall take all necessary precautions to ensure the safety of all persons on school grounds, including, but not limited to, inspecting a firearm to verify that no live ammunition is present. Any weapon allowed shall be stored in a locked vehicle or in an appropriate, locked container before and after its authorized use.

A student granted permission to possess a weapon may be suspended and/or expelled if he/she possesses or uses the weapon inappropriately.

**Possession of Pepper Spray**

Note: Penal Code 12403.8 allows minors age 16 or older to purchase and possess tear gas or tear gas weapons for purposes of self-defense if they are accompanied by a parent/guardian or have the written consent of their parent/guardian. Option 1 below, for use by districts that allow students to bring such defensive items to school, reflects the fact that a student can be disciplined under Education Code 48900 or 48915 if such an item is used for a purpose other than self-defense. Option 2 is for use by districts that prohibit students from bringing such items to school.

~~**OPTION 1:** Students age 16 or older may legally possess tear gas or tear gas weapons such as pepper spray for the purpose of self defense. However, such students shall be subject to suspension and/or expulsion if they use such items inappropriately or for any purpose other than self defense.~~

**OPTION 2:** To prevent potential misuse that may harm students or staff, students are prohibited from carrying tear gas or tear gas weapons such as pepper spray on campus or at school activities.

**Reporting of Dangerous Objects**

Note: Education Code 49335 requires the CDE to develop a system, for use by districts, to shield the identity of and provide protection to students who report the presence of "injurious objects" on school grounds. Pursuant to Education Code 49330, an "injurious object" is capable of inflicting substantial bodily damage as defined in Penal Code 653k, 12001, 12020, 12220, 12401 and 12402. These weapons include, but are not limited to, firearms, knives, metal knuckles, and explosives.

The system developed by the CDE pursuant to Education Code 49335 was a directive for districts to review their policies to ensure that district policy has been adopted which implements the student reporting protections. The CDE emphasized that all staff, students, and parents/guardians should be informed of the requirement that students who report the presence of injurious objects on school campuses are to be protected and their identity shielded.

The following section should be modified to reflect district practice.

The Board encourages students to promptly report the presence of weapons, injurious objects, or other suspicious activity to school authorities. The identity of a student who reports such activity shall remain confidential to the extent permitted by law.



**WEAPONS AND DANGEROUS INSTRUMENTS (continued)**

The Superintendent or designee shall develop strategies designed to facilitate student reporting of the presence of injurious objects on school grounds, such as tip hotlines, electronic transmissions, or other methods that preserve the student's anonymity. Incident reports and records shall not identify the student who reported the possession. The Superintendent or designee also shall inform staff, students, and parents/guardians that students who report the presence of injurious objects on school campuses are to be protected and their identity shielded.

(cf. 5138 - Conflict Resolution/Peer Mediation)

*Legal Reference:*EDUCATION CODE

35291 Governing board to prescribe rules for discipline of the schools

48900 Grounds for suspension/expulsion

48902 Notification of law enforcement authorities

48915 Required recommendation for expulsions

48916 Readmission

49330-49335 Injurious objects

PENAL CODE

245 Assault with deadly weapon

417.4 Imitation firearm; drawing or exhibiting

626.9 Gun-Free School Zone Act of 1995

626.10 Dirks, daggers, knives, razor or stun gun; bringing or possessing in school

653k Soliciting a minor to commit certain felonies

12001 Control of deadly weapons

12020-12036 Unlawful carrying and possession of concealed weapons

12220 Unauthorized possession of a machine gun

12401-12404 Tear gas

12550-12556 BB devices and imitation firearms

UNITED STATES CODE, TITLE 20

6301-7941 No Child Left Behind Act, especially:

7151 Gun-Free Schools Act

*Management Resources:*CALIFORNIA DEPARTMENT OF EDUCATION COMMUNICATIONS

0401.01 Protecting Student Identification in Reporting Injurious Objects

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Guidance Concerning State and Local Responsibilities Under the Gun-Free Schools Act, January 2004

WEB SITES

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

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

National Alliance for Safe Schools: <http://www.safeschools.org>

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

U.S. Department of Education, Office of Safe and Drug Free Schools:

<http://www.ed.gov/about/offices/list/osdfs>

# **Board Policy**

## **Weapons And Dangerous Instruments**

**BP 5131.7**

### **Students**

The Governing Board desires students and staff to be free from the danger presented by firearms and other weapons and recognizes that they have the right to a safe and secure campus free from psychological and physical harm.

(cf. 0450 - Comprehensive Safety Plan)

(cf. 5116.1 - Intradistrict Open Enrollment)

(cf. 5131 - Conduct)

(cf. 5144 - Discipline)

### **Possession of Weapons**

The Board prohibits any person other than authorized law enforcement or security personnel from possessing weapons, imitation firearms, or dangerous instruments of any kind in school buildings, on school grounds or buses, at school-related or school-sponsored activities away from school, or while going to or coming from school.

(cf. 3515.3 - District Police/Security Department)

Unless he/she has obtained prior written permission as specified below, any student who is determined to have brought a firearm to school or possessed a firearm at school, as verified by a school employee, shall be expelled for not less than one year, except that the Board may set an earlier date for readmission on a case-by-case basis, in accordance with Board policy and administrative regulation. (Education Code 48915; 20 USC 7151)

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

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

Students possessing or threatening others with any weapon, dangerous instrument, or imitation firearm are subject to suspension and/or expulsion in accordance with law, Board policy, and administrative regulations.

Under the power granted to the Board to maintain order and discipline in the schools and to protect the safety of students, staff, and the public, any school employee is authorized to confiscate a weapon, dangerous instrument, or imitation firearm from any person on school grounds.

(cf. 4158/4258/4358 - Employee Security)

The principal or designee shall notify law enforcement authorities when any student possesses a weapon without permission or commits any act of assault with a firearm or other weapon. (Education Code 48902; Penal Code 245, 626.9, 626.10; 20 USC 7151)

#### **Advance Permission for Possession of a Firearm for Educational Use**

A student who desires to possess or transport a firearm or imitation firearm on school grounds for an educational purpose shall request prior permission from the principal at least five school days in advance of the planned possession. The student's parent/guardian shall provide written permission explaining the planned use of the weapon and the duration. The student shall also submit a written explanation from the staff person responsible for the school-sponsored activity or class.

On a case-by-case basis, the principal shall determine whether to grant permission for such possession when necessary for a school-sponsored activity or class or as part of the educational program. Factors that shall be considered include, but are not limited to, the planned use of the weapon, the duration and location of the planned use, whether an audience is expected, and any perceived adverse effects to the safety and well-being of students or staff. If the principal grants such permission, he/she shall provide the student and staff person with a written explanation regarding any limitations and the permissible duration of the student's possession.

The principal and/or a staff member with knowledge of firearm safety shall inspect the weapon to ensure that necessary safety precautions have been taken, including inspection to ensure that no live ammunition is present. The firearm shall be stored in a locked vehicle or in an appropriate, locked container before and after the educational activity.

A student granted permission to possess a firearm may be suspended and/or expelled if he/she possesses or uses the weapon inappropriately.

#### **Possession of Pepper Spray**

To prevent potential misuse that may harm students or staff, students are prohibited from carrying tear gas or tear gas weapons such as pepper spray on campus or at school activities.

#### **Reporting of Dangerous Objects**

The Board encourages students to promptly report the presence of weapons, injurious objects, or other suspicious activity to school authorities. The identity of a student who reports such activity shall remain confidential to the extent permitted by law.

(cf. 5125 - Student Records)

The Superintendent or designee shall develop strategies designed to facilitate student reporting of the presence of injurious objects on school grounds, such as tip hotlines, electronic transmissions, or other methods that preserve the student's anonymity. Incident reports and records shall not identify the student who reported the possession. The strategy shall also

provide a method of informing staff, students, and parents/guardians that students who report the presence of injurious objects on school campuses are to be protected and their identity shielded.

(cf. 5138 - Conflict Resolution/Peer Mediation)

**Legal Reference:**

**EDUCATION CODE**

35291 Governing board to prescribe rules for discipline of the schools

48900 Grounds for suspension/expulsion

48902 Notification of law enforcement authorities

48915 Required recommendation for expulsions

48916 Readmission

49330-49335 Injurious objects

**PENAL CODE**

245 Assault with deadly weapon

417.4 Imitation firearm; drawing or exhibiting

626.9 Gun-Free School Zone Act of 1995

626.10 Dirks, daggers, knives, razor or stun gun; bringing or possessing in school

653k Soliciting a minor to commit certain felonies

12001 Control of deadly weapons

12020-12036 Unlawful carrying and possession of concealed weapons

12220 Unauthorized possession of a machine gun

12401-12404 Tear gas

12550-12556 BB devices and imitation firearms

**UNITED STATES CODE, TITLE 20**

6301-7941 No Child Left Behind Act; especially:

7151 Gun-Free Schools Act

**Management Resources:**

**CSBA PUBLICATIONS**

911: A Manual for Schools and the Media During a Campus Crisis, 2001

Protecting Our Schools: Governing Board Strategies to Combat School Violence, 1999

**CALIFORNIA DEPARTMENT OF EDUCATION COMMUNICATIONS**

0401.01 Protecting Student Identification in Reporting Injurious Objects

**WEB SITES**

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

California Attorney General's Crime and Violence Prevention Center: <http://www.safestate.org>

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

National Alliance for Safe Schools: <http://www.safeschools.org>

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

U.S. Department of Education, Office of Safe and Drug Free Schools:  
<http://www.ed.gov/about/offices/list/osdfs/index.html>

**Policy CENTER UNIFIED SCHOOL DISTRICT**  
**adopted: June 18, 2008      Antelope, California**

## WEAPONS AND DANGEROUS INSTRUMENTS

Prohibited weapons and dangerous instruments include, but are not limited to:

1. Firearms: pistols, revolvers, shotguns, rifles, "zip guns," "stun guns," tasers, and any other device capable of propelling a projectile by the force of an explosion or other form of combustion

Note: Penal Code 626.10, as amended by AB 870 (Ch. 258, Statutes of 2009), has expanded the list of weapons and dangerous instruments prohibited at school to include razor blades and box cutters.
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2. Knives, razor blades, and box cutters: any dirks, daggers, ice picks, or other weapons with a fixed, sharpened blade fitted primarily for stabbing, weapons with a blade fitted primarily for stabbing, weapons with a blade longer than 2-1/2 inches, folding knives with a blade that locks into place, and razors with an unguarded blade (Education Code 48915; Penal Code 626.10)
3. Explosive and/or incendiary devices: pipe bombs, time bombs, cap guns, containers of inflammable fluids, and other hazardous devices
4. Any instrument that expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, carbon dioxide pressure, or spring action, or any spot marker gun (Penal Code 626.10)
5. Any other dangerous device, instrument, or weapon, including those defined in Penal Code 12020, including a blackjack, slingshot, billy, nunchaku, sandclub, sandbag, metal knuckles, or any metal plate with three or more radiating points with one or more sharp edges designed for use as a weapon
6. Any imitation firearm, defined as a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm (Education Code 48900; Penal Code 12550)

Note: The remainder of this regulation is optional and provides a process for an employee to use when taking possession of a weapon or dangerous instrument from a student. Pursuant to Education Code 49334, a school employee who initially contacts a law enforcement agency about any person possessing an unauthorized weapon or dangerous instrument on campus cannot be subject to any civil or administrative proceeding, including any disciplinary action, for doing so, notwithstanding any district policy or regulation to the contrary. The employee must follow any other requirements of district policy or regulation upon notifying the law enforcement agency. See BP 4158/4258/4358 - Employee Security for language regarding employee reports of adults possessing injurious objects.
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Any employee may take any weapon or dangerous instrument from the personal possession of a student while the student is on school premises or under the authority of the district. (Education Code 49331, 49332)

(cf. 5145.12 - Search and Seizure)

**WEAPONS AND DANGEROUS INSTRUMENTS (continued)**

In determining whether to take possession of the weapon or dangerous instrument, the employee shall use his/her own judgment as to the dangerousness of the situation and, based upon this analysis, shall do one of the following:

1. Confiscate the object and deliver it to the principal immediately
2. Immediately notify the principal, who shall take appropriate action
3. Immediately notify the local law enforcement agency and the principal

*(cf. 0450 - Comprehensive Safety Plan)*

*(cf. 3515.3 - District/Police Security Department)*

*(cf. 4158/4258/4358 - Employee Security)*

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

The principal shall report any possession of a weapon or dangerous instrument to the student's parents/guardians by telephone or in person, and shall follow this notification with a letter.

The employee shall retain possession of the instrument until the risk of its use as a weapon has dissipated or, upon the request of the student's parent/guardian, until the parent/guardian appears and personally takes possession. (Education Code 49331, 49332)

# **Administrative Regulation**

## **Weapons And Dangerous Instruments**

**AR 5131.7**

**Students**

Weapons and dangerous instruments include, but are not limited to:

1. Firearms: pistols, revolvers, shotguns, rifles, "zip guns," "stun guns," tasers, and any other device capable of propelling a projectile by the force of an explosion or other form of combustion
2. Knives: any dirks, daggers or other weapons with a fixed, sharpened blade fitted primarily for stabbing, weapons with a blade fitted primarily for stabbing, weapons with a blade longer than 3-1/2 inches, folding knives with a blade that locks into place, and razors with an unguarded blade (Education Code 48915)
3. Explosive and/or incendiary devices: pipe bombs, time bombs, cap guns, containers of inflammable fluids, and other hazardous devices
4. Any instrument that expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, carbon dioxide pressure or spring action, or any spot marker gun (Penal Code 626.10)
5. Any other dangerous device, instrument or weapon, especially those defined in Penal Code 12020, including a blackjack, slingshot, billy, nunchaku, sandclub, sandbag, metal knuckles, or any metal plate with three or more radiating points with one or more sharp edges designed for use as a weapon
6. Any imitation firearm, defined as a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm (Education Code 48900)

If an employee knows that a student possesses any of the above devices, he/she shall use his/her own judgment as to the dangerousness of the situation and, based upon this analysis, shall immediately notify the principal, who shall take appropriate action

(cf. 4158/4258/4358 - Employee Security)

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

The principal shall report any possession of a weapon or dangerous instrument, including



imitation firearm, to the student's parents/guardians by telephone or in person, and shall follow this notification with a letter.

Regulation    CENTER UNIFIED SCHOOL DISTRICT  
approved: December 19, 2001      Antelope, California

Delete

## **Board Policy**

### **Tuberculosis Testing**

BP 5141.26

#### **Students**

The Governing Board recognizes that tuberculosis poses a public health threat. Treatment of active cases of this disease is the most effective means of controlling its spread.

The number of tuberculosis cases in our county is on the rise. The County Public Health officer therefore requires tuberculosis testing, and follow-up if appropriate, before students enter school.

The Superintendent or designee may require a tuberculosis skin test when qualified medical personnel reasonably suspect that a student has active tuberculosis. If there is an outbreak of tuberculosis at any school, the Superintendent or designee may require all students at the school to undergo tuberculosis skin tests.

Students known to have had a positive tuberculosis skin test shall be excluded from school until they provide evidence of a follow-up x-ray and appropriate medical care or are no longer suspected of having active tuberculosis.

(cf. 5112.2 - Exclusions from Attendance)

(cf. 5141.3 - Health Examinations)

All district staff shall receive information on how tuberculosis is spread and how it can be prevented and treated.

(cf. 4119.43 - Universal Precautions)

(cf. 5141.22 - Infectious Diseases)

(cf. 5141.23 - Infectious Disease Prevention)

#### **Legal Reference:**

##### **EDUCATION CODE**

49450 Rules to insure proper care and secrecy

49451 Parent's refusal to consent

##### **HEALTH AND SAFETY CODE**

199.81 Providing information to school districts on AIDS, AIDS-related conditions and Hepatitis B

199.82 Information to employees of school district

3118 Exclusion of persons from school

3400-3409 Tuberculosis tests for pupils

**Policy CENTER UNIFIED SCHOOL DISTRICT**  
**adopted: October 4, 1993     Antelope, California**

## TUBERCULOSIS TESTING

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

Any student with active tuberculosis shall be excluded from attendance at a district school in accordance with AR 5112.2 - Exclusions from Attendance.

*(cf. 5112.2 - Exclusions from Attendance)*

Note: Item #1 below is for use by districts that maintain elementary schools. See AR 5141.32 - Health Screening for School Entry for detailed requirements of the comprehensive health screening required by Health and Safety Code 124085. Pursuant to Health and Safety Code 124040, this health screening must include screening for tuberculosis.

Students shall be screened or tested for tuberculosis under the following circumstances:

1. As part of the comprehensive health screening required for school entry, parents/guardians shall provide evidence within 90 days after their child's entry into first grade that their child has been screened for risk of tuberculosis within the preceding 18 months. (Health and Safety Code 124040, 124085)

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

Note: Health and Safety Code 121515 requires the Governing Board to cooperate with the county or city health officer in carrying out any programs ordered by the health officer for the tuberculosis examinations of individuals applying for first admission to any elementary or secondary school in the district, as provided in item #2 below. The Board is authorized to use district funds, property, and personnel for this purpose.

Pursuant to 22 CCR 41301-41303, the following requirements also pertain to children enrolling in a child care center or preschool.

2. Whenever ordered by the local health officer, students seeking admission for the first time to a district school at any grade level shall submit to tuberculosis testing. Any student subject to the order shall be admitted to school as follows:
  - a. The Superintendent or designee shall unconditionally admit the student if he/she, prior to admission, submits a certificate, signed by any public or private medical provider, indicating that he/she has completed an approved tuberculosis examination and is free from active tuberculosis. (Health and Safety Code 121485, 121490, 121500; 22 CCR 41305, 41311, 41313)

*(cf. 5141.3 - Health Examinations)*

*(cf. 5141.6 - School Health Services)*

*(cf. 5148 - Child Care and Development)*

*(cf. 5148.3 - Preschool/Early Childhood Education)*

**TUBERCULOSIS TESTING (continued)**

A student shall not be required to obtain the certificate if his/her parent/guardian or custodian provides the Superintendent or designee with an affidavit stating that the required examination is contrary to his/her beliefs. If there is probable cause to believe that such a student has active tuberculosis, he/she may be excluded from school until the Superintendent or designee is satisfied that he/she is not afflicted. (Health and Safety Code 121505)

- b. A student who has not submitted the certificate may be conditionally admitted provided that he/she receives an approved tuberculin skin test within 10 school days after admission. A student who had a positive skin test and has not subsequently obtained a chest x-ray may be conditionally admitted if he/she receives a chest x-ray within 20 school days after admission. Any student who fails to provide the certificate within those time periods shall be prohibited from further attendance until he/she provides the certificate. (Health and Safety Code 121495; 22 CCR 41315, 41327)
  - c. Whenever the local health officer so orders, a student may be required to complete an additional examination and provide another certificate indicating that he/she is free of communicable tuberculosis. (Health and Safety Code 121485)
  - d. At the discretion of the local health officer, the district may admit a student without a certificate if he/she is undergoing or has already undergone preventive treatment for tuberculosis infection or treatment for tuberculosis disease. (22 CCR 41319)
3. Whenever the Superintendent or designee suspects that a student who has not been examined for tuberculosis either has the disease or has been exposed, he/she shall immediately report by telephone to the local health officer. When required by the local health officer, the district shall exclude the student from school until he/she is certified to be free of communicable tuberculosis. (22 CCR 41329)

The Superintendent or designee shall maintain a record of any student's tuberculosis examination as part of the student's mandatory permanent student record. (22 CCR 41323)

*(cf. 5125 - Student Records)*

The Superintendent or designee shall annually file a report with the local health department on the results of tuberculosis examinations for all individuals required to complete such examinations in accordance with item #2 above, including, but not necessarily limited to, the number of individuals unconditionally and conditionally admitted and the number of individuals exempted on the basis of their personal beliefs. (22 CCR 41325)

## TUBERCULOSIS TESTING (continued)

Note: The following paragraph is optional.

All district staff shall receive information on how tuberculosis is spread and how it can be prevented and treated.

(cf. 4112.4/4212.4/4312.4 - Health Examinations)  
(cf. 4119.43/4219.43/4319.43 - Universal Precautions)  
(cf. 4131 - Staff Development)  
(cf. 4231 - Staff Development)  
(cf. 4331 - Staff Development)  
(cf. 5141.22 - Infectious Diseases)

### *Legal Reference:*

#### EDUCATION CODE

48213 Prior parent notification of exclusion; exemption  
49451 Parent's refusal to consent to health examination

#### HEALTH AND SAFETY CODE

120230 Exclusion of persons from school when residence is in isolation or quarantine  
121365 Duties of local health officer re: tuberculosis control  
121475-121520 Tuberculosis tests for students  
124025-124110 Child Health and Disability Prevention Program

#### CODE OF REGULATIONS, TITLE 5

202 Exclusion of students with contagious disease  
432 Student records  
3030 Eligibility for special education; tuberculosis that adversely affects educational performance

#### CODE OF REGULATIONS, TITLE 22

41301-41329 Tuberculosis tests for students

### *Management Resources:*

#### WEB SITES

American Lung Association: <http://www.lungusa.org>  
California Department of Public Health, Tuberculosis Control: <http://www.cdph.ca.gov/programs/tb>  
Centers for Disease Control and Prevention, Tuberculosis: <http://www.cdc.gov/tb>  
Health Officers Association of California: <http://www.calhealthofficers.org>

# **Administrative Regulation**

## **Tuberculosis Testing**

**AR 5141.26**

### **Students**

The following protocol shall be followed for any student who has a positive TB skin test:

1. The parent/guardian must provide the school with the results of a chest x-ray before the student enters class. If no x-ray has been done, the parent/guardian shall be given a TB follow-up form to take to his/her personal physician or to the county public health office. The student must then obtain a chest x-ray and bring proof that the film was taken for school entry.
2. If the TB form is not returned with x-ray results within two weeks, the Superintendent or designee shall contact the student and family for information about the x-ray report.
3. If the student is found to have active infectious tuberculosis on chest x-ray and sputum tests, the student shall not be admitted to school until a physician's note is presented, showing that the student is free of communicable tuberculosis. (Health and Safety Code 3402, 3404)
4. If the x-ray is negative and the student admitted, the Superintendent or designee may contact the student and family again in four to six weeks to determine that they have followed through with a medical appointment for the INH preventive medication program, if indicated.

Regulation  
approved: October 4, 1993

CENTER UNIFIED SCHOOL DISTRICT  
Antelope, California

## CHILD ABUSE PREVENTION AND REPORTING

Note: Education Code 32282 requires that the district and/or school safety plan include child abuse reporting procedures. See AR 0450 - Comprehensive Safety Plan.

### Definitions

*Child abuse or neglect* includes the following: (Penal Code 11165.5, 11165.6)

1. A physical injury or death inflicted by other than accidental means on a child by another person
2. Sexual abuse of a child, including sexual assault or sexual exploitation, as defined in Penal Code 11165.1
3. Neglect of a child as defined in Penal Code 11165.2
4. Willful harming or injuring of a child or the endangering of the person or health of a child as defined in Penal Code 11165.3
5. Unlawful corporal punishment or injury as defined in Penal Code 11165.4

*Child abuse or neglect* does not include:

1. A mutual affray between minors (Penal Code 11165.6)
2. An injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his/her employment (Penal Code 11165.6)

(cf. 3515.3 - District Police/Security Department)

Note: Education Code 44807 provides that physical control of a student under the conditions specified in item #3 below is not subject to criminal prosecution or penalties.

3. An injury resulting from the exercise by a teacher, vice principal, principal, or other certificated employee of the same degree of physical control over a student that a parent/guardian would be privileged to exercise, not exceeding the amount of physical control reasonably necessary to maintain order, protect property, protect the health and safety of students, or maintain proper and appropriate conditions conducive to learning (Education Code 44807)
4. An injury caused by a school employee's use of force that is reasonable and necessary to quell a disturbance threatening physical injury to persons or damage to property, to protect himself/herself, or to obtain weapons or other dangerous objects within the control of the student (Education Code 49001)

(cf. 5144 - Discipline)



## **CHILD ABUSE PREVENTION AND REPORTING (continued)**

5. Physical pain or discomfort caused by athletic competition or other such recreational activity voluntarily engaged in by the student (Education Code 49001)

Note: The following definition of "mandated reporters" does not list non-school persons (e.g., physicians, clergy members) who are also mandated to report suspected child abuse or neglect, and may be revised to reflect additional positions applicable to the district as specified in Penal Code 11165.7.

Penal Code 11165.7 clarifies that volunteers whose duties require direct contact with and supervision of children are not mandated reporters. However, the law encourages such volunteers to obtain training in the identification and reporting of child abuse and neglect and to report known or suspected incidences of child abuse or neglect.

*Mandated reporters* include, but are not limited to, teachers; instructional aides; teacher's aides or assistants; classified employees; certificated pupil personnel employees; administrative officers or supervisors of child attendance; administrators and employees of a licensed day care facility; Head Start teachers; district police or security officers; licensed nurses or health care providers; and administrators, presenters, and counselors of a child abuse prevention program. (Penal Code 11165.7)

Note: Pursuant to Penal Code 11166, the pregnancy of a minor, regardless of her age, does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.

*Reasonable suspicion* means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his/her training and experience, to suspect child abuse or neglect. (Penal Code 11166)

### **Reportable Offenses**

Note: Penal Code 11166 specifies that a mandated reporter has a duty to report when acting in his/her professional capacity or within the scope of employment. When a mandated reporter is acting in a private capacity, like other private citizens, he/she has the discretion whether or not to make a report.

A mandated reporter shall make a report using the procedures provided below whenever, in his/her professional capacity or within the scope of his/her employment, he/she has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. (Penal Code 11166)

Note: Penal Code 11166.05 provides that reports may be made if a mandated reporter knows or suspects that a child is suffering serious emotional damage, as specified below. Penal Code 11167 specifies that, if such reports are made, they must conform to the procedures applicable to mandated child abuse reporting.

## **CHILD ABUSE PREVENTION AND REPORTING (continued)**

Any mandated reporter who has knowledge of or who reasonably suspects that a child is suffering serious emotional damage or is at a substantial risk of suffering serious emotional damage, based on evidence of severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, may make a report to the appropriate agency. (Penal Code 11166.05, 11167)

Note: Pursuant to Penal Code 152.3, it may be a misdemeanor, with specified exceptions, for a witness to not report a murder, rape, or lewd or lascivious act as defined in Penal Code 288(b)(1) where the victim is under age 14. Persons who fail to report such offenses may be subject to a fine and/or imprisonment.

Any person shall notify a peace officer if he/she reasonably believes that he/she has observed the commission of a murder, rape, or lewd or lascivious act by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury, where the victim is a child under age 14. (Penal Code 152.3, 288)

### **Responsibility for Reporting**

The reporting duties of mandated reporters are individual and cannot be delegated to another person. (Penal Code 11166)

When two or more mandated reporters jointly have knowledge of a known or suspected instance of child abuse or neglect, the report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report. (Penal Code 11166)

Note: Penal Code 11166.01 provides that it may be a crime, punishable by a fine and/or imprisonment, for a supervisor or administrator to knowingly inhibit or impede a mandated reporter from making a report.

No supervisor or administrator shall impede or inhibit a mandated reporter from making a report. (Penal Code 11166)

Any person not identified as a mandated reporter who has knowledge of or observes a child whom he/she knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to the appropriate agency. (Penal Code 11166)

### **Reporting Procedures**

#### **1. Initial Telephone Report**

Note: Penal Code 11165.9 specifies the agencies that are authorized to receive reports of suspected child abuse and neglect, as detailed in the following paragraph. The agency must accept a report even if it lacks subject matter or geographical jurisdiction to investigate the case; the agency is then responsible for referring the case to an agency with proper jurisdiction.

## **CHILD ABUSE PREVENTION AND REPORTING (continued)**

Immediately or as soon as practicable after knowing or observing suspected child abuse or neglect, a mandated reporter shall make an initial report by telephone to any police department (excluding a school district police/security department), sheriff's department, county probation department if designated by the county to receive such reports, or county welfare department. (Penal Code 11166)

Note: It is recommended that the district's administrative regulation include the name, address, and phone number of the appropriate agencies in its area.

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P.O. Box 269057, Sacramento, CA 95826-9057  
(916) 874-4001

Note: The following paragraph is **optional**.

When the initial telephone report is made, the mandated reporter shall note the name of the official contacted, the date and time contacted, and any instructions or advice received.

### **2. Written Report**

Within 36 hours of knowing or observing the information concerning the incident, the mandated reporter shall then prepare and either send, fax, or electronically submit to the appropriate agency a written follow-up report, which includes a completed Department of Justice form (SS 8572). (Penal Code 11166, 11168)

Note: Pursuant to Penal Code 11168, the Department of Justice form shall be distributed by the police department, sheriff's department, county probation department, or county welfare department as appropriate and is available on the Department of Justice's web site. It may also be made available at the district office or school site. The following **optional** paragraph should be revised to reflect district practice.

Mandated reporters may obtain copies of the Department of Justice form from either the district or the appropriate agency.

Note: Penal Code 11167 requires the mandated reporter to give his/her name when reporting known or suspected child abuse. However, the reporter's name and the report are confidential and are only disclosed in limited circumstances provided by law.

Reports of suspected child abuse or neglect shall include, if known: (Penal Code 11167)

**CHILD ABUSE PREVENTION AND REPORTING (continued)**

- a. The name, business address, and telephone number of the person making the report and the capacity that makes the person a mandated reporter
- b. The child's name and address, present location and, where applicable, school, grade, and class
- c. The names, addresses, and telephone numbers of the child's parents/guardians
- d. The information that gave rise to the reasonable suspicion of child abuse or neglect and the source(s) of that information
- e. The name, address, telephone number, and other relevant personal information about the person who might have abused or neglected the child

The mandated reporter shall make a report even if some of this information is not known or is uncertain to him/her. (Penal Code 11167)

Information relevant to the incident of child abuse or neglect also may be given to an investigator from an agency that is investigating the case. (Penal Code 11167)

Note: Item #3 below is **optional** and may be revised to reflect district practice. Pursuant to Penal Code 11166, school districts may establish internal reporting procedures encouraging employees to notify supervisors and administrators of reports that are made. These internal procedures must not inhibit or impede immediate and direct reporting by employees to appropriate agencies. Penal Code 11166 prohibits internal procedures from requiring the employee to make a report to the district or requiring that the identity of the mandated reporter be disclosed to the district.

**3. Internal Reporting**

The mandated reporter shall not be required to disclose his/her identity to the principal. (Penal Code 11166)

However, employees reporting child abuse or neglect to an appropriate agency are encouraged, but not required, to notify the principal as soon as possible after the initial telephone report to the appropriate agency. When so notified, the principal shall inform the Superintendent or designee.

The principal so notified shall provide the mandated reporter with any assistance necessary to ensure that reporting procedures are carried out in accordance with law, Board policy, and administrative regulation. At the mandated reporter's request, the principal may assist in completing and filing the necessary forms.

**CHILD ABUSE PREVENTION AND REPORTING (continued)**

Reporting the information to an employer, supervisor, principal, school counselor, co-worker, or other person shall not be a substitute for making a mandated report to the appropriate agency. (Penal Code 11166)

**Training**

Note: The following section is **optional**. Penal Code 11165.7 specifies that districts that do not provide training to employees who are mandated reporters must report to the California Department of Education (CDE) the reasons that training has not been provided; see the accompanying Board policy.

Training of mandated reporters shall include identification and mandated reporting of child abuse and neglect. (Penal Code 11165.7)

Training shall also include guidance in the appropriate discipline of students, physical contact with students, and maintenance of ethical relationships with students to avoid actions that may be misinterpreted as child abuse.

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

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

*(cf. 5145.7 - Sexual Harassment)*

**Victim Interviews by Social Services**

Note: Penal Code 11174.3 authorizes a representative from the Department of Social Services or government agency investigating suspected child abuse or neglect to interview a student during school hours, on school grounds, concerning a report of child abuse or neglect that occurred at home or in an out-of-home care facility. However, the 9th Circuit Court of Appeals has held in Greene v. Camreta that an interview of a student at school by a social worker and deputy sheriff, regarding allegations of sexual abuse by the student's father, violated her Fourth Amendment right against unreasonable "seizure" (i.e., questioning by law enforcement). According to the court, absent exigent circumstances, the social worker and sheriff could not question the student without obtaining a warrant, court order, or parent/guardian consent. It is likely that that an appeal will be filed requesting that the U.S. Supreme Court review the decision.

When a social worker interviews a student without law enforcement, it is CSBA's opinion that Penal Code 11174.3 applies to that situation. However, when the social worker is accompanied by law enforcement, the conditions in Greene likely apply and the interview should be conducted in accordance with the process specified in BP/AR 5145.11 - Questioning and Apprehension by Law Enforcement. Because the law on this topic is still developing, districts should proceed cautiously and consult with legal counsel as appropriate.

Whenever a representative from the Department of Social Services investigating suspected child abuse or neglect deems it necessary, a suspected victim may be interviewed during school hours, on school premises, concerning a report of suspected child abuse or neglect that occurred within the child's home or out-of-home care facility. The child shall be given the choice of being interviewed in private or in the presence of any adult school employee or volunteer aide selected by the child. (Penal Code 11174.3)

## **CHILD ABUSE PREVENTION AND REPORTING (continued)**

A staff member or volunteer aide selected by a child may decline to be present at the interview. If the selected person accepts, the principal or designee shall inform him/her of the following requirements: (Penal Code 11174.3)

1. The purpose of the selected person's presence at the interview is to lend support to the child and enable him/her to be as comfortable as possible.
2. The selected person shall not participate in the interview.
3. The selected person shall not discuss the facts or circumstances of the case with the child.
4. The selected person is subject to the confidentiality requirements of the Child Abuse and Neglect Reporting Act, a violation of which is punishable as specified in Penal Code 11167.5.

If a staff member agrees to be present, the interview shall be held at a time during school hours when it does not involve an expense to the school. (Penal Code 11174.3)

### **Release of Child to Peace Officer**

When a child is released to a peace officer and taken into custody as a victim of suspected child abuse or neglect, the Superintendent or designee and/or principal shall not notify the parent/guardian, but rather shall provide the peace officer with the address and telephone number of the child's parent/guardian. It is the responsibility of the peace officer or agent to notify the parent/guardian of the situation. (Education Code 48906)

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

### **Parent/Guardian Complaints**

Note: Education Code 48987 requires the district to disseminate guidelines, upon request, advising parents/guardians of procedures for filing child abuse complaints. As required by Education Code 33308.1, the CDE has prepared sample guidelines for this purpose (CDE Legal Advisory LO:3-93); however, the CDE has not updated these guidelines to reflect current law. Thus, the following paragraph specifies that, upon request, the district will provide parents/guardians with copies of the district's regulation or procedure. The following paragraph should be modified to reflect district practice.

Upon request, the Superintendent or designee shall provide parents/guardians with a copy of this administrative regulation which contain procedures for reporting suspected child abuse occurring at a school site to appropriate agencies. For parents/guardians whose primary language is other than English, such procedures shall be in their primary language and, when communicating orally regarding those procedures, an interpreter shall be provided.

*(cf. 5145.6 - Parental Notifications)*

## **CHILD ABUSE PREVENTION AND REPORTING (continued)**

Note: If a complaint is filed against an employee for suspected child abuse or neglect, the district should consider whether it is necessary to remove the employee from the job site during the course of the investigation. Student safety should be the primary factor in making this decision. Other factors may include collective bargaining ramifications, if any, and the effects of long-term reassignment or paid leave on district resources. It is also recommended that the district consult with legal counsel before taking any disciplinary action such as removal of an employee from the classroom.

To file a complaint against a district employee or other person suspected of child abuse or neglect at a school site, parents/guardians may file a report by telephone, in person, or in writing with any appropriate agency identified above under "Reporting Procedures." If a parent/guardian makes a complaint about an employee to any other employee, the employee receiving the information shall notify the parent/guardian of procedures for filing a complaint with the appropriate agency. The employee also is obligated pursuant to Penal Code 11166 to file a report himself/herself using the procedures described above for mandated reporters.

*(cf. 1312.1 - Complaints Concerning District Employees)*

Note: Parents/guardians of special education students also may file a complaint with the CDE as provided in the following paragraph. The CDE does not investigate allegations of child abuse or neglect, but may investigate conditions that may involve immediate physical danger or threaten the health, safety, or welfare of the child and which may result in denial of a free appropriate public education.

In addition, if the child is enrolled in special education, a separate complaint may be filed with the California Department of Education pursuant to 5 CCR 4650.

*(cf. 1312.3 - Uniform Complaint Procedures)*

### **Notifications**

The Superintendent or designee shall provide to all new employees who are mandated reporters a statement that informs them of their status as mandated reporters, of their reporting obligations under Penal Code 11166, and of their confidentiality rights under Penal Code 11167. The district also shall provide these new employees with a copy of Penal Code 11165.7, 11166, and 11167. (Penal Code 11165.7, 11166.5)

Before beginning employment, employees shall sign a statement indicating that they have knowledge of the reporting obligations under Penal Code 11166 and that they will comply with those provisions. The signed statements shall be retained by the Superintendent or designee. (Penal Code 11166.5)

*(cf. 4112.9/4212.9/4312.9 - Employee Notifications)*

Employees who work with dependent adults shall be notified of legal responsibilities and reporting procedures pursuant to Welfare and Institutions Code 15630-15637.

**CHILD ABUSE PREVENTION AND REPORTING (continued)**

Note: The remainder of this section is **optional** and should be deleted by districts that do not provide these additional notifications.

The Superintendent or designee also shall notify all employees that:

1. A mandated reporter who reports a known or suspected instance of child abuse or neglect shall not be held civilly or criminally liable for making a report and this immunity shall apply even if the mandated reporter acquired the knowledge or reasonable suspicion of child abuse or neglect outside of his/her professional capacity or outside the scope of his/her employment. Any other person making a report shall not incur civil or criminal liability unless it can be proven that he/she knowingly made a false report or made a report with reckless disregard of the truth or falsity of the report. (Penal Code 11172)
2. If a mandated reporter fails to report an incident of known or reasonably suspected child abuse or neglect, he/she may be guilty of a crime punishable by a fine and/or imprisonment. (Penal Code 11166)
3. No employee shall be subject to any sanction by the district for making a report. (Penal Code 11166)



# **Administrative Regulation**

## **Child Abuse Prevention And Reporting**

**AR 5141.4**  
**Students**

### **Definitions**

**Child abuse or neglect includes the following: (Penal Code 11165.5, 11165.6)**

- 1. A physical injury or death inflicted by other than accidental means on a child by another person**
- 2. Sexual abuse of a child, including sexual assault or sexual exploitation, as defined in Penal Code 11165.1**
- 3. Neglect of a child as defined in Penal Code 11165.2**
- 4. Willful harming or injuring of a child or the endangering of the person or health of a child as defined in Penal Code 11165.3**
- 5. Unlawful corporal punishment or injury as defined in Penal Code 11165.4**

**Child abuse or neglect does not include:**

- 1. A mutual affray between minors (Penal Code 11165.6)**
- 2. An injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his/her employment (Penal Code 11165.6)**

**(cf. 3515.3 - District Police/Security Department)**

- 3. An injury resulting from the exercise by a teacher, vice principal, principal, or other certificated employee of the same degree of physical control over a student that a parent/guardian would be privileged to exercise, not exceeding the amount of physical control reasonably necessary to maintain order, protect property, protect the health and safety of students, or maintain proper and appropriate conditions conducive to learning (Education Code 44807)**
- 4. An injury caused by a school employee's use of force that is reasonable and necessary to quell a disturbance threatening physical injury to persons or damage to property, to protect himself/herself, or to obtain weapons or other dangerous objects within the control of the student (Education Code 49001)**

**(cf. 5144 - Discipline)**

5. Physical pain or discomfort caused by athletic competition or other such recreational activity voluntarily engaged in by the student (Education Code 49001)

Mandated reporters include, but are not limited to, teachers; instructional aides; teacher's aides or assistants; classified employees; certificated pupil personnel employees; administrative officers or supervisors of child attendance; administrators and employees of a licensed day care facility; Head Start teachers; district police or security officers; licensed nurse or health care provider; and administrators, presenters, and counselors of a child abuse prevention program. (Penal Code 11165.7)

Reasonable suspicion means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his/her training and experience, to suspect child abuse or neglect. (Penal Code 11166)

### Reportable Offenses

A mandated reporter shall make a report using the procedures provided below whenever, in his/her professional capacity or within the scope of his/her employment, he/she has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. (Penal Code 11166)

Any mandated reporter who has knowledge of or who reasonably suspects that a child is suffering serious emotional damage or is at a substantial risk of suffering serious emotional damage, based on evidence of severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, may make a report to the appropriate agency. (Penal Code 11166.05)

Any person shall notify a peace officer if he/she reasonably believes that he/she has observed the commission of a murder, rape, or lewd or lascivious act by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury, where the victim is a child under age 14. (Penal Code 152.3, 288)

### Responsibility for Reporting

The reporting duties of mandated reporters are individual and cannot be delegated to another person. (Penal Code 11166)

When two or more mandated reporters jointly have knowledge of a known or suspected instance of child abuse or neglect, the report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report. (Penal Code 11166)

No supervisor or administrator shall impede or inhibit a mandated reporter from making a report.

**(Penal Code 11166)**

**Any person not identified as a mandated reporter who has knowledge of or observes a child whom he/she knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to the appropriate agency.**

**(Penal Code 11166)**

## **Reporting Procedures**

### **1. Initial Telephone Report**

**Immediately or as soon as practicably possible after knowing or observing suspected child abuse or neglect, a mandated reporter shall make an initial report by telephone to any police department (excluding a school district police/security department), sheriff's department, county probation department if designated by the county to receive such reports, or county welfare department.**

**(Penal Code 11166)**

**Children's Protective Services**

**P.O. Box 269057**

**Sacramento, CA 95826-9057**

**(916) 874-4001**

**When the initial telephone report is made, the mandated reporter shall note the name of the official contacted, the date and time contacted, and any instructions or advice received.**

### **2. Written Report**

**Within 36 hours of knowing or observing the information concerning the incident, the mandated reporter shall then prepare and either send, fax, or electronically submit to the appropriate agency a written follow-up report, which includes a completed Department of Justice form (SS 8572).**

**(Penal Code 11166, 11168)**

**Mandated reporters may obtain copies of the Department of Justice form from either the district or the appropriate agency.**

**Reports of suspected child abuse or neglect shall include, if known: (Penal Code 11167)**

- a. The name, business address, and telephone number of the person making the report and the capacity that makes the person a mandated reporter**
- b. The child's name and address, present location and, where applicable, school, grade, and class**
- c. The names, addresses, and telephone numbers of the child's parents/guardians**
- d. The information that gave rise to the reasonable suspicion of child abuse or neglect and**

the source(s) of that information

e. The name, address, telephone number, and other relevant personal information about the person(s) who might have abused or neglected the child

The mandated reporter shall make a report even if some of this information is not known or is uncertain to him/her. (Penal Code 11167)

Information relevant to the incident of child abuse or neglect may also be given to an investigator from an agency that is investigating the case. (Penal Code 11167)

### **3. Internal Reporting**

Employees reporting child abuse or neglect to an appropriate agency are encouraged, but not required, to notify the principal as soon as possible after the initial telephone report to the appropriate agency. When so notified, the principal shall inform the Superintendent or designee.

The principal so notified shall provide the mandated reporter with any assistance necessary to ensure that reporting procedures are carried out in accordance with law, Board policy, and administrative regulation. At the mandated reporter's request, the principal may assist in completing and filing the necessary forms.

The mandated reporter shall not be required to disclose his/her identity to the principal. (Penal Code 11166)

He/she may provide or mail a copy of the written report to the principal or Superintendent or designee without his/her signature or name.

Reporting the information to an employer, supervisor, principal, school counselor, co-worker, or other person shall not be a substitute for making a mandated report to the appropriate agency. (Penal Code 11166)

### **Training**

Training of mandated reporters shall include child abuse and neglect identification and mandated reporting. (Penal Code 11165.7)

Training shall also include guidance in the appropriate discipline of students, physical contact with students, and maintenance of ethical relationships with students to avoid actions that may be misinterpreted as child abuse.

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

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

(cf. 5145.7 - Sexual Harassment)

## **Victim Interviews**

Whenever a representative of a government agency investigating suspected child abuse or neglect or the state Department of Social Services deems it necessary, a suspected victim may be interviewed during school hours, on school premises, concerning a report of suspected child abuse or neglect that occurred within the child's home or out-of-home care facility. The child shall be given the choice of being interviewed in private or in the presence of any adult school employee or volunteer aide selected by the child. (Penal Code 11174.3)

A staff member or volunteer aide selected by a child may decline to be present at the interview. If the selected person accepts, the principal or designee shall inform him/her of the following requirements: (Penal Code 11174.3)

1. The purpose of the selected person's presence at the interview is to lend support to the child and enable him/her to be as comfortable as possible.
2. The selected person shall not participate in the interview.
3. The selected person shall not discuss the facts or circumstances of the case with the child.
4. The selected person is subject to the confidentiality requirements of the Child Abuse and Neglect Reporting Act, a violation of which is punishable as specified in Penal Code 11167.5.

If a staff member agrees to be present, the interview shall be held at a time during school hours when it does not involve an expense to the school. (Penal Code 11174.3)

## **Release of Child to Peace Officer**

When a child is released to a peace officer and taken into custody as a victim of suspected child abuse or neglect, the Superintendent or designee and/or principal shall not notify the parent/guardian, but rather shall provide the peace officer with the address and telephone number of the child's parent/guardian. It is the responsibility of the peace officer or agent to notify the parent/guardian of the situation. (Education Code 48906)

Peace officers shall be asked to sign an appropriate release or acceptance of responsibility form.

(cf. 5145.11 - Questioning and Apprehension)

## **Parent/Guardian Complaints**

Upon request, the Superintendent or designee shall provide parents/guardians with a copy of the district's administrative regulation that describes how to report suspected child abuse occurring at a school site to appropriate agencies. For parents/guardians whose primary language is other than English, such procedures shall be in their primary language and, when communicating orally regarding those procedures, an interpreter shall be provided.

To file a complaint against a district employee or other person suspected of child abuse or neglect at a school site, parents/guardians may file a report by telephone, in person, or in writing with any appropriate agency identified above under "Reporting Procedures." If a parent/guardian makes a complaint about an employee to any other employee, the employee receiving the information shall notify the parent/guardian of procedures for filing a complaint with the appropriate agency. The employee also is obligated pursuant to Penal Code 11166 to file a report himself/herself using the procedures described above for mandated reporters.

(cf. 1312.1 - Complaints Concerning District Employees)

In addition, if the child is enrolled in special education, a separate complaint may be filed with the California Department of Education pursuant to 5 CCR 4650.

(cf. 1312.3 - Uniform Complaint Procedures)

#### Notifications

The Superintendent or designee shall provide to all new employees who are mandated reporters a statement that informs them of their status as mandated reporters, of their reporting obligations under Penal Code 11166, and of their confidentiality rights under Penal Code 11167. The district shall also provide these new employees with a copy of Penal Code 11165.7, 11166, and 11167. (Penal Code 11165.7, 11166.5)

Before beginning employment, employees shall sign the statement indicating that they have knowledge of the reporting obligations under Penal Code 11166 and that they will comply with those provisions. The signed statements shall be retained by the Superintendent or designee. (Penal Code 11166.5)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)

Employees who work with dependent adults shall be notified of legal responsibilities and reporting procedures pursuant to Welfare and Institutions Code 15630-15637.

The Superintendent or designee shall also notify all employees that:

1. A mandated reporter who reports a known or suspected instance of child abuse or neglect shall not be held civilly or criminally liable for making a report and this immunity shall apply even if the mandated reporter acquired the knowledge or reasonable suspicion of child abuse or neglect outside of his/her professional capacity or outside the scope of his/her employment. Any other person making a report shall not incur civil or criminal liability unless it can be proven that he/she knowingly made a false report or made a report with reckless disregard of the truth or falsity of the report. (Penal Code 11172)
2. If a mandated reporter fails to report an incident of known or reasonably suspected child abuse or neglect, he/she may be guilty of a crime punishable by a fine and/or imprisonment.

(Penal Code 11166)

3. No employee shall be subject to any sanction by the district for making a report. (Penal Code 11166)

Regulation CENTER UNIFIED SCHOOL DISTRICT  
approved: June 18, 2008 Antelope, California

**SUSPENSION AND EXPULSION/DUE PROCESS**

**Definitions**

*Suspension from school* means removal of a student from ongoing instruction for adjustment purposes. However, suspension does not mean any of the following: (Education Code 48925)

1. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Governing Board for students of the same grade level
2. Referral to a certificated employee designated by the principal to advise students
3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code 48910. Removal from a particular class shall not occur more than once every five school days.

*Expulsion* means removal of a student from the immediate supervision and control, or the general supervision, of school personnel. (Education Code 48925)

*Day* means a calendar day unless otherwise specifically provided. (Education Code 48925)

*School day* means a day upon which the schools of the district are in session or weekdays during the summer recess. (Education Code 48925)

*Student* includes a student's parent/guardian or legal counsel. (Education Code 48925)

*Principal's designee* means one or more administrators or, if there is not a second administrator at one school site, a certificated person specifically designated by the principal, in writing, to assist with disciplinary procedures. Only one such person may be designated at any time as the principal's primary designee and only one such person may be designated as secondary designee for the school year. The names of such persons shall be on file in the principal's office. (Education Code 48911)

*School property*, for the purposes described in Education Code 48900, includes, but is not limited to, electronic files and databases. (Education Code 48900(u))

**Notice of Regulations**

At the beginning of each school year, the principal of each school shall ensure that all students and parents/guardians are notified in writing of all school rules related to discipline, suspension, and expulsion. (Education Code 35291, 48900.1, 48980)

(cf. 5144 - Discipline)

(cf. 5145.6 - Parental Notifications)



## SUSPENSION AND EXPULSION/DUE PROCESS (continued)

### Grounds for Suspension and Expulsion

A student may be subject to suspension or expulsion when it is determined that he/she:

1. Caused, attempted to cause, or threatened to cause physical injury to another person or willfully used force or violence upon another person, except in self-defense. (Education Code 48900(a))

Note: Education Code 48900 allows for the suspension, but **not expulsion**, of a student who "aids or abets," as defined in Penal Code 31, the infliction or attempted infliction of physical injury to another person. However, a student may be suspended or expelled pursuant to item #1 above if a juvenile court determines that he/she has committed, as an aider or abettor, a crime of physical violence in which the victim suffered either great or serious bodily injury. The term "aiding or abetting," as defined in Penal Code 31, is a complex legal term and requires that the aider or abettor be aware of the crime and specifically intend that the crime be committed. Because of the complexities of criminal law, this issue may be difficult for school administrators to apply in a school setting and legal counsel should be consulted as appropriate.

A student who *aids* or *abets* the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31, may be suspended, but not expelled. However, a student may be suspended or expelled pursuant to Education Code 48900(a) once he/she has been adjudged by a juvenile court to have committed, as an aider or abettor, a crime of physical violence in which the victim suffered great or serious bodily injury. (Education Code 48900(t))

Note: The Attorney General, in 80 Ops.Cal.Atty.Gen. 91 (1997), determined that a student may be expelled for "possession" of a firearm if the student knowingly and voluntarily had direct control over the firearm. The only exceptions are when the student has permission from school officials to possess the firearm (pursuant to Education Code 48900 and 48915) or when the possession is brief and solely for the purpose of disposing of the firearm, such as handing it to school officials. See BP 5131.7 - Weapons and Dangerous Instruments.

Pursuant to Penal Code 417.27, students are prohibited from possessing a laser pointer on school premises, except for a valid instructional or other school-related purpose. See BP 5131 - Conduct.

2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence. (Education Code 48900(b))

(cf. 5131 - Conduct)

(cf. 5131.7 - Weapons and Dangerous Instruments)

3. Unlawfully possessed, used, sold, or otherwise furnished, or was under the influence of, any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind. (Education Code 48900(c))

(cf. 5131.6 - Alcohol and Other Drugs)

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented same as controlled substance, alcoholic beverage, or intoxicant. (Education Code 48900(d))
5. Committed or attempted to commit robbery or extortion. (Education Code 48900(e))
6. Caused or attempted to cause damage to school property or private property. (Education Code 48900(f))
7. Stole or attempted to steal school property or private property. (Education Code 48900(g))
8. Possessed or used tobacco or any products containing tobacco or nicotine products, including, but not limited to, cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. This restriction shall not prohibit a student from using or possessing his/her own prescription products. (Education Code 48900(h))

*(cf. 5131.62 - Tobacco)*

9. Committed an obscene act or engaged in habitual profanity or vulgarity. (Education Code 48900(i))
10. Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5. (Education Code 48900(j))
11. Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties. (Education Code 48900(k))

*(cf. 5131.4 - Student Disturbances)*

12. Knowingly received stolen school property or private property. (Education Code 48900(l))
13. Possessed an imitation firearm. (Education Code 48900(m))

*Imitation firearm* means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm. (Education Code 48900(m))

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

14. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committed a sexual battery as defined in Penal Code 243.4. (Education Code 48900(n))
15. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness. (Education Code 48900(o))
16. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma. (Education Code 48900(p))
17. Engaged in, or attempted to engage in, hazing. (Education Code 48900(q))

*Hazing* means a method of initiation or preinitiation into a student organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. *Hazing* does not include athletic events or school-sanctioned events. (Education Code 48900(q))

18. Made terrorist threats against school officials and/or school property. (Education Code 48900.7)

A *terrorist threat* includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person, or property damage in excess of \$1,000, with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out. (Education Code 48900.7)

Note: The following paragraph may be revised to reflect grade levels offered by the district.
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A student in grades 4-12 is also subject to suspension or recommendation for expulsion when it is determined that he/she:

19. Committed sexual harassment as defined in Education Code 212.5. (Education Code 48900.2)

*Sexual harassment* means that conduct, when considered from the perspective of a reasonable person of the same gender as the victim, 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. (Education Code 212.5, 48900.2)

(cf. 5145.7 - Sexual Harassment)

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

20. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code 233. (Education Code 48900.3)

*Hate violence* means any act punishable under Penal Code 422.6, 422.7, or 422.75. Such acts include injuring or intimidating another person, interfering with the exercise of a person's civil rights, or damaging a person's property because of the person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation. (Education Code 233; Penal Code 422.55)

(cf. 5145.9 - Hate-Motivated Behavior)

21. Intentionally engaged in harassment, threats, or intimidation against district personnel or students that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of school personnel or students by creating an intimidating or hostile educational environment. (Education Code 48900.4)

(cf. 5145.3 - Nondiscrimination/Harassment)

Note: As provided below, Education Code 32261 defines "bullying" to include harassment, sexual harassment, and acts of hate violence as defined in Education Code 48900.2, 48900.3, and 48900.4 respectively. Because these sections only apply to students in grades 4-12, it appears that bullying as a ground for suspension or expulsion also only applies to students in grades 4-12.

The legal issues regarding the discipline of students for cyberbullying are complex because the acts often originate off campus (e.g., using a home computer) and because such communications may be protected by the freedom of speech rights of students granted pursuant to Education Code 48907. Generally, courts have upheld discipline against students for off-campus conduct that constituted cyberbullying that posed a threat to the safety of other students, staff, or school property or presented a risk of substantial disruption of school activities. Districts should consult legal counsel as appropriate. See also BP 5131 - Conduct and BP 5145.2 - Freedom of Speech/Expression.

22. Engaged in an act of bullying, including, but not limited to, bullying by means of an electronic act, directed toward a student or school personnel. (Education Code 48900(r))

*Bullying* means one or more acts by a student or group of students that constitute sexual harassment pursuant to Education Code 48900.2, as defined in item #19 above; hate violence pursuant to Education Code 48900.3, as defined in item #20 above; or harassment, threats, or intimidation pursuant to Education Code 48900.4, as defined in item #21 above. (Education Code 32261)

*Electronic act* means the transmission of a communication, including, but not limited to, a message, text, sound, or image by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager. (Education Code 32261)

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

A student may be suspended or expelled for any of the acts listed above if the act is related to school activity or school attendance occurring at any district school under the jurisdiction of the Superintendent or principal or within any other school district, including, but not limited to, the following circumstances: (Education Code 48900)

1. While on school grounds
2. While going to or coming from school
3. During the lunch period, whether on or off the school campus

*(cf. 5112.5 - Open/Closed Campus)*

4. During, going to, or coming from a school-sponsored activity

*(cf. 5131.1 - Bus Conduct)*

The Superintendent or principal may use his/her discretion to provide alternatives to suspension or expulsion for a student subject to discipline under this administrative regulation, including, but not limited to, counseling and an anger management program. (Education Code 48900(v))

*(cf. 5138 - Conflict Resolution/Peer Mediation)*

*(cf. 6164.2 - Guidance/Counseling Services)*

Note: The following **optional** paragraph reflects the Legislature's intent, expressed in Education Code 48900, concerning disciplinary actions against truant, tardy, or absent students.

Alternatives to suspension or expulsion shall be used with students who are truant, tardy, or otherwise absent from assigned school activities.

*(cf. 5113 - Absences and Excuses)*

*(cf. 5113.1 - Truancy)*

### **Removal from Class by a Teacher/Parental Attendance**

A teacher may suspend any student from his/her class for the remainder of the day and the following day for any act listed in "Grounds for Suspension and Expulsion" above. (Education Code 48910)

A teacher also may refer a student to the principal or designee for consideration of suspension from school. (Education Code 48910)

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

When removing a student from his/her class, the teacher shall immediately report this action to the principal or designee and send the student to the principal or designee for appropriate action. The student shall be appropriately supervised during the class periods from which he/she has been removed. (Education Code 48910)

As soon as possible, the teacher shall ask the student's parent/guardian to attend a parent-teacher conference regarding the removal. A counselor or psychologist may attend the conference if it is practicable, and a school administrator shall attend if either the parent/guardian or teacher so requests. (Education Code 48910)

A student removed from class shall not be returned to class during the period of removal without the approval of the teacher of the class and the principal. (Education Code 48910)

A student removed from class shall not be placed in another regular class during the period of removal. However, if a student is assigned to more than one class per day, he/she may be placed in any other regular classes except those held at the same time as the class from which the student was removed. (Education Code 48910)

The teacher of any class from which a student is removed may require the student to complete any assignments and tests missed during the removal. (Education Code 48913)

Note: The following <b>optional</b> paragraph is for use by districts that have adopted a policy regarding required parental attendance pursuant to Education Code 48900.1. See the accompanying Board policy.
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Pursuant to Board policy, a teacher may provide that the parent/guardian of a student whom the teacher has removed attend a portion of a school day in his/her child's classroom. When a teacher makes this request, the principal shall send the parent/guardian a written notice that the parent/guardian's attendance is requested pursuant to law. (Education Code 48900.1)

Note: Items #1-3 below are <b>optional</b> and should be modified to reflect district practice.
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This notice shall also:

1. Inform the parent/guardian when his/her presence is expected and by what means he/she may arrange an alternate date
2. State that if the parent/guardian does not have a means of transportation to school, he/she may ride the school bus with the student
3. Ask the parent/guardian to meet with the principal after the visit and before leaving school, as required by Education Code 48900.1

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

### **Suspension by Superintendent, Principal, or Principal's Designee**

The Superintendent or principal may suspend a student from school for not more than five consecutive school days unless the suspension is extended pending expulsion. (Education Code 48911)

The Superintendent or principal shall immediately suspend any student found at school or at a school activity to be: (Education Code 48915)

1. Possessing, as verified by a district employee, selling, or otherwise furnishing a firearm, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence
2. Brandishing a knife, as defined in Education Code 48915(g), at another person
3. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
4. Committing or attempting to commit a sexual assault or committing a sexual battery as defined in item #14 under "Grounds for Suspension and Expulsion" above
5. Possession of an explosive as defined in 18 USC 921

*Explosive* means a *destructive device* and includes, but is not limited to, any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or similar device. A *destructive device* includes any other type of weapon (except a shotgun or shotgun shell recognized by the United States Secretary of Army as suitable for sporting purposes) which might be converted to project an explosive. (18 USC 921)

Suspension also may be imposed upon a first offense if the Superintendent or principal determines that the student violated items #1-5 listed in "Grounds for Suspension and Expulsion" above or if the student's presence causes a danger to persons or property or threatens to disrupt the instructional process. (Education Code 48900.5)

A student may be suspended from school for not more than 20 school days in any school year unless, for purposes of adjustment, the student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class, in which case suspension shall not exceed 30 days in any school year. However, this restriction on the number of days of suspension does not apply when the suspension is extended pending an expulsion. (Education Code 48903, 48911, 48912)

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

The district may count suspensions that occur while a student is enrolled in another school district toward the maximum number of days for which the student may be suspended in any school year. (Education Code 48903)

Suspensions shall be initiated according to the following procedures:

1. **Informal Conference:** Suspension shall be preceded by an informal conference conducted by the Superintendent, principal, or principal's designee with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action, presented with the evidence against him/her, and given the opportunity to present his/her version and evidence in support of his/her defense. (Education Code 48911)

This conference may be omitted if the Superintendent, principal, or designee determines that an emergency situation exists. An emergency situation involves a clear and present danger to the lives, safety, or health of students or school personnel. If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of the conference. The conference shall be held within two school days, unless the student waives his/her right to it or is physically unable to attend for any reason. In such case, the conference shall be held as soon as the student is physically able to return to school. (Education Code 48911)

Note: Item #2 below should be revised to reflect district practice as to the processing and reporting of suspensions.
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2. **Administrative Actions:** All requests for student suspension are to be processed by the principal or designee of the school in which the student is enrolled at the time of the misbehavior. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee. (Education Code 48911)
3. **Notice to Parents/Guardians:** At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall be notified in writing of the suspension. (Education Code 48911)

This notice shall state the specific offense committed by the student. (Education Code 48900.8)



## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

In addition, the notice may state the date and time when the student may return to school. If school officials wish to ask the parent/guardian to confer regarding matters pertinent to the suspension, the notice may add that state law requires the parent/guardian to respond to such requests without delay.

4. **Parent/Guardian Conference:** Whenever a student is suspended, school officials may meet with the parent/guardian to discuss the causes and duration of the suspension, the school policy involved, and any other pertinent matter. (Education Code 48914)

While the parent/guardian is required to respond without delay to a request for a conference about a student's behavior, no penalties may be imposed on the student for the failure of the parent/guardian to attend such a conference. The student may not be denied readmission solely because the parent/guardian failed to attend the conference. (Education Code 48911)

5. **Extension of Suspension:** If the Board is considering the expulsion of a suspended student from any school or the suspension of a student for the balance of the semester from continuation school, the Superintendent or designee may, in writing, extend the suspension until such time as the Board has made a decision. (Education Code 48911)

Any extension of the original period of suspension shall be preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard. This conference may be held in conjunction with a meeting requested by the student or parent/guardian to challenge the original suspension. Extension of the suspension may be made only if the Superintendent or designee determines, following a meeting in which the student and the student's parent/guardian were invited to participate, that the student's presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process. (Education Code 48911)

### **Suspension by the Board**

The Board may suspend a student for any of the acts listed in "Grounds for Suspension and Expulsion" above and within the limits specified in "Suspension by Superintendent, Principal, or Principal's Designee" above. (Education Code 48912)

The Board may suspend a student enrolled in a continuation school or class for a period not longer than the remainder of the semester if any of the acts listed in "Grounds for Suspension and Expulsion" occurred. The suspension shall meet the requirements of Education Code 48915. (Education Code 48912.5)

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

When the Board is considering a suspension, disciplinary action, or any other action (except expulsion) against any student, it shall hold closed sessions if a public hearing would lead to disclosure of information violating a student's right to privacy under Education Code 49073-49079. (Education Code 35146, 48912)

*(cf. 9321 - Closed Session Purposes and Agendas)*

The Board shall provide the student and his/her parent/guardian with written notice of the closed session by registered or certified mail or personal service. Upon receiving this notice, the student or parent/guardian may request a public meeting, and this request shall be granted if made in writing within 48 hours after receipt of the Board's notice. However, any discussion that conflicts with any other student's right to privacy still shall be held in closed session. (Education Code 35146, 48912)

### **Supervised Suspension Classroom**

Note: The following **optional** section is for use by districts establishing a supervised on-campus suspension program pursuant to Education Code 48911.1. Use of a supervised suspension program does not in any way limit the district's ability to transfer a student to an opportunity school or class or a continuation education school or class.

Students for whom an expulsion action has not been initiated and who pose no imminent danger or threat to the school, students, or staff may be assigned to a supervised suspension classroom in a separate classroom, building, or site for the entire period of suspension. The following conditions shall apply: (Education Code 48911.1)

1. The supervised suspension classroom shall be staffed in accordance with law.
2. The student shall have access to appropriate counseling services.
3. The supervised suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.
4. Each student shall be responsible for contacting his/her teacher(s) to receive assignments to be completed in the supervised suspension classroom. The teacher(s) shall provide all assignments and tests that the student will miss while suspended. If no such work is assigned, the person supervising the suspension classroom shall assign schoolwork.

At the time a student is assigned to a supervised suspension classroom, the principal or designee shall notify the student's parent/guardian in person or by telephone. When the assignment is for longer than one class period, this notification shall be made in writing. (Education Code 48911.1)

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

### **Authority to Expel**

A student may be expelled only by the Board. The Board shall expel, as required by law, any student found to have committed any offense listed below under "Mandatory Recommendation and Mandatory Expulsion." (Education Code 48915)

Note: Education Code 48915 requires a Board finding as described below for all expulsions other than those listed under "Mandatory Recommendation and Mandatory Expulsion."

The Board also may order a student expelled for any of the acts listed above under "Grounds for Suspension and Expulsion" upon recommendation by the principal, Superintendent, hearing officer, or administrative panel, based on either or both of the following finding(s): (Education Code 48915(b) and (e))

1. That other means of correction are not feasible or have repeatedly failed to bring about proper conduct
2. That due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others

### **Mandatory Recommendation for Expulsion**

Unless the principal, Superintendent or designee finds that expulsion is inappropriate due to particular circumstances, the principal or the Superintendent or designee shall recommend a student's expulsion for any of the following acts: (Education Code 48915(a))

1. Causing serious physical injury to another person, except in self-defense
2. Possession of any knife as defined in Education Code 48915(g), explosive, or other dangerous object of no reasonable use to the student
3. Unlawful possession of any controlled substance, as listed in Health and Safety Code 11053-11058, except for the first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis
4. Robbery or extortion
5. Assault or battery, as defined in Penal Code 240 and 242, upon any school employee

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

### **Mandatory Recommendation and Mandatory Expulsion**

Note: The Attorney General has determined, in 80 Ops.Cal.Atty.Gen. 347 (1997), that a district may not adopt a zero tolerance policy mandating expulsion of a student for a first offense of possession of a controlled substance or alcohol. See the section entitled "Zero Tolerance" in the accompanying Board policy.

The Gun-Free Schools Act, 20 USC 7151, requires districts and county offices of education to submit to the California Department of Education (CDE) assurances of compliance with state and federal laws related to incidents on campus involving the possession of firearms. Item #1 below reflects language that must be submitted to the CDE for compliance. For other such language that must be submitted to the CDE, see sections in this regulation entitled "Final Action by the Board" and "Notifications to Law Enforcement Authorities."

The principal, Superintendent or designee shall recommend that the Board expel any student found at school or at a school activity to be: (Education Code 48915(c))

1. Possessing, as verified by a district employee, selling, or otherwise furnishing a firearm, unless the student had obtained prior written permission to possess the firearm from a certificated school employee, with the principal or designee's concurrence
2. Brandishing a knife as defined in Education Code 48915(g) at another person
3. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
4. Committing or attempting to commit a sexual assault or committing a sexual battery as defined in item #14 under "Grounds for Suspension and Expulsion" above
5. Possessing an explosive as defined in 18 USC 921

Upon finding that the student committed any of the above acts, the Board shall expel the student. (Education Code 48915)

### **Student's Right to Expulsion Hearing**

Note: Education Code 48918 mandates that the Board establish rules and regulations governing procedures for the expulsion of students. The timelines of Education Code 48918 must be strictly followed; failure to do so may result in loss of the district's power to act (Garcia v. Los Angeles Board of Education). In calculating timelines, districts should also be aware of the difference between the calculation of "school days" and "calendar days" under Education Code 48918.

Districts that have developed procedures to enable a student to waive his/her right to a hearing in exchange for an agreement as to the term of the expulsion, also known as a "stipulated expulsion," may wish to add those procedures here. Because such waivers are not covered in the Education Code, districts should consult legal counsel as appropriate.

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

The student is entitled to a hearing to determine whether the student should be expelled. The hearing shall be held within 30 school days after the principal or Superintendent or designee determines that one of the acts listed under "Grounds for Suspension and Expulsion" has occurred. (Education Code 48918(a))

The student is entitled to at least one postponement of an expulsion hearing for a period of not more than 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the Board's discretion. (Education Code 48918(a))

If the Board finds it impractical during the regular school year to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held. (Education Code 48918(a))

If the Board finds it impractical to comply with the time requirements of the expulsion hearing due to a summer recess of Board meetings of more than two weeks, the days during the recess shall not be counted as school days. The days not counted during the recess may not exceed 20 school days, as defined in Education Code 48925. Unless the student requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days prior to the first day of the next school year. (Education Code 48918(a))

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay. (Education Code 48918(a))

### **Rights of Complaining Witness**

Note: Education Code 48918.5 mandates the following additional rights related to the treatment of witnesses alleging acts of sexual assault or sexual battery. Other procedures related to complaining witnesses also may be added as desired by the district. Additional mandated procedures related to the rights and treatment of complaining witnesses are included where appropriate throughout this regulation.
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An expulsion hearing involving allegations of sexual assault or sexual battery may be postponed for one school day in order to accommodate the special physical, mental, or emotional needs of a student who is the complaining witness. (Education Code 48918.5)

Whenever the Superintendent or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, he/she shall give the complaining witness a copy of the district's suspension and expulsion policy and regulation and shall advise the witness of his/her right to: (Education Code 48918.5)

1. Receive five days' notice of his/her scheduled testimony at the hearing

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

2. Have up to two adult support persons of his/her choosing present at the hearing at the time he/she testifies
3. Have a closed hearing during the time he/she testifies

Whenever any allegation of sexual assault or sexual battery is made, the Superintendent or designee shall immediately advise complaining witnesses and accused students to refrain from personal or telephone contact with each other during the time when an expulsion process is pending. (Education Code 48918.5)

### **Written Notice of the Expulsion Hearing**

Note: Education Code 48918 mandates the Board to adopt procedures that include the following items.
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Written notice of the expulsion hearing shall be forwarded to the student and the student's parent/guardian at least 10 calendar days before the date of the hearing. The notice shall include: (Education Code 48900.8, 48918(b))

1. The date and place of the hearing.
2. A statement of the specific facts, charges, and offense upon which the proposed expulsion is based.
3. A copy of district disciplinary rules which relate to the alleged violation.
4. Notification of the student's or parent/guardian's obligation, pursuant to Education Code 48915.1, to provide information about the student's status in the district to any other district in which the student seeks enrollment. This obligation applies when a student is expelled for acts other than those described in Education Code 48915(a) or (c).

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

5. The opportunity for the student or the student's parent/guardian to appear in person or be represented by legal counsel or by a nonattorney advisor.

*Legal counsel* means an attorney or lawyer who is admitted to the practice of law in California and is an active member of the State Bar of California.

*Nonattorney advisor* means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case and has been selected by the student or student's parent/guardian to provide assistance at the hearing.

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

6. The right to inspect and obtain copies of all documents to be used at the hearing.
7. The opportunity to confront and question all witnesses who testify at the hearing.
8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses.

### **Conduct of Expulsion Hearing**

Note: Education Code 48918 mandates the Board to adopt procedures that include the following items.
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1. **Closed Session:** Notwithstanding the provisions of Government Code 54953 and Education Code 35145, the Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public meeting. If such request is made, the meeting shall be public unless another student's privacy rights would be violated. (Education Code 48918(c))

Note: During the closed session described below, for the purpose of Board deliberations, the presence of person other than the Board in the closed session, including the Superintendent, necessitates allowing the presence of the parent/guardian, student, and student's counsel.
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Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to deliberate and determine whether or not the student should be expelled. If the Board admits any other person to this closed session, the parent/guardian, the student, and the counsel of the student also shall be allowed to attend the closed session. (Education Code 48918(c))

If a hearing that involves a charge of sexual assault or sexual battery is to be conducted in public, a complaining witness shall have the right to have his/her testimony heard in closed session when testifying in public would threaten serious psychological harm to the witness and when there are no alternative procedures to avoid the threatened harm, including, but not limited to, videotaped deposition or contemporaneous examination in another place communicated to the hearing room by closed-circuit television. (Education Code 48918(c))

2. **Record of Hearing:** A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made. (Education Code 48918(g))

## SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Note: Education Code 48918 authorizes the Board to issue subpoenas for the personal appearance of percipient witnesses at an expulsion hearing. In Woodbury v. Dempsey, the court held that a district's authority to determine whether to issue subpoenas is discretionary, but a district could not have a blanket policy denying the issuance of subpoenas in all cases.

In accordance with the Code of Civil Procedure 1987, the subpoena must be served at least 10 days before the time required for attendance unless the court prescribes a shorter time. Unless they are parties to the hearing or are district or government employees, witnesses who appear pursuant to a subpoena receive fees equal to those prescribed for witnesses in civil actions in a superior court, and all witnesses other than the parties to the hearing receive mileage; these fees and mileage must be paid by the party requesting the subpoena.

3. **Subpoenas:** Before commencing a student expulsion hearing, the Board may issue subpoenas, at the request of either the student or the Superintendent or designee, for the personal appearance at the hearing of any person who actually witnessed the action that gave rise to the recommendation for expulsion. After the hearing has commenced, the Board or the hearing officer or administrative panel may issue such subpoenas at the request of the student or the County Superintendent of Schools or designee. All subpoenas shall be issued in accordance with the Code of Civil Procedure 1985-1985.2 and enforced in accordance with Government Code 11455.20. (Education Code 48918(i))

Any objection raised by the student or the Superintendent or designee to the issuance of subpoenas may be considered by the Board in closed session, or in open session if so requested by the student, before the meeting. The Board's decision in response to such an objection shall be final and binding. (Education Code 48918(i))

If the Board determines, or if the hearing officer or administrative panel finds and submits to the Board, that a witness would be subject to unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as described in item #4 below. (Education Code 48918(i))

4. **Presentation of Evidence:** Technical rules of evidence shall not apply to the expulsion hearing, but relevant evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Board to expel shall be supported by substantial evidence that the student committed any of the acts pursuant to Education Code 48900 and listed in "Grounds for Suspension and Expulsion" above. (Education Code 48918(h))

Note: Findings of fact made by the Board or a hearing panel must not be based on hearsay alone. "Hearsay" is evidence of an oral or written statement made by a person who is not present at the hearing which is offered to establish a fact as being true. Some exceptions to the hearsay rule exist under the Evidence Code and Education Code; legal counsel should advise the district when appropriate.



**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

Findings of fact shall be based solely on the evidence at the hearing. While no finding shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm. (Education Code 48918(f))

In cases where a search of a student's person or property has occurred, evidence describing the reasonableness of the search shall be included in the hearing record.

Note: Education Code 48918.6 provides that testimony by a student witness at an expulsion hearing is privileged and thus protected from liability for defamation pursuant to Civil Code 47(b).

5. **Testimony by Complaining Witnesses:** The following procedures shall be observed when hearings involve allegations of sexual assault or sexual battery by a student: (Education Code 48918, 48918.5)
- a. Any complaining witness shall be given five days' notice before being called to testify.
  - b. Any complaining witness shall be entitled to have up to two adult support persons, including, but not limited to, a parent/guardian or legal counsel, present during his/her testimony.
  - c. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.
  - d. The person presiding over the hearing may remove a support person whom he/she finds is disrupting the hearing.
  - e. If one or both support persons are also witnesses, the hearing shall be conducted in accordance with Penal Code 868.5.
  - f. Evidence of specific instances of prior sexual conduct of a complaining witness shall be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances require the evidence to be heard. Before such a determination is made, the complaining witness shall be given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this evidence, the complaining witness shall be entitled to be represented by a parent/guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of a complaining witness shall not be admissible for any purpose.

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

- g. In order to facilitate a free and accurate statement of the experiences of the complaining witness and to prevent discouragement of complaints, the district shall provide a nonthreatening environment.
  - (1) The district shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony.
  - (2) At the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which he/she may leave the hearing room.
  - (3) The person conducting the hearing may:
    - (a) Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complaining witness
    - (b) Limit the time for taking the testimony of a complaining witness to the hours he/she is normally in school, if there is no good cause to take the testimony during other hours
    - (c) Permit one of the support persons to accompany the complaining witness to the witness stand
- 6. **Decision Within 10 School Days:** The Board's decision on whether to expel a student shall be made within 10 school days after the conclusion of the hearing, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))
- 7. **Decision Within 40 School Days:** If the Board does not meet on a weekly basis, its decision on whether to expel a student shall be made within 40 school days after the student is removed from his/her school of attendance, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

**Alternative Expulsion Hearing: Hearing Officer or Administrative Panel**

Note: For districts that use a hearing officer or administrative panel, Education Code 48918 mandates the Board to adopt procedures that include the following section.
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## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

Instead of conducting an expulsion hearing itself, the Board may contract with the county hearing officer or with the Office of Administrative Hearings of the State of California for a hearing officer. Alternatively, the Board may appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board or on the staff of the school in which the student is enrolled. (Education Code 48918(d))

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures applicable to a hearing conducted by the Board as specified above in "Conduct of Expulsion Hearing." (Education Code 48918(d))

The hearing officer or administrative panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not recommended, the expulsion proceeding shall be terminated and the student shall be immediately reinstated. The Superintendent or designee shall place the student in a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs after consulting with district staff, including the student's teachers, and with the student's parent/guardian. The decision to not recommend expulsion shall be final. (Education Code 48918(e))

If expulsion is recommended, findings of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The Board may accept the recommendation based either upon a review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the Board may order. (Education Code 48918(f))

In accordance with Board policy, the hearing officer or administrative panel may recommend that the Board suspend the enforcement of the expulsion for a period of one year. (Education Code 48917, 48918)

Note: In Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education, a Court of Appeal determined that the 40-school-day deadline for reaching a decision regarding an expulsion is directory, not mandatory, and failure to meet the deadline does not deprive a district of the authority to expel a student. The Court did caution, however, that a Board may not delay a decision indefinitely since, in some circumstances, the delay could give rise to a due process violation.

The Board shall make its decision about the student's expulsion within 40 school days after the date of the student's removal from school unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

### **Final Action by the Board**

Note: Education Code 48918 mandates the Board to adopt procedures that include the following paragraph.

Whether the expulsion hearing is conducted in closed or public session by the Board, a hearing officer, or an administrative panel, the final action to expel shall be taken by the Board at a public meeting. (Education Code 48918(j))

*(cf. 9321.1 - Closed Session Actions and Reports)*

If the Board conducts the hearing and reaches a decision not to expel, this decision shall be final and the student shall be reinstated immediately.

Note: The Gun-Free Schools Act, 20 USC 7151, requires that the following paragraph be sent to the CDE for assurances of compliance with federal and state law. For other language that must be submitted to the CDE, see sections in this regulation entitled "Mandatory Recommendation and Mandatory Expulsion" and "Notifications to Law Enforcement Authorities."

Upon ordering an expulsion, the Board shall set a date when the student shall be reviewed for readmission to a school within the district. For a student expelled for an act listed under "Mandatory Recommendation and Mandatory Expulsion" above, this date shall be one year from the date the expulsion occurred, except that the Board may set an earlier date on a case-by-case basis. For a student expelled for other acts, this date shall be no later than the last day of the semester following the semester in which the expulsion occurred. If an expulsion is ordered during the summer session or the intersession period of a year-round program, the Board shall set a date when the student shall be reviewed for readmission not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred. (Education Code 48916)

At the time of the expulsion order, the Board shall recommend a plan for the student's rehabilitation, which may include: (Education Code 48916)

1. Periodic review, as well as assessment at the time of review, for readmission
2. Recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs

Note: The following paragraph is optional. Education Code 48916.5 authorizes, but does not mandate, the Board to make the following requirement of certain expelled students.

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

With parent/guardian consent, students who have been expelled for reasons relating to controlled substances or alcohol may be required to enroll in a county-sponsored drug rehabilitation program before returning to school. (Education Code 48916.5)

### **Written Notice to Expel**

The Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian. This notice shall include the following:

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed in Education Code 48900, 48900.2, 48900.3, 48900.4, 48900.7, or 48915 (Education Code 48900.8)
2. The fact that a description of readmission procedures will be made available to the student and his/her parent/guardian (Education Code 48916)
3. Notice of the right to appeal the expulsion to the County Board of Education (Education Code 48918)
4. Notice of the alternative educational placement to be provided to the student during the time of expulsion (Education Code 48918)
5. Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1 (Education Code 48918)

### **Decision Not to Enforce Expulsion Order**

Note: Pursuant to Education Code 48917, the Board's criteria for suspending the enforcement of expulsions must be applied uniformly to all students. Items #1-3 below are optional and should be revised to reflect district criteria.

In accordance with Board policy, when deciding whether to suspend the enforcement of an expulsion, the Board shall take into account the following criteria:

1. The student's pattern of behavior
2. The seriousness of the misconduct
3. The student's attitude toward the misconduct and his/her willingness to follow a rehabilitation program

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

The suspension of the enforcement of an expulsion shall be governed by the following:

1. The Board may, as a condition of the suspension of enforcement, assign the student to a school, class, or program appropriate for the student's rehabilitation. This rehabilitation program may provide for the involvement of the student's parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the student has satisfactorily completed the rehabilitation program. (Education Code 48917)
2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status. (Education Code 48917)
3. The suspension of the enforcement of an expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion" above or violates any of the district's rules and regulations governing student conduct. (Education Code 48917)
4. When the suspension of the enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order. (Education Code 48917)
5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a district school. Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings. (Education Code 48917)
6. The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall also inform the parent/guardian of the right to appeal the expulsion to the County Board, the alternative educational placement to be provided to the student during the time of expulsion, and the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915. (Education Code 48918(j))
7. Suspension of the enforcement of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board. (Education Code 48917)

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

### **Right to Appeal**

The student or parent/guardian is entitled to file an appeal of the Board's decision with the County Board. The appeal must be filed within 30 days of the Board's decision to expel, even if the expulsion action is suspended and the student is placed on probation. (Education Code 48919)

The student shall submit a written request for a copy of the written transcripts and supporting documents from the district simultaneously with the filing of the notice of appeal with the County Board. The district shall provide the student with these documents within 10 school days following the student's written request. (Education Code 48919)

### **Notification to Law Enforcement Authorities**

Note: The Gun-Free Schools Act, 20 USC 7151, requires that the following two paragraphs be sent to the CDE for assurances of compliance with federal and state law. In addition, Education Code 48902, as amended by AB 1390 (Ch. 292, Statutes of 2009), requires the principal or designee to notify law enforcement authorities when a student or nonstudent possesses a firearm or explosive or sells or furnishes a firearm at school. For language regarding disruptions by nonstudents, see BP/AR 3515.2 - Disruptions. For other language that must be submitted to the CDE, see sections above entitled "Mandatory Recommendation and Mandatory Expulsion" and "Final Action by the Board."

Prior to the suspension or expulsion of any student, the principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code 245. (Education Code 48902)

The principal or designee also shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a controlled substance. In addition, law enforcement authorities shall be notified regarding any acts by students or nonstudents regarding the possession, sale, or furnishment of firearms, explosives, or other dangerous weapons in violation of Education Code 48915(c)(1) or (5) or Penal Code 626.9 and 626.10. (Education Code 48902)

Within one school day after a student's suspension or expulsion, the principal or designee shall notify appropriate city or county law enforcement authorities, by telephone or other appropriate means, of any student acts which may violate Education Code 48900(c) or (d), relating to the possession, use, offering, or sale of controlled substances, alcohol, or intoxicants of any kind. (Education Code 48902)

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

### **Post-Expulsion Placements**

Note: Education Code 48915 requires the Board to refer all expelled students to a program of study that is prepared to accommodate students with discipline problems and that is not located at the school the student currently attends or at any regular elementary, middle, junior, or senior high school. However, students expelled for the less serious acts described in Education Code 48900(f) through (r) or Education Code 48900.2, 48900.3, or 48900.4 may be referred to a program of study that is at another elementary, comprehensive middle, junior, or senior high school if the County Superintendent of Schools certifies that an alternative program is not available at a site away from such a school.

Education Code 48915.01 states that if the Board has established a community day school pursuant to Education Code 48661 on the same site as an elementary, comprehensive middle, junior, or senior high school, expelled students may be referred to the community school at that site. Although Education Code 48663 prohibits the use of independent study in community day schools, Education Code 48916.1 does not in any way restrict the district from offering independent study as a voluntary alternative placement option for expelled students.

The Board shall refer expelled students to a program of study that is: (Education Code 48915, 48915.01)

1. Appropriately prepared to accommodate students who exhibit discipline problems
2. Not provided at a comprehensive middle, junior, or senior high school or at any elementary school, unless the program is offered at a community day school established at such a site
3. Not housed at the school site attended by the student at the time of suspension

*(cf. 6158 - Independent Study)*

*(cf. 6185 - Community Day School)*

When the placement described above is not available, and when the County Superintendent so certifies, students expelled for acts described in items #6-13 and #19-21 under "Grounds for Suspension and Expulsion" above may be instead referred to a program of study that is provided at another comprehensive middle, junior, or senior high school, or at an elementary school. (Education Code 48915)

The program for a student expelled from any of grades K-6 shall not be combined or merged with programs offered to students in any of grades 7-12. (Education Code 48916.1)

### **Readmission After Expulsion**

Note: Education Code 48916 mandates the Board adopt rules and regulations establishing a procedure for filing and processing requests for readmission and a process for Board review of all expelled students for readmission. Items #2-4 below should be revised to reflect district practice.



## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

Readmission procedures shall be as follows:

1. On the date set by the Board when it ordered the expulsion, the district shall consider readmission of the student. (Education Code 48916)
2. The Superintendent or designee shall hold a conference with the parent/guardian and the student. At the conference the student's rehabilitation plan shall be reviewed and the Superintendent or designee shall verify that the provisions of this plan have been met. School regulations shall be reviewed and the student and parent/guardian shall be asked to indicate in writing their willingness to comply with these regulations.
3. The Superintendent or designee shall transmit to the Board his/her recommendation regarding readmission. The Board shall consider this recommendation in closed session if information would be disclosed in violation of Education Code 49073-49079. If a written request for open session is received from the parent/guardian or adult student, it shall be honored.
4. If the readmission is granted, the Superintendent or designee shall notify the student and parent/guardian, by registered mail, of the Board's decision regarding readmission.
5. The Board may deny readmission only if it finds that the student has not satisfied the conditions of the rehabilitation plan or that the student continues to pose a danger to campus safety or to other district students or employees. (Education Code 48916)
6. If the Board denies the readmission of a student, the Board shall determine either to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school. (Education Code 48916)
7. The Board shall provide written notice to the expelled student and parent/guardian describing the reasons for denying readmittance into the regular program. This notice shall indicate the Board's determination of the educational program which the Board has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district. (Education Code 48916)

### **Maintenance of Records**

The Board shall maintain a record of each expulsion, including the specific cause of the expulsion. The expulsion record shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls upon receipt of a written request by the admitting school. (Education Code 48900.8, 48918(k))

*(cf. 5125 - Student Records)*

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

Note: Education Code 48915.1 requires that, when an expelled student asks to enroll in another district, the receiving district must hold a hearing to determine whether the student poses a danger to its students or staff. The receiving district then may either deny or permit the enrollment. Upon request from another district, the expelling district must provide information about the expulsion within five days.

The Superintendent or designee shall, within five working days, honor any other district's request for information about an expulsion from this district. (Education Code 48915.1)

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

### **Outcome Data**

The Superintendent or designee shall maintain the following data: (Education Code 48900.8, 48916.1)

1. The number of students recommended for expulsion
2. The specific grounds for each recommended expulsion
3. Whether the student was subsequently expelled
4. Whether the expulsion order was suspended
5. The type of referral made after the expulsion
6. The disposition of the student after the end of the expulsion period

# **Administrative Regulation**

## **Suspension And Expulsion/Due Process**

**AR 5144.1**

### **Students**

#### **Definitions**

Suspension from school means removal of a student from ongoing instruction for adjustment purposes. However, suspension does not mean any of the following: (Education Code 48925)

1. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Governing Board for students of the same grade level
2. Referral to a certificated employee designated by the principal to advise students
3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code 48910. Removal from a particular class shall not occur more than once every five school days.

Expulsion means removal of a student from the immediate supervision and control, or the general supervision, of school personnel. (Education Code 48925)

Day means a calendar day unless otherwise specifically provided. (Education Code 48925)

School day means a day upon which the schools of the district are in session or weekdays during the summer recess. (Education Code 48925)

Student includes a student's parent/guardian or legal counsel. (Education Code 48925)

Principal's designee means one or more administrators or, if there is not a second administrator at one school site, a certificated person specifically designated by the principal, in writing, to assist with disciplinary procedures. Only one such person may be designated at any time as the principal's primary designee and only one such person may be designated as secondary designee for the school year. The names of such persons shall be on file in the principal's office. (Education Code 48911)

School property, for the purposes described in Education Code 48900, includes, but is not limited to, electronic files and databases. (Education Code 48900(t))

#### **Notice of Regulations**

At the beginning of each school year, the principal of each school shall ensure that all students and parents/guardians are notified in writing of all school rules related to discipline, suspension, and expulsion. (Education Code 48900.1, 48980)

(cf. 5144 - Discipline)

(cf. 5145.6 - Parental Notifications)

#### Grounds for Suspension and Expulsion

A student may be subject to suspension or expulsion when it is determined that he/she:

1. Caused, attempted to cause, or threatened to cause physical injury to another person or willfully used force or violence upon the person of another, except in self-defense. (Education Code 48900(a))

A student who aids or abets the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31, may be suspended, but not expelled. However, a student may be suspended or expelled pursuant to Education Code 48900(a) once he/she has been adjudged by a juvenile court to have committed, as an aider or abettor, a crime of physical violence in which the victim suffered great or serious bodily injury. (Education Code 48900(s))

2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence. (Education Code 48900(b))

(cf. 5131 - Conduct)

(cf. 5131.7 - Weapons and Dangerous Instruments)

3. Unlawfully possessed, used, sold, or otherwise furnished, or was under the influence of, any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind. (Education Code 48900(c))

(cf. 5131.6 - Alcohol and Other Drugs)

4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented same as controlled substance, alcoholic beverage, or intoxicant. (Education Code 48900(d))

5. Committed or attempted to commit robbery or extortion. (Education Code 48900(e))

6. Caused or attempted to cause damage to school property or private property. (Education Code 48900(f))

7. Stole or attempted to steal school property or private property. (Education Code 48900(g))
8. Possessed or used tobacco or any products containing tobacco or nicotine products, including, but not limited to, cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. This restriction shall not prohibit a student from using or possessing his/her own prescription products. (Education Code 48900(h))
9. Committed an obscene act or engaged in habitual profanity or vulgarity. (Education Code 48900(i))
10. Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5. (Education Code 48900(j))
11. Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties. (Education Code 48900(k))
12. Knowingly received stolen school property or private property. (Education Code 48900(l))
13. Possessed an imitation firearm. (Education Code 48900(m))  
  
Imitation firearm means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm. (Education Code 48900(m))
14. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committed a sexual battery as defined in Penal Code 243.4. (Education Code 48900(n))
15. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness. (Education Code 48900(o))
16. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma. (Education Code 48900(p))
17. Engaged in, or attempted to engage in, hazing. (Education Code 48900(q))

Hazing means a method of initiation or preinitiation into a student organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. Hazing does not include athletic events or school-sanctioned events. (Education Code 48900(q))

18. Made terrorist threats against school officials and/or school property. (Education Code 48900.7)

A terrorist threat includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person, or property damage in excess of \$1,000, with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out. (Education Code 48900.7)

A student in grades 4-12 is also subject to suspension or recommendation for expulsion when it is determined that he/she:

19. Committed sexual harassment as defined in Education Code 212.5. (Education Code 48900.2)

Sexual harassment means that conduct, when considered from the perspective of a reasonable person of the same gender as the victim, 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. (Education Code 212.5, 48900.2)

(cf. 5145.7 - Sexual Harassment)

20. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code 233. (Education Code 48900.3)

Hate violence means any act punishable under Penal Code 422.6, 422.7, or 422.75. Such acts include injuring or intimidating another person, interfering with the exercise of a person's civil rights, or damaging a person's property because of the person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation. (Education Code 233)

(cf. 5145.9 - Hate-Motivated Behavior)

21. Intentionally engaged in harassment, threats, or intimidation against district personnel or students that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of school personnel or students by creating an intimidating or hostile educational environment. (Education Code 48900.4)

(cf. 5145.3 - Nondiscrimination/Harassment)

22. Engaged in an act of bullying, including, but not limited to, bullying by means of an electronic act, directed toward a student or school personnel. (Education Code 48900(r))

Bullying means one or more acts by a student or group of students that constitutes sexual harassment pursuant to Education Code 48900.2, as defined in item #19 above; hate violence pursuant to Education Code 48900.3, as defined in item #20 above; or harassment, threats, or intimidation pursuant to Education Code 48900.4, as defined in item #21 above. (Education

Code 32261)

Electronic act means the transmission of a communication, including, but not limited to, a message, text, sound, or image by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager. (Education Code 32261)

A student may be suspended or expelled for any of the acts listed above if the act is related to school activity or school attendance occurring at any district school under the jurisdiction of the Superintendent or principal or within any other school district, including, but not limited to, the following circumstances: (Education Code 48900)

1. While on school grounds
2. While going to or coming from school
3. During the lunch period, whether on or off the school campus

(cf. 5112.5 - Open/Closed Campus)

4. During, going to, or coming from a school-sponsored activity

The Superintendent or principal may use his/her discretion to provide alternatives to suspension or expulsion for a student subject to discipline under this administrative regulation, including, but not limited to, counseling and an anger management program. (Education Code 48900(u))

Alternatives to suspension or expulsion shall be used with students who are truant, tardy, or otherwise absent from assigned school activities.

(cf. 5113 - Absences and Excuses)

(cf. 5113.1 - Truancy)

#### **Removal from Class by a Teacher/Parental Attendance**

A teacher may suspend any student from his/her class for the remainder of the day and the following day for any act listed in "Grounds for Suspension and Expulsion" above. (Education Code 48910)

A teacher also may refer a student to the principal or designee for consideration of suspension from school. (Education Code 48910)

When removing a student from his/her class, the teacher shall immediately report this action to the principal or designee and send the student to the principal or designee for appropriate action. The student shall be appropriately supervised during the class periods from which he/she has been removed. (Education Code 48910)

As soon as possible, the teacher shall ask the student's parent/guardian to attend a parent-teacher conference regarding the removal. A counselor or psychologist may attend the conference if it is practicable, and a school administrator shall attend if either the parent/guardian or teacher so requests. (Education Code 48910)

A student removed from class shall not be returned to class during the period of removal without the approval of the teacher of the class and the principal. (Education Code 48910)

A student removed from class shall not be placed in another regular class during the period of removal. However, if a student is assigned to more than one class per day, he/she may be placed in any other regular classes except those held at the same time as the class from which the student was removed. (Education Code 48910)

The teacher of any class from which a student is removed may require the student to complete any assignments and tests missed during the removal. (Education Code 48913)

Pursuant to Board policy, a teacher may provide that the parent/guardian of a student whom the teacher has removed attend a portion of a school day in his/her child's classroom. When a teacher makes this request, the principal shall send the parent/guardian a written notice that the parent/guardian's attendance is requested pursuant to law. (Education Code 48900.1)

This notice shall also:

1. Inform the parent/guardian when his/her presence is expected and by what means he/she may arrange an alternate date
2. State that if the parent/guardian does not have a means of transportation to school, he/she may ride the school bus with the student
3. Ask the parent/guardian to meet with the principal after the visit and before leaving school, as required by Education Code 48900.1

#### **Suspension by Superintendent, Principal, or Principal's Designee**

The Superintendent or principal may suspend a student from school for not more than five consecutive school days unless the suspension is extended pending expulsion. (Education Code 48911)

The Superintendent or principal shall immediately suspend any student found at school or at a school activity to be: (Education Code 48915)

1. Possessing, as verified by a district employee, selling, or otherwise furnishing a firearm, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence
2. Brandishing a knife, as defined in Education Code 48915(g), at another person



3. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
4. Committing or attempting to commit a sexual assault or committing a sexual battery as defined in item #14 under "Grounds for Suspension and Expulsion" above
5. Possession of an explosive as defined in 18 USC 921

Explosive means a destructive device and includes, but is not limited to, any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine or similar device. A destructive device includes any other type of weapon (except a shotgun or shotgun shell recognized by the United States Secretary of Army as suitable for sporting purposes) which might be converted to project an explosive. (18 USC 921)

Suspension also may be imposed upon a first offense if the Superintendent or principal determines that the student violated items #1-5 listed in "Grounds for Suspension and Expulsion" above or if the student's presence causes a danger to persons or property or threatens to disrupt the instructional process. (Education Code 48900.5)

A student may be suspended from school for not more than 20 school days in any school year unless, for purposes of adjustment, the student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class, in which case suspension shall not exceed 30 days in any school year. However, this restriction on the number of days of suspension does not apply when the suspension is extended pending an expulsion. (Education Code 48903, 48911, 48912)

The district may count suspensions that occur while a student is enrolled in another school district toward the maximum number of days for which the student may be suspended in any school year. (Education Code 48903)

Suspensions shall be initiated according to the following procedures:

1. **Informal Conference:** Suspension shall be preceded by an informal conference conducted by the Superintendent, principal, or principal's designee with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action, presented with the evidence against him/her, and given the opportunity to present his/her version and evidence in support of his/her defense. (Education Code 48911)

This conference may be omitted if the Superintendent, principal, or designee determines that an emergency situation exists. An emergency situation involves a clear and present danger to the lives, safety, or health of students or school personnel. If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of the conference. The conference shall be held within two school days, unless the student waives his/her right to it or is physically unable to attend for any

reason. In such case, the conference shall be held as soon as the student is physically able to return to school. (Education Code 48911)

2. **Administrative Actions:** All requests for student suspension are to be processed by the principal or designee of the school in which the student is enrolled at the time of the misbehavior. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee. (Education Code 48911)

3. **Notice to Parents/Guardians:** At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall be notified in writing of the suspension. (Education Code 48911)

This notice shall state the specific offense committed by the student. (Education Code 48900.8)

In addition, the notice may state the date and time when the student may return to school. If school officials wish to ask the parent/guardian to confer regarding matters pertinent to the suspension, the notice may add that state law requires the parent/guardian to respond to such requests without delay.

4. **Parent/Guardian Conference:** Whenever a student is suspended, school officials may meet with the parent/guardian to discuss the causes and duration of the suspension, the school policy involved, and any other pertinent matter. (Education Code 48914)

While the parent/guardian is required to respond without delay to a request for a conference about a student's behavior, no penalties may be imposed on the student for the failure of the parent/guardian to attend such a conference. The student may not be denied readmission solely because the parent/guardian failed to attend the conference. (Education Code 48911)

5. **Extension of Suspension:** If the Board is considering the expulsion of a suspended student from any school or the suspension of a student for the balance of the semester from continuation school, the Superintendent or designee may, in writing, extend the suspension until such time as the Board has made a decision. (Education Code 48911(g))

Any extension of the original period of suspension shall be preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard. This conference may be held in conjunction with a meeting requested by the student or parent/guardian to challenge the original suspension. Extension of the suspension may be made only if the Superintendent or designee determines, following a meeting in which the student and the student's parent/guardian were invited to participate, that the student's presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process. (Education Code 48911)

**Suspension by the Board**

The Board may suspend a student for any of the acts listed in "Grounds for Suspension and Expulsion" above and within the limits specified in "Suspension by Superintendent, Principal, or Principal's Designee" above. (Education Code 48912)

The Board may suspend a student enrolled in a continuation school or class for a period not longer than the remainder of the semester if any of the acts listed in "Grounds for Suspension and Expulsion" occurred. The suspension shall meet the requirements of Education Code 48915. (Education Code 48912.5)

When the Board is considering a suspension, disciplinary action, or any other action (except expulsion) against any student, it shall hold closed sessions if a public hearing would lead to disclosure of information violating a student's right to privacy under Education Code 49073-49079. (Education Code 35146, 48912)

(cf. 9321 - Closed Session Purposes and Agendas)

The Board shall provide the student and his/her parent/guardian with written notice of the closed session by registered or certified mail. Upon receiving this notice, the student or parent/guardian may request a public meeting, and this request shall be granted if made in writing within 48 hours after receipt of the Board's notice. However, any discussion that conflicts with any other student's right to privacy still shall be held in closed session. (Education Code 35146, 48912)

#### **Supervised Suspension Classroom**

Students for whom an expulsion action has not been initiated and who pose no imminent danger or threat to the school may be assigned to a supervised suspension classroom in a separate classroom, building, or site for the entire period of suspension. The following conditions shall apply: (Education Code 48911.1)

1. The supervised suspension classroom shall be staffed in accordance with law.
2. The student shall have access to appropriate counseling services.
3. The supervised suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.
4. Each student shall be responsible for contacting his/her teacher(s) to receive assignments to be completed in the supervised suspension classroom. The teacher(s) shall provide all assignments and tests that the student will miss while suspended. If no such work is assigned, the person supervising the suspension classroom shall assign schoolwork.

At the time a student is assigned to a supervised suspension classroom, the principal or designee shall notify the student's parent/guardian in person or by telephone. When the assignment is for longer than one class period, this notification shall be made in writing. (Education Code 48911.1)

## **Authority to Expel**

A student may be expelled only by the Board. The Board shall expel, as required by law, any student found to have committed any offense listed below under "Mandatory Recommendation and Mandatory Expulsion." (Education Code 48915)

The Board may also order a student expelled for any of the acts listed above under "Grounds for Suspension and Expulsion" upon recommendation by the principal, Superintendent, hearing officer, or administrative panel, based on either or both of the following finding(s): (Education Code 48915(b) and (e))

1. That other means of correction are not feasible or have repeatedly failed to bring about proper conduct
2. That due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others

## **Mandatory Recommendation for Expulsion**

Unless the principal, Superintendent or designee finds that expulsion is inappropriate due to particular circumstances, the principal or the Superintendent or designee shall recommend a student's expulsion for any of the following acts: (Education Code 48915(a))

1. Causing serious physical injury to another person, except in self-defense
2. Possession of any knife as defined in Education Code 48915(g), explosive, or other dangerous object of no reasonable use to the student
3. Unlawful possession of any controlled substance, as listed in Health and Safety Code 11053-11058, except for the first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis
4. Robbery or extortion
5. Assault or battery, as defined in Penal Code 240 and 242, upon any school employee

## **Mandatory Recommendation and Mandatory Expulsion**

The principal, Superintendent or designee shall recommend that the Board expel any student found at school or at a school activity to be: (Education Code 48915(c))

1. Possessing, as verified by a district employee, selling, or otherwise furnishing a firearm, unless the student had obtained prior written permission to possess the firearm from a certificated school employee, with the principal or designee's concurrence
2. Brandishing a knife as defined in Education Code 48915(g) at another person

3. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
4. Committing or attempting to commit a sexual assault or committing a sexual battery as defined in item #14 under "Grounds for Suspension and Expulsion" above
5. Possessing an explosive as defined in 18 USC 921

Upon finding that the student committed any of the above acts, the Board shall expel the student. (Education Code 48915)

#### **Student's Right to Expulsion Hearing**

The student is entitled to a hearing to determine whether the student should be expelled. The hearing shall be held within 30 school days after the principal or Superintendent or designee determines that one of the acts listed under "Grounds for Suspension and Expulsion" has occurred. (Education Code 48918(a))

The student is entitled to at least one postponement of an expulsion hearing for a period of not more than 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the Board's discretion. (Education Code 48918(a))

If the Board finds it impractical during the regular school year to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held. (Education Code 48918(a))

If the Board finds it impractical to comply with the time requirements of the expulsion hearing due to a summer recess of Board meetings of more than two weeks, the days during the recess shall not be counted as school days. The days not counted during the recess may not exceed 20 school days, as defined in Education Code 48925. Unless the student requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days prior to the first day of the next school year. (Education Code 48918(a))

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay. (Education Code 48918(a))

#### **Rights of Complaining Witness**

An expulsion hearing involving allegations of sexual assault or sexual battery may be postponed for one school day in order to accommodate the special physical, mental, or emotional needs of a student who is the complaining witness. (Education Code 48918.5)

Whenever the Superintendent or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, he/she shall give the complaining witness a copy

of the district's suspension and expulsion policy and regulation and shall advise the witness of his/her right to: (Education Code 48918.5)

1. Receive five days' notice of his/her scheduled testimony at the hearing
2. Have up to two adult support persons of his/her choosing present in the hearing at the time he/she testifies
3. Have a closed hearing during the time he/she testifies

Whenever any allegation of sexual assault or sexual battery is made, the Superintendent or designee shall immediately advise complaining witnesses and accused students to refrain from personal or telephone contact with each other during the time when an expulsion process is pending. (Education Code 48918.5)

#### Written Notice of the Expulsion Hearing

Written notice of the expulsion hearing shall be forwarded to the student and the student's parent/guardian at least 10 calendar days before the date of the hearing. The notice shall include: (Education Code 48900.8, 48918(b))

1. The date and place of the hearing.
2. A statement of the specific facts, charges, and offense upon which the proposed expulsion is based.
3. A copy of district disciplinary rules which relate to the alleged violation.
4. Notification of the student's or parent/guardian's obligation, pursuant to Education Code 48915.1, to provide information about the student's status in the district to any other district in which the student seeks enrollment. This obligation applies when a student is expelled for acts other than those described in Education Code 48915(a) or (c).

(cf. 5119 - Students Expelled from Other Districts)

5. The opportunity for the student or the student's parent/guardian to appear in person or be represented by legal counsel or by a nonattorney advisor.

Legal counsel means an attorney or lawyer who is admitted to the practice of law in California and is an active member of the State Bar of California.

Nonattorney advisor means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case and has been selected by the student or student's parent/guardian to provide assistance at the hearing.

6. The right to inspect and obtain copies of all documents to be used at the hearing.

7. The opportunity to confront and question all witnesses who testify at the hearing.
8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses.

#### **Conduct of Expulsion Hearing**

1. **Closed Session:** Notwithstanding the provisions of Government Code 54953 and Education Code 35145, the Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public meeting. If such request is made, the meeting shall be public unless another student's privacy rights would be violated. (Education Code 48918(c))

Whether the expulsion hearing is held in closed or public session, the Board may meet in cion Code 48918(c))

If a hearing that involves a charge of sexual assault or sexual battery is to be conducted in public, a complaining witness shall have the right to have his/her testimony heard in closed session when testifying in public would threaten serious psychological harm to the witness and when there are no alternative procedures to avoid the threatened harm, including, but not limited to, videotaped deposition or contemporaneous examination in another place communicated to the hearing room by closed-circuit television. (Education Code 48918(c))

2. **Record of Hearing:** A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made. (Education Code 48918(g))

3. **Subpoenas:** Before commencing a student expulsion hearing, the Board may issue subpoenas, at the request of either the student or the Superintendent or designee, for the personal appearance at the hearing of any person who actually witnessed the action that gave rise to the recommendation for expulsion. After the hearing has commenced, the Board or the hearing officer or administrative panel may issue such subpoenas at the request of the student or the County Superintendent of Schools or designee. All subpoenas shall be issued in accordance with the Code of Civil Procedure 1985-1985.2 and enforced in accordance with Government Code 11455.20 (Education Code 48918(i))

Any objection raised by the student or the Superintendent or designee to the issuance of subpoenas may be considered by the Board in closed session, or in open session if so requested by the student, before the meeting. The Board's decision in response to such an objection shall be final and binding. (Education Code 48918(i))

If the Board determines, or if the hearing officer or administrative panel finds and submits to the Board, that a witness would be subject to unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at

the hearing. However, that witness may be compelled to testify by means of a sworn declaration as described in item #4 below. (Education Code 48918(i))

4. **Presentation of Evidence:** Technical rules of evidence shall not apply to the expulsion hearing, but relevant evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Board to expel shall be supported by substantial evidence that the student committed any of the acts pursuant to Education Code 48900 and listed in "Grounds for Suspension and Expulsion" above. (Education Code 48918(h))

Findings of fact shall be based solely on the evidence at the hearing. While no finding shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm. (Education Code 48918(f))

In cases where a search of a student's person or property has occurred, evidence describing the reasonableness of the search shall be included in the hearing record.

5. **Testimony by Complaining Witnesses:** The following procedures shall be observed when hearings involve allegations of sexual assault or sexual battery by a student: (Education Code 48918, 48918.5)

- a. Any complaining witness shall be given five days' notice before being called to testify.
- b. Any complaining witness shall be entitled to have up to two adult support persons, including, but not limited to, a parent/guardian or legal counsel, present during his/her testimony.
- c. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.
- d. The person presiding over the hearing may remove a support person whom he/she finds is disrupting the hearing.
- e. If one or both support persons are also witnesses, the hearing shall be conducted in accordance with Penal Code 868.5.
- f. Evidence of specific instances of prior sexual conduct of a complaining witness shall be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances require the evidence to be heard. Before such a determination is made, the complaining witness shall be given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this evidence, the complaining witness shall be entitled to be represented by a parent/guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of a complaining witness shall not be admissible for any purpose.
- g. In order to facilitate a free and accurate statement of the experiences of the complaining



witness and to prevent discouragement of complaints, the district shall provide a nonthreatening environment.

- (1) The district shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony.
- (2) At the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which he/she may leave the hearing room.
- (3) The person conducting the hearing may:
  - (a) Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complaining witness
  - (b) Limit the time for taking the testimony of a complaining witness to the hours he/she is normally in school, if there is no good cause to take the testimony during other hours
  - (c) Permit one of the support persons to accompany the complaining witness to the witness stand

6. **Decision Within 10 School Days:** The Board's decision on whether to expel a student shall be made within 10 school days after the conclusion of the hearing, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

7. **Decision Within 40 School Days:** If the Board does not meet on a weekly basis, its decision on whether to expel a student shall be made within 40 school days after the student is removed from his/her school of attendance, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

#### **Alternative Expulsion Hearing: Hearing Officer or Administrative Panel**

Instead of conducting an expulsion hearing itself, the Board may contract with the county hearing officer or with the Office of Administrative Hearings of the State of California for a hearing officer. Alternatively, the Board may appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board or on the staff of the school in which the student is enrolled. (Education Code 48918(d))

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures applicable to a hearing conducted by the Board as specified above in "Conduct of Expulsion Hearing." (Education Code 48918(d))

The hearing officer or administrative panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not recommended, the expulsion proceeding shall be terminated and the student shall be immediately reinstated. The Superintendent or designee shall place the student in a classroom instructional

program, any other instructional program, a rehabilitation program, or any combination of these programs after consulting with district staff, including the student's teachers, and with the student's parent/guardian. The decision to not recommend expulsion shall be final. (Education Code 48918(e))

If expulsion is recommended, findings of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The Board may accept the recommendation based either upon a review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the Board may order. (Education Code 48918(f))

In accordance with Board policy, the hearing officer or administrative panel may recommend that the Board suspend the enforcement of the expulsion for a period of one year. (Education Code 48917, 48918)

The Board shall make its decision about the student's expulsion within 40 school days after the date of the student's removal from school unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

#### Final Action by the Board

Whether the expulsion hearing is conducted in closed or public session by the Board, a hearing officer, or an administrative panel, the final action to expel shall be taken by the Board at a public meeting. (Education Code 48918(j))

(cf. 9321.1 - Closed Session Actions and Reports)

If the Board conducts the hearing and reaches a decision not to expel, this decision shall be final and the student shall be reinstated immediately.

Upon ordering an expulsion, the Board shall set a date when the student shall be reviewed for readmission to a school within the district. For a student expelled for an act listed under "Mandatory Recommendation and Mandatory Expulsion" above, this date shall be one year from the date the expulsion occurred, except that the Board may set an earlier date on a case-by-case basis. For a student expelled for other acts, this date shall be no later than the last day of the semester following the semester in which the expulsion occurred. If an expulsion is ordered during the summer session or the intersession period of a year-round program, the Board shall set a date when the student shall be reviewed for readmission not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred. (Education Code 48916)

At the time of the expulsion order, the Board shall recommend a plan for the student's rehabilitation, which may include: (Education Code 48916)

1. Periodic review, as well as assessment at the time of review, for readmission

2. Recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs

With parent/guardian consent, students who have been expelled for reasons relating to controlled substances or alcohol may be required to enroll in a county-sponsored drug rehabilitation program before returning to school. (Education Code 48916.5)

#### **Written Notice to Expel**

The Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian. This notice shall include the following:

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed in Education Code 48900, 48900.2, 48900.3, 48900.4, 48900.7, or 48915 (Education Code 48900.8)
2. The fact that a description of readmission procedures will be made available to the student and his/her parent/guardian (Education Code 48916)
3. Notice of the right to appeal the expulsion to the County Board of Education (Education Code 48918)
4. Notice of the alternative educational placement to be provided to the student during the time of expulsion (Education Code 48918)
5. Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1 (Education Code 48918)

#### **Decision Not to Enforce Expulsion Order**

In accordance with Board policy, when deciding whether to suspend the enforcement of an expulsion, the Board shall take into account the following criteria:

1. The student's pattern of behavior
2. The seriousness of the misconduct
3. The student's attitude toward the misconduct and his/her willingness to follow a rehabilitation program

The suspension of the enforcement of an expulsion shall be governed by the following:

1. The Board may, as a condition of the suspension of enforcement, assign the student to a school, class, or program appropriate for the student's rehabilitation. This rehabilitation program

may provide for the involvement of the student's parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the student has satisfactorily completed the rehabilitation program. (Education Code 48917)

2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status. (Education Code 48917)
3. The suspension of the enforcement of an expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion" above or violates any of the district's rules and regulations governing student conduct. (Education Code 48917)
4. When the suspension of the enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order. (Education Code 48917)
5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a district school. Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings. (Education Code 48917)
6. The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall also inform the parent/guardian of the right to appeal the expulsion to the County Board. (Education Code 48918(j)).
7. Suspension of the enforcement of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board. (Education Code 48917)

#### **Right to Appeal**

The student or parent/guardian is entitled to file an appeal of the Board's decision with the County Board. The appeal must be filed within 30 days of the Board's decision to expel, even if the expulsion action is suspended and the student is placed on probation. (Education Code 48919)

The student shall submit a written request for a copy of the written transcripts and supporting documents from the district simultaneously with the filing of the notice of appeal with the County Board. The district shall provide the student with these documents within 10 school days following the student's written request. (Education Code 48919)

#### **Notifications to Law Enforcement Authorities**

Prior to the suspension or expulsion of any student, the principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code 245. (Education Code 48902)

The principal or designee also shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a controlled substance or possession of weapons or firearms in violation of Penal Code 626.9 and 626.10. (Education Code 48902)

Within one school day after a student's suspension or expulsion, the principal or designee shall notify appropriate city or county law enforcement authorities, by telephone or other appropriate means, of any student acts which may violate Education Code 48900(c) or (d), relating to the possession, use, offering, or sale of controlled substances, alcohol, or intoxicants of any kind. (Education Code 48902)

#### **Post-Expulsion Placements**

The Board shall refer expelled students to a program of study that is: (Education Code 48915, 48915.01)

1. Appropriately prepared to accommodate students who exhibit discipline problems
2. Not provided at a comprehensive middle, junior, or senior high school or at any elementary school, unless the program is offered at a community day school established at such a site
3. Not housed at the school site attended by the student at the time of suspension

(cf. 6185 - Community Day School)

When the placement described above is not available, and when the County Superintendent so certifies, students expelled for acts described in items #6-13 and #20-22 under "Grounds for Suspension and Expulsion" above may be instead referred to a program of study that is provided at another comprehensive middle, junior, or senior high school, or at an elementary school. (Education Code 48915)

The program for a student expelled from any of grades K-6 shall not be combined or merged with programs offered to students in any of grades 7-12. (Education Code 48916.1)

#### **Readmission After Expulsion**

Readmission procedures shall be as follows:

1. On the date set by the Board when it ordered the expulsion, the district shall consider readmission of the student. (Education Code 48916)
2. The Superintendent or designee shall hold a conference with the parent/guardian and the student. At the conference the student's rehabilitation plan shall be reviewed and the Superintendent or designee shall verify that the provisions of this plan have been met. School

regulations shall be reviewed and the student and parent/guardian shall be asked to indicate in writing their willingness to comply with these regulations.

3. The Superintendent or designee shall transmit to the Board his/her recommendation regarding readmission. The Board shall consider this recommendation in closed session if information would be disclosed in violation of Education Code 49073-49079. If a written request for open session is received from the parent/guardian or adult student, it shall be honored.
4. If the readmission is granted, the Superintendent or designee shall notify the student and parent/guardian, by registered mail, of the Board's decision regarding readmission.
5. The Board may deny readmission only if it finds that the student has not satisfied the conditions of the rehabilitation plan or that the student continues to pose a danger to campus safety or to other district students or employees. (Education Code 48916)
6. If the Board denies the readmission of a student, the Board shall determine either to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school. (Education Code 48916)
7. The Board shall provide written notice to the expelled student and parent/guardian describing the reasons for denying readmittance into the regular program. This notice shall indicate the Board's determination of the educational program which the Board has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district. (Education Code 48916)

#### Maintenance of Records

The Board shall maintain a record of each expulsion, including the specific cause of the expulsion. The expulsion record shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls upon receipt of a written request by the admitting school. (Education Code 48900.8, 48918(k))

The Superintendent or designee shall, within five working days, honor any other district's request for information about an expulsion from this district. (Education Code 48915.1)

(cf. 5119 - Students Expelled from Other Districts)

#### Outcome Data

The Superintendent or designee shall maintain the following data: (Education Code 48900.8, 48916.1)

1. The number of students recommended for expulsion

2. The specific grounds for each recommended expulsion
3. Whether the student was subsequently expelled
4. Whether the expulsion order was suspended
5. The type of referral made after the expulsion
6. The disposition of the student after the end of the expulsion period

Regulation    CENTER UNIFIED SCHOOL DISTRICT  
approved: April 1, 2009    Antelope, California

**SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES)**

Note: The following administrative regulation reflects the 2004 reauthorization of the federal Individuals with Disabilities Education Act (IDEA) (20 USC 1400-1482), implementing federal regulations (34 CFR 300.1-300.818), and conforming state legislation. Because federal regulatory provisions related to discipline were amended and renumbered pursuant to 71 Fed. Reg. 156, it is likely that further state legislation will be needed to conform state law to the federal regulations. Note that in cases where state law provides greater protections to students, state law supersedes federal law.

Neither state nor federal law requires that these procedures apply to students identified under Section 504 of the federal Rehabilitation Act of 1973 (29 USC 794). However, in some instances, the district may find it appropriate to apply portions of these procedures (e.g., the limitation that a student with a disability may not be suspended for more than 10 consecutive school days) to Section 504 students with 504 services plan. Districts that wish to apply IDEA procedures to Section 504 students should modify the following regulation accordingly.

Due to the complexity of the issue, districts should proceed carefully when suspending or expelling special education students and consult legal counsel as appropriate.

A student identified as an individual with a disability pursuant to the Individuals with Disabilities Education Act (IDEA), 20 USC 1400-1482, is subject to the same grounds for suspension and expulsion which apply to students without disabilities.

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

**Procedures for Students Not Yet Eligible for Special Education Services**

A student who has not been officially identified as a student with a disability pursuant to IDEA and who has engaged in behavior that violated the district's code of student conduct may assert any of the protections under IDEA only if the district had knowledge that the student is disabled before the behavior that precipitated the disciplinary action occurred. (20 USC 1415(k)(5); 34 CFR 300.534)

The district shall be deemed to *have knowledge* that the student has a disability if one of the following conditions exists: (20 USC 1415(k)(5); 34 CFR 300.534)

1. The parent/guardian has expressed concern to district supervisory or administrative personnel in writing, or to a teacher of the student, that the student is in need of special education or related services.
2. The parent/guardian has requested an evaluation of the student for special education pursuant to 34 CFR 300.300-300.311.

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

3. The teacher of the student or other district personnel has expressed specific concerns directly to the district's director of special education or to other supervisory district personnel about a pattern of behavior demonstrated by the student.



## **SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)**

The district would be deemed to *not have knowledge* that a student is disabled if the parent/guardian has not allowed the student to be evaluated for special education services or has refused services. In addition, the district would be deemed to *not have knowledge* if the district conducted an evaluation pursuant to 34 CFR 300.300-300.311 and determined that the student was not an individual with a disability. When the district is deemed to not have knowledge of the disability, the student shall be disciplined in accordance with procedures established for students without disabilities who engage in comparable behavior. (20 USC 1415(k)(5); 34 CFR 300.534)

If a request is made for an evaluation of a student during the time period in which the student is subject to disciplinary measures pursuant to 34 CFR 300.530, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities. (20 USC 1415(k)(5); 34 CFR 300.534)

### **Suspension**

Note: Pursuant to 20 USC 1415(k)(1), 34 CFR 300.530, and a 1988 U.S. Supreme Court decision (Honig v. Doe), districts receiving funds under the IDEA may suspend a student with a disability for no more than 10 consecutive school days, as long as the removal does not constitute a change in placement pursuant to 34 CFR 300.536. Education Code 48903 specifies that a student may not be suspended for more than 20 cumulative school days in a school year.

The Analysis of Comments to the federal regulations, 71 Fed. Reg. 156, pg. 46715, explains that whether a bus suspension or "in-school suspension" would count as a day of suspension affecting the cumulative total depends on the unique circumstances of each case, such as whether bus transportation is part of the student's individualized education program (IEP). An "in-school suspension" or "supervised suspension classroom" as authorized by Education Code 48911.1 would not count towards the 20-day cumulative limit described above as long as the student is afforded the opportunity to continue to appropriately participate in the general curriculum, receive the services specified in his/her IEP, and participate with nondisabled students to the extent he/she would have in the current placement. However, the district should be careful that such actions do not constitute a change of placement and should carefully monitor such suspensions.

The Superintendent or designee may suspend a student with a disability for up to 10 consecutive school days for a single incident of misconduct, and for up to 20 school days in a school year, as long as the suspension(s) does not constitute a change in placement pursuant to 34 CFR 300.536. (34 CFR 300.530; Education Code 48903)

Note: The following paragraph is optional.

The principal or designee shall monitor the number of days, including portions of days, in which a student with a valid individualized education program (IEP) has been suspended during the school year.

(cf. 6159 - Individualized Education Program)

## **SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)**

The district shall determine, on a case-by-case basis, whether a pattern of removals of a student from his/her current educational placement for disciplinary reasons constitutes a change of placement. A *change of placement* shall be deemed to have occurred under any of the following circumstances: (34 CFR 300.536)

1. The removal is for more than 10 consecutive school days.
2. The student has been subjected to a series of removals that constitute a pattern because of all of the following:
  - a. The series of removals total more than 10 school days in a school year.
  - b. The student's behavior is substantially similar to his/her behavior in previous incidents that resulted in the series of removals.
  - c. Additional factors, such as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another, indicate a change of placement.

If the removal has been determined to be a *change of placement* as specified in items #1-2 above, the student's IEP team shall determine the appropriate educational services. (34 CFR 300.530)

### **Services During Suspension**

Note: Pursuant to 20 USC 1412(a)(1)(A) and 34 CFR 300.530, a "free appropriate public education" (FAPE) must be available to all children, including any student with a disability who has been suspended for more than 10 school days in the same school year. The Analysis of Comments to the federal regulations, 71 Fed. Reg. 156, pg. 46716, clarifies that the district is not required to provide a student who has been suspended for more than 10 school days in a school year for disciplinary reasons exactly the same services in exactly the same setting as the student was receiving prior to the imposition of discipline. However, the special education and related services the student does receive must enable him/her to continue to participate in the general curriculum and to progress toward meeting the goals set out in his/her IEP. The Analysis of Comments, 71 Fed. Reg. 156, pg. 46717, clarifies that services need not be provided when a student is removed for 10 school days or less, as long as the district does not provide services to nondisabled students removed for the same amount of time.

Any student suspended for more than 10 school days in the same school year shall continue to receive services during the term of the suspension. School personnel, in consultation with at least one of the student's teachers, shall determine the extent to which services are needed as provided in 34 CFR 300.101(a), so as to enable the student to continue to participate in the general education curriculum in another setting and to progress toward meeting the goals as set out in his/her IEP. (20 USC 1412(a)(1)(A); 34 CFR 300.530)

## **SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)**

If a student with a disability is excluded from school bus transportation, the student shall be provided with an alternative form of transportation at no cost to the student or his/her parent/guardian, provided that transportation is specified in his/her IEP. (Education Code 48915.5)

*(cf. 3541.2 - Transportation for Students with Disabilities)*

### **Interim Alternative Educational Placement Due to Dangerous Behavior**

Note: 20 USC 1415(k) and 34 CFR 300.530 permit an alternative placement for 45 school days when a student with a disability, while on school grounds, while going to or coming from school, or at a school function, either (1) carries or possesses a weapon, (2) knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance, or (3) inflicts serious bodily injury upon another person. "Serious bodily injury" is defined in 18 USC 1365 as bodily injury which involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty. This alternative placement decision may be made unilaterally by the district.

The term "weapon," as used below, refers to a "dangerous weapon" as defined in 18 USC 930 and includes any device which is capable of causing death or serious bodily injury. The term does not include a pocket knife with a blade of less than 2 1/2 inches in length.

The district may unilaterally place a student with a disability in an appropriate interim alternative educational setting for up to 45 school days, without regard to whether the behavior is a manifestation of the student's disability, when the student commits one of the following acts while at school, going to or from school, or at a school-related function: (20 USC 1415(k)(1)(G); 34 CFR 300.530)

1. Carries or possesses a weapon, as defined in 18 USC 930
2. Knowingly possesses or uses illegal drugs
3. Sells or solicits the sale of a controlled substance as identified in 21 USC 812(c), Schedules I-V
4. Inflicts serious bodily injury upon another person as defined in 18 USC 1365

The student's interim alternative educational setting shall be determined by his/her IEP team. (20 USC 1415(k)(1)(G); 34 CFR 300.531)

Note: For requirements of the procedural safeguards notice, see AR 6159.1 - Procedural Safeguards and Complaints for Special Education.

## **SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)**

On the date the decision to take disciplinary action is made, the parents/guardians of the student shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR 300.504. (20 USC 1415(k)(1)(H); 34 CFR 300.530)

A student who has been removed from his/her current placement because of dangerous behavior shall receive services, although in another setting, to the extent necessary to allow him/her to participate in the general education curriculum and to progress toward meeting the goals set out in his/her IEP. As appropriate, the student shall also receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

### **Manifestation Determination**

The following procedural safeguards shall apply when a student with a disability is suspended for more than 10 consecutive school days, when a series of removals of a student constitutes a pattern, or when a change of placement of a student is contemplated due to a violation of the district's code of conduct:

1. **Notice:** On the date the decision to take disciplinary action is made, the parents/guardians of the student shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR 300.504. (20 USC 1415(k)(1)(H); 34 CFR 300.530)

*(cf. 5145.6 - Parental Notifications)*

*(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)*

2. **Manifestation Determination Review:** Immediately if possible, but in no case later than 10 school days after the date the decision to take disciplinary action is made, a manifestation determination review shall be made of the relationship between the student's disability and the behavior subject to the disciplinary action. (20 USC 1415(k)(1)(E); 34 CFR 300.530)

At the manifestation determination review, the district, the student's parent/guardian, and relevant members of the IEP team (as determined by the district and parent/guardian) shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents/guardians, to determine whether the conduct in question was either of the following: (20 USC 1415(k)(1)(E); 34 CFR 300.530)

- a. Caused by or had a direct and substantial relationship to the student's disability

**SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)**

- b. A direct result of the district's failure to implement the student's IEP, in which case the district shall take immediate steps to remedy those deficiencies

If the manifestation review team determines that a condition in either #a or #b above was met, the conduct shall then be determined to be a manifestation of the student's disability. (20 USC 1415(k)(1)(E); 34 CFR 300.530)

3. **Determination that Behavior is a Manifestation of the Student's Disability:** When the conduct has been determined to be a manifestation of the student's disability, the IEP team shall conduct a functional behavioral assessment, unless a functional behavioral assessment had been conducted before the occurrence of the behavior that resulted in the change of placement, and shall implement a behavioral intervention plan for the student. If a behavioral intervention plan has already been developed, the IEP team shall review the behavioral intervention plan and modify it as necessary to address the behavior. (20 USC 1415(k)(1)(F); 34 CFR 300.530)

The student shall be returned to the placement from which he/she was removed, unless the parent/guardian and district agree to a change of placement as part of the modification of the behavioral intervention plan. (20 USC 1415(k)(1)(F); 34 CFR 300.530)

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

Note: Education Code 48915.5 provides that, if a student is excluded from school bus transportation, alternative transportation must be provided at no cost, provided that transportation is specified in the student's IEP. See section entitled "Services During Suspension" above.

4. **Determination that Behavior is Not a Manifestation of the Student's Disability:** If the manifestation determination review team determines that the student's behavior was not a manifestation of his/her disability, the student may be disciplined in accordance with the procedures for students without disabilities. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

The student shall receive services to the extent necessary to participate in the general education curriculum in another setting and to allow him/her to progress toward meeting the goals set out in his/her IEP. As appropriate, the student also shall receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

*(cf. 6158 - Independent Study)*  
*(cf. 6185 - Community Day School)*

## **SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)**

### **Due Process Appeals**

Note: As specified below, 34 CFR 300.532 provides that either the district or the parent/guardian may appeal a placement decision by filing a due process complaint pursuant to 34 CFR 300.507 and 300.508. For details regarding the due process complaint, see BP/AR 6159.1 - Procedural Safeguards and Complaints for Special Education. In addition, the district may file a request that the hearing officer order a change of placement to an interim alternative setting for up to 45 days when the hearing officer determines that maintaining the current placement is substantially likely to result in injury to the student or others.

The Analysis of Comments to the federal regulations, 71 Fed. Reg. 156, pg. 46723, clarifies that the burden of proof in due process hearings is on the party that is responsible for the issue going forward to the due process hearing officer, consistent with the U.S. Supreme Court's decision in Schaffer v. Weast. Thus, if the district has requested that a hearing officer remove a student to an interim alternative educational setting, the burden of persuasion at the hearing is on the district.

If the parent/guardian disagrees with any district decision regarding placement under 34 CFR 300.530 (suspension and removal for dangerous circumstances) or 34 CFR 300.531 (interim alternative placement), or the manifestation determination under 34 CFR 300.530(e), he/she may appeal the decision by requesting a hearing. The district may request a hearing if the district believes that maintaining the student's current placement is substantially likely to result in injury to the student or others. In order to request a hearing, the requesting party shall file a complaint pursuant to 34 CFR 300.507 and 300.508(a) and (b). (20 USC 1415(k)(3); 34 CFR 300.532)

Note: Pursuant to 34 CFR 300.532, this due process hearing is the same as the impartial due process hearing held for other special education matters, except that the law specifies expedited timelines. For other due process hearing requirements, see BP/AR 6159.1 - Procedural Safeguards and Complaints for Special Education.

Whenever a hearing is requested as specified above, the parent/guardian or the district shall have an opportunity for an expedited due process hearing consistent with requirements specified in 34 CFR 300.507, 300.508 (a)-(c), and 300.510-300.514.

If the student's parent/guardian or the district has initiated a due process hearing under 34 CFR 300.532 as detailed above, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the 45-day time period, whichever occurs first, unless the parent/guardian and district agree otherwise. (20 USC 1415(k)(4); 34 CFR 300.533)

### **Readmission**

Note: Nothing in law addresses readmission of expelled students with disabilities any differently from that of expelled students without disabilities; however, districts have an ongoing obligation to make FAPE available to students with disabilities.

## **SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)**

Readmission procedures for students with disabilities shall be the same as those used for all students. Upon readmission, an IEP team meeting shall be convened.

### **Suspension of Expulsion**

Note: The district should consult with its legal counsel when considering the suspension of a special education student's expulsion.

The Governing Board's criteria for suspending the enforcement of an expulsion order shall be applied to students with disabilities in the same manner as they are applied to all other students. (Education Code 48917)

### **Notification to Law Enforcement Authorities**

Note: Pursuant to 20 USC 1415(k)(6) and 34 CFR 300.535, the district is authorized to report crimes by students with disabilities to law enforcement in accordance with state law. Education Code 48902 provides procedures for this required notification. See also AR 5144.1 - Suspension and Expulsion/Due Process and BP 5131.7 - Weapons and Dangerous Instruments.

Law enforcement notification requirements involving students with disabilities shall be the same as those specified for all students in AR 5144.1 - Suspension and Expulsion/Due Process.

*(cf. 5131.7 - Weapons and Dangerous Instruments)*

### **Report to County Superintendent of Schools**

Note: Education Code 48203 requires the Superintendent to report to the County Superintendent of Schools when any special education student has been expelled or suspended for more than 10 school days. Education Code 48203 specifies that it is the duty of the County Superintendent to examine the reports and, if any case exists in which the interest of the student or welfare of the state may need further examination, draw the reports to the attention of the Board and the County Board of Education.

The Superintendent or designee shall report to the County Superintendent of Schools when any special education student has been expelled or suspended for more than 10 school days. The report shall include the student's name, last known address, and the reason for the action. (Education Code 48203)

*Legal Reference: (see next page)*

## **SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)**

### *Legal Reference:*

#### EDUCATION CODE

35146 Closed sessions re: suspensions  
35291 Rules of governing board  
48203 Reports of severance of attendance of disabled students  
48900-48925 Suspension and expulsion  
56000 Special education; legislative findings and declarations  
56320 Educational needs; requirements  
56321 Development or revision of individualized education program  
56329 Independent educational assessment  
56340-56347 Individualized education program teams  
56505 State hearing

#### PENAL CODE

245 Assault with deadly weapon  
626.2 Entry upon campus after written notice of suspension or dismissal without permission  
626.9 Gun-Free School Zone Act  
626.10 Dirks, daggers, knives, razors, or stun guns

#### UNITED STATES CODE, TITLE 18

930 Weapons  
1365 Serious bodily injury

#### UNITED STATES CODE, TITLE 20

1412 State eligibility  
1415 Procedural safeguards

#### UNITED STATES CODE, TITLE 21

812 Controlled substances

#### UNITED STATES CODE, TITLE 29

706 Definitions  
794 Rehabilitation Act of 1973, Section 504  
CODE OF FEDERAL REGULATIONS, TITLE 34

104.35 Evaluation and placement  
104.36 Procedural safeguards  
300.1-300.818 Assistance to states for the education of students with disabilities, especially:  
300.530-300.537 Discipline procedures

#### COURT DECISIONS

Schaffer v. Weast, (2005) 546 U.S. 549  
Parents of Student W. v. Puyallup School District, (1994 9th Cir.) 31 F.3d 1489  
M.P. v. Governing Board of Grossmont Union High School District, (1994) 858 F.Supp. 1044  
Honig v. Doe, (1988) 484 U.S. 305

### *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/osers/osep>



# **Administrative Regulation**

## **Suspension And Expulsion/Due Process (Students With Disabilities)**

AR 5144.2

### **Students**

A student identified as an individual with disabilities pursuant to the Individuals with Disabilities Education Act (IDEA) is subject to the same grounds for suspension and expulsion which apply to students without disabilities.

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

### **Procedures for Students Not Yet Eligible for Special Education Services**

A student who has not been officially identified as a student with disabilities pursuant to IDEA and who has engaged in behavior that violated the district's code of student conduct may assert any of the protections under IDEA only if the district had knowledge that the student is disabled before the behavior that precipitated the disciplinary action occurred. (20 USC 1415(k)(5); 34 CFR 300.534)

The district shall be deemed to have knowledge that the student has a disability if one of the following conditions exists: (20 USC 1415(k)(5); 34 CFR 300.534)

1. The parent/guardian has expressed concern to district supervisory or administrative personnel in writing, or to a teacher of the student, that the student is in need of special education or related services.
2. The parent/guardian has requested an evaluation of the student for special education pursuant to 34 CFR 300.300-300.311.

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

3. The teacher of the student or other district personnel has expressed specific concerns directly to the district's director of special education or to other supervisory district personnel about a pattern of behavior demonstrated by the student.

The district would be deemed to not have knowledge that a student is disabled if the parent/guardian has not allowed the student to be evaluated for special education services or has refused services. In addition, the district would be deemed to not have knowledge if the district conducted an evaluation pursuant to 34 CFR 300.300-300.311 and determined that the student was not an individual with a disability. When the district is deemed to not have knowledge of the disability, the student shall be disciplined in accordance with procedures established for students without disabilities who engage in comparable behavior. (20 USC 1415(k)(5); 34 CFR 300.534)

If a request is made for an evaluation of a student during the time period in which the student is subject to disciplinary measures pursuant to 34 CFR 300.530, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities. (20 USC 1415(k)(5); 34 CFR 300.534)

### **Suspension**

The Superintendent or designee may suspend a student with a disability for up to 10 consecutive school days for a single incident of misconduct, and for up to 20 school days in a school year, as long as the suspension(s) does not constitute a change in placement pursuant to 34 CFR 300.536. (Education Code 48903; 34 CFR 300.530)

The principal or designee shall monitor the number of days, including portions of days, in which a student with a valid individualized education program (IEP) has been suspended during the school year.

(cf. 6159 - Individualized Education Program)

The district shall determine, on a case-by-case basis, whether a pattern of removals of a student from his/her current educational placement for disciplinary reasons constitutes a change of placement. A change of placement shall be deemed to have occurred under any of the following circumstances: (34 CFR 300.536)

1. The removal is for more than 10 consecutive school days.
2. The student has been subjected to a series of removals that constitute a pattern because of all of the following:
  - a. The series of removals total more than 10 school days in a school year.
  - b. The student's behavior is substantially similar to his/her behavior in previous incidents that resulted in the series of removals.
  - c. Additional factors, such as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another, indicate a change of placement.

If the removal has been determined to be a change of placement as specified in items #1-2 above, the student's IEP team shall determine the appropriate educational services. (34 CFR 300.530)

### **Services During Suspension**

Any student suspended for more than 10 school days in the same school year shall continue to receive services during the term of the suspension. School personnel, in consultation with at least one of the student's teachers, shall determine the extent to which services are needed as

provided in 34 CFR 300.101(a), so as to enable the student to continue to participate in the general education curriculum in another setting and to progress toward meeting the goals as set out in his/her IEP. (20 USC 1412(a)(1)(A); 34 CFR 300.530)

If a student with disabilities is excluded from school bus transportation, the student shall be provided with an alternative form of transportation at no cost to the student or his/her parent/guardian, provided that transportation is specified in his/her IEP. (Education Code 48915.5)

(cf. 3541.2 - Transportation for Students with Disabilities)

#### **Interim Alternative Educational Placement Due to Dangerous Behavior**

The district may unilaterally place a student with a disability in an appropriate interim alternative educational setting for up to 45 school days, without regard to whether the behavior is a manifestation of the student's disability, when the student commits one of the following acts while at school, going to or from school, or at a school-related function: (20 USC 1415(k)(1)(G); 34 CFR 300.530)

1. Carries or possesses a weapon, as defined in 18 USC 930
2. Knowingly possesses or uses illegal drugs
3. Sells or solicits the sale of a controlled substance as identified in 21 USC 812(c), Schedules I-V
4. Inflicts serious bodily injury upon another person as defined in 18 USC 1365

The student's interim alternative educational setting shall be determined by his/her IEP team. (20 USC 1415(k)(1)(G), 34 CFR 300.531)

On the date the decision to take disciplinary action is made, the parents/guardians of the student shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR 300.504. (20 USC 1415(k)(1)(H); 34 CFR 300.530)

A student who has been removed from his/her current placement because of dangerous behavior shall receive services to the extent necessary to allow him/her to participate in the general education curriculum and to progress toward meeting the goals set out in his/her IEP. As appropriate, the student shall also receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

#### **Manifestation Determination**

The following procedural safeguards shall apply when a student is suspended for more than 10 consecutive school days, when a series of removals of a student constitutes a pattern, or when a

change of placement of a student is contemplated due to a violation of the district's code of conduct:

1. Notice: On the date the decision to take disciplinary action is made, the parents/guardians of the student shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR 300.504. (20 USC 1415(k)(1)(H); 34 CFR 300.530)

(cf. 5145.6 - Parental Notifications)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

2. Manifestation Determination Review: Immediately if possible, but in no case later than 10 school days after the date the decision to take disciplinary action is made, a manifestation determination review shall be made of the relationship between the student's disability and the behavior subject to the disciplinary action. (20 USC 1415(k)(1)(E); 34 CFR 300.530)

At the manifestation determination review, the district, the student's parent/guardian, and relevant members of the IEP team (as determined by the district and parent/guardian) shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents/guardians, to determine whether the conduct in question was either of the following: (20 USC 1415(k)(1)(E); 34 CFR 300.530)

a. Caused by or had a direct and substantial relationship to the student's disability

b. A direct result of the district's failure to implement the student's IEP, in which case the district shall take immediate steps to remedy those deficiencies

If the manifestation review team determines that a condition in either #a or #b above was met, the conduct shall then be determined to be a manifestation of the student's disability. (20 USC 1415(k)(1)(E); 34 CFR 300.530)

3. Determination that Behavior is a Manifestation of the Student's Disability: When the conduct has been determined to be a manifestation of the student's disability, the IEP team shall conduct a functional behavioral assessment, unless a functional behavioral assessment had been conducted before the occurrence of the behavior that resulted in the change of placement, and shall implement a behavioral intervention plan for the student. If a behavior intervention plan has already been developed, the IEP team shall review the behavioral intervention plan and modify it as necessary to address the behavior. (20 USC 1415(k)(1)(F); 34 CFR 300.530)

The student shall be returned to the placement from which he/she was removed, unless the parent/guardian and district agree to a change of placement as part of the modification of the behavioral intervention plan. (20 USC 1415(k)(1)(F); 34 CFR 300.530)

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

4. Determination that Behavior is Not a Manifestation of the Student's Disability: If the

manifestation determination review team determines that the student's behavior was not a manifestation of his/her disability, the student may be disciplined in accordance with the procedures for students without disabilities. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

The student shall receive services to the extent necessary to participate in the general education curriculum in another setting and to allow him/her to progress toward meeting the goals set out in his/her IEP. As appropriate, the student shall also receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

(cf. 6158 - Independent Study)

(cf. 6185 - Community Day School)

### Due Process Appeals

If the parent/guardian disagrees with any district decision regarding placement under 34 CFR 300.530 (suspension and removal for dangerous circumstances) or 34 CFR 300.531 (interim alternative placement), or the manifestation determination under 34 CFR 300.530(e), he/she may appeal the decision by requesting a hearing. The district may request a hearing if the district believes that maintaining the student's current placement is substantially likely to result in injury to the student or others. In order to request a hearing, the requesting party shall file a complaint pursuant to 34 CFR 300.507 and 300.508(a) and (b). (20 USC 1415(k)(3); 34 CFR 300.532)

Whenever a hearing is requested as specified above, the parent/guardian or the district shall have an opportunity for an expedited due process hearing consistent with requirements specified in 34 CFR 300.507, 300.508 (a)-(c), and 300.510-300.514.

If the student's parent/guardian or the district has initiated a due process hearing under 34 CFR 300.532 as detailed above, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the 45-day time period, whichever occurs first, unless the parent/guardian and district agree otherwise. (20 USC 1415(k)(4); 34 CFR 300.533)

### Readmission

Readmission procedures for students with disabilities shall be the same as those used for all students. Upon readmission, an IEP team meeting shall be convened.

### Suspension of Expulsion

The Governing Board's criteria for suspending the enforcement of an expulsion order shall be applied to students with disabilities in the same manner as they are applied to all other students. (Education Code 48917)

### Notification to Law Enforcement Authorities

Prior to the suspension or expulsion of any student with a disability, the principal or designee shall notify appropriate city or county law enforcement authorities of any act of assault with a deadly weapon which may have violated Penal Code 245. (Education Code 48902)

The principal or designee also shall notify appropriate city or county law enforcement authorities of acts by any student with a disability which may involve the possession or sale of narcotics or of a controlled substance or possession of weapons or firearms in violation of Penal Code 626.9 and 626.10. (Education Code 48902)

Within one school day after a suspension or expulsion of a student with disabilities, the principal or designee shall notify appropriate city or county law enforcement authorities, by telephone or other appropriate means, of any act by the student which may violate Education Code 48900(c) or (d), relating to the possession, use, offering or sale of controlled substances, alcohol or intoxicants of any kind. (Education Code 48902)

(cf. 5131.7 - Weapons and Dangerous Instruments)

#### Report to County Superintendent of Schools

The Superintendent or designee shall report to the County Superintendent when any special education student has been expelled or suspended for more than 10 school days. The report shall include the student's name, last known address, and the reason for the action. (Education Code 48203)

#### Legal Reference:

##### EDUCATION CODE

35146 Closed sessions (re suspensions)  
35291 Rules (of governing board)  
48203 Reports of severance of attendance of disabled students  
48900-48925 Suspension and expulsion  
56000 Special education; legislative findings and declarations  
56320 Educational needs; requirements  
56321 Development or revision of individualized education program  
56329 Independent educational assessment  
56340-56347 Individual education program teams  
56505 State hearing

##### PENAL CODE

245 Assault with deadly weapon  
626.2 Entry upon campus after written notice of suspension or dismissal without permission  
626.9 Gun-Free School Zone Act  
626.10 Dirks, daggers, knives, razors or stun guns

##### UNITED STATES CODE, TITLE 18

930 Weapons

1365 Serious bodily injury

##### UNITED STATES CODE, TITLE 20

1412 State eligibility  
1415 Procedural safeguards  
UNITED STATES CODE, TITLE 21  
812(c) Controlled substances  
UNITED STATES CODE, TITLE 29  
706 Definitions  
794 Rehabilitation Act of 1973, Section 504  
CODE OF FEDERAL REGULATIONS, TITLE 34  
104.35 Evaluation and placement  
104.36 Procedural safeguards  
300.1-300.818 Assistance to states for the education of students with disabilities, especially:  
300.530-300.537 Discipline procedures  
COURT DECISIONS  
Schaffer v. Weast (2005) 125 S. Ct. 528  
Parents of Student W. v. Puyallup School District, (1994 9th Cir.) 31 F.3d 1489  
M.P. v. Governing Board of Grossmont Union High School District, (1994) 858 F.Supp. 1044  
Honig v. Doe, (1988) 484 U.S. 305

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/index.html>

Regulation      CENTER UNIFIED SCHOOL DISTRICT  
approved: May 2, 2007      Antelope, California

**PARENTAL NOTIFICATIONS**

Note: This exhibit lists those notices which the law requires be provided to parents/guardians. Unless otherwise indicated, code numbers below refer to Education Code sections.

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>I. <u>Annually</u></b>			
Beginning of each school year	17612, 48980.3	AR 3514.2	Use of pesticide product, active ingredients, Internet address to access information
Beginning of each school year	32255-32255.6, 48980	BP 5145.8 AR 5145.8	Right to refrain from harmful or destructive use of animals
Annually by February 1	35256	BP 0510	School Accountability Report Card provided
Beginning of each school year	35291, 48980	AR 5144 AR 5144.1	District and site discipline rules
Beginning of each school year if high school open campus	44808.5, 48980	BP 5112.5	Open campus
Beginning of each school year if Board has adopted resolution allowing such absence	46014, 48980	BP 5113 AR 5113	Absence for religious purposes
Beginning of each school year	48205, 48980	BP 5113 AR 5113	Absence for justifiable personal reasons
Beginning of each school year	48205, 48980	AR 6154	Grade/credit cannot be reduced due to excused absence if work or test has been completed
Beginning of each school year	48206.3, 48207, 48208, 48980	AR 6183	Availability of home/hospital instruction for students with temporary disabilities
Beginning of each school year	48216, 48980	BP 5141.31 AR 5141.31	Immunizations



**PARENTAL NOTIFICATIONS (continued)**

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>I. <u>Annually</u> (continued)</b>			
Beginning of each school year	48980	AR 5111.1 AR 5116.1 AR 5117	All statutory attendance options, available local attendance options, options for meeting residency
Beginning of each school year	48980, 231.5	AR 5145.7	Sexual harassment policy as related to students
Beginning of each school year	48980, 52244	AR 6141.5	Availability of state funds to cover costs of advanced placement exam fees
Beginning of each school year	48980	BP 6111	Schedule of minimum days
Beginning of each school year	49063, 49068, 49069; 20 USC 1232g; 34 CFR 99.7	BP 5125 AR 5125	Student records: inspect and review, access, types, location, persons responsible, location of log, access criteria, cost of copies, amendment requests, criteria to determine school official legitimate educational interest
Beginning of each school year	49063, 49070	AR 5125 AR 5125.3	Challenge, review and expunging of records
Beginning of each school year	49063, 49073	AR 5125.1	Release of directory information
Beginning of each school year	49063, 49091.14	AR 5020 AR 5125	Availability of course prospectus
Beginning of each school year	49423, 49480, 48980	AR 5141.21	Administration of prescribed medication
Beginning of each school year	49451, 48980	BP 5141.3	Refusal to consent to physical examination
Beginning of each school year	49472, 48980	AR 5143	Availability of insurance

**PARENTAL NOTIFICATIONS (continued)**

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>I. <u>Annually</u> (continued)</b>			
Beginning of each school year	49510-49520, 48980	BP 3553	Free and reduced price meals
Annually	56301	BP 6164.4	Rights of all parents related to special education identification, referral, assessment, instructional planning, implementation and review, and procedures for initiating a referral for assessment
Beginning of each school year	58501	BP 6181	Alternative schools
Beginning of each school year	20 USC 1681-1688; 42 USC 2000d-2000d-7; 34 CFR 106.9	BP 0410 BP 6178	Nondiscrimination on basis of sex, disability, ethnicity or lack of English skills
Annually	5 CCR 4622	AR 1312.3	Uniform complaint procedures, available appeals, civil law remedies, and identity of coordinator
Beginning of each school year	20 USC 1232h	AR 5022	Notice of privacy policy and dates of activities re: survey, health examination, or collection of personal information for marketing
For districts receiving Title I funds, beginning of each school year	20 USC 6311	AR 4112.24 AR 4222	Right to request information re: professional qualifications of their child's teacher and paraprofessional
Annually to parent, teacher, and employee organizations or, in their absence, individuals	40 CFR 763.84, 763.93	AR 3514	Availability of asbestos management plan; any inspections, response actions or post-response actions planned or in progress

**PARENTAL NOTIFICATIONS (continued)**

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>II. <u>At Specific Times During the Student's Academic Career</u></b>			
At least once before counseling in grades 7-12	221.5, 48980	AR 6164.2	Course selection and career counseling
At beginning of each school year if student has been placed in structured English immersion program	310; 5 CCR 11309	AR 6174	Placement of child in program and opportunity to apply for parental exception waiver
Before high school student attends specialized secondary program on a university campus	17288	None	University campus buildings may not meet Education Code requirements for structural safety
To members of athletic teams	32221.5	AR 5143	Offer of insurance, no-cost and low-cost program options
Before presenting a course using live or dead animals or animal parts	32255-32255.6	BP 5145.8	Right to refrain from harmful or destructive use of animals
When child first enrolls in a public school, if the school offers a fingerprinting program	32390, 48980	BP 5142.1	Fingerprinting program
Beginning of each term for students who have not passed the exit exam by the end of grade 12 complaint	37254	AR 6179	Availability of intensive instruction and services for two consecutive academic years and right to file
Upon registration, if K-6 students have not previously been transported	39831.5	AR 3543	School bus safety rules and information, list of stops, rules of conduct, red light crossing instructions, bus danger zones, walking to and from stops
Beginning of each school year in grades 7-12	46010.1	BP 5113	Absence for confidential medical services

**PARENTAL NOTIFICATIONS (continued)**

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>II. <u>At Specific Times During the Student's Academic Career</u> (continued)</b>			
Upon admission to school	48216, 49403; Health & Safety Code 120365, 120370, 120375	AR 5141.31	Immunizations
Before early entry to kindergarten, if offered	48000	AR 5111	Effects, advantages and disadvantages of early entry
Beginning of each school year in grades 9-12 and when high school student transfers into the district	48980, 60850	AR 6162.52	Requirement to pass the high school exit exam including: date of exam, requirements for passing, consequences of not passing, and that passing is a condition of graduation
When students entering grade 7	49452.7	None	Specified information on type 2 diabetes
When in kindergarten or 1st grade if not previously enrolled in public school	49452.8	AR 5141.32	Requirement for oral health assessment, explanation of law, importance of teeth health, agency contact, privacy rights
Beginning of each school year for students in grades 9-12	51229, 48980	BP 6143	Explanation of college admission requirements, list of UC and CSU web sites that list certified courses, description of career technical education and CDE Internet address, how students may meet with counselors
Beginning of each school year for students in grades 7-12	51938, 48980	AR 6142.1	Explanation of sex and HIV/AIDS instruction; right to view A/V materials, who's teaching, request specific Education Code sections, right to excuse
Upon assessment and reassessment of English proficiency and enrollment in program of education for English language learners	52164.1, 52164.3, 52173; 5 CCR 11303	AR 6174	Program of education for English language learners

**PARENTAL NOTIFICATIONS (continued)**

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>II. <u>At Specific Times During the Student's Academic Career</u> (continued)</b>			
Within 20 working days of receiving results of standardized achievement tests	60641; 5 CCR 863	AR 6162.51	Results of tests; test purpose, individual score and intended use
Annually to each high school student	66204	BP 6143	Copy of list of courses offered that are certified by UC as meeting admission criteria
When child is enrolled in kindergarten	Health & Safety Code 124100	AR 5141.32	Health screening examination
Prior to student participation in gifted and talented program	5 CCR 3831	AR 6172	Gifted and talented student program
Within 30 calendar days of receipt of CELDT results	5 CCR 11511.5	AR 6174	CELDT test results
To students in grades 11 and 12, early enough to enable registration for current fall test	5 CCR 11523	AR 6146.2	Notice of proficiency examination provided under Education Code 48412
For districts receiving Title I funds, not later than 30 days after beginning of school year, to parents of English learners	20 USC 6312	AR 6174	Reasons for placement, level of proficiency, instructional methods, how program meets child's strengths and teaches English, exit requirements, right to choose another program
<b>III. <u>When Special Circumstances Occur</u></b>			
Upon receipt of a complaint alleging discrimination	262.3	AR 1312.3	Civil law remedies available to complainants
At least 72 hours before use of pesticide product not included in annual list	17612	AR 3514.2	Intended use of pesticide product
If school has lost its WASC accreditation status	35178.4	BP 6190	Loss of status, potential consequences

**PARENTAL NOTIFICATIONS (continued)**

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>III. <u>When Special Circumstances Occur</u> (continued)</b>			
At least six months before implementing a schoolwide uniform policy	35183	AR 5132	Dress code policy requiring schoolwide uniform
Before implementing a year-round schedule	37616	BP 6117	Year-round schedule
When interdistrict transfer is requested and not approved or denied within 30 days	46601	AR 5117	Appeal process
When student identified as being at risk of retention	48070.5	AR 5123	Student at risk of retention
When a student is classified a truant	48260.5	AR 5113.1	Truancy, parental obligation, availability of alternative programs, student consequences
When a truant is referred to a SARB or probation department	48263	AR 5113.1	Name and address of SARB or probation department and reason for referral
Prior to involuntary transfer to continuation school	48432.5	AR 6184	Right to require meeting prior to involuntary transfer to continuation school
Prior to withholding grades, diplomas, or transcripts	48904	AR 5125.2	Damaged school property
When withholding grades, diplomas or transcripts from transferring student	48904.3	AR 5125.2	Next school will continue withholding grades, diplomas or transcripts
When student is released to peace officer	48906	BP 5145.11	Release of student to peace officer
At time of suspension	48911	BP 5144.1 AR 5144.1	Notice of suspension

**PARENTAL NOTIFICATIONS (continued)**

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>III. When Special Circumstances Occur (continued)</b>			
When original period of suspension is extended	48911	AR 5144.1	Extension of suspension
Before holding a closed session re: suspension	48912	AR 5144.1	Intent to hold a closed session re: suspension
When student expelled from another district for certain acts seeks admission	48915.1, 48918	BP 5119	Hearing re: possible danger presented by expelled student
When readmission is denied	48916	AR 5144.1	Reasons for denial; determination of assigned program
When expulsion occurs	48916	AR 5144.1	Description of readmission procedures
10 calendar days before expulsion hearing	48918	AR 5144.1	Notice of expulsion hearing
When expulsion or suspension of expulsion occurs	48918	AR 5144.1	Decision to expel; right to appeal to county board; obligation to inform new district of status
One month before the scheduled minimum day	48980	BP 6111	When minimum days scheduled after beginning of the school year
When parents request guidelines for filing complaint of child abuse at a school site	48987	AR 5141.4	Guidelines for filing complaint of child abuse at a school site with local child protective agencies
When student in danger of failing a course	49067	AR 5121	Student in danger of failing a course
When student transfers from another district or private school	49068	AR 5125	Right to receive copy of student's record and to challenge its content

**PARENTAL NOTIFICATIONS (continued)**

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>III. When Special Circumstances Occur (continued)</b>			
Within 24 hours of release of information to a judge or probation officer	49076	AR 5125	Release of student record information to a judge or probation officer for conducting a truancy mediation program or for presenting evidence at a truancy petition
Before release of information pursuant to court order or subpoena	49077	AR 5125	Release of information pursuant to court order or subpoena
When screening results in suspicion that student has scoliosis	49452.5	BP 5141.3	Scoliosis screening
When test results in discovery of visual or hearing defects	49456	BP 5141.3	Vision or hearing test
Before any test questioning personal beliefs	51513	AR 5022	Permission for test, survey questioning personal beliefs
Within 14 days of instruction if arrangement made for guest speaker after beginning of school year	51938	BP 6142.1	Instruction in HIV/AIDS or sexual health education by guest speaker or outside consultant
When migrant education program is established	54444.2	BP 6175 AR 6175	Parent advisory council membership composition
When child participates in licensed child care and development program	Health & Safety Code 1596.857	AR 5148	Parent right to enter facility
When sharing student immunization information with an immunization system	Health & Safety Code 120440	AR 5125	Types of information to be shared, name and address of agency, acceptable use of the information, right to examine, right to refuse to share



**PARENTAL NOTIFICATIONS (continued)**

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>III. When Special Circumstances Occur (continued)</b>			
When hearing is requested by person asked to leave school premises	Penal Code 627.5	AR 3515.2	Notice of hearing
When providing written decision in response to a complaint re: discrimination, special education, or noncompliance with law regulating educational programs	5 CCR 4631	AR 1312.3	Appeal rights and procedures
When child participates in licensed child care and development program	5 CCR 18066	AR 5148	Policies re: unexcused absences
For districts receiving Title I funds, when child has been taught for four or more consecutive weeks by a teacher who is not "highly qualified"	20 USC 6311	AR 4112.24	Timely notice to parent of child's assignment
When school identified for program improvement or corrective action, within 30 days of failure to make annual yearly progress	20 USC 6312	AR 0520.2	Notice of failure to parents of English language learners
When school identified for program improvement or corrective action	20 USC 6316	AR 0520.2 AR 5116.1	Explanation of identification, reasons, how problem will be addressed, how parents can become involved, transfer option, availability of supplemental services
For districts with schools that have been identified for program improvement or corrective action, annually	20 USC 6316	AR 0520.2	Availability of supplemental educational services, identity of providers, description of services, qualifications, effectiveness of providers
When district identified for program improvement	20 USC 6316	AR 0520.3	Explanation status, reasons for identification, how parents can participate in upgrading district

**PARENTAL NOTIFICATIONS (continued)**

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>III. When Special Circumstances Occur (continued)</b>			
For schools receiving Title I funds, upon development of parent involvement policy	20 USC 6318	AR 6020	Notice of policy
For districts with secondary students receiving Title I funds	20 USC 7908	AR 5125.1	Notice that parents may request district to not release name, address, phone number of child to military recruiters without prior written consent
When student transfers out of state and records are disclosed without consent pursuant to 34 CFR 99.30	34 CFR 99.34	AR 5125	Right to review records
<b>IV. Special Education Notices</b>			
Prior to conducting initial evaluation	56301, 56321, 56321.5, 56321.6, 56329; 34 CFR 300.502	AR 6164.4	Proposed evaluation plan, related parental rights, prior written notice
24 hours before IEP when district intending to record	56341.1	AR 6159	Intention to audio-record IEP meeting
Early enough to ensure opportunity for parent to attend IEP meeting	56341.5; 34 CFR 300.322	AR 6159	Time, purpose, location, who in attendance, participation of others with special knowledge, transition statements if appropriate
When parent orally requests review of IEP	56343.5	AR 6159	Need for written request
For student receiving exit exam waiver, prior to receipt of diploma	60852.4	AR 6162.52	Right to FAPE
Before functional behavioral assessment begins	5 CCR 3052	AR 6159.4	Notification and consent
Before modification of behavioral intervention plan	5 CCR 3052	AR 6159.4	Need for modification, right to question modification

**PARENTAL NOTIFICATIONS (continued)**

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>IV. Special Education Notices (continued)</b>			
Within one school day of emergency intervention or serious property damage	5 CCR 3052	AR 6159.4	Emergency intervention
Whenever there is a proposal or refusal to initiate or change the identification, evaluation, placement, or FAPE	20 USC 1415(c); 34 CFR 300.503	AR 6159.1	Prior written notice
Initial referral for evaluation	20 USC 1415(d); 34 CFR 300.503	AR 6159.1	Prior written notice and procedural safeguards notice
Registration of complaint	20 USC 1415(d); 34 CFR 300.504	AR 6159.1	Procedural safeguards notice
Disciplinary action taken for dangerous behavior	20 USC 1415(k); 34 CFR 300.530	AR 5144.2	Decision and procedural safeguards notice
Suspension or change of placement for more than 10 days	20 USC 1415(k); 34 CFR 300.530	AR 5144.2	Decision and procedural safeguards notice
Upon requesting a due process hearing	20 USC 1415(k); 34 CFR 300.508	AR 6159.1	Child's name, address, school, description of problem, proposed resolution
<b>V. Classroom Notices</b>			
In each classroom in each school	35186	AR/E 1312.4	Complaint rights re: sufficiency instructional materials, teacher vacancy and misassignment, maintenance of facilities, and, for classrooms with grades 10-12, right of students who did not pass the exit exam to receive intensive instruction after completion of grade 12

# **Exhibit**

## **Parental Notifications**

**E 5145.6**

### **Students**

**\*\*\*Note: This exhibit relates to notices which must be provided to parents/guardians. Unless otherwise indicated, code numbers below refer to Education Code sections.\*\*\***

#### **I. Annually**

**When to Notify: Beginning of each school year**

**Education Code 17612, 48980.3**

**Board Policy/Administrative Regulation #: See AR 3514.2**

**Subject: Use of pesticide product, active ingredients, Internet address to access information**

**When to Notify: Beginning of each school year**

**Education Code 32255-32255.6, 48980**

**Board Policy/Administrative Regulation #: See BP 5145.8, See AR 5145.8**

**Subject: Right to refrain from harmful or destructive use of animals**

**When to Notify: Annually by February 1**

**Education Code 35256**

**Board Policy/Administrative Regulation #: See BP 0510**

**Subject: School Accountability Report Card provided**

**When to Notify: Beginning of each school year**

**Education Code 35291, 48980**

**Board Policy/Administrative Regulation #: See BP 5144, See AR 5144.1**

**Subject: District and site discipline rules**

**When to Notify: Beginning of each school year if high school open campus**

**Education Code 44808.5, 48980**

**Board Policy/Administrative Regulation #: See BP 5112.5**

**Subject: Open campus**

**When to Notify: Beginning of each school year if Board has adopted resolution allowing such absence**

**Education Code 46014, 48980**

**Board Policy/Administrative Regulation #: See BP 5113, See AR 5113**

**Subject: Absence for religious purposes**

**When to Notify: Beginning of each school year**

**Education Code 48205, 48980**

**Board Policy/Administrative Regulation #: See BP 5113, See AR 5113**

**Subject: Absence for justifiable personal reasons**

**When to Notify: Beginning of each school year**

**Education Code 48205, 48980**

**Board Policy/Administrative Regulation #: See AR 6154**

**Subject: Grade/credit cannot be reduced due to excused absence if work or test has been completed**

**When to Notify: Beginning of each school year**

**Education Code 48206.3, 48207, 48208, 48980**

**Board Policy/Administrative Regulation #: See AR 6183**

**Subject: Availability of home/hospital instruction for students with temporary disabilities**

**When to Notify: Beginning of each school year**

**Education Code 48216, 48980**

**Board Policy/Administrative Regulation #: See BP 5141.31, See AR 5141.31**

**Subject: Immunizations**

**When to Notify: Beginning of each school year**

**Education Code 48980**

**Board Policy/Administrative Regulation #: See AR 5111.1, See AR 5116.1 See AR 5117**

**Subject: All statutory attendance options and available local attendance options, available local attendance option, options for meeting residency**

**When to Notify: Beginning of each school year**

**Education Code 48980, 231.5**

**Board Policy/Administrative Regulation #: See AR 5145.7**

**Subject: Sexual harassment policy as related to students**

**When to Notify: Beginning of each school year**

**Education Code 48980, 52244**

**Board Policy/Administrative Regulation #: See AR 6141.5**

**Subject: Availability of state funds to cover costs of advanced placement exam fees**

When to Notify: Beginning of each school year  
Education Code 48980  
Board Policy/Administrative Regulation #: See BP 6111  
Subject: Schedule of minimum days

When to Notify: Beginning of each school year  
Education Code 49063, 49068, 49069, 20 USC 1232g, 34 CFR 99.7  
Board Policy/Administrative Regulation #: See BP 5125, See AR 5125  
Subject: Student records; Inspect and review, access, types, location, persons responsible  
location of log, access criteria, cost of copies, amendment requests, criteria to determine school  
official legitimate educational interest

When to Notify: Beginning of each school year  
Education Code 49063, 49070  
Board Policy/Administrative Regulation #: See AR 5125, See AR 5125.3  
Subject: Challenge, review and expunging of records

When to Notify: Beginning of each school year  
Education Code 49063, 49073  
Board Policy/Administrative Regulation #: See AR 5125.1  
Subject: Release of directory information

When to Notify: Beginning of each school year  
Education Code 49063, 49091.14  
Board Policy/Administrative Regulation #: See AR 5020, See AR 5125  
Subject: Availability of course prospectus

When to Notify: Beginning of each school year  
Education Code 49423, 49480, 48980  
Board Policy/Administrative Regulation #: See AR 5141.21  
Subject: Administration of prescribed medication

When to Notify: Beginning of each school year  
Education Code 49451, 48980  
Board Policy/Administrative Regulation #: See BP 5141.3  
Subject: Refusal to consent to physical examination

When to Notify: Beginning of each school year

Education Code 49472, 48980  
Board Policy/Administrative Regulation #: See BP 5143  
Subject: Availability of insurance

When to Notify: Beginning of each school year  
Education Code 49510-49520, 48980  
Board Policy/Administrative Regulation #: See BP 3553  
Subject: Free and reduced price meals

When to Notify: Annually  
Education Code 56301  
Board Policy/Administrative Regulation #: See BP 6164.4  
Subject: Rights of all parents related to special education identification, referral, assessment, instructional planning, implementation and review, and procedures for initiating a referral for assessment

When to Notify: Beginning of each school year  
Education Code 58501  
Board Policy/Administrative Regulation #: See BP 6181  
Subject: Alternative schools

When to Notify: Beginning of each school year  
20 USC 1681-1688, 42 USC 2000d-2000d-7, 34 CFR 106.9  
Board Policy/Administrative Regulation #: See BP 0410  
Subject: Nondiscrimination on basis of sex, disability, ethnicity or lack of English skills

When to Notify: Beginning of each school year  
20 USC 1232h  
Board Policy/Administrative Regulation #: See AR 5022  
Subject: Notice of privacy policy and dates of activities re: survey, health examination, or collection of personal information for marketing

When to Notify: For districts receiving Title I funds, beginning of each school year  
20 USC 6311  
Board Policy/Administrative Regulation #: See AR 4112.24, See AR 4222  
Subject: Right to request information re: professional qualification of their child's teacher and paraprofessional

When to Notify: Annually

**5 CCR 4622**

**Board Policy/Administrative Regulation #: See AR 1312.3**

**Subject: Uniform complaint procedures and available appeals and civil law remedies; identity of coordinators**

**When to Notify: Annually to parent, teacher and employee organizations; in absence of organizations, to individuals**

**40 CFR 763.93**

**Board Policy/Administrative Regulation #: See AR 3514**

**Subject: Availability of complete, updated management plan for asbestos-containing material in school buildings**

## **II. At Specific Times During the Student's Academic Career**

**When to Notify: At least once before counseling in grades 7 through 12**

**Education Code 221.5, 48980**

**Board Policy/Administrative Regulation #: See BP 6164.2**

**Subject: Course selection and career counseling**

**When to Notify: At beginning of school year if student had been placed in structured English immersion program**

**Education Code 310, 5 CCR 11309**

**Board Policy/Administrative Regulation #: See AR 6174**

**Subject: Placement of child in program and opportunity to apply for parental exception waiver**

**When to Notify: Before high school student attends specialized secondary program on a university campus**

**Education Code 17288**

**Board Policy/Administrative Regulation #: None**

**Subject: University campus buildings may not meet Education Code requirements for structural safety**

**When to Notify: To members of athletic teams**

**Education Code 32221.5**

**Board Policy/Administrative Regulation #: See AR 5143**

**Subject: Offer of insurance, no-cost and low-cost program options**

**When to Notify: Before presenting a course using live or dead animals or animal parts**

**Education Code 32255-32255.6**



**Board Policy/Administrative Regulation #: See BP 5145.8**  
**Subject: Right to refrain from harmful or destructive use of animals**

**When to Notify: Beginning of each term for students who have not passed the exit examination by grade 12**  
**Education Code 37254**  
**Board Policy/Administrative Regulation #: See AR 6179**  
**Subject: Availability of intensive instruction and services for two consecutive academic years and right to file complaint**

**When to Notify: When child first enrolls in a public school, if the school offers a fingerprinting program**  
**Education Code 32390, 48980**  
**Board Policy/Administrative Regulation #: See BP 5142.1**  
**Subject: Fingerprinting program**

**When to Notify: Upon registration, if K-6 students have not previously been transported**  
**Education Code 39831.5**  
**Board Policy/Administrative Regulation #: See AR 3543**  
**Subject: School bus safety rules and information, list of stops, rules of conduct, red in a school bus light danger zones, walking to and from stops**

**When to Notify: Beginning of each school year in grades 7-12**  
**Education Code 46010.1**  
**Board Policy/Administrative Regulation #: See BP 5113**  
**Subject: Absence for confidential medical services**

**When to Notify: Upon admission to school**  
**Education Code 48216, 49403, Health and Safety Code 120365, 120370, 120375**  
**Board Policy/Administrative Regulation #: See AR 5141.31**  
**Subject: Immunizations**

**When to Notify: Before early entry to kindergarten, if offered**  
**Education Code 48000**  
**Board Policy/Administrative Regulation #: See AR 5111**  
**Subject: Effects, advantages and disadvantages of early entry**

**When to Notify: Beginning each school year in grades 9-12 and when high school students transfers into the district**

**Education Code 48980, 60850**

**Board Policy/Administrative Regulation #: See AR 6146.1, See 6162.52**

**Subject: Requirement to pass the high school exit exam including: date of exam, requirements for passing, consequences of not passing, and that passing is a condition of graduation**

**When to Notify: When in kindergarten or 1st grade if not previously law, enrolled in public school**

**Education Code 49452.8**

**Board Policy/Administrative Regulation #: See AR 5141.32**

**Subject: Requirement for oral health assessment, explanation of importance of teeth, health agency contact, privacy rights**

**When to Notify: Beginning of each school year for students in grades 9-12**

**Education Code 51229, 48980**

**Board Policy/Administrative Regulation #: See BP 6143**

**Subject: Explanation of college admission requirements, list of UC and CSU web sites that list certified courses, description of career technical education and CDE Internet address, how students may meet with counselors**

**When to Notify: Beginning of each school year for students in grades 7-12**

**Education Code 51938, 48980**

**Board Policy/Administrative Regulation #: See AR 6142.1**

**Subject: Explanation of sex and HIV/AIDS instruction, right to view A/V materials, who teaching, request specific Education Code sections, right to excuse**

**When to Notify: Upon assessment and reassessment of English proficiency and enrollment in program of education for English language learners**

**Education Code 52164.1, 52164.3, 52173, 5 CCR 11303**

**Board Policy/Administrative Regulation #: See AR 6174**

**Subject: Program of education for English language learners**

**When to Notify: Within 20 working days of receiving results of standardized achievement tests**

**Education Code 60641, 5 CCR 863**

**Board Policy/Administrative Regulation #: See AR 6162.51**

**Subject: Results of tests; test purpose, individual score and intended use**

When to Notify: Annually to each high school  
Education Code 66204  
Board Policy/Administrative Regulation #: BP 6143  
Subject: Copy of list of courses offered Student that are certified by UC as meeting admission criteria

When to Notify: When child is enrolled in kindergarten  
Health and Safety Code 124085, 124100  
Board Policy/Administrative Regulation #: See BP 5141.32  
Subject: Health screening examination

When to Notify: Prior student participation in gifted and talented program  
5 CCR 3831  
Board Policy/Administrative Regulation #: See AR 6172  
Subject: Gifted and talented student program

When to Notify: Within 30 calendar days of receipt of results  
5 CCR 11511.5  
Board Policy/Administrative Regulation #: See AR 6174  
Subject: CELDT test results

When to Notify: To students in grades 11 and 12, early enough to enable registration for current fall test  
5 CCR 11523  
Board Policy/Administrative Regulation #: See AR 6146.2  
Subject: Notice of proficiency examination provided under Education Code 48412

When to Notify: For districts receiving Title I funds, not later than 30 days after beginning of school year, to parents of English learners  
20 USC 6312  
Board Policy/Administrative Regulation #: See AR 6174  
Subject: Reasons for placement, level of proficiency, instructional methods, how program meets child's strengths and teaches English, exit requirements, right to choose another program

### III. When Special Circumstances Occur

When to Notify: Upon receipt of a complaint alleging discrimination  
Education Code 262.3

**Board Policy/Administrative Regulation #: See AR 1312.3**  
**Subject: Civil law remedies available to complaints**

**When to Notify: At least 72 hours before use of pesticide product not included in annual list**  
**Education Code 17612**  
**Board Policy/Administrative Regulation #: See AR 3514.2**  
**Subject: Intended use of pesticide product**

**When to Notify: If school has lost its WASC accreditation status**  
**Education Code 35178.4**  
**Board Policy/Administrative Regulation #: See BP 6190**  
**Subject: Loss of status, potential consequences**

**When to Notify: At least six months before implementing a schoolwide uniform policy**  
**Education Code 35183**  
**Board Policy/Administrative Regulation #: See AR 5132**  
**Subject: Dress code policy requiring schoolwide uniform**

**When to Notify: Before implementing a continuous school program**  
**Education Code 37616**  
**Board Policy/Administrative Regulation #: See BP 6117**  
**Subject: Continuous school program**

**When to Notify: When interdistrict transfer is requested and not approved or denied within 30 days**  
**Education Code 46601**  
**Board Policy/Administrative Regulation #: See AR 5117**  
**Subject: Appeal process**

**When to Notify: When student identified as being at risk of retention**  
**Education Code 48070.5**  
**Board Policy/Administrative Regulation #: See AR 5123**  
**Subject: Student at risk of retention**

**When to Notify: When a student is classified a truant**  
**Education Code 48260.5**  
**Board Policy/Administrative Regulation #: See AR 5113**  
**Subject: Parental obligation**

**When to Notify:** When a truant is referred to a SARB or probation department  
**Education Code** 48263  
**Board Policy/Administrative Regulation #:** See AR 5113  
**Subject:** Name and address of SARB or probation department and reason for referral

**When to Notify:** Prior to involuntary transfer to continuation school  
**Education Code** 48432.5  
**Board Policy/Administrative Regulation #:** See AR 6184  
**Subject:** Right to require a meeting prior to involuntary transfer to continuation school

**When to Notify:** Prior to withholding grades, diplomas, or transcripts  
**Education Code** 48904  
**Board Policy/Administrative Regulation #:** See AR 5125.2  
**Subject:** Damaged school property

**When to Notify:** When withholding grades, diplomas or transcripts from transferring student  
**Education Code** 48904.3  
**Board Policy/Administrative Regulation #:** See AR 5125.2  
**Subject:** Next school will continue withholding grades, diplomas or transcripts

**When to Notify:** When student is released to peace officer  
**Education Code** 48906  
**Board Policy/Administrative Regulation #:** See BP 5145.11  
**Subject:** Release of student to peace officer

**When to Notify:** At time of suspension  
**Education Code** 48911  
**Board Policy/Administrative Regulation #:** See BP 5144.1, See AR 5144.1  
**Subject:** Notice of suspension

**When to Notify:** When original period of suspension is extended  
**Education Code** 48911  
**Board Policy/Administrative Regulation #:** See AR 5144.1  
**Subject:** Extension of suspension

**When to Notify:** Before holding a closes session re: suspension  
**Education Code** 48912  
**Board Policy/Administrative Regulation #:** See AR 5144.1

**Subject: Intent to hold a closed session re: suspension.**

**When to Notify: When student expelled from another district for certain acts seeks admission  
Education Code 48915.1, 48918**

**Board Policy/Administrative Regulation #: See AR 5119**

**Subject: Hearing re: possible danger presented by expelled student**

**When to Notify: When readmission is denied**

**Education Code 48916**

**Board Policy/Administrative Regulation #: See AR 5144.1**

**Subject: Reasons for denial; determination of assigned program**

**When to Notify: When expulsion occurs**

**Education Code 48916**

**Board Policy/Administrative Regulation #: See AR 5144.1**

**Subject: Description of readmission procedures**

**When to Notify: 10 calendar days before expulsion hearing**

**Education Code 48918**

**Board Policy/Administrative Regulation #: See AR 5144.1**

**Subject: Notice of expulsion hearing**

**When to Notify: When expulsion or suspension of expulsion occurs**

**Education Code 48918**

**Board Policy/Administrative Regulation #: See AR 5144.1**

**Subject: Decision to expel; right to appeal to county board; obligation to inform new district of status**

**When to Notify: One month before the scheduled minimum day**

**Education Code 48980**

**Board Policy/Administrative Regulation #: See BP 6111**

**Subject: When minimum days are scheduled after the beginning of the school year**

**When to Notify: When parents request guidelines for filing complaint of child abuse at a school site**

**Education Code 48987**

**Board Policy/Administrative Regulation #: See BP 1312.1**

**Subject: Guidelines for filing complaint of child abuse at a school site with local child protective agencies**

**When to Notify:** When student in danger of failing a course  
**Education Code** 49067  
**Board Policy/Administrative Regulation #:** See AR 5121  
**Subject:** Student in danger of failing a course

**When to Notify:** When student transfers from another district or private school  
**Education Code** 49068  
**Board Policy/Administrative Regulation #:** See AR 5125  
**Subject:** Right to receive copy of student's record and to challenge its content

**When to Notify:** Within 24 hours of release of information to a judge or probation officer  
**Education Code** 49076  
**Board Policy/Administrative Regulation #:** See AR 5125  
**Subject:** Release of student record information to a judge or probation officer for conducting a truancy mediation program or for presenting evidence at a truancy petition

**When to Notify:** Before release of information pursuant to court order or subpoena  
**Education Code** 49077  
**Board Policy/Administrative Regulation #:** See AR 5125  
**Subject:** Release of information pursuant to court order or subpoena

**When to Notify:** When injurious object is taken from student  
**Education Code** 49332  
**Board Policy/Administrative Regulation #:** See AR 5131.7  
**Subject:** Weapons and dangerous objects

**When to Notify:** When screening results in suspicion that student has scoliosis  
**Education Code** 49452.5  
**Board Policy/Administrative Regulation #:** See BP 5141.3  
**Subject:** Scoliosis screening

**When to Notify:** When test results in discovery of visual or hearing defects  
**Education Code** 49456  
**Board Policy/Administrative Regulation #:** See BP 5141.3  
**Subject:** Vision or hearing test

**When to Notify:** Before any test questioning personal beliefs

Education Code 51513  
Board Policy/Administrative Regulation #: See AR 5022  
Subject: Permission for test questioning personal beliefs

When to Notify: Within 14 days of instruction if arrangement made for guest speaker after beginning of school year  
Education Code 51938  
Board Policy/Administrative Regulation #: BP 6142.1  
Subject: Instruction in HIV/AIDS or sexual health education by guest speaker or outside consultant

When to Notify: When migrant education program is established  
Education Code 54444.2  
Board Policy/Administrative Regulation #: See BP 6175, See AR 6175  
Subject: Parent advisory council membership composition

When to Notify: When child participates in licensed child care and development program  
Health and Safety Code 1596.857  
Board Policy/Administrative Regulation #: See AR 5148  
Subject: Parent right to enter facility

When to Notify: When sharing student immunization information with an immunization system  
Health and Safety Code 120440  
Board Policy/Administrative Regulation #: See AR 5125  
Subject: Types of information to be shared, name and address of agency; acceptable use of they information; right to examine; right to refuse to share

When to Notify: When hearing is requested by person asked to leave school premises  
Penal Code 627.5  
Board Policy/Administrative Regulation #: See AR 3515.2  
Subject: Notice of hearing

When to Notify: When providing written decision in response to a complaint re: discrimination, special education, or noncompliance with laws regulating educational program  
5 CCR 4631  
Board Policy/Administrative Regulation #: See AR 1312.3  
Subject: Appeal rights and procedures

When to Notify: When child participates in licensed child care and development program  
5 CCR 18066



**Board Policy/Administrative Regulation #: See AR 5148**  
**Subject: Policies re: unexcused absences**

**When to Notify: For districts receiving Title I funds, when a child has been taught for four or more consecutive weeks by a teacher who is not "highly qualified"**  
**20 USC 6311**  
**Board Policy/Administrative Regulation #: See AR 4112.24**  
**Subject: Timely notice to parent of child's assignment**

**When to Notify: When school identified for program improvement or corrective action, within 30 days of failure to make annual yearly progress**  
**20 USC 6312**  
**Board Policy/Administrative Regulation #: See AR 0520.2**  
**Subject: Notice of failure to parents of ELL students**

**When to Notify: When school identified for program improvement or corrective action**  
**20 USC 6316**  
**Board Policy/Administrative Regulation #: See AR 0520.2, See AR 5116.1**  
**Subject: Explanation of identification, reasons, how problem will be addressed, how parents can become involved, transfer option, availability of supplemental services**

**When to Notify: For districts with schools that have been identified for program improvement or corrective action, annually**  
**20 USC 6316**  
**Board Policy/Administrative Regulation #: See AR 0520.2**  
**Subject: Availability of supplemental educational services, identity of providers, description of services, qualifications, effectiveness of providers**

**When to Notify: When district identified for program improvement**  
**20 USC 6316**  
**Board Policy/Administrative Regulation #: See AR 0520.3**  
**Subject: Explanation of status, reasons for identification, how parents can participate in upgrading district**

**When to Notify: For schools receiving Title I funds, upon development of parent involvement policy**  
**20 USC 6318**  
**Board Policy/Administrative Regulation #: See AR 6171**  
**Subject: Notice of policy**

**When to Notify:** For districts with secondary students receiving Title I funds  
20 USC 7908

**Board Policy/Administrative Regulation #:** See AR 5125.1

**Subject:** Notice that parents may request that district not release name, address, phone number of child to military recruiters without prior written consent

**When to Notify:** Prior to conducting initial evaluation

**Education Code** 56301, 56329 34 CFR 300.52

**Board Policy/Administrative Regulation #:** See AR 5125

**Subject:** Proposed evaluation plan, related parental rights, prior written notice

**When to Notify:** Within 15 days of referral for assessment, for special education programs

**Education Code** 56321

**Board Policy/Administrative Regulation #:** See AR 6164.4

**Subject:** Proposed assessment plan and related parental rights

#### **IV. Special Education Notices**

**When to Notify:** Prior to conducting initial evaluation

**Education Code** 56329, 34 CFR 300.502

**Board Policy/Administrative Regulation #:** See AR 6164.4

**Subject:** Proposed evaluation plan, related parental rights, prior written notice

**When to Notify:** 24 hours before IEP when district intending to record

**Education Code** 56341.1

**Board Policy/Administrative Regulation #:** See AR 6159

**Subject:** Intention to tape record IEP meeting

**When to Notify:** Early enough to ensure opportunity for parent to attend IEP meeting

**Education Code** 56341.5 34 CFR 300.322

**Board Policy/Administrative Regulation #:** See AR 6159

**Subject:** Time, purpose, location, who in attendance, participation of others with special knowledge, transition statements if appropriate

**When to Notify:** When parent orally requests review of IEP

**Education Code** 56343.5

**Board Policy/Administrative Regulation #:** See AR 6159

**Subject:** Need for written request

**When to Notify:** For student receiving exit exam waiver, prior to receipt of diploma  
**Education Code** 60852.4  
**Board Policy/Administrative Regulation #:** See AR 6162.52  
**Subject:** Right to FAPE

**When to Notify:** Before functional behavioral assessment begins  
**5 CCR** 3052  
**Board Policy/Administrative Regulation #:** See AR 6159.4  
**Subject:** Notification and consent

**When to Notify:** Before modification of behavioral intervention plan  
**5 CCR** 3052  
**Board Policy/Administrative Regulation #:** See AR 6159.4  
**Subject:** Need for modification, right to question modification

**When to Notify:** Within one school day of emergency intervention or serious property damage  
**5 CCR** 3052  
**Board Policy/Administrative Regulation #:** See AR 6159.4  
**Subject:** Emergency intervention

**When to Notify:** Whenever there is a proposal or refusal to initiate or change the identification, evaluation or placement, or FAPE  
**20 USC** 1415(c), **34 CFR** 300.503  
**Board Policy/Administrative Regulation #:** See AR 6159.1  
**Subject:** Prior written notice

**When to Notify:** Initial referral for evaluation  
**20 USC** 1415(d) **34 CFR** 300.503  
**Board Policy/Administrative Regulation #:** See AR 6159.1  
**Subject:** Prior written notice and procedural safeguards notice

**When to Notify:** Registration of complaint  
**20 USC** 1415(d) **34 CFR** 300.504  
**Board Policy/Administrative Regulation #:** See AR 6159.1  
**Subject:** Procedural safeguards notice

**When to Notify:** Disciplinary action taken for dangerous behavior

20 USC 1415(k) 34 CFR 300.530

Board Policy/Administrative Regulation #: See AR 5144.2

Subject: Decision and procedural safeguards notice

When to Notify: Suspension or change of placement for more than 10 days

20 USC 1415(k) 34 CFR 300.530

Board Policy/Administrative Regulation #: See AR 5144.2

Subject: Decision and procedural safeguards notice

When to Notify: Upon requesting a due process hearing

20 USC 1415(k), 34 CFR 300.508

Board Policy/Administrative Regulation #: See AR 6159.1

Subject: Child's name, address, school, description of problem, proposed resolution

#### V. Classroom Notices

When to Notify: In each classroom in each school

Education Code 35186

Board Policy/Administrative Regulation #: See AR 1312.4, See E 1312.4

Subject: Complaint rights re: sufficiency instructional materials, teacher vacancy and misassignment, maintenance of facilities, and, for classrooms with grades 10-12, right of students who did not pass the exit exam to receive intensive instruction after completion of grade 12

ExhibitCENTER UNIFIED SCHOOL DISTRICT

version: June 18, 2008      Antelope, California

**PHYSICAL EDUCATION AND ACTIVITY**

Note: The following **optional** policy may be revised to reflect district practice and the grade levels offered by the district. See the accompanying administrative regulation for definitions of "physical education" and "physical activity" based on the California Department of Education's (CDE) 2009 Physical Education Framework for California Public Schools.

The federal Child Nutrition and Women, Infants and Children (WIC) Reauthorization Act of 2004 (42 USC 1751 Note) mandates each district participating in federal meals programs to adopt a districtwide student wellness policy, including goals for physical activity. See BP 5030 - Student Wellness for language fulfilling this mandate. The following policy also may incorporate goals for physical activity.

Education Code 33352 requires the CDE, as part of the Categorical Program Monitoring (CPM) process, to monitor districts' compliance with specified state physical education requirements which are reflected in the following policy and the accompanying administrative regulation.

The Governing Board recognizes the positive benefits of physical activity on student health and academic achievement. The district shall provide all students the opportunity to be physically active on a regular basis through high-quality physical education instruction and may provide additional opportunities for physical activity throughout the school day. The district's physical education and activity programs shall support the district's coordinated student wellness program and encourage students' lifelong fitness.

(cf. 5030 - Student Wellness)

(cf. 6142.8 - Comprehensive Health Education)

Note: Education Code 51210 and 51220 require the district's course of study for grades 1-12 to include physical education, with an emphasis on physical activities conducive to health and vigor of body and mind; see AR 6143 - Courses of Study. The CDE's 2009 Physical Education Framework describes components of a comprehensive physical education program based on the voluntary Physical Education Model Content Standards adopted by the State Board of Education (SBE).

The district's physical education program shall provide a developmentally appropriate sequence of instruction aligned with the state's model content standards and curriculum framework. The Superintendent or designee shall ensure that the district's program provides students with equal opportunities for instruction and participation regardless of gender in accordance with law.

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

(cf. 6011 - Academic Standards)

(cf. 6143 - Courses of Study)

Note: The following two **optional** paragraphs are for use by districts that maintain high schools.

According to the CDE's Physical Education Framework, it is the obligation of the Governing Board to determine whether to grant physical education credit for a particular course, including, but not limited to, junior ROTC, marching band, cheerleading, or drill team. In making this determination, the Board must determine how the particular course supports an overall course of study for grades 9-12 that includes the eight content areas specified in Education Code 33352 and 5 CCR 10060 for physical education programs. While it is not necessary that each individual course include all eight content areas, the course offerings

## PHYSICAL EDUCATION AND ACTIVITY (continued)

must be structured so that all students receive opportunities for instruction in each of the eight areas across grades 9-12. The CDE's Physical Education FAQs add that any course for which physical education credit is granted must also meet requirements in Education Code 33352 pertaining to minimum instructional minutes, various reporting requirements, and the assignment of an appropriately credentialed teacher.

The overall course of study for grades 9-12 shall include the effects of physical activity upon dynamic health, the mechanics of body movement, aquatics, gymnastics and tumbling, individual and dual sports, rhythms and dance, team sports, and combatives. (Education Code 33352; 5 CCR 10060)

The Board shall approve the courses in grades 9-12 for which physical education credit may be granted.

*(cf. 6146.1 - High School Graduation Requirements)*  
*(cf. 6146.11 - Alternative Credits Toward Graduation)*

Note: The following **optional** paragraph is for use by all districts and may be revised to reflect district practice. The U.S. Department of Health and Human Services' (HHS) 2008 Physical Activity Guidelines for Americans recommends that children and adolescents participate in at least 60 minutes of moderate to vigorous physical activity per day, which can be accrued in smaller increments throughout the day. To help reach this goal, HHS recommends that students be engaged in moderate to vigorous physical activity for at least 50 percent of physical education class time. See the accompanying administrative regulation for definitions of "moderate physical activity" and "vigorous physical activity." Also see CSBA's Fact Sheet on Moderate to Vigorous Physical Activity in Physical Education to Improve Health and Academic Outcomes.

The district's physical education program shall engage students in moderate to vigorous physical activity, as defined in the accompanying administrative regulation, for at least 50 percent of class or session time. The Superintendent or designee shall develop strategies to monitor the amount of moderate to vigorous physical activity that takes place in the physical education instructional program.

Students with disabilities shall be provided instruction in physical education in accordance with their individualized education program or Section 504 accommodation plan.

*(cf. 6159 - Individualized Education Program)*  
*(cf. 6164.6 - Identification and Education Under Section 504)*

During air pollution episodes, extreme weather, or other inclement conditions, physical education staff shall make appropriate adjustments to the program or shall seek alternative indoor space to enable students to participate in active physical education.

*(cf. 3514 - Environmental Safety)*  
*(cf. 5141.7 - Sun Safety)*

## **PHYSICAL EDUCATION AND ACTIVITY (continued)**

### **Staffing**

Physical education instruction shall be delivered by appropriately credentialed teachers who may be assisted by instructional aides, paraprofessionals, and/or volunteers.

*(cf. 1240 - Volunteer Assistance)*

*(cf. 4112.2 - Certification)*

*(cf. 4222 - Teacher Aides/Paraprofessionals)*

The district shall provide physical education teachers with continuing professional development, including classroom management and instructional strategies designed to keep students engaged and active and to enhance the quality of physical education instruction and assessment.

*(cf. 4131 - Staff Development)*

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

### **Physical Fitness Testing**

Note: The following section may be revised to reflect grade levels offered by the district. Education Code 60800 requires districts to administer a physical fitness test to students in grades 5, 7, and 9. The SBE has designated FITNESSGRAM as the required physical fitness test. See the accompanying administrative regulation for testing requirements.

The Superintendent or designee shall annually administer the physical fitness test designated by the State Board of Education to students in grades 5, 7, and 9. (Education Code 60800; 5 CCR 1041)

### **Temporary Exemptions**

Note: The following section is **optional**. Education Code 51241 authorizes, but does not require, the district to grant temporary exemptions from physical education under the conditions described in items #1-2 below.

The Superintendent or designee may grant a temporary exemption from physical education under either of the following conditions: (Education Code 51241)

1. The student is ill or injured and a modified program to meet his/her needs cannot be provided.
2. The student is enrolled for one-half time or less.

## **PHYSICAL EDUCATION AND ACTIVITY (continued)**

### **Two-Year Exemptions**

**Note:** The following **optional** section is for use by districts that maintain grades 10-12. Education Code 51241 authorizes, but does not require, the district to grant a two-year exemption from physical education to eligible students in grades 10-12.

Pursuant to Education Code 51241, in order to be eligible for the two-year exemption, students are required to "satisfactorily" meet at least five of the six standards of the state's physical fitness test in grade 9. Students are considered to have satisfactorily met a standard on the FITNESSGRAM if they score in the "healthy fitness zone" on that standard. The six fitness areas measured by FITNESSGRAM are aerobic capacity, body composition, abdominal strength and endurance, trunk extensor strength and flexibility, upper body strength and endurance, and flexibility.

With the student's consent, the Superintendent or designee may exempt a student from physical education courses for any two years during grades 10-12 provided that the student has satisfactorily met at least five of the six standards of the state's physical fitness test in grade 9. (Education Code 51241)

**Note:** In addition to administering the physical fitness test to students in grade 9, Education Code 51241 authorizes districts to administer the test to students in grades 10-12 so that such students may qualify for the two-year exemption. The following paragraph is **optional**.

Upon request by students and/or their parents/guardians, the Superintendent or designee may administer the physical fitness test to students in grades 10-12 who need to pass the test in order to qualify for a two-year exemption from physical education courses.

### **Permanent Exemptions**

**Note:** The following section is **optional**. Education Code 51241 authorizes, but does not require, the district to grant permanent exemptions from physical education to an individual student under the conditions described in items #1-3 below.

**The Board should delete any categories of exemptions that it does not wish to allow.**

The Superintendent or designee may grant a permanent exemption from physical education to an individual student under any of the following conditions: (Education Code 51241)

1. The student is age 16 years or older and has been enrolled in grade 10 for one or more academic years.
2. The student is enrolled as a postgraduate student.
3. The student is enrolled in a juvenile home, ranch, camp, or forestry camp school with scheduled recreation and exercise.



## **PHYSICAL EDUCATION AND ACTIVITY (continued)**

### **Other Exemptions**

Note: The following **optional** section is for use by districts that maintain high schools. Education Code 51222, 51242, and 52316 authorize, but do not require, the following exemptions from physical education courses. **The Board should select the items that reflect the types of exemptions that it wishes to allow.**

The Superintendent or designee may grant an exemption from physical education under the following special circumstances:

1. The student in grades 10-12 is excused for up to 24 clock hours in order to participate in automobile driver training. (Education Code 51222)
2. The student in grades 10-12 attends a regional occupational center or program and attendance in physical education courses results in hardship because of the travel time involved. (Education Code 52316)
3. The student is in high school and is engaged in a regular school-sponsored interscholastic athletic program carried on wholly or partially after regular school hours. (Education Code 51242)

*(cf. 6145.2 - Athletic Competition)*

### **Additional Opportunities for Physical Activity**

Note: The following section is **optional**. See the accompanying administrative regulation for sample strategies for physical activity opportunities outside the physical education program. Also see CSBA's Fact Sheet on Maximizing Opportunities for Physical Activity During the School Day.

The Superintendent or designee shall develop strategies to supplement physical education instruction with additional opportunities for students to be physically active before, during, and after the school day.

*(cf. 1330.1 - Joint Use Agreements)*

*(cf. 5142.2 - Safe Routes to School Program)*

*(cf. 5148 - Child Care and Development Program)*

*(cf. 5148.2 - Before/After School Program)*

*(cf. 6145 - Extracurricular and Cocurricular Activities)*

*(cf. 6145.5 - Student Organizations and Equal Access)*

### **Program Evaluation**

Note: The following **optional** section should be revised to reflect district practice. Districts that do not maintain high schools or do not offer any of the exemptions described in the sections above on "Two-Year Exemptions" or "Permanent Exemptions" should modify the following paragraph to delete reports of two-year and permanent exemptions.

**PHYSICAL EDUCATION AND ACTIVITY (continued)**

The Superintendent or designee shall annually report to the Board the results of the state physical fitness testing for each school and applicable grade level. He/she shall also report to the Board regarding the number of instructional minutes offered in physical education for each grade level, the number of two-year and permanent exemptions granted pursuant to Education Code 51241, and any other data agreed upon by the Board and the Superintendent or designee to evaluate program quality and the effectiveness of the district's program in meeting goals for physical activity.

(cf. 0500 - Accountability)

(cf. 6190 - Evaluation of the Instructional Program)

*Legal Reference:*EDUCATION CODE

33126 School accountability report card

33350-33354 CDE responsibilities re: physical education

35256 School accountability report card

49066 Grades; physical education class

51210 Course of study, grades 1-6

51220 Course of study, grades 7-12

51222 Physical education

51223 Physical education, elementary schools

51241 Temporary, two-year or permanent exemption from physical education

51242 Exemption from physical education for athletic program participants

52316 Excuse from attending physical education classes

60800 Physical performance test

CODE OF REGULATIONS, TITLE 5

1040-1048 Physical performance test

3051.5 Adapted physical education for individuals with exceptional needs

10060 Criteria for high school physical education programs

UNITED STATES CODE, TITLE 29

794 Rehabilitation Act of 1973, Section 504

UNITED STATES CODE, TITLE 42

1751 Note Local wellness policy

ATTORNEY GENERAL OPINIONS

53 Ops.Cal.Atty.Gen. 230 (1970)

*Management Resources:*CSBA PUBLICATIONS

Active Bodies, Active Minds: Physical Activity and Academic Achievement, Fact Sheet, February 2010

Maximizing Opportunities for Physical Activity Through Joint Use of Facilities, Policy Brief, rev. February 2010

Maximizing Opportunities for Physical Activity During the School Day, Fact Sheet, November 2009

Moderate to Vigorous Physical Activity in Physical Education to Improve Health and Academic Outcomes, Fact Sheet, November 2009

*Management Resources continued: (see next page)*

## PHYSICAL EDUCATION AND ACTIVITY (continued)

### *Management Resources: (continued)*

#### CSBA PUBLICATIONS (continued)

*Building Healthy Communities: A School Leader's Guide to Collaboration and Community Engagement*, 2009

*Physical Education and California Schools*, Policy Brief, rev. October 2007

*Monitoring for Success: Student Wellness Policy Implementation Monitoring Report and Guide*, 2007

*Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide*, rev. April 2006

#### CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

*Physical Education Framework for California Public Schools: Kindergarten Through Grade 12*, 2009

*Physical Education Model Content Standards for California Public Schools: Kindergarten Through Grade 12*, January 2005

*Adapted Physical Education Guidelines for California Schools*, 2003

#### CENTERS FOR DISEASE CONTROL AND PREVENTION PUBLICATIONS

*School Health Index for Physical Activity and Healthy Eating: A Self-Assessment and Planning Guide for Elementary and Middle/High Schools*, 2000

#### U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES PUBLICATIONS

*2008 Physical Activity Guidelines for Americans*, October 2008

#### WEB SITES

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

California Department of Education, Physical Fitness Testing: <http://www.cde.ca.gov/ta/tg/pf>

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

California Project LEAN (Leaders Encouraging Activity and Nutrition):  
<http://www.californiaprojectlean.org>

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

Educational Data System, California physical fitness: <http://www.eddata.com/projects/current/cpf>

Healthy People 2010: <http://www.healthypeople.gov>

National Association for Sport and Physical Education: <http://www.aahperd.org/naspe>

President's Council on Physical Fitness and Sports: <http://www.fitness.gov>

The California Endowment: <http://www.calendow.org>

U.S. Department of Health and Human Services: <http://www.health.gov>

# **Board Policy**

## **Physical Education**

**BP 6142.7**

### **Instruction**

The Governing Board recognizes the positive benefits of physical activity on student health and academic achievement. The Board desires to provide a physical education program that supports the district's coordinated student wellness program, provides an adequate amount of moderate to vigorous physical activity, builds interest and proficiency in movement skills, and encourages students' lifelong fitness through physical activity. Besides promoting high levels of personal achievement and a positive self-image, physical education activities should teach students how to cooperate in the achievement of common goals.

(cf. 5030 - Student Wellness)

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

(cf. 6142.8 - Comprehensive Health Education)

(cf. 6145.2 - Athletic Competition)

(cf. 6146.1 - High School Graduation Requirements)

(cf. 6146.11 - Alternative Credits Toward Graduation)

The Board shall approve the components of the physical education program. The district's program shall be aligned with state model content standards and curriculum frameworks for physical education and shall provide a developmentally appropriate sequence of instruction including, at appropriate grade levels, the effects of physical activity upon dynamic health, the mechanics of body movement, aquatics, gymnastics and tumbling, individual and dual sports, rhythms and dance, team sports, and combatives such as self-defense and fencing.

(cf. 6011 - Academic Standards)

(cf. 6143 - Courses of Study)

The district's program shall provide equal opportunities for participation in physical education instruction regardless of gender.

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

An appropriate alternative activity or exemption from the physical education class shall be provided for a student with disabilities in accordance with his/her individualized education program or Section 504 accommodation plan.

(cf. 6159 - Individualized Education Program)

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

Physical education staff shall appropriately adjust the amount or type of physical exercise

required of students during air pollution episodes, hot weather, or other inclement conditions or as needed to accommodate individual student health needs.

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

The district's physical education program shall be provided by appropriately credentialed teachers. Continuing professional development shall be offered to physical education teachers and to classroom teachers serving as instructors of physical education in order to enhance the quality of instruction and the variety of activities offered.

(cf. 4112.2 - Certification)

(cf. 4131 - Staff Development)

(cf. 4222 - Teacher Aides/Paraprofessionals)

The Superintendent or designee shall annually administer the physical fitness test designated by the State Board of Education to students in grades 5, 7, and 9. (Education Code 60800)

The Superintendent or designee shall annually report to the Board the results of the physical fitness testing for each school and applicable grade level. He/she shall also report to the Board regarding the number of instructional minutes offered in physical education for each grade level, the number of two-year and permanent exemptions granted pursuant to Education Code 51241 as described below, and any other data agreed upon by the Board and the Superintendent or designee to evaluate program quality and the effectiveness of the district's program in meeting goals for physical activity.

(cf. 0500 - Accountability)

(cf. 6190 - Evaluation of the Instructional Program)

The Superintendent or designee shall report the aggregate results of the physical fitness testing in the annual school accountability report card required by Education Code 33126 and 35256. (Education Code 60800)

(cf. 0510 - School Accountability Report Card)

#### Temporary Exemptions

The Superintendent or designee may grant a temporary exemption from physical education under either of the following conditions: (Education Code 51241)

1. The student is ill or injured and a modified program to meet his/her needs cannot be provided.
2. The student is enrolled for one-half time or less.

#### Two-Year Exemptions

With a student's consent, the Superintendent or designee may exempt the student from any two years of physical education courses during grades 10-12 provided that the student has satisfactorily met any five of the six standards of the state's physical fitness test in grade 9. (Education Code 51241)

Upon request by students and/or their parents/guardians, the Superintendent or designee may administer the physical fitness test to students in grades 10-12 who need to pass the test in order to qualify for a two-year exemption from physical education courses.

#### **Permanent Exemptions**

The Superintendent or designee may grant a permanent exemption from physical education to a student under any of the following conditions: (Education Code 51241)

1. The student is age 16 years or older and has been enrolled in grade 10 for one or more academic years.
2. The student is enrolled as a postgraduate student.
3. The student is enrolled in a juvenile home, ranch, camp, or forestry camp school with scheduled recreation and exercise.

#### **Other Exemptions**

The Superintendent or designee may grant an exemption from physical education under the following special circumstances:

1. The student in grades 10-12 is excused for up to 24 clock hours in order to participate in automobile driver training. (Education Code 51222)
2. The student in grades 10-12 attends a regional occupational center or program and attendance in physical education courses results in hardship because of the travel time involved. (Education Code 52316)

(cf. 6145.2 - Athletic Competition)

#### **Legal Reference:**

##### **EDUCATION CODE**

33126 School accountability report card  
33350-33354 CDE responsibilities re: physical education  
35256 School accountability report card  
49066 Grades; physical education class  
51210 Course of study, grades 1-6  
51220 Course of study, grades 7-12  
51222 Physical education

51223 Physical education, elementary schools  
51241 Temporary or permanent exemption from physical education  
51242 Exemption from physical education for athletic program participants  
52316 Excuse from attending physical education classes  
60800 Physical performance test  
CODE OF REGULATIONS, TITLE 5  
1040-1048 Physical performance test  
3051.5 Adapted physical education for individuals with exceptional needs  
10060 Criteria for high school physical education programs  
UNITED STATES CODE, TITLE 29  
794 Rehabilitation Act of 1973, Section 504  
UNITED STATES CODE, TITLE 42  
1751 Note Local wellness policy  
ATTORNEY GENERAL OPINIONS  
53 Ops.Cal.Atty.Gen. 230 (1970)

**Management Resources:**

**CSBA PUBLICATIONS**

Physical Education and California Schools, Policy Brief, rev. October 2007

Monitoring for Success: Student Wellness Policy Implementation Monitoring Report and Guide, 2007

Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide, rev. April 2006

**CALIFORNIA DEPARTMENT OF EDUCATION PROGRAM ADVISORIES**

0418.89 Physical Education, April 18, 1989

**CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS**

Physical Education Model Content Standards for California Public Schools: Kindergarten Through Grade 12, January 2005

Physical Education Framework for California Public Schools: Kindergarten Through Grade 12, 1996

**CALIFORNIA DEPARTMENT OF HEALTH SERVICES PUBLICATIONS**

School Idea and Resource Mini Kit, 2000

**CENTERS FOR DISEASE CONTROL AND PREVENTION PUBLICATIONS**

School Health Index for Physical Activity and Healthy Eating: A Self-Assessment and Planning Guide for Elementary and Middle/High Schools, 2000

**NATIONAL ASSOCIATION OF STATE BOARDS OF EDUCATION PUBLICATIONS**

Fit, Healthy and Ready to Learn, 2000

**WEB SITES**

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

California Department of Education, Physical Fitness Testing: <http://www.cde.ca.gov/ta/tg/pf>

California Department of Health Services, School Health Connections:

<http://www.dhs.ca.gov/ps/cdic/shc/default.htm>

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

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

Educational Data System, California physical fitness:

<http://www.eddata.com/projects/current/cpf>

FITNESSGRAMR, Cooper Institute: <http://www.fitnessgram.net>

Healthy People 2010: <http://www.healthypeople.gov>  
National Association for Sports and Physical Education: <http://www.aahperd.org/naspe>  
National Association of State Boards of Education (NASBE): <http://www.nasbe.org>  
National School Boards Association: <http://www.nsba.org>  
The California Endowment: <http://www.calendow.org>

Policy CENTER UNIFIED SCHOOL DISTRICT  
adopted: February 20, 2008 Antelope, California



**PHYSICAL EDUCATION AND ACTIVITY****Definitions**

Note: The following **optional** section reflects definitions provided in the California Department of Education's (CDE) 2009 Physical Education Framework for California Public Schools.

*Physical education* is a sequential educational program that teaches students to understand and participate in regular physical activity for developing and maintaining physical fitness throughout their lifetimes, understand and improve their motor skills, enjoy using their skills and knowledge to establish a healthy lifestyle, and understand how their bodies work.

*Physical activity* is bodily movement that is produced by the contraction of skeletal muscle and that substantially increases energy expenditure, including exercise, sport, dance, and other movement forms.

*Moderate physical activity* is any activity which generally requires sustained, rhythmic movements and refers to a level of effort a healthy individual might expend while, for example, walking briskly, dancing, swimming, or bicycling on level terrain. A person should feel some exertion but should be able to carry on a conversation comfortably during the activity.

*Vigorous physical activity* is any activity which generally requires sustained, rhythmic movements and refers to a level of effort a healthy individual might expend while, for example, jogging, participating in high-impact aerobic dancing, swimming continuous laps, or bicycling uphill. Vigorous physical activity may be intense enough to result in a significant increase in heart and respiration rate.

**Instructional Time**

Note: Education Code 51210 requires the adopted course of study for grades 1-6 to include instruction in physical education for at least 200 minutes each 10 school days, exclusive of recesses and the lunch period. For grades 7-12, Education Code 51222 requires that all students, except students excused or exempted pursuant to Education Code 51241, attend courses of physical education for at least 400 minutes each 10 school days. However, pursuant to Education Code 51223, elementary school districts maintaining grades 1-8 must provide instruction in physical education for students in grades 7-8 that matches the requirement for grades 1-6 of not less than 200 minutes each 10 school days, exclusive of recesses and the lunch period. The CDE's Categorical Program Monitoring process reviews district compliance with these instructional time requirements. The district should select the option below that reflects the grade levels offered by the district.

When determining the number of instructional minutes, it is recommended that districts exclude time spent walking to and from class or engaging in other physical activity conducted outside the physical education instructional program, such as in regular classroom activities or before/after school programs.

## **PHYSICAL EDUCATION AND ACTIVITY (continued)**

### **~~OPTION 1: (Elementary Districts with any of Grades 1-8)~~**

~~Instruction in physical education shall be provided for a total period of time of not less than 200 minutes each 10 school days. (Education Code 51210, 51223)~~

### **~~OPTION 2: (High School Districts)~~**

~~Instruction in physical education shall be provided for a total period of time of not less than 400 minutes each 10 school days. (Education Code 51222)~~

### **OPTION 3: (Unified School Districts)**

Instruction in physical education shall be provided for a total period of time of not less than 200 minutes each 10 school days for students in grades 1-6 and not less than 400 minutes each 10 school days for students in grades 7-12. (Education Code 51210, 51222)

Note: The remainder of this section is for use by districts that maintain high schools. See the accompanying Board policy for information about the exemptions described in the following paragraphs.
---

Students in grades 10-12 who have been granted a two-year exemption pursuant to Education Code 51241(b) shall be offered a variety of elective physical education courses of not less than 400 minutes each 10 school days. (Education Code 51222)

Students in grades 10-12 who have been granted a two-year or permanent exemption from physical education pursuant to Education Code 51241(b)(1) or (c) shall not be permitted to attend fewer total hours of courses and classes than they would have attended if enrolled in a physical education course. (Education Code 51241)

Students in a regional occupational program or center who are exempted from physical education pursuant to Education Code 52316 shall have a minimum school day of 180 minutes. (Education Code 52316)

*(cf. 6178.2 - Regional Occupational Center/Program)*

### **Monitoring Moderate to Vigorous Physical Activity**

Note: The following optional section may be revised to reflect district practice. See the accompanying Board policy for language establishing an expectation for students to be engaged in moderate to vigorous physical activity for 50 percent of physical education class/session time.
--

To monitor whether students are engaged in moderate to vigorous physical activity for at least 50 percent of physical education class or session time, the Superintendent or designee may:

## **PHYSICAL EDUCATION AND ACTIVITY (continued)**

1. Develop methods to estimate the amount of time students spend in moderate to vigorous physical activity or the number of students who are inactive during physical education classes
2. Provide physical education teachers with staff development, self-monitoring tools, stopwatches, and/or heart rate monitors to assist them in planning and assessing the level of activity in their classes

*(cf. 4115 - Evaluation/Supervision)*

### **Physical Fitness Testing**

Note: Education Code 60800 requires districts to administer a physical fitness test to students in grades 5, 7, and 9. The State Board of Education has designated FITNESSGRAM as the required physical fitness test. Pursuant to 5 CCR 1041, this requirement also applies to students who attend schools that are on a block schedule and students who may not be enrolled in physical education classes during the annual assessment window.

The following paragraph should be modified to reflect grade levels offered by the district. In addition, if the district has chosen to administer the test in any of grades 10-12 (see accompanying Board policy), the following paragraph should be modified accordingly.

During the annual assessment window between the months of February through May, students in grades 5, 7, and 9 shall be administered the physical fitness test designated by the State Board of Education. (Education Code 60800; 5 CCR 1041)

*(cf. 6162.5 - Student Assessment)*

The Superintendent or designee may provide a make-up date for students who are unable to take the test based on absence or temporary physical restriction or limitations, such as students recovering from illness or injury. (5 CCR 1043)

Note: The following paragraph is **optional**. 5 CCR 1043.4 authorizes, but does not require, the district to designate a physical fitness test coordinator. If the district chooses to designate a test coordinator, his/her duties must include those described in 5 CCR 1043.4.

On or before November 1 of each school year, the Superintendent may designate an employee to serve as the district's physical fitness test coordinator and so notify the test contractor. The test coordinator shall serve as the liaison between the district and California Department of Education for all matters related to the physical fitness test. His/her duties shall be those specified in 5 CCR 1043.4, including, but not limited to, overseeing the administration of the test and the collection and return of all test data to the test contractor. (5 CCR 1043.4)

## **PHYSICAL EDUCATION AND ACTIVITY (continued)**

Students shall be provided with their individual results after completing the physical performance testing. The test results may be provided in writing or orally as the student completes the testing and shall be included in his/her cumulative record. (Education Code 60800; 5 CCR 1043.10, 1044)

*(cf. 5125 - Student Records)*

Note: The following paragraph is optional.
--

Each student's test results shall also be provided to his/her parents/guardians.

The Superintendent or designee shall report the aggregate results of the physical fitness testing in the annual school accountability report card required by Education Code 33126 and 35256. (Education Code 60800)

*(cf. 0510 - School Accountability Report Card)*

### **Testing Variations**

All students may be administered the state's physical fitness test with the following test variations: (5 CCR 1047)

1. Extra time within a testing day
2. Test directions that are simplified or clarified

All students may have the following test variations if they are regularly used in the classroom: (5 CCR 1047)

1. Audio amplification equipment
2. Separate testing for individual students provided that they are directly supervised by the test examiner
3. Manually Coded English or American Sign Language to present directions for test administration

Students with a physical disability and students who are physically unable to take all of the test shall undergo as much of the test as their physical condition will permit. (Education Code 60800; 5 CCR 1047)

Students with disabilities may be provided the following accommodations if specified in their individualized education program (IEP) or Section 504 plan: (5 CCR 1047)

## **PHYSICAL EDUCATION AND ACTIVITY (continued)**

1. Administration of the test at the most beneficial time of day to the student after consultation with the test contractor
2. Administration of the test by a test examiner to the student at home or in the hospital
3. Any other accommodation specified in the student's IEP or Section 504 plan for the physical fitness test

*(cf. 6159 - Individualized Education Program)*

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

Identified English learners may be allowed the following additional test variations if regularly used in the classroom: (5 CCR 1048)

1. Separate testing with other English learners, provided that they are directly supervised by the test examiner
2. Test directions translated into their primary language, and the opportunity to ask clarifying questions about the test directions in their primary language

### **Additional Opportunities for Physical Activity**

Note: The following optional section may be revised to reflect district practice. Item #1 below should be modified or deleted by districts that do not maintain elementary schools.
---

The Superintendent or designee shall implement strategies for increasing opportunities for physical activity outside the physical education program, which may include, but not be limited to:

1. Training recess and lunch supervisors on methods to engage students in moderate to vigorous physical activity

*(cf. 1240 - Volunteer Assistance)*

*(cf. 4231 - Staff Development)*

*(cf. 5030 - Student Wellness)*

2. Encouraging teachers to incorporate physical activity into the classroom
3. Establishing extracurricular activities that promote physical activity, such as school clubs, intramural athletic programs, dance performances, special events, and competitions

*(cf. 6145 - Extracurricular and Cocurricular Activities)*

*(cf. 6145.5 - Student Organizations and Equal Access)*

**PHYSICAL EDUCATION AND ACTIVITY (continued)**

4. Incorporating opportunities for physical activity into before- or after-school programs and/or child care and development programs

*(cf. 5148 - Child Care and Development Program)*

*(cf. 5148.2 - Before/After School Program)*

5. Exploring opportunities for joint use of facilities or grounds in order to provide adequate space for students and community members to engage in recreational activities

*(cf. 1330.1 - Joint Use Agreements)*

6. Developing business partnerships to maximize resources for physical activity equipment and programs

*(cf. 1700 - Relations Between Private Industry and the Schools)*

7. Developing programs to encourage and facilitate walking, bicycling, or other active transport to and from school

*(cf. 5142.2 - Safe Routes to School Program)*

# **Administrative Regulation**

## **Physical Education**

**AR 6142.7**

### **Instruction**

Instruction in physical education shall be provided for a total period of time of not less than 200 minutes each 10 school days for students in grades 1-6 and not less than 400 minutes each 10 school days for students in grades 7-12. (Education Code 51210, 51222)

Students in grades 10-12 who are exempted from physical education pursuant to Education Code 51241(b)(1) or (c) shall not be permitted to attend fewer total hours of courses and classes than they would have attended if enrolled in a physical education course. Students in a regional occupational program or center who are exempted from physical education pursuant to Education Code 52316 shall have a minimum school day of 180 minutes. (Education Code 51241, 52316)

### **Physical Performance Testing**

During the month of February, March, April or May, students in grades 5, 7 and 9 shall undergo the physical performance testing designated by the State Board of Education. Students with a physical disability and students who are physically unable to take all of the test shall undergo as much of the test as their physical condition will permit. (Education Code 60800)

(cf. 6162.5 - Student Assessment)

Students shall be provided with their individual results after completing the physical performance testing. The test results may be provided orally as the student completes the testing. (Education Code 60800)

Each student's scores on the physical performance test shall be included in his/her cumulative record. (5 CCR 1044)

(cf. 5125 - Student Records)

Regulation      CENTER UNIFIED SCHOOL DISTRICT  
approved: March 3, 2004      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 2, 2010

**# Attached Pages**           

**From:** Scott A. Loehr, Superintendent

**Principal/Administrator Initials:**           

**SUBJECT: First Reading: Board Policies/Regulations/Exhibits**  
(Significant Changes)

Replace	BP/AR	1240	Volunteer Assistance
Replace	BP/AR	3320	Claims and Actions Against the District
Replace	BP/AR	3515.2	Disruptions
Replace	BP/AR	4127/4227/4327	Temporary Athletic Team Coaches
Replace	BP	5145.11	Questioning and Apprehension by Law Enforcement
Delete	AR	5145.11	Questioning and Apprehension by Law Enforcement
Add	E	5145.11	Questioning and Apprehension by Law Enforcement
Replace	BP	5145.3	Nondiscrimination/Harassment

**RECOMMENDATION:** CUSD Board of Trustees approve the first reading of presented policies/regulations/exhibits.



## **VOLUNTEER ASSISTANCE**

The Governing Board recognizes that volunteer assistance in schools can enrich the educational program, increase supervision of students, and contribute to school safety while strengthening the schools' relationships with the community. The Board encourages parents/guardians and other members of the community to share their time, knowledge, and abilities with students. The Board also encourages community members to serve as mentors providing support and motivation to students.

*(cf. 1000 - Concepts and Roles)*

*(cf. 1700 - Relations Between Private Industry and the Schools)*

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

*(cf. 4222 - Teacher Aides/Paraprofessionals)*

*(cf. 5020 - Parent Rights and Responsibilities)*

*(cf. 5148 - Child Care and Development)*

*(cf. 5148.2 - Before/After School Programs)*

*(cf. 6020 - Parent Involvement)*

*(cf. 6171 - Title I Programs)*

The Superintendent or designee shall develop and implement a plan for recruiting, screening, and placing volunteers, including strategies for reaching underrepresented groups of parents/guardians and community members. He/she may also recruit community members to serve as mentors and/or make appropriate referrals to community organizations.

*(cf. 1020 - Youth Services)*

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

<p>Note: Education Code 45347 and 45349 require certain volunteers, depending on the types of duties they will be performing, to meet qualifications pertaining to basic skills proficiency, tuberculosis testing, and/or criminal background checks; see the accompanying administrative regulation. In addition, beginning July 1, 2010, Education Code 49024, added by AB 1025 (Ch. 379, Statutes of 2009), requires any volunteer who supervises, directs, or coaches a student activity program sponsored by or affiliated with the district to submit to a criminal background check in order to obtain an Activity Supervisor Clearance Certificate from the Commission on Teacher Credentialing.</p>
--

The Superintendent or designee shall establish procedures for determining whether volunteers possess the qualifications, if any, required by law and administrative regulation for the types of duties they will perform.

As appropriate, the Superintendent or designee shall provide volunteers with information about school goals, programs, and practices and an orientation or other training related to their specific responsibilities. Employees who supervise volunteers shall ensure that volunteers are assigned meaningful responsibilities that utilize their skills and expertise and maximize their contribution to the educational program.

## **VOLUNTEER ASSISTANCE (continued)**

Volunteer maintenance work shall be limited to those projects that do not replace the normal maintenance duties of classified staff. The Board nevertheless encourages volunteers to work on short-term projects to the extent that they enhance the classroom or school, do not significantly increase maintenance workloads, and comply with employee negotiated agreements.

Volunteer aides shall not be used to assist certificated staff in performing teaching or administrative responsibilities in place of regularly authorized classified employees who have been laid off. (Education Code 35021)

Volunteers shall act in accordance with district policies, regulations, and school rules. The Superintendent or designee shall be responsible for investigating and resolving complaints regarding volunteers.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*  
*(cf. 3515.2 - Disruptions)*

The Board encourages principals to develop a means for recognizing the contributions of each school's volunteers.

*(cf. 1150 - Commendations and Awards)*

The Superintendent or designee shall periodically report to the Board regarding the district's volunteer assistance program.

*Legal Reference: (see next page)*

## **VOLUNTEER ASSISTANCE (continued)**

### *Legal Reference:*

#### EDUCATION CODE

8482-8484.6 *After School Education and Safety program*

8484.7-8484.9 *21st Century Community Learning Center program*

35021 *Volunteer aides*

35021.1 *Automated records check*

35021.3 *Registry of volunteers for before/after school programs*

44010 *Sex offense; definition*

44227.5 *Classroom participation by college methodology faculty*

44814-44815 *Supervision of students during lunch and other nutrition periods*

45125 *Fingerprinting requirements*

45340-45349 *Instructional aides*

45360-45367 *Teacher aides*

49024 *Activity Supervisor Clearance Certificate*

49406 *Examination for tuberculosis*

#### GOVERNMENT CODE

3543.5 *Prohibited interference with employees' rights*

#### HEALTH AND SAFETY CODE

1596.871 *Fingerprints of individuals in contact with child day care facility clients*

#### LABOR CODE

1720.4 *Public works; exclusion of volunteers from prevailing wage law*

3364.5 *Persons performing voluntary services for school districts*

#### PENAL CODE

290 *Registration of sex offenders*

290.4 *Information re: sex offenders*

290.95 *Disclosure by person required to register as sex offender*

#### CODE OF REGULATIONS, TITLE 22

101170 *Criminal record clearance*

101216 *Health screening, volunteers in child care centers*

#### UNITED STATES CODE, TITLE 20

6319 *Qualifications and duties of paraprofessionals, Title I programs*

#### ATTORNEY GENERAL OPINIONS

62 *Ops. Cal. Atty. Gen. 325 (1979)*

#### COURT DECISIONS

*Whisman Elementary School District, (1991) PERB Decision No. 868*

### *Management Resources:*

#### WEB SITES

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

California Department of Education, Parents/Family and Community: <http://www.cde.ca.gov/ls/pf>

California Department of Justice, Megan's Law: <http://www.meganslaw.ca.gov>

California Parent Teacher Association: <http://www.capta.org>

National Coalition for Parent Involvement in Education: <http://www.ncpie.org>

National Parent Teacher Association: <http://www.pta.org>

# **Board Policy**

## **Volunteer Assistance**

**BP 1240**

### **Community Relations**

The Governing Board encourages parents/guardians and other members of the community to share their time, knowledge and abilities with students. Volunteer assistance in schools enriches the educational program, enhances supervision of students and contributes to school safety while strengthening the schools' relationships with the community. The Board also encourages community members to serve as mentors providing support and motivation to students.

(cf. 1000 - Concepts and Roles)

(cf. 1700 - Relations Between Private Industry and the Schools)

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

(cf. 4222 - Teacher Aides/Paraprofessionals)

(cf. 5020 - Parent Rights and Responsibilities)

(cf. 6020 - Parent Involvement)

(cf. 6171 - Title I Programs)

The Superintendent or designee shall develop and implement a plan for recruiting, screening and placing volunteers, including strategies for reaching underrepresented groups of parents/guardians and community members. He/she may also recruit community members to serve as mentors and/or make appropriate referrals to community organizations.

(cf. 0420.3 - School-Based Student Motivation and Maintenance Program)

(cf. 1020 - Youth Services)

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

The Superintendent or designee shall establish procedures to protect the safety of students and adults. These procedures shall include laws related to tuberculosis testing and may also include laws related to criminal record checks including Megan's Law database. Volunteers who are likely to be alone with students will also be finger printed and drug tested.

Volunteers shall be provided with information about school goals, programs and practices and shall receive an orientation and other training related to their specific responsibilities as appropriate. Employees who supervise volunteers shall ensure that volunteers are assigned meaningful responsibilities that capitalize on their skills and expertise and maximize their contribution to the educational program.

Volunteers shall act in accordance with district policies, regulations and school rules. At their discretion, employees who supervise volunteers may ask any volunteer who violates school rules to leave the campus. Employees also may confer with the principal or designee regarding any such volunteers. The Superintendent or designee shall be responsible for investigating and

resolving complaints regarding volunteers.

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

(cf. 3515.2 - Disruptions)

Volunteer maintenance work shall be limited to those projects that do not replace the normal maintenance duties of classified staff. The Board nevertheless encourages volunteers to work on short-term projects to the extent that they enhance the classroom or school, do not significantly increase maintenance workloads and comply with employee commitments and contracts.

Volunteer aides shall not be used to assist certificated staff in performing teaching or administrative responsibilities in place of regularly authorized classified employees who have been laid off. (Education Code 35021)

The Board encourages principals to develop a means for recognizing the contributions of each school's volunteers.

The Superintendent or designee shall periodically report to the Board regarding the district's volunteer assistance program.

**Legal Reference:**

**EDUCATION CODE**

35021 Volunteer aides

35021.1 Automated records check

44010 Sex offense; definition

44227.5 Classroom participation by college methodology faculty

44814-44815 Supervision of students during lunch and other nutrition periods

45125 Fingerprinting requirements

45340-45349 Instructional aides

45360-45367 Teacher aides

49406 Examination for tuberculosis

**GOVERNMENT CODE**

3100-3109 Oath or affirmation of allegiance

3543.5 Prohibited interference with employees' rights

**HEALTH AND SAFETY CODE**

1596.871 Fingerprints of individuals in contact with child day care facility clients

**LABOR CODE**

3364.5 Persons performing voluntary services for school districts

**PENAL CODE**

290 Registration of sex offenders

290.4 Information re sex offenders

**CODE OF REGULATIONS, TITLE 22**

101170 Criminal record clearance

101216 Health screening, volunteers in child care centers

**UNITED STATES CODE, TITLE 20**

**6319 Qualifications and duties of paraprofessionals, Title I programs**

**ATTORNEY GENERAL OPINIONS**

**62 Ops. Cal. Atty. Gen. 325 (1979)**

**COURT DECISIONS**

**Whisman Elementary School District, 15 Public Employee Reporter for California, 22043**

**Management Resources:**

**NATIONAL PTA PUBLICATIONS**

**National Standards for Parent/Family Involvement Programs, 1997**

**Building Successful Partnerships: A Guide for Developing Parent and Family Involvement Programs, 2000**

**WEB SITES**

**California PTA: <http://www.capta.org>**

**National PTA: <http://www.pta.org>**

**California Partners in Education: <http://www.capie.org>**

**National Coalition for Parent Involvement in Education: <http://www.ncpie.org>**

**U.S. Department of Education, Partnership for Family Involvement in Education:  
<http://pfie.ed.gov>**

**CDE: <http://www.cde.ca.gov>**

**California Department of Justice, Megan's Law mapping: <http://www.meganslaw.ca.gov>**

**Policy CENTER UNIFIED SCHOOL DISTRICT**

**adopted: March 2, 2005      Antelope, California**

## **VOLUNTEER ASSISTANCE**

### **Duties of Volunteers**

Note: Education Code 45349 authorizes the use of volunteers in the supervision and instruction of students, subject to Education Code 35021 and 45340-45349.

Volunteers may assist certificated personnel in the performance of their duties, in the supervision of students, and in instructional tasks which, in the judgment of the certificated personnel to which the volunteer is assigned, may be performed by a person not licensed as a classroom teacher. These duties shall not include assignment of grades to students. (Education Code 45343, 45344, 45349)

*(cf. 4222 - Teacher Aides/Paraprofessionals)*

*(cf. 5148 - Child Care and Development)*

*(cf. 5148.2 - Before/After School Programs)*

Volunteers may supervise students during lunch, breakfast, or other nutritional periods or may serve as nonteaching aides under the immediate supervision and direction of certificated personnel to perform noninstructional work which assists certificated personnel in the performance of teaching and administrative responsibilities. (Education Code 35021, 44814, 44815)

Volunteers may work on short-term facilities projects pursuant to Board policy and the section below entitled "Volunteer Facilities Projects."

### **Qualifications of Volunteers**

Volunteers providing supervision or instruction of students pursuant to Education Code 45349 shall give evidence of basic skills proficiency. (Education Code 45344.5, 45349)

*(cf. 4212 - Appointment and Conditions of Employment)*

Note: Beginning July 1, 2010, Education Code 49024, added by AB 1025 (Ch. 379, Statutes of 2009), requires any volunteer who supervises, directs, or coaches a student activity program to obtain an Activity Supervisor Clearance Certificate from the Commission on Teacher Credentialing (CTC). The certificate, valid for five years, requires a character and fitness review by the CTC and submission of fingerprints, which will be used for both state and federal criminal record checks.

Beginning July 1, 2010, any volunteer who supervises, directs, or coaches a student activity program shall be required to obtain an Activity Supervisor Clearance Certificate from the Commission on Teacher Credentialing. Student activity programs include, but are not limited to, scholastic programs, interscholastic programs, and extracurricular activities sponsored by the district or a school booster club, such as cheer team, drill team, dance team, and marching band. This requirement shall not apply to volunteer supervisors for breakfast, lunch, or other

## **VOLUNTEER ASSISTANCE (continued)**

nutritional periods or to volunteer nonteaching aides under the immediate supervision and direction of certificated personnel pursuant to Education Code 35021. (Education Code 49024)

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

*(cf. 6145 - Extracurricular and Cocurricular Activities)*

Note: Pursuant to Education Code 35021 and 45349, a district is prohibited from assigning a registered sex offender as a volunteer who assists certificated personnel in the performance of their duties; supervises students during lunch, breakfast, or other nutritional period; or serves as a nonteaching aide to perform noninstructional tasks. In addition, Penal Code 290.95 requires any person registered as a sex offender to disclose his/her status as a registrant when he/she applies for or accepts a position as a volunteer where the work would require him/her to work directly and in an unaccompanied setting with minor children on more than an incidental and occasional basis, to have supervision or disciplinary power over minor children, or to touch minor children on more than an incidental basis. AB 307 (Ch. 430, Statutes of 2009) amended Penal Code 290.95 to also require disclosure when the person would be working directly and in an unaccompanied setting providing goods or services to minors. See BP/AR 3515.5 - Sex Offender Notification.

The Superintendent or designee shall not assign any person required to register as a sex offender pursuant to Penal Code 290 as a volunteer who assists certificated personnel in the performance of their duties; supervises students during lunch, breakfast, or other nutritional period; or serves as a nonteaching aide to perform noninstructional tasks. In addition, a person who is required to register as a sex offender because of a conviction for a crime where the victim was a minor under age 16 shall not serve as a volunteer in any capacity in which he/she would be working directly and in an unaccompanied setting with minors on more than an incidental and occasional basis or have supervision or disciplinary power over minors. (Education Code 35021, 45349; Penal Code 290.95)

*(cf. 3515.5 - Sex Offender Notification)*

Note: Districts may verify whether a person is a registered sex offender by checking the Department of Justice's Megan's Law web site, asking law enforcement to conduct a check pursuant to Education Code 35021.1, and/or requiring volunteers to certify as to their status. The following paragraph should be modified to reflect district practice.

The Superintendent or designee may require all volunteers to disclose their status as a registered sex offender and/or provide the district with sufficient information in order to allow verification of this status on the Department of Justice's Megan's Law web site.

Note: Education Code 45347 and 45349 require that volunteers providing supervision or instruction meet the obligations required of classified staff. Pursuant to Education Code 49406, tuberculosis testing is one of these obligations; see AR 4112.4/4212.4/4312.4 - Health Examinations. In areas where there is a high incidence of tuberculosis, the district may revise the following paragraph to require more frequent tests or to require that all volunteers be tested.



## **VOLUNTEER ASSISTANCE (continued)**

No volunteer shall be assigned to supervise or instruct students unless he/she has submitted evidence of an examination within the past 60 days to determine that he/she is free of active tuberculosis. Volunteers who test negative shall thereafter be required to take a tuberculosis test every four years in accordance with Education Code 49406. (Education Code 45106, 45347, 45349, 49406)

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

Note: The following paragraph is **optional** pursuant to Education Code 49406.

The Superintendent or designee may exempt from tuberculosis testing requirements those volunteers who serve less than a school year and whose functions do not require frequent or prolonged contact with students. (Education Code 49406)

Note: See AR 5148.2 - Before/After School Programs for information about health screening and fingerprint clearance requirements for volunteers in the After School Education and Safety program and 21st Century Community Learning Center program pursuant to Education Code 8483.4 and 35021.3.

## **Volunteer Facilities Projects**

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

Pursuant to Labor Code 1720.4, volunteers are exempt from laws requiring workers employed in public works projects (e.g., construction and repair work) to be paid not less than the general prevailing rate of per diem wages.

All volunteer facilities projects shall have approximate start and completion dates and shall be approved by the principal in advance.

Projects approved by the principal shall also be approved in advance by the Superintendent or designee if they involve the following types of work:

1. Alterations, additions, or repairs to buildings and grounds
2. Construction involving wall or roof penetration, drilling, or nailing
3. Structural modifications
4. Electrical, electronic, plumbing, or heating and cooling work
5. Painting
6. Installation of carpet

**VOLUNTEER ASSISTANCE (continued)**

7. Installation of playground equipment and benches
8. Installation of sprinkler systems
9. Paving
10. Installation of marquees and signs
11. Tree planting, pruning, or removal

The Superintendent or designee shall ensure that volunteers possess the appropriate license and/or have sufficient expertise appropriate to the project. He/she shall also ensure that such projects comply with building and safety codes and other applicable laws and collective bargaining agreements. The district shall provide on-site assistance and supervision for such projects as necessary. Projects shall be inspected upon completion to ensure that the work was done satisfactorily.

*(cf. 3514 - Environmental Safety)*  
*(cf. 3514.1 - Hazardous Substances)*  
*(cf. 7111 - Evaluating Existing Buildings)*  
*(cf. 7140 - Architectural and Engineering Services)*

# **Administrative Regulation**

## **Volunteer Assistance**

AR 1240

### **Community Relations**

#### **Duties of Volunteers**

Volunteers may assist certificated personnel in the performance of their duties, in the supervision of students, and in instructional tasks which, in the judgment of the certificated personnel to whom the instructional aide is assigned, may be performed by a person not licensed as a classroom teacher. These duties shall not include assignment of grades to students. (Education Code 45343, 45344, 45349)

(cf. 4222 - Teacher Aides/Paraprofessionals)

Volunteers may supervise students during lunch and/or breakfast periods or may serve as nonteaching aides under the immediate supervision and direction of certificated personnel to perform noninstructional work which assists certificated personnel in the performance of teaching and administrative responsibilities. (Education Code 35021, 44814, 44815)

Volunteers may work on short-term facilities projects pursuant to Governing Board policy and administrative regulation.

#### **Qualifications of Volunteers**

Volunteers providing supervision or instruction of students pursuant to Education Code 45349 shall give evidence of basic skills proficiency. (Education Code 45344.5, 45349)

(cf. 4212 - Appointment and Conditions of Employment)

A person who is required to register as a sex offender pursuant to Penal Code 290 shall not serve as a volunteer instructional aide or as a volunteer nonteaching aide under the direct supervision of a certificated employee. (Education Code 35021)

The Superintendent or designee shall verify by reasonable means that persons serving as volunteer instructional aides and nonteaching volunteer aides are not required to register as a sex offender pursuant to Penal Code 290. All volunteers will be required to complete a Volunteer Information Form (E(1) 1240).

(cf. 3515.5 - Sex Offender Notification)

No volunteer shall be assigned to provide supervision or instruction of students unless he/she has submitted evidence of an examination within the past 60 days to determine that he/she is free of

active tuberculosis. Volunteers who test negative shall thereafter be required to take a tuberculosis test every four years in accordance with Education Code 49406. (Education Code 45106, 45347, 45349, 49406)

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

The Superintendent or designee may exempt from tuberculosis testing requirements those volunteers who serve less than a school year and whose functions do not require frequent or prolonged contact with students. (Education Code 49406)

#### **Volunteer Facilities Projects**

All volunteer facilities projects shall have approximate start and completion dates and must be approved by the principal in advance.

Projects approved by the principal shall also be approved in advance by the Superintendent or designee if they involve the following types of work:

1. Alterations, additions or repairs to buildings and grounds
2. Construction involving wall or roof penetration, drilling or nailing
3. Structural modifications
4. Electrical, electronic, plumbing, or heating and cooling work
5. Painting
6. Installation of carpet
7. Installation of playground equipment and benches
8. Installation of sprinkler systems
9. Paving
10. Installation of marquees and signs
11. Tree planting, pruning or removal

The Superintendent or designee shall ensure that volunteers possess the appropriate license and/or have sufficient expertise appropriate to the project. He/she shall also ensure that such projects comply with building and safety codes and other applicable laws and collective bargaining agreements. The district shall provide on-site assistance and supervision for such projects as necessary. Projects shall be inspected upon completion to ensure that the work was done satisfactorily.

(cf. 3514 - Environmental Safety)  
(cf. 3514.1 - Hazardous Substances)  
(cf. 7111 - Evaluating Existing Buildings)  
(cf. 7140 - Architectural and Engineering Services)

Regulation    CENTER UNIFIED SCHOOL DISTRICT  
approved: March 2, 2005    Antelope, California

## 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.

Because a district's insurance carrier or Joint Powers Authority (JPA) may require the district to comply with certain claims management conditions as part of the district's contractual coverage obligation, it is **strongly recommended** that, prior to adoption by the Governing Board, this board policy and accompanying administrative regulation be reviewed for consistency with any applicable conditions of coverage. A district's failure to follow those contractual conditions may result in a loss of coverage benefits. The district's risk manager and legal counsel should also be consulted, as appropriate.

The Governing Board desires to ensure that the district's operations are conducted in a manner that minimizes risk, protects district resources, and promotes the health and 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 law, Board policy, and administrative regulation as well as the district's Joint Powers Authority (JPA) agreement or insurance coverage.

*(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. For example, the district's procedures may not allow a longer time for the Board to take action on a claim than the timeline provided for claims under the Government Claims Act.

The following **optional** paragraph is for use by districts that wish to adopt local requirements and should be modified for consistency with the district's insurance or JPA agreement, as well as advice from the district's legal counsel or risk manager.

Any claim 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.

Upon notice to the district of a claim, the Superintendent or designee shall take all necessary steps to protect the district's rights under any applicable contractual agreements, including the right to indemnification from its insurance or other coverage provider.

## **CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)**

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. However, management of the defense or settlement of the claim may be subject to contractual requirements contained in the district's insurance policy, memorandum of coverage, or contractual indemnity agreements. Thus, even when the Board has authorized the Superintendent to settle such claims, the authority is subject to any such requirements or conditions of coverage. 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 whom the authority is delegated and/or an amount less than \$50,000.

In accordance with Government Code 935.4, the Board delegates to the Superintendent the authority to allow, compromise, or settle claims of \$50,000 or less pursuant to any conditions of coverage in the district's JPA agreement or insurance.

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

### **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. 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)

Any changes to such information shall be filed within 10 days after the change has occurred. (Government Code 53051)

*Legal Reference: (see next page)*

## **CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)**

### *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*

6500-6536 *Joint exercise of powers*

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>*



# **Board Policy**

## **Claims And Actions Against The District**

BP 3320

### **Business and Noninstructional Operations**

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)

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.

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.

### **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 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>

**Policy CENTER UNIFIED SCHOOL DISTRICT**

adopted: June 3, 2009              Antelope, California

**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."

Because a district's insurance carrier or Joint Powers Authority (JPA) may require the district to comply with certain claims management conditions as part of the district's contractual coverage obligation, it is strongly recommended that this administrative regulation be reviewed for consistency with any applicable conditions of coverage. A district's failure to follow those contractual conditions may result in a loss of coverage benefits. The district's risk manager and legal counsel should also be consulted, as appropriate.

**Time Limitations**

Note: Items #1-2 below list timelines for claims presented pursuant to the Government Claims Act. If a claimant misses a deadline for a claim required to be submitted in accordance with item #1 below, he/she may present an application to present a late claim pursuant to Government Code 911.4; see section below entitled "Late Claims."

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 or 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 and/or JPA, to determine the appropriate time limit.

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, Government Code 905 specifies 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. The statute of limitations in Code of Civil Procedure 340.1 allows claims to be presented 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 provision 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 presented not later than one year after the accrual of the cause of action. (Government Code 905, 911.2)

## **CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)**

### **Receipt of Claims**

Note: Government Code 53051 requires districts to file information about Governing Board members 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. 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 district office 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)

Note: In most circumstances, a district's insurance provider or JPA is responsible for claims management, including investigating, defending, and managing a district's response to a claim presented under the Government Claims Act. The following paragraph requires the Superintendent or designee to immediately forward any claims received to the district's JPA or insurance provider in order to help ensure compliance with any conditions of coverage.

Upon receipt of a claim against the district pursuant to the Government Claims Act, the Superintendent or designee shall promptly provide written notice to the district's JPA or insurance carrier in accordance with the applicable conditions of coverage.

### **Review of Contents of the Claim**

Note: Government Code 910.4 no longer requires districts to provide a claim form, however most JPAs and insurance carriers provide a form for these purposes. The person submitting the claim need not use the claim form provided by the district, but the claim must contain a signature and all of the information listed in Government Code 910.

The Superintendent or designee shall review any claim received to ensure that the claim contains all of the following information as specified in Government Code 910 and 910.2:

1. The name and post office address of the claimant
2. The post office address to which the person presenting the claim desires notices to be sent
3. The date, place, and other circumstances of the occurrence or transaction which gave rise to the claim asserted

## **CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)**

4. A general description of the indebtedness, obligation, injury, damage, or loss incurred insofar as it may be known at the time of presentation of the claim
5. The name(s) of the public employee(s) causing the injury, damage, or loss if known
6. The amount claimed if it totals less than \$10,000 as of the date of the presentation of the claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the claim, together with the basis of computation of the amount claimed. If the amount claimed exceeds \$10,000, the dollar amount shall not be included in the claim and the claimant shall indicate whether the claim is a "limited civil case."
7. The signature of the claimant or the person acting on his/her behalf

### **Notice of Claim Insufficiency**

Note: Pursuant to Government Code 911, if the district, or the JPA or insurance carrier acting on the district's behalf, 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.
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If a claim is found insufficient or not to satisfy the form requirements under Government Code 910 and 910.2, the Board or its designee shall, within 20 days of receipt of the claim, personally deliver or mail to the claimant, at the address stated in the claim or application, a notice that states the particular defects or omission in the claim. (Government Code 910.8, 915.4)

Note: Districts should be cautious before rejecting a claim because of insufficiency of information and consult legal counsel and/or the district's JPA or insurance provider, 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.
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The Board shall not act upon the claim until at least 15 days after such notice is given. (Government Code 910.8)

### **Amendment to Claims**

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

## **CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)**

### **Late Claims**

For claims under item #1 in the section entitled "Time Limitations" above, any person who presents a claim later than six months after the accrual of the cause of action shall present, along with the claim, an application to present a late claim. Such claim and the application to present a late claim shall be presented not later than one year after the accrual of the cause of action. (Government Code 911.4)

Note: If the claim is presented late and is not accompanied by an application to present a late claim, the Board or its agent should notify the claimant that "no action" was taken because the claim was presented late. 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 the claim is presented late and is not accompanied by an application to present a late claim, the Board or its designee may, within 45 days, give written notice that the claim was not presented timely and that it is being returned without further action. (Government Code 911.3)

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

The Board shall grant the application to present a late claim where one or more of the following conditions are applicable: (Government Code 911.6)

1. The failure to present the claim was through mistake, inadvertence, surprise, or excusable neglect and the district was not prejudiced in its defense regarding the claim by the claimant's failure to present the claim within the time limit.
2. The person who sustained the alleged injury, damage, or loss was a minor during all of the time specified for presentation of the claim.
3. The person who sustained the alleged injury, damage, or loss was physically or mentally incapacitated during all of the time specified for presentation of the claim and the disability was the reason 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 substantially the same form as set forth in Government Code 911.8. (Government Code 911.8)

## **CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)**

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

### **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.

Although the Board takes final action on claims as specified below, such action is based on the evaluation of the claim by the district's insurance provider or JPA.

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

The Board may act on the claim in one of the following ways: (Government Code 912.4, 912.6)

1. If the Board finds that the claim is not a proper charge against the district, the claim shall be rejected.
2. If the Board finds that the claim is a proper charge against the district and is for an amount justly due, the claim shall be allowed.
3. If the Board finds that the claim is a proper charge against the district but is for an amount greater than is justly due, the Board shall either reject the claim or allow it in the amount justly due and reject it as to the balance.
4. If legal liability of the district or the amount justly due is disputed, the Board may reject or compromise the claim.
5. If the Board takes no action on the claim, the claim shall be deemed rejected.

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

**CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)**

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



# **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 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 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 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 911.8. (Government Code 911.8)

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**

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**

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.

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)

#### **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**

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 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)

Regulation      **CENTER UNIFIED SCHOOL DISTRICT**  
approved: June 3, 2009      Antelope, California

**DISRUPTIONS**

Note: The following **optional** policy and administrative regulation address the disruption of school activities by nonstudents. For language regarding disturbances by students, see BP/AR 5131.4 - Student Disturbances and BP/AR 5144.1 - Suspension and Expulsion/Due Process. Employees who cause a disruption may be subject to disciplinary action in accordance with the district's collective bargaining agreement and/or Board policy; see BP/AR 4118 - Suspension/Disciplinary Action and AR 4218 - Dismissal/Suspension/Disciplinary Action.

In Reeves v. Rocklin Unified School District, a California Court of Appeal held that a "disruption," in the context of school access, means the disruption of normal school activities. Since school officials have a duty to prevent disruptions, the court found that they need not wait until an actual disruption occurs before restricting access to school grounds.

The Governing Board is committed to providing a safe environment for district students, staff, and others while they are on district property or engaged in school activities.

The Superintendent or designee shall remove any individual who, by his/her presence or action, disrupts or threatens to disrupt normal district or school operations, threatens the health or safety of anyone on district property, or causes or threatens to cause damage to district property or to any property on school grounds.

*(cf. 1250 - Visitors/Outsiders)*

*(cf. 3515 - Campus Security)*

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

*(cf. 4158/4258/4358 - Employee Security)*

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

*(cf. 5131.4 - Student Disturbances)*

Note: Specific strategies for responding to disruptions may be included in the district's emergency and disaster preparedness plan (see BP/AR 3516 - Emergencies and Disaster Preparedness Plan) or may be developed as part of the district's comprehensive school safety plan (see BP/AR 0450 - Comprehensive Safety Plan).

The Superintendent or designee shall establish a plan describing staff responsibilities and actions to be taken when an individual is causing a disruption. In developing such a plan, the Superintendent or designee shall consult with law enforcement to create guidelines for law enforcement support and intervention in the event of a disruption.

*(cf. 0450 - Comprehensive Safety Plan)*

*(cf. 3515.3 - District Police/Security Department)*

*(cf. 3516 - Emergencies and Disaster Preparedness Plan)*

The Superintendent or designee shall provide training to school staff on how to identify and respond to actions or situations that may constitute a disruption.

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

## **DISRUPTIONS (continued)**

Note: Education Code 48902, as amended by AB 1390 (Ch. 292, Statutes of 2009), requires the principal or designee to notify law enforcement authorities when anyone possesses a firearm or explosive or sells or furnishes a firearm at school. In addition, pursuant to 20 USC 7151, districts are mandated to develop a policy to notify law enforcement whenever a student brings a firearm to school. For policies implementing this mandate, see BP/AR 5131.7 - Weapons and Dangerous Instruments and AR 5144.1 - Suspension and Expulsion/Due Process.

Any employee who believes that a disruption may occur shall immediately contact the principal. The principal or designee shall notify law enforcement in accordance with Education Code 48902 and 20 USC 7151 and in other situations, as appropriate.

### **Safe School Zone**

Note: Penal Code 626.9 (the Gun Free School Zone Act) prohibits possession of a firearm within 1000 feet of school grounds. Other weapons and dangerous instruments, including knives, dirks, stun guns, and instruments that may expel metallic projectiles such as BBs or pellets, are also prohibited on school grounds pursuant to Penal Code 626.10 and 12556. Pursuant to Penal Code 626.10, as amended by AB 870 (Ch. 258, Statutes of 2009), the list of such prohibited items has been expanded to include razor blades and box cutters. In addition, Penal Code 12556 prohibits open display of any imitation firearm on school property. Limited exceptions to these prohibitions are listed in Penal Code 626.9, 626.10, and 12556.

Possession of a firearm within 1000 feet of any district school is prohibited except when authorized by law. (Penal Code 626.9)

Possession of any other unauthorized weapon or dangerous instrument is prohibited on school grounds or buses and at school-related or school-sponsored activities without the written permission of school authorities.

*(cf. 5131.7 - Weapons and Dangerous Instruments)*

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

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

*Legal Reference: (see next page)*

## **DISRUPTIONS (continued)**

### *Legal Reference:*

#### EDUCATION CODE

32210 Willful disturbance of public school or meeting, misdemeanor  
32211 Threatened disruption or interference with classes; misdemeanor  
35160 Authority of governing boards  
44810 Willful interference with classroom conduct  
44811 Disruption of classwork or extracurricular activities  
48902 Notification of law enforcement authorities  
51512 Prohibited use of electronic listening or recording device

#### PENAL CODE

243.5 Assault or battery on school property  
415.5 Disturbance of peace of school  
626-626.11 Schools, crimes, especially:  
626.7 Failure to leave campus or facility; wrongful return; penalties; notice; exceptions  
626.8 Disruptive presence at schools  
626.81 Misdemeanor for registered sex offender to come onto school grounds  
626.85 Misdemeanor for specified drug offender presence on school grounds  
626.9 Gun Free School Zone Act  
627-627.10 Access to school premises  
653b Loitering about schools or public places  
12556 Imitation firearms

#### UNITED STATES CODE, TITLE 20

7151 Gun-Free Schools Act

#### COURT DECISIONS

*Reeves v. Rocklin Unified School District*, (2003) 109 Cal.App.4th 652

*In Re Joseph F.*, (2000) 85 Cal.App.4th 975

*In Re Jimi A.*, (1989) 209 Cal.App.3d 482

*In Re Oscar R.*, (1984) 161 Cal.App.3d 770

#### ATTORNEY GENERAL OPINIONS

79 *Ops.Cal.Atty.Gen.* 58 (1996)

### *Management Resources:*

#### CSBA PUBLICATIONS

911! *A Manual for Schools and the Media During a Campus Crisis*, 2001

#### U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

*Practical Information on Crisis Planning: A Guide for Schools and Communities*, May 2003

#### WEB SITES

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

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

U.S. Department of Education, Emergency Planning:

<http://www.ed.gov/admins/lead/safety/emergencyplan>

# **Board Policy**

## **Disruptions**

**BP 3515.2**

### **Business and Noninstructional Operations**

In order to help maintain an educational environment that provides for student safety, the Governing Board is committed to keeping the schools free from disruptions and to keeping unauthorized persons from entering school grounds. The Superintendent or designee shall provide for the prompt removal of any individual from school grounds who disrupts or threatens to disrupt normal school operations, threatens the health and safety of students or staff, or threatens to cause property damage in accordance with law, Board policy, or administrative regulation.

(cf. 1250 - Visitors/Outsiders)  
(cf. 3515 - Campus Security)  
(cf. 4118 - Suspension/Disciplinary Action)  
(cf. 4158/4258/4358 - Employee Security)  
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)  
(cf. 5131.4 - Student Disturbances)

The Superintendent or designee shall establish a plan describing actions to be taken, including staff responsibilities, when an individual is causing a disruption. In developing such a plan, the Superintendent or designee shall consult with law enforcement to create guidelines for law enforcement support and intervention in the event of a disruption.

(cf. 0450 - Comprehensive Safety Plan)  
(cf. 3515.3 - District Police/Security Department)  
(cf. 3516 - Emergencies and Disaster Preparedness Plan)

School staff shall be trained to recognize when an individual has committed acts that constitute a disruption in violation of Board policy or administrative regulation. Staff who believe that a disruption may occur shall immediately contact the principal.

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

### **Gun Free School Zone**

Possession of unauthorized firearms, weapons, or other dangerous instruments is prohibited within 1,000 feet of school grounds without the written permission of school authorities. (Penal Code 626.9, 626.10)

(cf. 5131.7 - Weapons and Dangerous Instruments)

(cf. 5144.1 - Suspension and Expulsion/Due Process)  
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

**Legal Reference:**

**EDUCATION CODE**

32210 Willful disturbance of public school or meeting, misdemeanor  
32211 Threatened disruption or interference with classes; misdemeanor  
35160 Authority of governing boards  
44810 Willful interference with classroom conduct  
44811 Disruption of classwork or extracurricular activities  
51512 Prohibited use of electronic listening or recording device

**PENAL CODE**

243.5 Assault or battery on school property  
415.5 Disturbance of peace of school  
626-626.11 Schools, crimes, especially:  
626.7 Failure to leave campus or facility; wrongful return; penalties; notice; exceptions  
626.8 Disruptive presence at schools  
626.81 Misdemeanor for registered sex offender to come onto school grounds  
626.9 Gun Free School Zone Act  
627-627.10 Access to school premises  
653b Loitering about schools or public places

**COURT DECISIONS**

Reeves v. Rocklin Unified School District, (2003) 109 Cal.App.4th 652  
In Re Joseph F., (2000) 85 Cal.App.4th 975  
In Re Jimi A., (1989) 209 Cal. App.3d 482  
In Re Oscar R., (1984) 161 Cal. App 3d 770

**ATTORNEY GENERAL OPINIONS**

79 Ops.Cal.Atty.Gen. 58 (1996)

**Management Resources:**

**CSBA PUBLICATIONS**

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**U.S. DEPARTMENT OF EDUCATION PUBLICATIONS**

Practical Information on Crisis Planning: A Guide for Schools and Communities, May 2003

**WEB SITES**

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

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

U.S. Department of Education, Emergency Planning:

<http://www.ed.gov/admins/lead/safety/emergencyplan>

**Policy CENTER UNIFIED SCHOOL DISTRICT**

adopted: May 2, 2007                      Antelope, California



**DISRUPTIONS**

Note: The following administrative regulation is **optional** and may be revised to reflect district practice. Education Code 35160 authorizes the Governing Board to maintain order in schools under its jurisdiction. Therefore, the district, in accordance with law, may authorize school administrators to direct certain individuals, as specified below, to leave school grounds. Penal Code 626.7 provides that a person who is directed to leave the campus and fails to leave, or later reenters without following the school's posted registration requirements, may be guilty of a misdemeanor. In addition, Penal Code 653b, as amended by SB 492 (Ch. 592, Statutes of 2009), makes it a misdemeanor for anyone to loiter around a school and enhances penalties for loiterers who are required to register as sex offenders or to register with the local chief of police or sheriff for committing specified street gang offenses. For information regarding visitor registration requirements, see BP/AR 1250 - Visitors/Outsiders.

The principal or designee may direct any person, except a student, school employee, or other person required by his/her employment to be on school grounds, to leave school grounds if: (Education Code 44810, 44811; Penal Code 415.5, 626.7, 626.8, 626.81, 626.85)

1. The principal or designee has reasonable basis for concluding that the person is committing or has entered the campus with the purpose of committing an act which is likely to interfere with the peaceful conduct, discipline, good order, or administration of the school or a school activity, or with the intent of inflicting damage to any person or property.

*(cf. 3515.3 - District Police/Security Department)*

2. The person fights or challenges another person to a fight, willfully disturbs another person by loud and unreasonable noise, or uses offensive language which could provoke a violent reaction.

*(cf. 4158/4258/4358 - Employee Security)*

3. The person loiters around a school without lawful business for being present or reenters a school within 72 hours after he/she was asked to leave.
4. The person is required to register as a sex offender pursuant to Penal Code 290.

However, a registered sex offender may be on school grounds if he/she has a lawful purpose and written permission from the principal or designee.

*(cf. 3515.5 - Sex Offender Notification)*

5. The person is a specified drug offender as defined in Penal Code 626.85.

*(cf. 1240 - Volunteer Assistance)*

However, a specified drug offender may be on school grounds with written permission from the principal or designee or, if he/she is a parent/guardian of a child enrolled in that school, to attend a school activity.

**DISRUPTIONS (continued)**

6. The person has otherwise established a continued pattern of unauthorized entry on school grounds.

The principal or designee shall allow a parent/guardian who was previously directed to leave school grounds to reenter for the purpose of retrieving his/her child for disciplinary reasons, medical attention, or family emergencies, or with the principal or designee's prior written permission. (Penal Code 626.7, 626.85)

When directing any person to leave school premises, the principal or designee shall inform the person that he/she may be guilty of a crime if he/she:

1. Fails to leave or remains after being directed to leave (Penal Code 626.7, 626.8, 626.85)
2. Returns to the campus without following the school's posted registration requirements (Penal Code 626.7)
3. Returns within seven days after being directed to leave (Penal Code 626.8, 626.85)

*(cf. 0450 - Comprehensive Safety Plan)*

*(cf. 1250 - Visitors/Outsiders)*

**Appeal Procedure**

Any person who is asked to leave a school building or grounds may appeal to the Superintendent or designee. This appeal shall be made no later than the second school day after the person has departed from the school building or grounds. After reviewing the matter with the principal or designee and the person making the appeal, the Superintendent or designee shall render his/her decision within 24 hours after the appeal is made, and this decision shall be binding. (Education Code 32211)

The decision of the Superintendent or designee may be appealed to the Governing Board. Such an appeal shall be made no later than the second school day after the Superintendent or designee has rendered his/her decision. The Board shall consider and decide the appeal at its next scheduled regular or adjourned regular public meeting. The Board's decision shall be final. (Education Code 32211)

# **Administrative Regulation**

## **Disruptions**

**AR 3515.2**

### **Business and Noninstructional Operations**

The principal or designee may direct a person to leave school grounds when there is a reasonable basis for concluding that the person is committing, or has entered campus with the purpose of committing, an act that is likely to interfere with the peaceful conduct, discipline, good order, or administration of school activities or with the intent to inflict damage on any person or property. He/she may also ask a person to leave who uses loud and/or offensive language which could provoke a violent reaction or a person who has otherwise established a continued pattern of unauthorized entry on school grounds. This shall not apply if that person is a student, school employee, or other person required by his employment to be on school grounds. (Education Code 44810, 44811; Penal Code 415.5, 626.7, 626.8)

The principal or designee may also direct a specified drug offender to leave school grounds, unless that person is a student at the school, a parent/guardian of a child attending the school, or he/she has prior written permission for entry from the principal or designee. (Penal Code 626.85)

When directing any person to leave school premises, the principal or designee shall inform the person that he/she will be guilty of a crime if he/she:

1. Remains after being directed to leave (Education Code 44811; Penal Code 626.8)
2. Returns to the campus without following the school's posted registration requirements (Penal Code 626.7)
3. Returns within seven days after being directed to leave (Penal Code 626.8, 626.85)

(cf. 0450 - Comprehensive Safety Plan)

(cf. 1250 - Visitors/Outsiders)

(cf. 3515.3 - District Police/Security Department)

(cf. 4158/4258/4358 - Employee Security)

(cf. 5131.4 - Student Disturbances)

The principal or designee may direct a person who is required to register as a sex offender to immediately leave school grounds, unless he/she is on school grounds for lawful business or with the principal's permission. If such a person does not leave school grounds, the principal or designee shall inform the person that he/she may be guilty of a crime.

(cf. 3515.5 - Sex Offender Notification)

The principal or designee shall notify law enforcement as appropriate.

## **Appeal Procedure**

**Any person who is asked to leave a school building or grounds may appeal to the Superintendent or designee. This appeal shall be made no later than the second school day after the person has departed from the school building or grounds. After reviewing the matter with the principal or designee and the person making the appeal, the Superintendent or designee shall render his/her decision within 24 hours after the appeal is made, and this decision shall be binding. (Education Code 32211)**

**The decision of the Superintendent or designee may be appealed to the Governing Board. Such an appeal shall be made no later than the second school day after the Superintendent or designee has rendered his/her decision. The Board shall consider and decide the appeal at its next scheduled regular or adjourned regular public meeting. The Board's decision shall be final. (Education Code 32211)**

**Regulation      CENTER UNIFIED SCHOOL DISTRICT**  
**approved: May 2, 2007      Antelope, California**

**TEMPORARY ATHLETIC TEAM COACHES**

The Governing Board desires to employ highly qualified coaches for the district's sports and interscholastic athletic programs in order to enhance the knowledge, skills, motivation, and safety of student athletes.

*(cf. 6142.7 - Physical Education and Activity)*

*(cf. 6145.2 - Athletic Competition)*

The Superintendent or designee may employ a certificated or noncertificated employee, other than a substitute employee, to supervise or instruct interscholastic athletic activities as a temporary employee in a limited assignment capacity. (5 CCR 5590)

*(cf. 4121 - Temporary/Substitute Personnel)*

Note: When hiring a temporary athletic team coach, Education Code 44919 requires districts to first make the position available to a credentialed teacher presently employed by the district. In CTA v. Rialto Unified School District, the California Supreme Court held that the law is intended to accord a current certificated employee a limited advantage in the hiring process over a noncertificated employee or a nonemployee, provided that the applicant applies for the position and meets qualification criteria established by the district.

When hiring a person to fill a position as a temporary athletic team coach, the position shall first be made available to qualified certificated teachers currently employed by the district. (Education Code 44919)

Note: 5 CCR 5593 establishes the minimum qualifications for employees serving as temporary athletic team coaches; see section entitled "Qualifications" in the accompanying administrative regulation.

In addition, beginning July 1, 2010, Education Code 49024, added by AB 1025 (Ch. 379, Statutes of 2009), requires any noncertificated employee or volunteer who supervises, directs, or coaches an interscholastic athletic team to obtain an Activity Supervisor Clearance Certificate from the Commission on Teacher Credentialing (CTC). The application process includes submission of fingerprints to the CTC, which will be used for both state and federal criminal record checks, and a character and fitness review by the CTC. For any noncertificated employee who supervises, directs, or coaches an interscholastic athletic team, this requirement applies regardless of whether he/she is employed by the district or a parent or booster club, or whether he/she has already completed a state fingerprint clearance for his/her employment.

The Superintendent or designee shall establish qualification criteria for all athletic coaches in accordance with law and district standards. These criteria shall ensure that coaches possess the proper credential or Activity Supervisor Clearance Certificate and an appropriate level of competence, knowledge, and skill.

Note: 5 CCR 5596 specifies a code of ethical conduct for athletic coaches; see the accompanying administrative regulation. In addition, the California Interscholastic Federation has adopted a set of principles to guide the conduct of coaches and other participants in interscholastic athletic competitions; see BP 6145.2 - Athletic Competition.

All coaches shall be subject to Board policies, administrative regulations, and California Interscholastic Federation bylaws and codes of ethical conduct.

## **TEMPORARY ATHLETIC TEAM COACHES (continued)**

(cf. 4118 - Suspension/Disciplinary Action)  
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)  
(cf. 5131.1 - Bus Conduct)  
(cf. 5131.63 - Steroids)

Noncertificated coaches have no authority to give grades to students. (5 CCR 5591)

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

### *Legal Reference:*

#### EDUCATION CODE

35179-35179.7 Interscholastic athletics  
44010 Sex offense  
44011 Controlled substance offense  
44258.7 Credential types; Activity Supervisor Clearance Certificate  
44332-44332.5 Temporary certificates  
44424 Conviction of a crime  
44808 Liability when students are not on school property  
44919 Classification of temporary employees  
49024 Activity Supervisor Clearance Certificate  
49030-49034 Performance-enhancing substances

#### CODE OF REGULATIONS, TITLE 5

5531 Supervision of extracurricular activities  
5590-5596 Duties of temporary athletic team coaches

#### COURT DECISIONS

CTA v. Rialto Unified School District, (1997) 14 Cal. 4th 627  
San Jose Teachers Association, CTA, NEA v. Barozzi, (1991) 230 Cal.App.3d 1376

### *Management Resources:*

#### CSBA PUBLICATIONS

Steroids and Students: What Boards Need to Know, Policy Brief, July 2005  
A School Board Member's Guide to CIF and Interscholastic Sports, 1997

#### CALIFORNIA INTERSCHOLASTIC FEDERATION PUBLICATIONS

Pursuing Victory with Honor, 1999

California Interscholastic Federation Constitution and Bylaws

#### COMMISSION ON TEACHER CREDENTIALING CODED CORRESPONDENCE

09-19 Implementation of Assembly Bill 1025 Concerning the Activity Supervisor Clearance Certificate (ASCC), December 2, 2009

#### WEB SITES

CSBA: <http://www.csba.org>  
California Athletic Trainers' Association: <http://www.ca-at.org>  
California Department of Education: <http://www.cde.ca.gov>  
California Interscholastic Federation: <http://www.cifstate.org>  
National Athletic Trainers' Association: <http://www.nata.org>

# **Board Policy**

## **Temporary Athletic Team Coaches**

**BP 4127 4227,4327**

### **Personnel**

The Governing Board recognizes the importance of qualified temporary athletic team coaches to the district's sports program and to the success of students in sports and interscholastic athletic activities.

The Superintendent or designee shall establish qualification criteria for all athletic coaches in accordance with law and with district standards and priorities. These criteria shall ensure that all coaches possess an appropriate level of competence, knowledge, and skill.

Any certificated teacher employed by the district who applies for a position as a temporary athletic team coach and who satisfies the qualification criteria established for the position shall first be offered the position. (Education Code 44919)

By December 31, 2008, all district coaches, including volunteer coaches, shall have completed a coaching education program that meets the standards developed by the California Interscholastic Federation (CIF). Coaches shall bear the expense of the program. (Education Code 49032)

(cf. 5131.63 - Steroids)

All coaches shall be subject to Board policy and administrative regulation, as well as CIF bylaws and codes of ethical conduct.

(cf. 5131.1 - Bus Conduct)

(cf. 6145.2 - Athletic Competition)

### **Volunteer Coaches**

Volunteer athletic team coaches shall meet all the qualification criteria required of temporary athletic team coaches employed by the district.

(cf. 1240 - Volunteer Assistance)

### **Legal Reference:**

#### **EDUCATION CODE**

35179-35179.7 Interscholastic athletics

44010 Sex offense

44011 Controlled substance offense

44424 Conviction of a crime

44808 Liability when students are not on school property

44919 Classification of temporary employees

49030-39033 Performance-enhancing substances

CODE OF REGULATIONS, TITLE 5

5531 Supervision of extracurricular activities of pupils

5590-5596 Duties of temporary athletic team coaches

COURT DECISIONS

CTA v. Rialto Unified School District, (1997 )14 Cal. 4th 627

San Jose Teachers Association, CTA, NEA v. Barozzi, (1991) 230 Cal. App. 3d 1376

Management Resources:

CSBA POLICY BRIEFS

Steroids and Students: What Boards Need to Know, July 2005

WEB SITES

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

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

California Interscholastic Federation: <http://www.cifstate.org>

Policy CENTER UNIFIED SCHOOL DISTRICT

adopted: June 7, 2006            Antelope, California



**TEMPORARY ATHLETIC TEAM COACHES**

**Qualifications**

**Note:** 5 CCR 5593 establishes minimum qualifications for certificated and noncertificated employees assigned as temporary athletic team coaches. The district should modify the following section to reflect any additional criteria. Districts should consider developing specific criteria for each coaching position.

The Superintendent or designee shall establish minimum qualification criteria for temporary athletic team coaches. These criteria shall include, but not necessarily be limited to, competencies in the following areas: (5 CCR 5593)

1. Care and prevention of athletic injuries, basic sports injury first aid, and emergency procedures, as evidenced by one or more of the following:
  - a. Completion of a college-level course in the care and prevention of athletic injuries and possession of a valid cardiopulmonary resuscitation (CPR) card
  - b. A valid sports injury certificate or first aid card, and a valid CPR card
  - c. A valid Emergency Medical Technician (EMT) I or II card
  - d. A valid trainer's certification issued by the National or California Athletic Trainers' Association (NATA/CATA)
  - e. Possession of both valid CPR and first aid cards and practical experience under the supervision of an athletic coach or trainer or experience assisting in team athletic training and conditioning
2. Coaching theory and techniques in the sport or game being coached, as evidenced by one or more of the following:
  - a. Completion of a college course in coaching theory and techniques
  - b. Completion of inservice programs arranged by a school district or county office of education
  - c. Prior service as a student coach or assistant athletic coach in the sport or game being coached
  - d. Prior coaching in community youth athletic programs in the sport being coached
  - e. Prior participation in organized competitive athletics at high school level or above in the sport being coached

**TEMPORARY ATHLETIC TEAM COACHES (continued)**

3. Knowledge of the rules and regulations pertaining to the sport or game being coached, the league rules, and, at the high school level, regulations of the California Interscholastic Federation (CIF)
4. Knowledge of child or adolescent psychology, as appropriate, as it relates to sport participation, as evidenced by one or more of the following:
  - a. Completion of a college-level course in child psychology for elementary school positions and adolescent or sports psychology for secondary school positions
  - b. Completion of a seminar or workshop on human growth and development of youth
  - c. Prior active involvement with youth in school or community sports program

The Superintendent or designee may waive competency requirements for persons enrolled in appropriate training courses leading to acquisition of the competency, provided such persons serve under the direct supervision of a fully qualified coach until the competencies are met. (5 CCR 5593)

Following the selection of a temporary athletic team coach, the Superintendent or designee shall certify to the Governing Board, at the next regular Board meeting or within 30 days, whichever is sooner, that the coach meets the qualifications and competencies required by 5 CCR 5593. By April 1 of each year, the Board shall certify to the State Board of Education that the provisions of 5 CCR 5593 have been met. (5 CCR 5594)

Note: The qualifications required by 5 CCR 5593 for employees serving as temporary athletic team coaches do not apply to volunteer coaches. The following optional paragraph is for use by districts that require volunteers who supervise or direct an athletic program to meet those same qualifications.
---

Volunteers who supervise or direct an athletic program shall meet the qualification criteria specified in 5 CCR 5593 required for temporary athletic team coaches employed by the district. Any volunteer who does not meet such criteria shall serve only under the supervision of a fully qualified coach and shall not be given charge of an athletic program.

*(cf. 1240 - Volunteer Assistance)*

## **TEMPORARY ATHLETIC TEAM COACHES (continued)**

### **Additional Qualifications of Noncertificated Personnel and Volunteers**

In addition to the qualifications listed above, any noncertificated person employed as a temporary athletic team coach shall: (5 CCR 5592)

1. Be free from tuberculosis and any other contagious disease that would prohibit certificated teachers from teaching, as verified by a written statement, renewable every four years, from a licensed physician or other person approved by the district

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

2. Not have been convicted of any offense referred to in Education Code 44010, 44011, or 44424, or any offense involving moral turpitude or evidencing unfitness to associate with children

Note: Beginning July 1, 2010, Education Code 49024, added by AB 1025 (Ch. 379, Statutes of 2009), requires any noncertificated employee or volunteer who supervises, directs, or coaches an interscholastic athletic team to obtain an Activity Supervisor Clearance Certificate from the Commission on Teacher Credentialing (CTC). The certificate, valid for five years, does not assess an individual's professional experience, education, or other qualifications but rather provides evidence that the person has passed state and federal criminal record checks and CTC character and fitness reviews.

CTC Coded Correspondence 09-19 states that it is the district's responsibility to determine which district positions would be considered to supervise, direct, or coach an athletic activity and thus be subject to the new requirement. The district may also require those positions that do not supervise, direct, or coach to obtain the certificate.

CTC Coded Correspondence 09-19 clarifies that the district may issue a temporary certificate of clearance pursuant to Education Code 44332 and 44332.5 to an individual while his/her application is being processed. However, this temporary certificate should be rescinded if the district is notified by the CTC that the application has been denied or delayed.

Beginning July 1, 2010, any noncertificated employee or volunteer who supervises, directs, or coaches an interscholastic athletic team shall be required to obtain an Activity Supervisor Clearance Certificate from the Commission on Teacher Credentialing. (Education Code 49024)

*(cf. 1240 - Volunteer Assistance)*

### **High School Coaching Education Program**

Note: The following section is for use by districts that maintain high schools. Education Code 49032 requires that all high school coaches complete a coaching education program developed by the district or the

## **TEMPORARY ATHLETIC TEAM COACHES (continued)**

California Interscholastic Federation (CIF) that meets the guidelines listed in Education Code 35179.1. Districts that wish to set their own standards for the coaching education program instead of using the standards developed by the CIF should modify the following paragraph accordingly.

Each high school athletic team coach or volunteer coach shall complete, at his/her expense, a coaching education program that meets the standards developed by the CIF. A high school coach who has completed the education program in another California school district shall be deemed to have met the requirement for this district. (Education Code 49032)

An individual who has not completed the education program may be assigned as a coach for no longer than one season of interscholastic competition. (Education Code 49032)

### **Code of Ethical Conduct**

Employees providing supervisory or instructional services in interscholastic athletic programs and activities shall: (5 CCR 5596)

1. Show respect for players, officials, and other coaches
2. Respect the integrity and judgment of game officials
3. Establish and model fair play, sportsmanship, and proper conduct
4. Establish player safety and welfare as the highest priority
5. Provide proper supervision of students at all times
6. Use discretion when providing constructive criticism and when reprimanding players
7. Maintain consistency in requiring all players to adhere to the established rules and standards of the game
8. Properly instruct players in the safe use of equipment
9. Avoid exerting undue influence on a student's decision to enroll in an athletic program at any public or private postsecondary educational institution
10. Avoid exerting undue influence on students to take lighter academic course(s) in order to be eligible to participate in athletics

**TEMPORARY ATHLETIC TEAM COACHES (continued)**

11. Avoid suggesting, providing, or encouraging any athlete to use nonprescriptive drugs, anabolic steroids, or any substance to increase physical development or performance that is not approved by the U.S. Food and Drug Administration, U.S. Surgeon General, or the American Medical Association

*(cf. 5131.63 - Steroids)*

12. Avoid recruitment of athletes from other schools
13. Follow the rules of behavior and the procedures for crowd control as established by the district and the league in which the district participates

# **Administrative Regulation**

## **Temporary Athletic Team Coaches**

**AR 4127 4227,4327**

### **Personnel**

At the first regular Governing Board meeting or within 30 days after selection of a temporary athletic team coach, whichever is sooner, the Superintendent or designee shall certify to the Board that all temporary athletic team coaches meet the qualifications and competencies required by law. (Code of Regulations, Title 5, Section 5594)

Upon the recommendation of the Superintendent or designee, the Board shall certify to the State Board of Education, by April 1 of each year, that the district conforms with state requirements governing the employment of temporary athletic team coaches. (Title 5, Section 5594)

### **Competencies**

The Superintendent or designee shall determine whether a temporary athletic team coach is knowledgeable and competent in the areas of: (Code of Regulations, Title 5, Section 5593)

1. Care and prevention of athletic injuries, basic sports injury first aid, and emergency procedures

The Superintendent or designee shall establish qualifications in this competency area as evidenced by one or more of the following:

- a. Completion of a college-level course in the care and prevention of athletic injuries and possession of a valid cardiopulmonary resuscitation (CPR) card
- b. A valid sports injury certificate or first aid card, and a valid cardiopulmonary resuscitation (CPR) card
- c. A valid Emergency Medical Technician (EMT) I or II card
- d. A valid trainer's certification issued by the National or California Athletic Trainers' Association (NATA/CATA)
- e. Practical experience under the supervision of an athletic coach or trainer or experience assisting in team athletic training and conditioning and both valid CPR and first aid cards

2. Coaching techniques

The Superintendent or designee shall establish qualifications in coaching theory and techniques in the sport or game being coached as evidenced by one or more of the following:

- a. Completion of a college course in coaching theory and techniques
- b. Completion of inservice programs arranged by a school district or county office of education
- c. Prior service as a student coach or assistant athletic coach in the sport or game being coached
- d. Prior coaching in community youth athletic programs in the sport being coached
- e. Prior participation in organized competitive athletics at high school level or above in the sport being coached

**3. Rules and regulations in the athletic activity being coached**

The Superintendent or designee shall establish knowledge of the rules and regulations pertaining to the sport or game being coached, the league rules and, at the high school level, regulations of the California Interscholastic Federation.

**4. Child or adolescent psychology, whichever is appropriate to the grade level of the involved activity**

The Superintendent or designee shall establish competency in knowledge of child or adolescent psychology as it relates to sport participation as evidenced by one or more of the following:

- a. Completion of a college-level course in child psychology for elementary school positions and adolescent or sports psychology for secondary school positions
- b. Completion of a seminar or workshop on human growth and development of youth
- c. Prior active involvement with youth in school or community sports program

The Superintendent or designee may waive competency requirements for persons enrolled in appropriate training courses leading to acquisition of the competency, provided such persons serve under the direct supervision of a fully qualified coach until the competencies are met. (Code of Regulations, Title 5, Section 5593)

**Additional Competencies for Noncertificated Personnel**

In addition to the competencies listed above, the Superintendent or designee shall determine that a noncertificated person employed as a temporary athletic team coach: (Code of Regulations, Title 5, Section 5592)

- 1. Has not been convicted of any offense referred to in Education Code 44010, 44011 or 44424, or any offense involving moral turpitude or evidencing unfitness to associate with children.

(cf. 4212.5 - Criminal Record Check)

**2. Is free from tuberculosis and any other contagious disease that would prohibit certificated teachers from teaching, as verified by a written statement, renewable every four years, from a licensed physician or other person approved by the district.**

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

**Noncertificated coaches have no authority to give grades to students. (Title 5, Section 5591)**

#### **Code of Ethical Conduct**

**Employees providing supervisory or instructional services in interscholastic athletic programs and activities shall: (Code of Regulations, Title 5, Section 5596)**

- 1. Show respect for players, officials and other coaches**
- 2. Respect the integrity and judgment of game officials**
- 3. Establish and model fair play, sportsmanship and proper conduct**
- 4. Establish player safety and welfare as the highest priority**
- 5. Provide proper supervision of students at all times**
- 6. Use discretion when providing constructive criticism and when reprimanding players**
- 7. Maintain consistency in requiring all players to adhere to the established rules and standards of the game**
- 8. Properly instruct players in the safe use of equipment**
- 9. Avoid exerting undue influence on a student's decision to enroll in an athletic program at any public or private postsecondary educational institution**
- 10. Avoid exerting undue influence on students to take lighter academic course(s) in order to be eligible to participate in athletics**
- 11. Avoid suggesting, providing or encouraging any athlete to use nonprescriptive drugs, anabolic steroids or any substance to increase physical development or performance that is not approved by the U.S. Food and Drug Administration, U.S. Surgeon General or the American Medical Association**
- 12. Avoid recruitment of athletes from other schools**
- 13. Follow the rules of behavior and the procedures for crowd control as established by the Board and the league in which the district participates**



Regulation    CENTER UNIFIED SCHOOL DISTRICT  
approved: September 24, 1997    Antelope, California

**QUESTIONING AND APPREHENSION BY LAW ENFORCEMENT**

Note: The following policy is **optional** and should be modified to reflect district practice.

California Attorney General opinions have long recognized law enforcements' authority to question students (a "seizure") at school without parental consent and required school officials to cooperate with the police in their investigations. However, the 9th Circuit Court of Appeals has held in Greene v. Camreta that an interview of a student at school by a social worker and deputy sheriff, regarding allegations of sexual abuse by the student's father, violated her Fourth Amendment right against unreasonable "seizure" (i.e., questioning by law enforcement). According to the court, absent exigent circumstances, the social worker and sheriff could not question the student without obtaining a warrant, court order, or parent/guardian consent. The applicability of this case to questioning of students by law enforcement in school districts regarding issues of child abuse or other matters is unclear and the case law is still developing. It is likely that an appeal will be filed requesting that the U.S. Supreme Court review the decision; in the meantime, in order to protect against liability, districts should proceed cautiously.

The following policy applies only to questioning by law enforcement and does not apply to questioning by school resource officers or district personnel in connection with school discipline issues. In addition, this policy does not apply to the interviewing of suspected child abuse victims by a child protective agency representative not accompanied by law enforcement; see AR 5141.4 - Child Abuse Prevention and Reporting. For searches of students and/or their belongings, see BP/AR 5145.12 - Search and Seizure.

The Governing Board is committed to providing a safe learning environment and cooperating with law enforcement officials and peace officers as necessary to help ensure the safety of students, staff, and the community and in carrying out their official duties.

(cf. 0450 - Comprehensive Safety Plan)  
(cf. 3515.3 - District Police/Security Department)  
(cf. 5141.4 - Child Abuse Prevention and Reporting)  
(cf. 5145.12 - Search and Seizure)

In accordance with standards specified in law and court decisions, law enforcement officers may interview and question students on school premises. The Superintendent or designee shall collaborate with local law enforcement agencies to develop parameters under which law enforcement officers will interview students at school.

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

Note: The following paragraph is **optional**. Although it is the responsibility of law enforcement, not district personnel, to determine if the questioning is lawful and that the conditions detailed in the Greene v. Camreta case are satisfied, CSBA has developed a sample form for use by the district when acquiescing to such interviews in order to help the district avoid the possibility of liability for the interview. See the accompanying Exhibit. If law enforcement refuses to complete the form, the district should consult with legal counsel to determine whether the interview should move forward. Districts that do not wish to use such a form should also consult with legal counsel to determine how to best protect the district and the student's rights.

## **QUESTIONING AND APPREHENSION BY LAW ENFORCEMENT (continued)**

When any law enforcement official requests an interview with a student, the principal or designee shall request that the official provide verification of his/her identity and official capacity and certify the legal authority under which the interview is being conducted. If the officer refuses to provide certification of the legal authority for the interview, the principal or designee shall document such refusal and should consult with district legal counsel, as appropriate, before allowing the interview to proceed. The principal or designee shall maintain a record of all documentation relative to law enforcement interviews of students.

If the officer needs to interview or question the student immediately, the principal or designee shall accommodate the process in a way that causes the least possible disruption for the student and school, gives the student appropriate privacy, and models exemplary cooperation with law enforcement authorities.

Except in cases of child abuse or neglect, the principal or designee shall attempt to notify the student's parent/guardian as soon as practicable after law enforcement has interviewed the student on school premises.

At law enforcement's discretion and with the student's approval, the principal or designee may be present during the interview.

If a minor student is removed from school into the custody of law enforcement, the principal or designee shall immediately notify the parent/guardian or responsible relative regarding the student's release and the place to which he/she is reportedly being taken, except when the minor has been taken into custody as a victim of suspected child abuse. (Education Code 48906)

### **Subpoenas**

<p>Note: Penal Code 1328 requires that the serving of a subpoena on a minor in a criminal action must be made by delivering a copy of the subpoena to the minor's parent/guardian, conservator, or similar fiduciary. If one of those individuals cannot be located with reasonable diligence, the subpoena may be served on a minor age 12 or older.</p>
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Although subpoenas may legally be served at school on students age 12 or older, the Board believes that serving officials should be strongly urged to serve subpoenas at the home of the student whenever possible. When served at school, the principal or designee shall take all reasonable steps to ensure a minimum of embarrassment or loss of class time for the student.

*Legal Reference: (see next page)*

## QUESTIONING AND APPREHENSION BY LAW ENFORCEMENT (continued)

### *Legal Reference:*

#### EDUCATION CODE

44807 *Duty concerning conduct of pupils*

48264 *Arrest of truants*

48265 *Delivery of truant*

48902 *Notice to law enforcement authorities*

48906 *Release of minor pupil to peace officers; notice to parent, guardian*

48909 *Narcotics and other hallucinogenic drugs (re arrest)*

#### CODE OF CIVIL PROCEDURE

416.60 *Service of summons or complaint to a minor*

#### PENAL CODE

830-832.17 *Peace officers*

1328 *Service of subpoena*

#### WELFARE AND INSTITUTIONS CODE

627 *Custody of minor*

#### CODE OF REGULATIONS, TITLE 5

303 *Duty to remain at school*

#### COURT DECISIONS

*People v. Lessie*, (2010) 47 Cal. 4th 1152

*Greene v. Camreta*, (2009, 9th Cir.) 588 F.3d 1011

*In re William V.*, (2003) 111 Cal.App.4th 1464

#### ATTORNEY GENERAL OPINIONS

54 *Ops.Cal.Atty.Gen.* 96 (1971)

34 *Ops.Cal. Atty.Gen.* 93 (1959)

### *Management Resources:*

#### WEB SITES

California Department of Justice, Office of the Attorney General: <http://caag.state.ca.us>

# **Board Policy**

## **Questioning And Apprehension**

**BP 5145.11**

### **Students**

Law enforcement officers have the right to interview and question students on school premises. When such an interview is requested, the principal or designee shall ascertain the officer's identity, official capacity, and the authority under which he/she acts. If the officer needs to interview or question the student immediately, the principal or designee shall accommodate the process in a way that causes the least possible disruption to the school, gives the student appropriate privacy, and models exemplary cooperation with community law enforcement authorities.

Except in cases of neglect or child abuse, or where the law enforcement officer requests that the student's parent/guardian not be notified, the principal or designee shall make reasonable efforts to notify the student's parent/guardian when a law enforcement officer requests an interview on school premises.

At the law officer's discretion and with the student's approval, the principal or designee may be present during the interview.

If the law officer finds it necessary to remove the student from school, the principal or designee shall first ascertain the reason for such action. Upon releasing the student, the principal or designee shall immediately attempt to inform the student's parent/guardian.

Personnel responsible for releasing a student from school custody shall exercise extreme diligence to prevent such release to any unauthorized or unidentified person.

(cf. 5142 - Safety)

### **Subpoenas**

Although subpoenas may legally be served at school, the Board believes that serving officials should be strongly urged to serve subpoenas at the home of the student whenever possible. In these situations, steps should be taken to ensure a minimum of embarrassment or loss of class time for the student.

#### **Legal Reference:**

##### **EDUCATION CODE**

44807 Duty concerning conduct of pupils

48264 Arrest of truants

48265 Delivery of truant

48902 Notice to law authorities

48906 Release of minor pupil to peace officers; notice to parent, guardian or relative

48909 Narcotics and other hallucinogenic drugs (re arrest)

**PENAL CODE**

830-832.8 re peace officers

833-851.85 re arrests

1328 Service of subpoena

**CODE OF REGULATIONS, TITLE 5**

303 Duty to remain at school

People v. Burton (1971) 6 Cal. 3d 375

In re Donaldson (1969) 269 Cal. App. 2d 509

Baines v. Brady (1953) 122 Cal. App. 2d 957, 960

In the matter of Paul P., 85 Daily Journal D.A.R. 2594

32 Ops. Cal. Atty. Gen. 46 (1958)

34 Ops. Cal. Atty. Gen. 93 (1959)

54 Ops. Cal. Atty. Gen. 96 (1971)

**Policy CENTER UNIFIED SCHOOL DISTRICT**

adopted: October 1, 1997     Antelope, California

# Delete

## **Administrative Regulation**

### **Questioning And Apprehension**

**AR 5145.11**  
**Students**

#### **Questioning on School Grounds**

The school shall keep a record of any interviews of students by law officers on school premises. Such records shall include the date and time, name and identifying number of the officer, the agency employing the officer and his/her official capacity, the time when he/she arrived and left, the fact that the principal or designee was or was not present during the interview, the reason for the questioning and/or release, and any other pertinent information.

The school shall fully cooperate with law enforcement officers, however, it is not within the duty or authority of school officials to compel a student to participate in an interview with law enforcement officers.

#### **Apprehension**

Police officers, officers of the juvenile court, and other authorized law enforcement officials have an absolute right to enter a school to take a student into custody or to make an arrest of a student.

If a minor student is removed from school into the custody of a peace officer, the principal or designee shall immediately notify the parent/guardian or responsible relative regarding the student's release and the place to which he/she is reportedly being taken, except when the minor has been taken into custody as a victim of suspected child abuse or neglect, or when the officer requests the student's parent/guardian not be notified by the principal or designee. In these cases, the officer then has the responsibility of parent/guardian notification. (Education Code 48906)

The principal or designee shall record the time(s) of contact or attempted contact with the parent/guardian.

If the student is suspected of being a victim of child abuse, the Superintendent or designee shall give the telephone number and address of the student's parent/guardian to the law enforcement officer, and the officer then has the responsibility of immediately notifying the parent/guardian. (Education Code 48906)

(cf. 5141.4 - Child Abuse Reporting Procedures)

The Superintendent or designee shall immediately be notified of the student's removal. This initial verbal notice will be followed by a written report by the principal or designee and shall include the date and time of arrest, the identity, badge number and official capacity of the officer

and the reason for release.

Regulation    CENTER UNIFIED SCHOOL DISTRICT  
approved: October 1, 1997    Antelope, California



Add

Students

E 5145.11

## QUESTIONING AND APPREHENSION BY LAW ENFORCEMENT

Note: In December 2009, the 9th Circuit Court of Appeals held in Greene v. Camreta that an interview of a student at school by a social worker and deputy sheriff, regarding allegations of sexual abuse by the student's father, violated her Fourth Amendment right against unreasonable "seizure" (i.e., questioning by law enforcement). According to the court, the social worker and sheriff could not question the student, absent exigent circumstances or without obtaining a warrant, court order, or parent/guardian consent. The applicability of this case to questioning of students by law enforcement in California school districts is unclear. It is likely that an appeal will be filed requesting that the U.S. Supreme Court review the decision; in the meantime, districts should proceed cautiously to avoid possible liability.

Although it is the responsibility of law enforcement, not district personnel, to determine if the questioning is lawful, the following sample form may be used by the district when acquiescing to such interviews. Law enforcement should be asked to complete the form prior to allowing the interview to proceed and the form should be placed in a record, separate from the student's educational record. If law enforcement refuses to complete the form, district legal counsel should be consulted; see the accompanying policy.

### QUESTIONING OF STUDENTS BY LAW ENFORCEMENT

*Instructions to law enforcement:* In response to the decision of the 9th Circuit Court of Appeals in Greene v. Camreta, the Center Joint Unified School District requests that law enforcement officials provide the information below prior to interviewing a district student on school grounds as part of an investigation. Failure to provide this information or satisfy the criteria below may result in the principal or designee's refusal to allow the interview to proceed. Your cooperation is appreciated.

Please indicate, by checking the box below, the authority upon which this student interview is based:

- ☐ Parent/guardian consent
- ☐ Court order or warrant
- ☐ Exigent circumstances

\_\_\_\_\_  
Name of Interviewer and Badge Number

\_\_\_\_\_  
Student's Name

\_\_\_\_\_  
Interviewer Signature

\_\_\_\_\_  
Date of Interview

\_\_\_\_\_  
Name of Agency

\_\_\_\_\_  
Name of School Official Receiving Form

Exhibit  
version:

CSBA MANUAL MAINTENANCE SERVICE  
March 2010

## NONDISCRIMINATION/HARASSMENT

Note: The following **optional** policy reflects the provisions of Title VI (42 USC 2000d-2000e-17) and Title IX (20 USC 1681-1688) which prohibit discrimination based on race, color, national origin, or sex and Education Code 220 which prohibits discrimination on the basis of actual or perceived disability, gender, nationality, race or ethnicity, religion, color, or sexual orientation.

Education Code 260 prohibits discrimination on the basis of both sex and gender. Education Code 210.7 provides that "gender" means "sex" and includes a person's gender identity and gender-related appearance and behavior, whether or not stereotypically associated with the person's sex at birth. Therefore, California law prohibits discrimination against transgender and gender nonconforming students.

Education Code 260 gives the Governing Board primary responsibility for ensuring that district programs and activities are free from discrimination based on age or any of these characteristics. See also BP 0410 - Nondiscrimination in District Programs and Activities.

The Governing Board desires to ensure equal opportunities for all students in admission and access to the district's educational programs, guidance and counseling programs, athletic programs, testing procedures, and other activities. District programs and activities shall be free from discrimination, including harassment, with respect to a student's actual or perceived sex, gender, ethnic group identification, race, national origin, religion, color, physical or mental disability, age, or sexual orientation.

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

*(cf. 5145.9 - Hate-Motivated Behavior)*

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

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

The Board prohibits discrimination, intimidation, or harassment of any student by any employee, student, or other person in the district. Prohibited harassment includes physical, verbal, nonverbal, or written conduct based on one of the categories listed above that is so severe and pervasive that it affects a student's ability to participate in or benefit from an educational program or activity; creates an intimidating, threatening, hostile, or offensive educational environment; has the purpose or effect of substantially or unreasonably interfering with a student's academic performance; or otherwise adversely affects the student's educational opportunities.

School staff and volunteers shall carefully guard against segregation, bias, and stereotyping in the delivery of services, including, but not limited to, instruction, guidance, and supervision.

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

*(cf. 6145 - Extracurricular and Cocurricular Activities)*

*(cf. 6145.2 - Athletic Competition)*

*(cf. 6164.2 - Guidance/Counseling Services)*

**NONDISCRIMINATION/HARASSMENT (continued)**

Note: Education Code 210.7 and 260 prohibit discrimination on the basis of sexual orientation and on the basis of a person's actual or perceived gender. To protect a student from such discrimination, the district may need to consider additional protections that might be necessary to help ensure student safety and civility. Examples of the types of actions that may be taken include allowing a student to dress in accordance with the gender identity the student consistently uses at school, directing staff and students to address the student by a preferred name or pronoun, or providing a student with adequate access to appropriate facilities, such as restrooms. However, each situation will need to be analyzed on a case-by-case basis to determine the most appropriate course of action to meet the safety needs of the student.

The principal or designee shall develop a plan to provide students with appropriate accommodations when necessary for their protection from threatened or potentially harassing or discriminatory behavior.

Note: Policies related to discrimination or harassment must be consistent with First Amendment rights to free speech. Education Code 48950 provides that no district with one or more high schools shall make or enforce any rule subjecting a high school student to disciplinary sanctions solely on the basis of speech or other communication that would be constitutionally protected if engaged in outside of campus. However, Education Code 48950 also specifies that the law does not prohibit discipline for harassment, threats, or intimidation unless constitutionally protected. Whether such speech might be entitled to constitutional protection would be determined on a case-by-case basis, with consideration for the specific words used and the circumstances involved.

Students who engage in discrimination or harassment in violation of law, Board policy, or administrative regulation shall be subject to appropriate discipline, up to and including counseling, suspension, and/or expulsion. Any employee who permits or engages in harassment or prohibited discrimination shall be subject to disciplinary action, up to and including dismissal.

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

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

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

*(cf. 5131 - Conduct)*

*(cf. 5144 - Discipline)*

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

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

**Grievance Procedures**

Note: Pursuant to 34 CFR 104.7 and 106.8, the district is required to designate the person(s) responsible for the overall implementation of the requirements of Title IX and Section 504, which prohibit discrimination on the bases of sex and disability. In its January 1999 Notice of Non-Discrimination, the U.S. Department of Education's Office for Civil Rights states that it is acceptable for the district to identify such designated person(s) by position title(s) rather than by name. This individual may be the same person designated in the district's Uniform Complaint Procedures to ensure compliance with specified programs and to receive complaints; see AR 1312.3 - Uniform Complaint Procedures. In addition, districts may designate more than one person to receive complaints (e.g., one person at each high school).

## **NONDISCRIMINATION/HARASSMENT (continued)**

The Board hereby designates the following position(s) as Coordinator(s) for Nondiscrimination to handle complaints regarding discrimination and harassment and inquiries regarding the district's nondiscrimination policies:

Chief Administrative Officer  
8408 Watt Avenue  
Antelope, CA 95843  
(916) 338-6413

*(cf. 1312.1 - Complaints Concerning District Employees)*  
*(cf. 1312.3 - Uniform Complaint Procedures)*

Any student who feels that he/she has been subjected to discrimination or harassment should immediately contact the Coordinator, the principal, or any other staff member. Any student or school employee who observes an incident of discrimination or harassment should report the incident to the Coordinator or principal, whether or not the victim files a complaint.

Note: Site-level grievance procedures for investigation of sexual harassment claims are detailed in AR 5145.7 - Sexual Harassment. The following paragraph provides for the application of those procedures to the investigation of other claims of harassment or discrimination. Districts that wish to use other such procedures should modify the following paragraph accordingly.

Upon receiving a complaint of discrimination or harassment, the Coordinator shall immediately investigate the complaint in accordance with site-level grievance procedures specified in AR 5145.7 - Sexual Harassment.

*(cf. 5145.7 - Sexual Harassment)*

The Superintendent or designee shall ensure that the student handbook clearly describes the district's nondiscrimination policy, procedures for filing a complaint regarding discrimination or harassment, and the resources that are available to students who feel that they have been the victim of discrimination or harassment. The district's policy may also be posted on the district website or any other location that is easily accessible to students.

*Legal Reference:*

**EDUCATION CODE**

*200-262.4 Prohibition of discrimination*

*48900.3 Suspension or expulsion for act of hate violence*

*48900.4 Suspension or expulsion for threats or harassment*

*48904 Liability of parent/guardian for willful student misconduct*

*48907 Student exercise of free expression*

*Legal Reference continued: (see next page)*

## NONDISCRIMINATION/HARASSMENT (continued)

### *Legal Reference: (continued)*

#### EDUCATION CODE (continued)

48950 Freedom of speech

49020-49023 Athletic programs

51500 Prohibited instruction or activity

51501 Prohibited means of instruction

60044 Prohibited instructional materials

#### CIVIL CODE

1714.1 Liability of parents/guardians for willful misconduct of minor

#### PENAL CODE

422.55 Definition of hate crime

422.6 Crimes, harassment

#### 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 of the Education Amendments of 1972

#### UNITED STATES CODE, TITLE 42

2000d-2000e-17 Title VI and Title VII Civil Rights Act of 1964, as amended

2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964

#### CODE OF FEDERAL REGULATIONS, TITLE 34

100.3 Prohibition of discrimination on basis of race, color or national origin

104.7 Designation of responsible employee for Section 504

106.8 Designation of responsible employee for Title IX

106.9 Notification of nondiscrimination on basis of sex

#### COURT DECISIONS

*Donovan v. Poway Unified School District*, (2008) 167 Cal.App.4th 567

*Flores v. Morgan Hill Unified School District*, (2003) 324 F.3d 1130

### *Management Resources:*

#### CSBA PUBLICATIONS

*Providing a Safe, Nondiscriminatory School Environment for All Students*, Policy Brief, April 2010

#### CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES

*California Student Safety and Violence Prevention - Laws and Regulations*, April 2004

#### FIRST AMENDMENT CENTER PUBLICATIONS

*Public Schools and Sexual Orientation: A First Amendment Framework for Finding Common Ground*, 2006

#### NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS

*Dealing with Legal Matters Surrounding Students' Sexual Orientation and Gender Identity*, 2004

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

*Notice of Non-Discrimination*, January 1999

#### WEB SITES

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

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

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

First Amendment Center: <http://www.firstamendment.org>

National School Boards Association: <http://www.nsba.org>

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

# **Board Policy**

## **Nondiscrimination/Harassment**

**BP 5145.3**

### **Students**

District programs and activities shall be free from discrimination, including harassment, with respect to a student's actual or perceived sex, gender, ethnic group identification, race, national origin, religion, color, physical or mental disability, age or sexual orientation.

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

(cf. 5145.9 - Hate-Motivated Behavior)

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

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

The Governing Board shall ensure equal opportunities for all students in admission and access to the educational program, guidance and counseling programs, athletic programs, testing procedures, and other activities. School staff and volunteers shall carefully guard against segregation, bias and stereotyping in instruction, guidance and supervision. The district may provide male and female students with separate shower rooms and sexual health and HIV/AIDS prevention classes in order to protect student modesty.

(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)

(cf. 6145 - Extracurricular and Cocurricular Activities)

(cf. 6145.2 - Athletic Competition)

(cf. 6164.2 - Guidance/Counseling Services)

The Board prohibits intimidation or harassment of any student by any employee, student or other person in the district. Staff shall be alert and immediately responsive to student conduct which may interfere with another student's ability to participate in or benefit from school services, activities or privileges.

(cf. 5145.2 - Freedom of Speech/Expression)

(cf. 5145.7 - Sexual Harassment)

Students who harass other students shall be subject to appropriate discipline, up to and including counseling, suspension and/or expulsion. An employee who permits or engages in harassment may be subject to disciplinary action, up to and including dismissal.

(cf. 4118 - Suspension/Disciplinary Action)

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

(cf. 5131 - Conduct)

(cf. 5144 - Discipline)

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

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

**The Board hereby designates the following position as Coordinator for Nondiscrimination to handle complaints regarding discrimination and inquiries regarding the district's nondiscrimination policies:**

**Director of Personnel  
8408 Watt Avenue  
Antelope, California 95843  
(916) 338-6419**

**(cf. 1312.1 - Complaints Concerning District Employees)  
(cf. 1312.3 - Uniform Complaint Procedures)**

**Any student who feels that he/she is being harassed should immediately contact the Coordinator for Nondiscrimination, the principal or any other staff member. Any student who observes an incident of harassment should report the harassment to a school employee, whether or not the victim files a complaint.**

**Employees who become aware of an act of harassment shall immediately report the incident to the Coordinator for Nondiscrimination. Upon receiving a complaint of discrimination or harassment, the Coordinator shall immediately investigate the complaint in accordance with site-level grievance procedures specified in AR 5145.7 - Sexual Harassment. Where the Coordinator finds that harassment has occurred, he/she shall take prompt, appropriate action to end the harassment and address its effects on the victim.**

**The Coordinator shall also advise the victim of any other remedies that may be available. The Coordinator shall file a report with the Superintendent or designee and refer the matter to law enforcement where required.**

**Legal Reference:**

**EDUCATION CODE**

**200-262.4 Prohibition of discrimination on the basis of sex, especially:**

**221.5 Prohibited sex discrimination**

**221.7 School-sponsored athletic programs; prohibited sex discrimination**

**48900.3 Suspension or expulsion for act of hate violence**

**48900.4 Suspension or expulsion for threats or harassment**

**48904 Liability of parent/guardian for willful student misconduct**

**48907 Student exercise of free expression**

**48950 Freedom of speech**

**49020-49023 Athletic programs**

**51006-51007 Equitable access to technological education programs**

**51500 Prohibited instruction or activity**

**51501 Prohibited means of instruction**

**60044 Prohibited instructional materials**

## **CIVIL CODE**

1714.1 Liability of parents/guardians for willful misconduct of minor

## **PENAL CODE**

422.55 Interference with constitutional right or privilege

## **CODE OF REGULATIONS, TITLE 5**

4621 District policies and procedures

4622 Notice requirements

4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance

## **UNITED STATES CODE, TITLE 42**

2000d-2000e-17 Title VI & VII Civil Rights Act of 1964 as amended

2000h-2-2000h-6 Title IX, 1972 Education Act Amendments

## **CODE OF FEDERAL REGULATIONS, TITLE 34**

100.3 Prohibition of discrimination on basis of race, color or national origin

104.7 Designation of responsible employee for Section 504

106.8 Designation of responsible employee for Title IX

106.9 Notification of nondiscrimination on basis of sex

## **COURT DECISIONS**

Flores v. Morgan Hill Unified School District, (2003) 324 F.3d 1130

## **Management Resources:**

### **OFFICE OF CIVIL RIGHTS PUBLICATIONS**

Notice of Non-Discrimination, January, 1999

Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance, 59 FR 47, March, 1994

### **WEB SITES**

U.S. Department of Education, Office of Civil Rights: <http://www.ed.gov/offices/OCR>

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

## **Policy CENTER UNIFIED SCHOOL DISTRICT**

adopted: June 23, 2004      Antelope, California