

# 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 SPECIAL MEETING

**LOCATION:** District Office - Room 5  
8408 Watt Avenue, Antelope, CA 95843

**DATE/TIME:** Wednesday, October 3, 2012 @ 6:00 p.m.

### AGENDA

I. CALL TO ORDER & ROLL CALL - 6:00 p.m.

II. FLAG SALUTE

III. ADOPTION OF AGENDA

Action

IV. COMMENTS FROM THE AUDIENCE REGARDING ITEMS ON THE AGENDA

Public  
Comments

V. BUSINESS ITEMS

Governance

A. First Reading: Board Policies/Regulations/Exhibits

Action

**BP/AR 0450 - Comprehensive Safety Plan**  
(BP/AR revised)

Policy updated to reflect NEW LAW (AB 680) which authorizes district administrators rather than school site councils to develop those portions of the comprehensive safety plan that include tactical responses to criminal incidents on school sites that may result in death or serious bodily injury and allows boards to prohibit public disclosure of those strategies. Policy also clarifies that the requirement to annually update the comprehensive safety plan applies to districts selecting either Option 1 (school site plans) or Option 2 (districtwide plan). Regulation updates section on "Content of the Safety Plan" to include examples of indicators that might be used to assess current school safety, reflects NEW LAW (AB 9) which adds requirements related to the district's nondiscrimination policy, reflects NEW LAW (AB 1156) which encourages districts to include bullying policies in their plans, reflects NEW LAW (AB 123) which expands the definition of a "disruption," and adds new optional language re: dating violence and threat assessment strategies.

*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.

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

### **BB 9223 - Filling Vacancies**

(BB revised)

Bylaw updated to reflect **NEW LAW (AB 334)** which allows governing boards to approve a board member's out-of-state absence for illness or urgent necessity for an unlimited duration. Updated bylaw also reflects current law which provides that, when an interim board member is appointed to fill an absence created by a member's military deployment that exceeds six months, the term of the interim member cannot extend beyond the return of the absent board member or beyond the next regularly scheduled election for that office, whichever occurs first

### **BP 0410 - Nondiscrimination in District Programs and Activities**

(BP revised)

Policy updated to reflect **NEW LAW (AB 887 and SB 559)** which expands the prohibited bases of discrimination to include genetic information, gender expression, and gender identity. Policy also reflects federal regulations which (1) require newly constructed district facilities to comply, starting March 15, 2012, with the 2010 Americans with Disabilities Act Standards for Accessible Designs and (2) require districts to permit an individual with a disability to be accompanied by a service animal on district premises when, without the animal's assistance, the individual with a disability will not be able to access or participate in a district program or activity.

### **BP/AR 0420.4 - Charter School Authorization**

(BP/AR revised)

Retitled policy and regulation address processes for submission of a charter petition to the district and for the Board's review and approval/denial of the petition. Updated policy describes the circumstances under which petitioners may submit a petition directly to the County Board of Education or the State Board of Education (SBE), and parents/guardians' rights under the Parent Empowerment Act to submit a petition to convert a school into a charter school. Policy also contains material formerly in AR re: the Board's responsibilities for approval/denial of a charter petition and adds language on the petitioners' right to submit a denied petition to the County Board and then the SBE. Updated regulation details the closure procedures that must be included in a petition, deletes outdated material in section "Location of Charter School," and revises the role of the petition review committee.

### **BP/E 0420.41 - Charter School Oversight**

(BP/E added)

New policy contains material formerly in BP/AR 0420.4 re: the Board's responsibility for monitoring the performance of any charter school it authorizes, approving any material revisions to the charter, and ensuring that notifications are provided in the event the school closes for any reason. Policy also includes new material re: appointing a representative to the governing body when the school is, or is operated by, a nonprofit public benefit corporation, deletes material formerly in section on "Waivers" which reflected law that has been repealed, and reflects state regulation re: timeline for notification to California Department of Education (CDE) of school closure. Exhibit reflects legal requirements for charter schools formerly in AR 0420.4, updated to add new items on student fees (item #6), transitional kindergarten (item #11), and students' freedom of expression (item #23) and to delete date in item #26 that has already passed.

### **BP 0420.42 - Charter School Renewal**

(BP added)

New policy contains material formerly in AR 0420.4 re: submission and review of a petition for charter renewal. Policy reflects **NEW STATE REGULATIONS** (Register 2011, No. 43) which (1) require that the Board grant or deny the renewal petition within 60 days of receiving the petition, unless extended to 90 days by mutual agreement, and (2) provide that the petition will be automatically renewed if the Board fails to act within this timeline. Policy also reflects the charter school's right to petition the County Board and then the SBE if the district denies the renewal.

### **BP 0420.43 - Charter School Revocation**

(BP added)

New policy contains material formerly in AR 0420.4 re: grounds for revocation of a charter and required notifications. Policy reflects **NEW COURT DECISION** which found that a charter school is not entitled to any additional evidentiary hearing by a neutral third party. Policy also reflects **NEW STATE REGULATIONS** (Register 2011, No. 1 and No. 46) which establish procedures for revocation by the Board or the SBE, specify alternative procedures to use to immediately revoke a charter when there is a severe and imminent threat to student health or safety, and address the charter school's right to appeal the revocation to the County Board and then the SBE.



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

### **BP 1250 - Visitors/Outsiders**

(BP revised)

Updated policy adds new section regarding the presence on campus of registered sex offenders, including those who are parents/guardians of district students, based on their right to participate in their children's education.

### **BP/AR 1312.3 - Uniform Complaint Procedures**

(BP/AR revised)

**MANDATED** policy updated to reflect **NEW LAW (AB 887 and SB 559)** which expands the prohibited bases of discrimination subject to uniform complaint procedures (UCP) to include genetic information, gender expression, and gender identity. **MANDATED** regulation revised to add, pursuant to the CDE's Federal Program Monitoring procedures, that the annual written notification should include a statement that copies of UCP will be provided free of charge. Regulation also revised to (1) require agreement of all parties (not just the complainant) before proceeding to mediation, and (2) clarify that the requirement that a complainant must wait until after 60 days of filing an appeal with the CDE before he/she pursues a civil law remedy applies only with respect to a complaint of discrimination based on state law.

### **AR 3515.2 - Disruptions**

(AR revised)

Regulation updated to reflect **NEW LAW (AB 123)** which makes it a misdemeanor for a person to willfully or knowingly create a disruption with the intent to threaten the immediate physical safety of any student in grades K-8.

### **BP 4030 - Nondiscrimination in Employment**

(BP revised)

Policy updated to reflect **NEW LAW (SB 559 and AB 887)** which expands categories of prohibited discrimination to include genetic information, gender expression, and gender identity. Policy also reflects **NEW COURT DECISION** which clarifies that a third party may file a suit alleging retaliation for a complaint by another person to whom the third party is related.

### **BP 4312.1 - Contracts**

(BP revised)

Policy updated to reflect **NEW LAW (AB 1344)** which prohibits the Board from calling a special meeting to consider the salary or other compensation of management employees, prohibits automatic renewal of a contract with a provision for automatic increase that exceeds the cost-of-living adjustment, and requires contracts executed or renewed after January 1, 2012, to contain a provision requiring an employee to reimburse the district in the event he/she is convicted of a crime involving abuse of his/her office or position. Policy also adds statement re: Board deliberation of employment contract in closed session.

### **BP/AR 5126 - Awards for Achievement**

(BP/AR revised)

Policy updated to reflect **NEW LAW (AB 815)** which establishes a State Seal of Biliteracy to recognize high school graduates who have attained a high level of proficiency in one or more languages in addition to English. Policy also contains optional language for districts that choose to provide "pathway awards" recognizing benchmarks toward biliteracy at earlier grade levels. **MANDATED** regulation updated to reflect eligibility criteria and other requirements for State Seal of Biliteracy as added by AB 815. Regulation also adds optional general rules governing student applications for the district's scholarship and loan fund and optional notifications to inform students of eligibility requirements for various awards.

### **BP 5131 - Conduct**

(BP revised)

Policy updated to reflect **NEW LAW (AB 9)** which requires policy prohibiting discrimination, harassment, intimidation, and bullying based on specified characteristics and **NEW LAW (AB 1156)** which encourages the inclusion of bullying prevention strategies in comprehensive safety plans. Material on prevention and intervention of bullying and cyberbullying moved to BP 5131.2 - Bullying. Policy also expands item #4 to clarify that the district is not responsible for students' personal belongings brought on campus or to a school activity, replaces section on cell phone possession and use with new item #6 which prohibits use during instructional time with specified exceptions, and adds referral to student success team or counseling services as possible consequences for violation of school rules.

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

### **BP 5131.2 - Bullying**

(BP added)

New policy contains material formerly in BP 5131 - Conduct re: strategies for prevention and intervention of bullying. Policy reflects NEW LAW (AB 9) which requires policy prohibiting discrimination, harassment, intimidation, and bullying based on specified characteristics, NEW LAW (AB 1156) which encourages the inclusion of bullying prevention strategies in comprehensive safety plans, and NEW LAW (AB 746) which expands the definition of bullying committed by means of an electronic act to include posting of messages on social media networks. Policy also expands topics for related student education, adds strategies for supervision and security, and adds language re: reporting of incidents.

### **BP 5144.1 - Suspension and Expulsion/Due Process**

(BP revised)

Reorganized, MANDATED policy includes language requiring fair, consistent enforcement of suspension and expulsion rules in response to new U.S. Department of Education Office for Civil Rights (OCR) report finding disproportionate rates of suspension/expulsion by race and ethnicity, gender, and disability. Policy also revises material re: zero tolerance to encourage use of alternative disciplinary measures that keep students in school during the school day, except under specified circumstances. Reorganized MANDATED regulation reflects NEW LAW (AB 746) which expands the definition of bullying committed by means of an electronic act to include posting of messages on social media networks, and NEW LAW (AB 143) which requires that, when law enforcement officials are notified of certain acts by students with disabilities, they must certify that specified student records will not be disclosed without prior written consent. Regulation also contains some material formerly in BP re: parental attendance when teacher removes student from class, and clarifies timeline for the Board's decision as to whether to expel a student.

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

(AR revised)

MANDATED regulation updated to reflect NEW LAW (AB 1732, 2012) which identifies specific conduct that would constitute a post on a social network Internet web site, for purposes of identifying an act of bullying, to include posting to or creating a burn page, creating a credible impersonation of a student, and creating a false profile. In addition, updated regulation clarifies that, although state law defines "bullying" to include acts of sexual harassment, hate violence, or harassment, threat, or intimidation (as described in items #20-22 in the section "Grounds for Suspension and Expulsion"), students below grade 4 may only be disciplined for such acts if all the criteria for "bullying" are met (e.g., a third grade student's act of harassment results in harm to a reasonable student).

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

(AR revised)

Regulation updated to reflect NEW LAW (AB 143) which requires that, when law enforcement is notified of certain acts by students with disabilities, law enforcement officials must certify that specified student records will not be disclosed without prior written parental consent. Revised regulation also clarifies that students with disabilities are subject to the same suspension and expulsion procedures as nondisabled students unless otherwise specified.

### **BP 5145.3 - Nondiscrimination/Harassment**

(BP revised)

MANDATED policy updated to reflect NEW LAW (AB 9) which requires policy prohibiting discrimination, harassment, intimidation, and bullying based on specified characteristics, including gender identity and gender expression. Policy also adds language (1) prohibiting retaliation against students who file a complaint or report, and (2) requiring related training of students, parents/guardians, and employees.

### **E 5145.6 - Parental Notifications**

(E revised)

Updated, reorganized Exhibit includes new notifications re: (1) how each graduation requirement does or does not satisfy a-g college entrance criteria, including list of career technical education (CTE) courses that satisfy a-g criteria, as required by NEW LAW (AB 1330); (2) information to parents/guardians of student athletes on concussions and head injuries, as required by NEW LAW (AB 25); (3) availability of topical fluoride dental treatment; (4) identification of a student for a program for English learners; (5) when parental attendance is required when student removed from class; and (6) when student's achievement will be measured with California Modified Assessment. Exhibit also deletes unnecessary items, combines some items, and updates legal cites.

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

### **BP/AR 5145.7 - Sexual Harassment**

(BP/AR revised)

**MANDATED** policy updated to reflect **NEW OCR GUIDANCE** which clarifies that (1) sexual violence (e.g., rape, sexual assault, sexual battery, sexual coercion) is a form of sexual harassment that must be addressed by districts in the same way as other forms of sexual harassment; (2) districts should provide information about the rights of students and parents/guardians to file a criminal complaint of sexual harassment as applicable; and (3) districts should respond to sexual harassment that comes to their attention even when a victim requests anonymity. Regulation updated to add sexual assault, sexual battery, and sexual coercion to examples of sexual harassment per **NEW OCR GUIDANCE**. Regulation also reflects information in the OCR guidance that districts may have an obligation to respond to student-on-student sexual harassment which occurs off school grounds or outside school-sponsored or school-related programs or activities, since the sexual harassment may still create a hostile environment for the victim at school.

### **BP/AR 6145 - Extracurricular and Cocurricular Activities**

(BP/AR revised)

**MANDATED** policy updated to clarify that no fee may be charged to students for participation in extracurricular and cocurricular activities related to the educational program, unless specifically authorized by law, and that a district policy allowing for waivers of the fee based on financial need does not render the fee constitutional. Regulation updated to clarify the applicability of legal definitions of extracurricular and cocurricular activities and to add section on "Supervision" reflecting required qualifications of staff and others who work with students in a student activity program.

### **AR 6159 - Individualized Education Program**

(AR revised)

Reorganized, **MANDATED** regulation reflects repeal of law which previously required districts to request participation of a county mental health agency in the individualized education program (IEP) team before referring a student to the county mental health agency. Regulation also clarifies membership of IEP team, possible alternative student assessments for students with disabilities and current exemption from high school exit examination, and parental right to examine student records, and reorganizes material for IEP development and review into applicable sections.

### **BP/AR 6178.1 - Work-Based Learning**

(BP/AR revised)

Retitled policy and regulation updated to address a broad range of work-based learning opportunities in addition to work experience education (WEE). Policy also encourages involvement of businesses in program planning and implementation, reflects law requiring written training agreements with employers, adds material on program evaluation, and includes material formerly in AR re: work permits, applicable labor laws, teacher qualifications, and records. Updated regulation reflects **NEW STATE REGULATIONS** (Register 2011, No. 12) changing the name of the career technical WEE program, and adds new sections reflecting requirements of cooperative career technical education/community classroom programs and job shadowing.

### **BP 7110 - Facilities Master Plan**

(BP revised)

Policy updated to add (1) role of Board in approving the facilities master plan, (2) regular review and updating of the plan, (3) plan components, (4) a list of minimum general standards for school facilities, (5) other applicable standards including green building standards and the Americans with Disabilities Act, and (6) consideration of joint use of facilities.

### **BP/AR 7214 - General Obligation Bonds**

(BP/AR revised)

Updated policy includes material formerly in AR re: appointment of citizens' oversight committee for bonds approved under the 55 percent threshold, reflects **NEW LAW (SB 423)** which establishes a date by which audits must be given to the committee, and provides option for districts to establish citizens' oversight committee for bonds approved under the 66.67 percent threshold. Sections on "Certificate of Results" and "Resolution Regarding Sale of Bonds" moved from AR to BP since Board action is required. Updated regulation revises section on "Citizens' Oversight Committee" to (1) clarify that the legal requirements apply only to bonds approved under 55 percent threshold and (2) more directly reflect law re: committee's duties by deleting duty to ensure audits are conducted in accordance with Government Auditing Standards.

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

### **BP/AR 3511.1 - Integrated Waste Management**

(BP/AR revised)

Updated policy and regulation reflect **NEW LAW (AB 341, 2011)** which requires schools that generate more than four cubic yards of solid waste per week to arrange for recycling services in accordance with law. Policy also references resources available through the California Department of Resources Recycling and Recovery (CalRecycle), links integrated waste management to broader goal of green school operations, and adds language related to program monitoring and evaluation.

### **AR 3550 - Food Service/Child Nutrition Program**

(AR revised)

Updated regulation reflects **NEW FEDERAL REGULATIONS (77 Fed. Reg. 17)** which revise the nutrition standards for the National School Lunch and Breakfast Program. Regulation also deletes separate item prohibiting artificial trans fat since the new federal regulations now include this prohibition, and deletes the state's Shaping Health as Partners in Education (SHAPE) menu planning option as an alternative based on U.S. Department of Agriculture action to disallow this option. Section on nutrition standards for foods and beverages sold outside the reimbursable meal programs deleted; BP/AR 3554 - Other Food Sales addresses sales of competitive foods. Section on "Drinking Water" expanded to include recommendations from the California Department of Education (CDE) for satisfying legal requirement to provide free drinking water during meal service.

### **BP/E 4112.9/4212.9/4312.9 - Employee Notifications**

(BP/E added, AR deleted)

New policy contains board philosophical statement regarding the importance of clear communications with staff and the circumstances under which employees will be asked to sign an acknowledgment that they have received notifications. Regulation deleted and replaced with new exhibit listing notifications required by law, categories of employees who must be provided each notification, applicable legal cites, and the board policy and/or administrative regulation that addresses the notification requirement.

### **BP 4119.1/4219.1/4319.1 - Civil and Legal Rights**

(BP revised)

Updated policy reflects **NEW COURT DECISION** which held that supervisors with authority to take personnel actions may be held liable for their acts of retaliation against employees who disclose improper governmental action, and adds statement about the right of an employee to seek civil law remedies against the supervisor or administrator who retaliated or attempted to retaliate against him/her. Policy also revised to reflect law providing that an employee is not protected against liability if his/her misconduct occurred during background investigations or other actions involved in the employee's hiring.

### **BP 4119.21/4219.21/4319.21 - Professional Standards**

(BP revised)

Updated, reorganized policy clarifies expectations for appropriate employee conduct and expands list of prohibited conduct. Material addressing discipline adds the possibility of report to the Commission on Teacher Credentialing (CTC) or referral to law enforcement, and provides that an employee who has knowledge of misconduct but fails to report it also may be subject to discipline.

### **BP 4119.41/4219.41/4319.41 - Employees with Infectious Disease**

(BP revised)

Updated policy adds board philosophical statement, definitions of infectious and communicable infectious disease, legal requirement for job applicants to provide evidence that they are free of communicable disease prior to beginning employment, new material on disease prevention and on addressing communicable disease outbreaks in the district's emergency preparedness plan, and legal requirement to report communicable infectious disease to local health officer. Material re: reasonable accommodation revised for consistency with AR 4032 - Reasonable Accommodation.

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

### **BP/AR 4121 - Temporary/Substitute Personnel**

(BP added, AR revised)

New policy contains material formerly in AR that reflects requirements for board action. Policy also reflects (1) **NEW COURT DECISION** which clarifies that the number of temporary teachers cannot exceed the total number of employees on leave at any one time and that a district is not required to grant probationary status to an employee based solely on the fact that he/she served as a temporary employee for more than one year, (2) **NEW COURT DECISION** which held that an employee in a categorically funded program cannot be terminated through procedures applicable to temporary employees if the employee is being terminated before the end of the contract between the district and agency providing categorical funds, and (3) **NEW COURT DECISION** which determined that June 30 is the date by which temporary employees must be notified of the district's decision not to reelect them for the following school year. Section on "Salary and Benefits" updated to reflect **NEW LAW (AB 501, 2011)** which allows all public school employees, including substitute and temporary employees, to be represented by a bargaining unit. Updated regulation reflects **NEW COURT DECISION** which held that temporary athletic team coaches may be an exception to the classification notice requirement because their temporary status is expressly stated in law. Regulation also adds requirement to notify substitute employees about their eligibility for the retirement plan and reflects restrictions in the assignment of persons holding emergency substitute teaching permits.

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

(BP/AR revised)

Updated policy and regulation delete material related to temporary premium subsidies for COBRA/Cal-COBRA for "assistance eligible individuals" who were involuntarily terminated, as the date for program eligibility has now passed. Policy also reflects the federal Patient Protection and Affordable Care Act which prohibits employers from providing higher benefits to "highly compensated" individuals, as defined. Regulation also reflects legal requirement that an eligible retiree or surviving spouse may be denied the opportunity to enroll for benefits if he/she does not do so within 30 days of losing active coverage, and reflects change of age at which person ceases to be a "dependent child" for purposes of eligibility for COBRA/Cal-COBRA.

### **E 4319.21 - Professional Standards**

(E revised)

Updated exhibit reproduces the entire California Professional Standards for Educational Leaders, as issued by the California School Leadership Academy at WestEd and the Association of California School Administrators.

### **BP/AR 5117 - Interdistrict Attendance**

(BP/AR revised)

Policy and regulation revised to distinguish the requirements of the interdistrict attendance agreement between the boards of two districts and the permit granted to an individual student. Updated policy also adds board role to approve the agreement and staff role to approve individual permits based on the terms of the agreement, and deletes criteria for denial of the permit that are repeated in AR. Section on "Limits on Student Transfer out of the District to a School District of Choice" revised to reflect **NEW COURT DECISION** which defines "for the duration of the program" for purposes of capping outbound transfers. Regulation updated to reflect **NEW LAW (AB 1156, 2011)** which requires that priority for interdistrict attendance agreements be given to students who are victims of an act of bullying, **NEW LAW (AB 1085, 2011)** which gives county boards in larger counties more time to resolve appeals, and legal requirement regarding provisional enrollment pending a decision of the two districts or during the term of appeal.

### **AR 6146.2 - Certificate of Proficiency/High School Equivalency**

(AR revised)

Updated regulation reflects **NEW LAW (SB 461, 2011)** which authorizes the issuance of a high school equivalency certificate to a student who completes a dropout recovery high school's instructional program and meets other specified criteria.

### **BP 6161 - Equipment, Books and Materials**

(BP deleted)

Policy deleted due to redundancy with BP 6161.1 - Selection and Evaluation of Instructional Materials.

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

### **BP/AR 6178 - Career Technical Education**

(BP/AR revised)

**MANDATED** policy updated to list types of career technical education (CTE) programs that may be offered, reflect concepts of linked learning based on definition in **NEW LAW (AB 790, 2011)** which establishes a pilot project, reflect **NEW LAW (AB 1330, 2011)** which allows districts to establish CTE as an optional graduation requirement, and reflect **NEW LAW (AB 1304)** which authorizes the CTC to issue a "recognition of study in linked learning" following a teacher's completion of an approved course. Updated policy also includes a goal to focus on high-skill, high-wage, high-demand occupations; provides examples of work-based learning opportunities; expands language re: collaboration with postsecondary institutions; and reflects requirement to disaggregate program evaluation data. Updated regulation (1) revises section on Perkins basic grants to focus on program requirements rather than components of the district plan, (2) includes new section on linked learning reflecting concepts of AB 790, (3) revises section on partnership academies to add student eligibility criteria and revise program components in accordance with current law, (4) revises section on apprenticeship programs to change "pre-apprenticeship program" to "orientation to apprenticeships" for consistency with Department of Industrial Relations materials, and (5) adds new section on regional occupational centers/programs stating basic program goals and linking to BP 6178.2 - Regional Occupational Center/Program.

### **BB 9321 - Closed Session Purposes and Agendas**

(BB revised)

Updated bylaw reflects **NEW ATTORNEY GENERAL OPINION** which concludes that only three specified subjects related to real property negotiations may be considered in closed session. Bylaw also (1) includes board philosophical statement expressing commitment to transparency and compliance with open meeting laws, (2) includes requirement to reconvene in open session to report decisions of closed session with link to BB 9321.1 - Closed Session Actions and Reports, and (3) revises section on "Pending Litigation" to add definitions of "party" and "significant exposure to litigation."

## **VI. ADVANCE PLANNING**

Info

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

- i. Regular Meeting: Wednesday, October 17, 2012 @ 6:00 p.m. - District Board Room - Room 503, located at Riles Middle School, 4747 PFE Road, Roseville, CA 95747**

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

## **VII. ADJOURNMENT**

Action

# Center Joint Unified School District

## AGENDA REQUEST FOR:

Dept./Site: Superintendent's Office

Action Item     X    

To: Board of Trustees

Information Item           

Date: October 3, 2012

# Attached Pages           

From: Scott A. Loehr, Superintendent

Principal/Administrator Initials:           

## SUBJECT: First Reading: Board Policies/Regulations/Exhibits

Revise BP/AR	0450	Comprehensive Safety Plan
Revise BB	9223	Filling Vacancies
Revise BP	0410	Nondiscrimination in District Programs and Activities
Revise BP/AR	0420.4	Charter School Authorization
Add BP/E	0420.41	Charter School Oversight
Add BP	0420.42	Charter School Renewal
Add BP	0420.43	Charter School Revocation
Revise BP	1250	Visitors/Outsiders
Revise BP/AR	1312.3	Uniform Complaint Procedures
Revise AR	3515.2	Disruptions
Revise BP	4030	Nondiscrimination in Employment
Revise BP	4312.1	Contracts
Revise BP/AR	5126	Awards for Achievement
Revise BP	5131	Conduct
Add BP	5131.2	Bullying
Revise BP/AR	5144.1	Suspension and Expulsion/Due Process
Revise AR	5144.2	Suspension and Expulsion/Due Process (Students with Disabilities)
Revise BP	5145.3	Nondiscrimination/Harassment
Revise E	5145.6	Parental Notifications
Revise BP/AR	5145.7	Sexual Harassment
Revise BP/AR	6145	Extracurricular and Cocurricular Activities
Revise AR	6159	Individualized Education Program
Revise BP/AR	6178.1	Work-Based Learning
Revise BP	7110	Facilities Master Plan
Revise BP/AR	7214	General Obligation Bonds
Revise BP/AR	3511.1	Integrated Waste Management
Revise AR	3550	Food Service/Child Nutrition Program
Add BP/E	4112.9/4212.9/4312.9	Employee Notifications
Delete AR	4112.9/4212.9/4312.9	Employee Notifications
Revise BP	4119.1/4219.1/4319.1	Civil and Legal Rights
Revise BP	4119.21/4219.21/4319.21	Professional Standards
Revise BP	4119.41/4219.41/4319.41	Employees with Infectious Disease
Add BP	4121	Temporary/Substitute Personnel
Revise AR	4121	Temporary/Substitute Personnel
Revise BP/AR	4154/4254/4354	Health and Welfare Benefits
Revise E	4319.21	Professional Standards
Revise BP/AR	5117	Interdistrict Attendance
Revise AR	6146.2	Certificate of Proficiency/High School Equivalency
Delete BP	6161	Equipment, Books and Materials
Revise BP/AR	6178	Career Technical Education
Revise BB	9321	Closed Session Purposes and Agendas

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

**COMPREHENSIVE SAFETY PLAN**

The Governing Board recognizes that students and staff have the right to a safe and secure campus where they are free from physical and psychological harm. The Board is fully committed to maximizing school safety and to creating a positive learning environment that includes strategies for violence prevention and high expectations for student conduct, responsible behavior, and respect for others.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*  
*(cf. 1312.3 - Uniform Complaint Procedures)*  
*(cf. 3515 - Campus Security)*  
*(cf. 3515.2 - Disruptions)*  
*(cf. 3515.3 - District Police/Security Department)*  
*(cf. 5131 - Conduct)*  
*(cf. 5131.4 - Student Disturbances)*  
*(cf. 5131.7 - Weapons and Dangerous Instruments)*  
*(cf. 5136 - Gangs)*  
*(cf. 5137 - Positive School Climate)*  
*(cf. 5138 - Conflict Resolution/Peer Mediation)*  
*(cf. 5144 - Discipline)*  
*(cf. 5144.1 - Suspension and Expulsion/Due Process)*  
*(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))*  
*(cf. 5145.3 - Nondiscrimination/Harassment)*  
*(cf. 5145.7 - Sexual Harassment)*  
*(cf. 5145.9 - Hate-Motivated Behavior)*

Note: Pursuant to Education Code 32281 and 32286, each school is required to adopt a comprehensive school safety plan (Option 1 below). However, districts with an average daily attendance (ADA) of 2,500 or less are authorized by Education Code 32281 to develop a districtwide safety plan in lieu of developing school plans; thus, those districts may select either Option 1 or 2 to reflect district practice. Any district may choose to develop both district and school plans.

**OPTION 1: (Districts with more than 2,500 ADA and districts with 2,500 or less ADA that choose to develop school site plans)**

The school site council at each district school shall develop a comprehensive school safety plan relevant to the needs and resources of that particular school. New school campuses shall develop a safety plan within one year of initiating operations. (Education Code 32281, 32286)

*(cf. 0420 - School Plans/Site Councils)*  
*(cf. 1220 - Citizen Advisory Committees)*

The school safety plan shall take into account the school's staffing, available resources, and building design, as well as other factors unique to the site.

Each school shall forward its comprehensive safety plan to the Board for approval. (Education Code 32288)



## COMPREHENSIVE SAFETY PLAN (continued)

### ~~OPTION 2: (Districts with 2,500 or less ADA that choose to develop a districtwide plan)~~

~~The Superintendent or designee shall oversee the development of a districtwide comprehensive safety plan that is applicable to each school site. (Education Code 32281)~~

Note: The following two paragraphs apply to all districts.

The comprehensive safety plan(s) shall be reviewed and updated by March 1 of each year. (Education Code 32286)

The Board shall review the comprehensive safety plan(s) in order to ensure compliance with state law, Board policy, and administrative regulation and shall approve the plan(s) at a regularly scheduled meeting.

*(cf. 0500 - Accountability)*

*(cf. 9320 - Meetings and Notices)*

Note: Education Code 32288 requires that districts notify the California Department of Education if a school has not complied with the safety plan requirements. In the event that the Superintendent of Public Instruction determines that there has been a willful failure by a district to make any report required by Education Code 32280-32289, Education Code 32287 provides that the district may be fined up to \$2,000.

By October 15 of each year, the Superintendent or designee shall notify the California Department of Education of any schools that have not complied with the requirements of Education Code 32281. (Education Code 32288)

### Tactical Response Plan

Note: The following section is **optional**. Pursuant to Education Code 32281, as amended by AB 680 (Ch. 438, Statutes of 2011), the Governing Board may, after consulting with law enforcement officials, elect to have the district, rather than the school site council, develop those portions of the comprehensive safety plan that include tactical responses to criminal incidents that may result in death or serious bodily injury.

Notwithstanding the process described above, any portion of a comprehensive safety plan that includes tactical responses to criminal incidents that may result in death or serious bodily injury at the school site, including steps to be taken to safeguard students and staff, secure the affected school premises, and apprehend the criminal perpetrator(s), shall be developed by district administrators in accordance with Education Code 32281. In developing such strategies, district administrators shall consult with law enforcement officials and with a representative of an employee bargaining unit, if he/she chooses to participate.

## **COMPREHENSIVE SAFETY PLAN (continued)**

When reviewing the tactical response plan, the Board may meet in closed session to confer with law enforcement officials, provided that any vote to approve the tactical response plan is announced in open session following the closed session. (Education Code 32281)

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

*(cf. 9011 - Disclosure of Confidential/Privileged Information)*

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

*(cf. 9321.1 - Closed Session Actions and Reports)*

### **Public Access to Safety Plan(s)**

The Superintendent or designee shall ensure that an updated file of all safety-related plans and materials is readily available for inspection by the public. (Education Code 32282)

*(cf. 1340 - Access to District Records)*

Note: The following paragraph is **optional**. Pursuant to Education Code 32281, as amended by AB 680 (Ch. 438, Statutes of 2011), the Board may choose to prohibit disclosure of those portions of the comprehensive safety plan that include tactical responses to criminal incidents.

However, those portions of the comprehensive safety plan that include tactical responses to criminal incidents shall not be publicly disclosed.

#### *Legal Reference:*

##### **EDUCATION CODE**

*200-262.4 Prohibition of discrimination*

*32260-32262 Interagency School Safety Demonstration Act of 1985*

*32270 School safety cadre*

*32280-32289 School safety plans*

*32290 Safety devices*

*35147 School site councils and advisory committees*

*35183 School dress code; uniforms*

*35291 Rules*

*35291.5 School-adopted discipline rules*

*35294.10-35294.15 School Safety and Violence Prevention Act*

*41510-41514 School Safety Consolidated Competitive Grant Program*

*48900-48927 Suspension and expulsion*

*48950 Speech and other communication*

*49079 Notification to teacher; student act constituting grounds for suspension or expulsion*

*67381 Violent crime*

##### **PENAL CODE**

*422.55 Definition of hate crime*

*626.8 Disruptions*

*11164-11174.3 Child Abuse and Neglect Reporting Act*

*Legal Reference continued: (see next page)*

## COMPREHENSIVE SAFETY PLAN (continued)

### *Legal Reference: (continued)*

#### CALIFORNIA CONSTITUTION

*Article 1, Section 28(c) Right to Safe Schools*

#### CODE OF REGULATIONS, TITLE 5

*11987-11987.7 School Community Violence Prevention Program requirements*

*11992-11993 Definition, persistently dangerous schools*

#### UNITED STATES CODE, TITLE 20

*7101-7165 Safe and Drug Free Schools and Communities*

*7912 Transfers from persistently dangerous schools*

#### UNITED STATES CODE, TITLE 42

*12101-12213 Americans with Disabilities Act*

### *Management Resources:*

#### CSBA PUBLICATIONS

*Safe Schools: Strategies for Governing Boards to Ensure Student Success, Third Edition, October 2011*

*Community Schools: Partnerships Supporting Students, Families and Communities, Policy Brief, October 2010*

*Cyberbullying: Policy Considerations for Boards, Policy Brief, July 2010*

*Providing a Safe, Nondiscriminatory School Environment for All Students, Policy Brief, April 2010*

#### CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

*Safe Schools: A Planning Guide for Action, 2002*

#### U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

*Practical Information on Crisis Planning: A Guide for Schools and Communities, January 2007*

*Early Warning, Timely Response: A Guide to Safe Schools, August 1998*

#### U.S. SECRET SERVICE AND U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

*Threat Assessment in Schools: A Guide to Managing Threatening Situations and to Creating Safe School Climates, 2002*

#### WEB SITES

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

*California Department of Education, Safe Schools: <http://www.cde.ca.gov/lss>*

*California Emergency Management Agency: <http://www.calema.ca.gov>*

*California Healthy Kids Survey: <http://chks.wested.org>*

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

*Federal Bureau of Investigation: <http://www.fbi.gov>*

*National Alliance for Safe Schools: <http://www.safeschools.org>*

*National Center for Crisis Management: <http://www.schoolcrisisresponse.com>*

*National School Safety Center: <http://www.schoolsafety.us>*

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

*U.S. Secret Service, National Threat Assessment Center: [http://www.secretservice.gov/ntac\\_ssi.shtml](http://www.secretservice.gov/ntac_ssi.shtml)*

# **Board Policy**

## **Comprehensive Safety Plan**

**BP 0450**

### **Philosophy, Goals, Objectives and Comprehensive Plans**

The Governing Board recognizes that students and staff have the right to a safe and secure campus where they are free from physical and psychological harm. The Board is fully committed to maximizing school safety and to creating a positive learning environment that includes strategies for violence prevention and high expectations for student conduct, responsible behavior, and respect for others.

(cf. 0510 - School Accountability Report Card)

(cf. 5131 - Conduct)

(cf. 5137 - Positive School Climate)

The school site council at each district school shall develop a comprehensive school safety plan relevant to the needs and resources of that particular school. (Education Code 32281)

(cf. 0420 - School Plans/Site Councils)

(cf. 1220 - Citizen Advisory Committees)

The school safety plan shall take into account the school's staffing, available resources, and building design, as well as other factors unique to the site.

Each school shall review and update its safety plan by March 1 of each year. New school campuses shall develop a safety plan within one year of initiating operations. (Education Code 32286)

Each school shall forward the safety plan to the Board for approval. (Education Code 32288)

The Board shall review the comprehensive districtwide and/or school safety plan(s) in order to ensure compliance with state law, Board policy, and administrative regulation.

The Board shall approve the plan at a regularly scheduled meeting.

(cf. 9322 - Agenda/Meeting Materials)

The Superintendent or designee shall ensure that an updated file of all safety-related plans and materials is readily available for inspection by the public. (Education Code 32282)

(cf. 1340 - Access to District Records)

By October 15 of each year, the Superintendent or designee shall notify the California Department of Education of any schools that have not complied with the requirements of Education Code 32281. (Education Code 32288)

(cf. 1312.3 - Uniform Complaint Procedures)

**Legal Reference:**

**EDUCATION CODE**

200-262.4 Prohibition of sex discrimination

32260-32262 Interagency School Safety Demonstration Act of 1985

32270 School safety cadre

32280-32289 School safety plans

32290 Safety devices

35147 School site councils and advisory committees

35183 School dress code; uniforms

35291 Rules

35291.5 School-adopted discipline rules

35294.10-35294.15 School Safety and Violence Prevention Act

41510-41514 School Safety Consolidated Competitive Grant Program

48900-48927 Suspension and expulsion

48950 Speech and other communication

49079 Notification to teacher; student who has committed acts constituting grounds for suspension or expulsion

67381 Violent crime

**PENAL CODE**

11164-11174.3 Child Abuse and Neglect Reporting Act

**CALIFORNIA CONSTITUTION**

Article 1, Section 28(c) Right to Safe Schools

**CODE OF REGULATIONS, TITLE 5**

11992-11993 Definition, persistently dangerous schools

11987-11987.7 School Community Violence Prevention Program requirements

**UNITED STATES CODE, TITLE 20**

7101-7165 Safe and Drug Free Schools and Communities, especially:

7114 Application for local educational agencies

7912 Transfers from persistently dangerous schools

**UNITED STATES CODE, TITLE 42**

12101-12213 Americans with Disabilities 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 PUBLICATIONS**

**Safe Schools: A Planning Guide for Action, 2002**

**U.S. DEPARTMENT OF EDUCATION PUBLICATIONS**

**Practical Information on Crisis Planning: A Guide for Schools and Communities, January 2007**

**Early Warning, Timely Response: A Guide to Safe Schools, August 1998**

**WEB SITES**

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

**California Department of Education, Safe Schools: <http://www.cde.ca.gov/lss>**

**California Emergency Management Agency: <http://www.calema.ca.gov>**

**California Seismic Safety Commission: <http://www.seismic.ca.gov>**

**Center for Effective Collaboration and Practice: <http://cecp.air.org>**

**Federal Bureau of Investigation: <http://www.fbi.gov>**

**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**

**COMPREHENSIVE SAFETY PLAN**

Note: The following optional administrative regulation should be revised to reflect district practice.

**Development and Review of Comprehensive School Safety Plan**

Note: The following section reflects requirements for the development of site-level comprehensive safety plans required by Education Code 32280-32289 and is for use by districts that selected Option 1 in the accompanying Board policy. Districts with an average daily attendance of 2,500 or less that selected only Option 2 in the accompanying Board policy (i.e., that have developed a districtwide comprehensive safety plan applicable to all school sites in lieu of individual site plans, as authorized by Education Code 32281) should omit this section.

Pursuant to Education Code 32281, as amended by AB 680 (Ch. 438, Statutes of 2011), the Governing Board may elect to have district administrators, rather than the school site council, develop those portions of the comprehensive safety plan that include tactical responses to criminal incidents that may result in death or serious bodily injury; see the accompanying Board policy.

The school site council shall consult with local law enforcement in writing and developing the comprehensive school safety plan. When practical, the school site council also shall consult with other school site councils and safety committees. (Education Code 32281, 32282)

*(cf. 0420 - School Plans/Site Councils)*

The school site council may delegate the responsibility for developing a comprehensive safety plan to a school safety planning committee. This committee shall be composed of the following members: (Education Code 32281)

1. The principal or designee
2. One teacher who is a representative of the recognized certificated employee organization
3. One parent/guardian whose child attends the school
4. One classified employee who is a representative of the recognized classified employee organization

Note: Item #5 below may be modified to specify other groups or individuals who will be represented on the committee. For example, the committee might include representatives of social service agencies, other city or county agencies, health care and emergency service providers, community-based organizations, and/or students.

5. Other members, if desired

*(cf. 1220 - Citizen Advisory Committees)*

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

## **COMPREHENSIVE SAFETY PLAN (continued)**

Before adopting its comprehensive safety plan, the school site council or school safety planning committee shall hold a public meeting at the school in order to allow members of the public the opportunity to express an opinion about the plan. (Education Code 32288)

The school site council or safety planning committee shall notify, in writing, the following persons and entities of the public meeting: (Education Code 32288)

1. The local mayor
2. A representative of the local school employee organization
3. A representative of each parent organization at the school, including the parent teacher association and parent teacher clubs

*(cf. 1230 - School-Connected Organizations)*

4. A representative of each teacher organization at the school

*(cf. 4140/4240/4340 - Bargaining Units)*

5. A representative of the school's student body government
6. All persons who have indicated that they want to be notified

In addition, the school site council or safety planning committee may notify, in writing, the following entities of the public meeting: (Education Code 32288)

1. Representatives of local religious organizations
2. Local civic leaders
3. Local business organizations

*(cf. 1700 - Relations Between Private Industry and the Schools)*

### **Content of the Safety Plan**

Each comprehensive safety plan shall include an assessment of the current status of school crime committed on campus and at school-related functions. (Education Code 32282)

Note: The following **optional** paragraph may be revised to reflect district practice. In assessing the current status of school crime as required by Education Code 32282, districts may contract with a consultant, work with local law enforcement, develop their own local assessment, and/or use available instruments such as the California Healthy Kids Survey or the Centers for Disease Control and Prevention's Youth Risk Behavior Survey.



## **COMPREHENSIVE SAFETY PLAN (continued)**

The assessment may include, but not be limited to, data on reports of school crime, suspension and expulsion rates, and surveys of students, parents/guardians, and staff regarding their perceptions of school safety.

*(cf. 0500 - Accountability)*

*(cf. 0510 - School Accountability Report Card)*

Note: Education Code 32282 requires that the following components be included in the districtwide and/or school site safety plan. The district may expand this list to require other components at its discretion.

The plan also shall identify appropriate strategies and programs that will provide or maintain a high level of school safety and address the school's procedures for complying with existing laws related to school safety, including all of the following: (Education Code 32282)

1. Child abuse reporting procedures consistent with Penal Code 11164

*(cf. 5141.4 - Child Abuse Prevention and Reporting)*

2. Routine and emergency disaster procedures including, but not limited to:

- a. Adaptations for students with disabilities in accordance with the Americans with Disabilities Act

*(cf. 6159 - Individualized Education Program)*

Note: Education Code 32282 requires districts to incorporate earthquake emergency procedures and disaster policies into the comprehensive school safety plan, as specified in items #b and #c below. See BP/AR 3516 - Emergencies and Disaster Preparedness Plan and AR 3516.3 - Earthquake Emergency Procedure System for further details about required components of these procedures.

- b. An earthquake emergency procedure system in accordance with Education Code 32282

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

*(cf. 3516.3 - Earthquake Emergency Procedure System)*

- c. A procedure to allow public agencies, including the American Red Cross, to use school buildings, grounds, and equipment for mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare

*(cf. 1330 - Use of School Facilities)*

*(cf. 3516.1 - Fire Drills and Fires)*

*(cf. 3516.2 - Bomb Threats)*

*(cf. 3516.5 - Emergency Schedules)*

*(cf. 3543 - Transportation Safety and Emergencies)*

**COMPREHENSIVE SAFETY PLAN (continued)**

3. Policies pursuant to Education Code 48915(d) for students who commit an act listed in Education Code 48915(c) and other school-designated serious acts which would lead to suspension, expulsion, or mandatory expulsion recommendations

*(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))*

4. Procedures to notify teachers of dangerous students pursuant to Education Code 49079

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

Note: Education Code 234.1, as amended by AB 9 (Ch. 723, Statutes of 2011), requires the Board to adopt policy prohibiting discrimination, harassment, intimidation, and bullying based on specified characteristics and requires school personnel who witness such acts to take immediate steps to intervene when safe to do so; see BP 0410 - Nondiscrimination in District Programs and Activities and BP 5145.3 - Nondiscrimination/Harassment. In addition, the district's complaint process must include a timeline for investigating and resolving complaints and an appeals process; see BP/AR 1312.3 - Uniform Complaint Procedures.

5. A policy consistent with the prohibition against discrimination, harassment, intimidation, and bullying pursuant to Education Code 200-262.4

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

*(cf. 1312.3 - Uniform Complaint Procedures)*

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

*(cf. 5145.3 - Nondiscrimination/Harassment)*

*(cf. 5145.7 - Sexual Harassment)*

6. If the school has adopted a dress code prohibiting students from wearing "gang-related apparel" pursuant to Education Code 35183, the provisions of that dress code and the definition of "gang-related apparel"

*(cf. 5132 - Dress and Grooming)*

7. Procedures for safe ingress and egress of students, parents/guardians, and employees to and from school

*(cf. 5142 - Safety)*

8. A safe and orderly school environment conducive to learning

*(cf. 5137 - Positive School Climate)*

## COMPREHENSIVE SAFETY PLAN (continued)

9. The rules and procedures on school discipline adopted pursuant to Education Code 35291 and 35291.5

*(cf. 5144 - Discipline)*

Note: Although Education Code 32282 requires that the safety plan include hate crime reporting procedures pursuant to Penal Code 628-628.6, those sections of the Penal Code were repealed in 2005.

10. Hate crime reporting procedures

*(cf. 5145.9 - Hate-Motivated Behavior)*

Note: The following components are **optional** and should be revised to reflect district practice.

Among the strategies for providing a safe environment, the school safety plan may also include:

1. Development of a positive school climate that promotes respect for diversity, personal and social responsibility, effective interpersonal and communication skills, self-esteem, anger management, and conflict resolution

*(cf. 5138 - Conflict Resolution/Peer Mediation)*

*(cf. 6141.2 - Recognition of Religious Beliefs and Customs)*

Note: AB 1156 (Ch. 732, Statutes of 2011) amended Education Code 32282 and 32261 to encourage, but not require, all comprehensive safety plans to include policies and procedures aimed at the prevention of bullying, as defined in Education Code 48900(r).

2. Disciplinary policies and procedures that contain prevention strategies, such as strategies to prevent bullying, hazing, and cyberbullying, as well as behavioral expectations and consequences for violations

*(cf. 5113 - Absences and Excuses)*

*(cf. 5113.1 - Chronic Absence and Truancy)*

*(cf. 5131 - Conduct)*

*(cf. 5136 - Gangs)*

3. Curriculum that emphasizes prevention and alternatives to violence, such as multicultural education, character/values education, media analysis skills, conflict resolution, community service learning, and education related to the prevention of dating violence

*(cf. 6142.3 - Civic Education)*

*(cf. 6142.4 - Service Learning/Community Service Classes)*

*(cf. 6142.8 - Comprehensive Health Education)*

## COMPREHENSIVE SAFETY PLAN (continued)

4. Parent involvement strategies, including strategies to help ensure parent/guardian support and reinforcement of the school's rules and increase the number of adults on campus

*(cf. 1240 - Volunteer Assistance)*

*(cf. 5020 - Parent Rights and Responsibilities)*

*(cf. 6020 - Parent Involvement)*

5. Prevention and intervention strategies related to the sale or use of drugs and alcohol which shall reflect expectations for drug-free schools and support for recovering students

*(cf. 5131.6 - Alcohol and Other Drugs)*

*(cf. 5131.61 - Drug Testing)*

*(cf. 5131.62 - Tobacco)*

*(cf. 5131.63 - Steroids)*

6. Collaborative relationships among the city, county, community agencies, local law enforcement, the judicial system, and the schools that lead to the development of a set of common goals and community strategies for violence prevention instruction

*(cf. 1020 - Youth Services)*

Note: Education Code 32281 provides that the district's comprehensive safety plan may include the following **optional** procedures.

7. Procedures for responding to the release of a pesticide or other toxic substance from properties located within one-quarter mile of the school

*(cf. 3514.1 - Hazardous Substances)*

*(cf. 3514.2 - Integrated Pest Management)*

Note: Education Code 32281 authorizes the principal, upon receiving verification from law enforcement, to notify parents/guardians and employees in writing that a violent crime has occurred on the school site. A "violent crime" is any act for which a student could be expelled or crimes listed in Education Code 67381, including homicide, rape, robbery, and aggravated assault, as defined in the Federal Bureau of Investigation's Uniform Crime Reporting Handbook. Education Code 32281 encourages that the notice be sent no later than the second work day after receiving verification from law enforcement.

20 USC 7912 requires that all students attending a "persistently dangerous" school be provided notice of the designation and an option to transfer to a different school within the district. See BP/AR 5116.1 - Intradistrict Open Enrollment.

8. Procedures for receiving verification from law enforcement that a violent crime has occurred on school grounds and for promptly notifying parents/guardians and employees of that crime

*(cf. 5116.1 - Intradistrict Open Enrollment)*

## COMPREHENSIVE SAFETY PLAN (continued)

9. Assessment of the school's physical environment, including a risk management analysis and development of ground security measures such as procedures for the closing campuses to outsiders, installing surveillance systems, securing the campus perimeter, protecting buildings against vandalism, and providing for a law enforcement presence on campus

*(cf. 1250 - Visitors/Outsiders)*

*(cf. 3515 - Campus Security)*

*(cf. 3515.3 - District Police/Security Department)*

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

*(cf. 5112.5 - Open/Closed Campus)*

*(cf. 5131.5 - Vandalism and Graffiti)*

Note: Penal Code 626.8 provides that a person may be guilty of a misdemeanor if he/she interferes with or disrupts a school activity or remains after having been asked to leave; see BP/AR 3515.2 - Disruptions. AB 123 (Ch. 161, Statutes of 2011) amended Penal Code 626.8 to expand the definition of a misdemeanor to also include willfully or knowingly creating a disruption with the intent to threaten the immediate physical safety of a student in preschool or grades K-8 who is arriving at, attending, or leaving school.

10. Crisis prevention and intervention strategies, which may include the following:
  - a. Identification of possible crises that may occur, determination of necessary tasks that need to be addressed, and development of procedures relative to each crisis, including the involvement of law enforcement and other public safety agencies as appropriate

*(cf. 3515.2 - Disruptions)*

*(cf. 3515.5 - Sex Offender Notification)*

*(cf. 5131.4 - Student Disturbances)*

- b. Threat assessment strategies to determine the credibility and seriousness of a threat and provide appropriate interventions for the potential offender(s)
    - c. Assignment of staff members responsible for each identified task and procedure
    - d. Development of an evacuation plan based on an assessment of buildings and grounds and opportunities for students and staff to practice the evacuation plan
    - e. Coordination of communication to schools, Governing Board members, parents/guardians, and the media

*(cf. 1112 - Media Relations)*

*(cf. 9010 - Public Statements)*

**COMPREHENSIVE SAFETY PLAN (continued)**

- f. Development of a method for the reporting of violent incidents
  - g. Development of follow-up procedures that may be required after a crisis has occurred, such as counseling
11. Staff development in violence prevention and intervention techniques, including preparation to implement the elements of the safety plan

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

# **Administrative Regulation**

## **Comprehensive Safety Plan**

**AR 0450**

### **Philosophy, Goals, Objectives and Comprehensive Plans**

#### **Development and Review of School Site Safety Plan**

When developing the comprehensive school safety plan, the school site council shall consult with local law enforcement as well as other school site councils and safety committees, when practical. (Education Code 32281, 32282)

(cf. 0420 - School Plans/Site Councils)

In addition, the school site council may consult with other local agencies as appropriate, including health care and emergency service providers.

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

The school site council may delegate the responsibility for developing a school safety plan to a school safety planning committee. This committee shall be composed of the following members: (Education Code 32281)

1. The principal or designee
2. One teacher who is a representative of the recognized certificated employee organization
3. One parent/guardian whose child attends the school
4. One classified employee who is a representative of the recognized classified employee organization
5. Other members, if desired

Before adopting its comprehensive school safety plan, the school site council or school safety planning committee shall hold a public meeting at the school in order to allow members of the public the opportunity to express an opinion about the school safety plan. (Education Code 32288)

The school site council or safety planning committee shall notify, in writing, the following persons and entities of the public meeting: (Education Code 32288)

1. The local mayor

2. A representative of the local school employee organization
3. A representative of each parent organization at the school site, including the parent teacher association and parent teacher clubs

(cf. 1230 - School-Connected Organizations)

4. A representative of each teacher organization at the school site
- (cf. 4140/4240 - Bargaining Units)

5. A representative of the student body government
6. All persons who have indicated that they want to be notified

In addition, the school site council or safety planning committee may notify, in writing, the following entities of the public meeting: (Education Code 32288)

1. A representative of the local churches
2. Local civic leaders
3. Local business organizations

(cf. 1220 - Citizen Advisory Committees)

(cf. 1700 - Relations between Private Industry and the Schools)

#### **Content of the Safety Plan**

The districtwide and/or school site safety plan shall include an assessment of the current status of school crime committed on campus(es) and at school-related functions.  
(Education Code 32282)

The plan also shall identify appropriate strategies and programs that will provide or maintain a high level of school safety and address the school's procedures for complying with existing laws related to school safety. The plan shall include the development of all of the following: (Education Code 32282)

1. Child abuse reporting procedures consistent with Penal Code 11164
- (cf. 5141.4 - Child Abuse Prevention and Reporting)
2. Routine and emergency disaster procedures including, but not limited to:
    - a. Adaptations for students with disabilities in accordance with the Americans with



## **Disabilities Act**

**(cf. 0410 - Nondiscrimination in District Programs and Activities)**  
**(cf. 6159 - Individualized Education Program)**

**b. An earthquake emergency procedure system in accordance with Education Code 32282**

**(cf. 3516 - Emergencies and Disaster Preparedness Plan)**  
**(cf. 3516.3 - Earthquake Emergency Procedure System)**

**c. A procedure to allow a public agency, including the American Red Cross, to use school buildings, grounds, and equipment for mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare**

**(cf. 1330 - Use of School Facilities)**  
**(cf. 3516.1 - Fire Drills and Fires)**  
**(cf. 3516.2 - Bomb Threats)**  
**(cf. 3516.5 - Emergency Schedules)**  
**(cf. 3543 - Transportation Safety and Emergencies)**

**3. Policies pursuant to Education Code 48915(c) and other school-designated serious acts which would lead to suspension, expulsion, or mandatory expulsion recommendations**

**(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))**

**4. Procedures to notify teachers of dangerous students pursuant to Education Code 49079**

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

**5. A discrimination and harassment policy consistent with the prohibition against discrimination pursuant to Education Code 200-262.4**

**(cf. 1312.3 - Uniform Complaint Procedures)**  
**(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)**  
**(cf. 5145.3 - Nondiscrimination/Harassment)**  
**(cf. 5145.7 - Sexual Harassment)**

**6. If the school has adopted a dress code prohibiting students from wearing "gang-related apparel" pursuant to Education Code 35183, the provisions of that dress code and the definition of "gang-related apparel"**

(cf. 5132 - Dress and Grooming)

7. Procedures for safe ingress and egress of students, parents/guardians, and employees to and from school

(cf. 5142 - Safety)

8. A safe and orderly school environment conducive to learning

(cf. 5137 - Positive School Climate)

9. The rules and procedures on school discipline adopted pursuant to Education Code 35291 and 35291.5

(cf. 5144 - Discipline)

10. Hate crime reporting procedures

(cf. 5145.9 - Hate-Motivated Behavior)

Among the strategies for providing a safe environment, the school safety plan may also include:

1. Development of a positive school climate that promotes respect for diversity, personal and social responsibility, effective interpersonal and communication skills, self-esteem, anger management, and conflict resolution

(cf. 5138 - Conflict Resolution/Peer Mediation)

(cf. 6141.2 - Recognition of Religious Beliefs and Customs)

2. Disciplinary policies and procedures that contain prevention strategies, such as strategies to prevent bullying, hazing, and cyberbullying, as well as behavioral expectations and consequences for violations

(cf. 5113 - Absences and Excuses)

(cf. 5113.1 - Truancy)

(cf. 5131 - Conduct)

(cf. 5136 - Gangs)

3. Curriculum that emphasizes prevention and alternatives to violence, such as multicultural education, character/values education, media analysis skills, conflict resolution, and community service learning

(cf. 6141.6 - Multicultural Education)

(cf. 6142.3 - Civic Education)

(cf. 6142.4 - Service Learning/Community Service Classes)

4. Parent involvement strategies, including strategies to help ensure parent/guardian support and reinforcement of the school's rules and increase the number of adults on campus

(cf. 1240 - Volunteer Assistance)  
(cf. 5020 - Parent Rights and Responsibilities)  
(cf. 6020 - Parent Involvement)

5. Prevention and intervention strategies related to the sale or use of drugs and alcohol which shall reflect expectations for drug-free schools and support for recovering students

(cf. 5131.6 - Alcohol and Other Drugs)  
(cf. 5131.61 - Drug Testing)  
(cf. 5131.62 - Tobacco)  
(cf. 5131.63 - Steroids)

6. Collaborative relationships among the city, county, community agencies, local law enforcement, the judicial system, and the schools that lead to the development of a set of common goals and community strategies for violence prevention instruction

(cf. 1020 - Youth Services)

7. Procedures for responding to the release of a pesticide or other toxic substance from properties located within one-quarter mile of the school

(cf. 3514.1 - Hazardous Substances)  
(cf. 3514.2 - Integrated Pest Management)

8. Procedures for receiving verification from law enforcement that a violent crime has occurred on school grounds and for promptly notifying parents/guardians and employees of that crime

(cf. 5116.1 - Intradistrict Open Enrollment)

9. Assessment of the school's physical environment, including a risk management analysis and development of ground security measures such as procedures for the closing of campuses to outsiders, surveillance systems, securing the campus perimeter, protecting buildings against vandalism, and providing for a law enforcement presence on campus

(cf. 1250 - Visitors/Outsiders)  
(cf. 3515 - Campus Security)  
(cf. 3515.3 - District Police/Security Department)  
(cf. 3530 - Risk Management/Insurance)  
(cf. 5112.5 - Open/Closed Campus)

**(cf. 5131.5 - Vandalism, Theft and Graffiti)**

**10. Crisis prevention and intervention strategies, which may include the following:**

**a. Identification of possible crises that may occur, determination of necessary tasks that need to be addressed, and development of procedures relative to each crisis, including the involvement of law enforcement and other public safety agencies as appropriate**

**(cf. 3515.2 - Disruptions)**

**(cf. 3515.5 - Sex Offender Notification)**

**(cf. 5131.4 - Student Disturbances)**

**b. Assignment of staff members responsible for each identified task and procedure**

**c. Development of an evacuation plan based on an assessment of buildings and grounds and opportunities for students and staff to practice the evacuation plan**

**d. Coordination of communication to schools, Governing Board members, parents/guardians, and the media**

**(cf. 1112 - Media Relations)**

**(cf. 9010 - Public Statements)**

**e. Development of a method for the reporting of violent incidents**

**f. Development of follow-up procedures that may be required after a crisis has occurred, such as counseling**

**11. Staff development in violence prevention and intervention techniques, including preparation to implement the elements of the safety plan**

**(cf. 4131 - Staff Development)**

**(cf. 4231 - Staff Development)**

**(cf. 4331 - Staff Development)**

**Regulation      CENTER UNIFIED SCHOOL DISTRICT**  
**approved: June 18, 2008      Antelope, California**

**FILLING VACANCIES**

**Events Causing a Vacancy**

A vacancy on the Governing Board may occur for any of the following events:

1. The death of an incumbent (Government Code 1770)
2. The adjudication pursuant to a quo warranto proceeding declaring that an incumbent is physically or mentally incapacitated due to disease, illness, or accident and that there is reasonable cause to believe that the incumbent will not be able to perform the duties of his/her office for the remainder of his/her term (Government Code 1770)
3. A Board member's resignation (Government Code 1770)

A vacancy resulting from resignation occurs when the written resignation is filed with the County Superintendent of Schools having jurisdiction over the district, except where a deferred effective date is specified in the resignation so filed, in which case the resignation shall become operative on that date. A Board member may not defer the effective date of his/her resignation for more than 60 days after he/she files the resignation with the County Superintendent. Upon being filed with the County Superintendent, a written resignation, whether specifying a deferred effective date or otherwise, shall be irrevocable. (Education Code 5090, 5091)

4. A Board member's removal from office, including by recall (Elections Code 11384; Government Code 1770)
5. A Board member's ceasing to be a resident of the district (Government Code 1770)

Note: The following paragraph is for use by districts that have established trustee areas.
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~~A vacancy on the Board also occurs when a Board member ceases to inhabit the trustee area which he/she represents on the Board. (58 Ops. Cal. Atty. Gen. 888 (1975))~~

6. A Board member's absence from the state for more than 60 days, except in the following situations: (Government Code 1064, 1770)
  - a. Upon district business with the approval of the Board
  - b. With the consent of the Board for an additional period not to exceed a total absence of 90 days

Note: AB 334 (Ch. 54, Statutes of 2011) amended Government Code 1064 to authorize the Governing Board to extend an out-of-state absence for an unlimited duration when the absence is due to illness or other urgent necessity.
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**FILLING VACANCIES (continued)**

In the case of illness or other urgent necessity, and upon a proper showing thereof, the time limited for absence from the state may be extended by the Board.

- c. For federal military deployment, not to exceed an absence of a total of six months, as a member of the armed forces of the United States or the California National Guard

If the absence of the Board member for this purpose exceeds six months, the Board may approve an additional six-month absence upon a showing that there is a reasonable expectation that the member will return within the second six-month period, and the Board may appoint an interim member to serve in his/her absence. If two or more members of the Board are absent by reason of these circumstances, and those absences result in the inability to establish a quorum at a regular meeting, the Board may immediately appoint one or more interim members as necessary to enable the Board to conduct business and discharge its responsibilities. The term of an interim member appointed in these circumstances shall not extend beyond the return of the absent Board member or beyond the next regularly scheduled election for that office, whichever occurs first.

- 7. A Board member's ceasing to discharge the duties of his/her office for the period of three consecutive months, except when prevented by illness or when absent from the state with the permission required by law (Government Code 1770)

Note: Board members forfeit office and, in some cases, are disqualified from holding public office upon conviction of designated crimes as specified in the Constitution and various other state laws. Examples of crimes that result in forfeiture of office include, but are not limited to, convictions for felonies, offenses that involve a violation of official duties, bribery, selling appointments, intoxication in the discharge of official duties, misuse of public funds, conflict of interest violations, and a false claim of receipt of any military decoration or medal.

- 8. A Board member's conviction of a felony or any offense involving a violation of his/her official duties or conviction of a designated crime resulting in a forfeiture of office (Government Code 1770, 3000-3003)
- 9. A Board member's refusal or neglect to file his/her required oath or bond within the time prescribed (Government Code 1770)

*(cf. 9224 - Oath or Affirmation)*

- 10. The decision of a competent tribunal declaring void a Board member's election or appointment (Government Code 1770)

## **FILLING VACANCIES (continued)**

11. The making of an order vacating a Board member's office or declaring the office vacant when the Board member fails to furnish an additional or supplemental bond (Government Code 1770)
12. A Board member's commitment to a hospital or sanitarium as a drug addict, dipsomaniac, inebriate, or stimulant addict by a court of competent jurisdiction, in which case the office shall not be deemed vacant until the order of commitment has become final (Government Code 1770)

Note: Pursuant to Education Code 5090, a vacancy is declared when there has been a "failure to elect," meaning that the County Registrar of Voters has determined that an election will not be held because either no candidate or an insufficient number of candidates have filed to run for a Board seat(s). Education Code 5328 authorizes the Board to make an appointment in such circumstances.

13. A "failure to elect" in which no candidate or an insufficient number of candidates have filed to run for a Board seat(s) (Education Code 5090, 5326, 5328)

### **Timelines for Filling a Vacancy**

When a vacancy occurs, the Board shall take the following action, as appropriate:

1. When a vacancy occurs within four months of the end of a Board member's term, the Board shall take no action. (Education Code 5093)

Note: Pursuant to Education Code 5091, when a vacancy occurs or when a deferred resignation has been filed four or more months before the end of a Board member's term, the Board shall take action, as specified below. In the event that the Board fails to make a provisional appointment or order an election within 60 days, the County Superintendent of Schools must call an election to fill the vacancy.

2. When a vacancy occurs longer than four months before the end of a Board member's term, the Board shall, within 60 days of the date of the vacancy or the filing of the member's deferred resignation, either order an election or make a provisional appointment, unless a special election is mandated as described in item #3 below. (Education Code 5091, 5093)
3. When a vacancy occurs from six months to 130 days before a regularly scheduled Board election at which the position is not scheduled to be filled, a special election to fill the position shall be consolidated with the regular election. The person so elected shall take office at the first regularly scheduled Board meeting following the certification of the election and shall serve only until the end of the term of the position which he/she was elected to fill. (Education Code 5093)

## **FILLING VACANCIES (continued)**

### **Eligibility**

Note: Persons applying or nominated for a Board position must meet the legal qualifications for Board members as detailed in Education Code 35107. Education Code 35107 also provides that a district employee appointed or elected to the Board must resign his/her employment before being sworn in or have his/her employment automatically terminated upon being sworn into office. See BB 9220 - Governing Board Elections.

In order to be appointed or elected to fill a vacancy on the Board, a person must meet the eligibility requirements specified in Education Code 35107.

*(cf. 9220 - Governing Board Elections)*

### **Provisional Appointments**

Note: The Board is authorized to make a provisional appointment to fill a vacancy pursuant to item #2 in the section above entitled "Timelines for Filling a Vacancy." The law does not specify procedures for making provisional appointments for vacancies caused by reasons other than a failure to elect; however, such procedures must comply with the requirements of the Brown Act (Government Code 54950-54963). Secret ballots are prohibited by Government Code 54953.

The following **optional** paragraph should be modified to reflect district practice. See CSBA's publication Filling a Board Vacancy for additional information about provisional appointments, including sample questions for interviewing and evaluating candidates.

When authorized by law to make a provisional appointment to fill a vacancy on the Board, the Board shall advertise in the local media to solicit candidate applications or nominations. A committee consisting of less than a quorum of the Board shall ensure that applicants are eligible for Board membership and announce the names of the eligible candidates. The Board shall interview the candidates at a public meeting, accept oral or written public input, and select the provisional appointee by a majority vote.

*(cf. 9130 - Board Committees)*

*(cf. 9323.2 - Actions by the Board)*

Within 10 days after the appointment is made, the Board shall post notices of the actual vacancy, or the filing of a deferred resignation, and the provisional appointment. The notice shall be published in the local newspaper pursuant to Government Code 6061 and posted in at least three public places within the district. (Education Code 5092)

The notice shall contain: (Education Code 5092)

1. The date of the occurrence of the vacancy or the date of the filing of, and the effective date of, the resignation
2. The full name of the appointee



**FILLING VACANCIES (continued)**

3. The date of appointment
4. A statement notifying the voters that unless a petition calling for a special election pursuant to Education Code 5091 is filed in the office of the County Superintendent within 30 days of the provisional appointment, it shall become an effective appointment

The person appointed shall hold office until the next regularly scheduled election for district Board members and shall be afforded all the powers and duties of a Board member upon appointment. (Education Code 5091)

**Appointment Due to Failure to Elect**

Note: The following procedure applies when an appointment is being made because of a failure to elect pursuant to Education Code 5090, 5326, and 5328 (item #13 in section entitled "Events Causing a Vacancy" above).

When a vacancy occurs because no candidate or an insufficient number of candidates have been nominated (i.e., a failure to elect) and a district election will not be held, the Board shall appoint a qualified person to the office. This appointment shall be made at a meeting prior to the day fixed for the election and the appointee shall be seated at the organizational meeting as if elected at the district election. (Education Code 5328)

*(cf. 9100 - Organization)*

When an appointment is being made because of a failure to elect, the district shall publish a notice once in a newspaper of general circulation published in the district, or if no such newspaper exists, in a newspaper having general circulation within the district. This notice shall state that the Board intends to make an appointment and shall inform persons of the procedure available for applying for the appointment. (Education Code 5328.5)

The procedure for selecting and interviewing candidates shall be the same as the procedures for "Provisional Appointments," as specified above.

*Legal Reference: (see next page)*

## **FILLING VACANCIES (continued)**

### *Legal Reference:*

#### EDUCATION CODE

5000-5033 Elections

5090-5095 Vacancies

5200-5208 Districts governed by boards of education

5300-5304 Elections

5320-5329 Order and call of election

5340-5345 Consolidation of elections

5360-5363 Election notice

5420-5426 Cost of elections

5440-5442 Miscellaneous provisions, elections

35107 Eligibility of board members

35178 Resignation with deferred effective date

#### ELECTIONS CODE

10600-10604 School district elections

11381-11386 Candidates for recall

#### GOVERNMENT CODE

1064 Absence from state

1770 Vacancies: definition

3000-3003 Forfeiture of office

3060-3075 Removal other than by impeachment

6061 One time notice

54950-54963 The Ralph M. Brown Act

#### PENAL CODE

88 Bribery, forfeiture from office

#### UNITED STATES CODE, TITLE 18

704 Military medals or decorations

#### ATTORNEY GENERAL OPINIONS

58 Ops.Cal.Atty.Gen. 888 (1975)

### *Management Resources:*

#### CSBA PUBLICATIONS

Filling a Board Vacancy, rev. December 2010

#### WEB SITES

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

California State Attorney General's Office, Quo Warranto Applications:

[http://ag.ca.gov/opinions/quo\\_warranto.php](http://ag.ca.gov/opinions/quo_warranto.php)

# **Center USD**

## **Board Bylaw**

### **Filling Vacancies**

**BB 9223**

#### **Board Bylaws**

##### **Events Causing a Vacancy**

A vacancy on the Governing Board may occur for any of the following events:

1. The death of an incumbent (Government Code 1770)
2. The adjudication pursuant to a quo warranto proceeding declaring that an incumbent is physically or mentally incapacitated due to disease, illness, or accident and that there is reasonable cause to believe that the incumbent will not be able to perform the duties of his/her office for the remainder of his/her term (Government Code 1770)
3. A Board member's resignation (Government Code 1770)

A vacancy resulting from resignation occurs when the written resignation is filed with the County Superintendent of Schools having jurisdiction over the district, except where a deferred effective date is specified in the resignation so filed, in which case the resignation shall become operative on that date. A Board member may not defer the effective date of his/her resignation for more than 60 days after he/she files the resignation with the County Superintendent. (Education Code 5090, 5091)

Upon being filed with the County Superintendent, a written resignation, whether specifying a deferred effective date or otherwise, shall be irrevocable. (Education Code 5090)

4. A Board member's removal from office, including recall (Elections Code 11384; Government Code 1770)
5. A Board member's ceasing to be an inhabitant of the state or resident of the district (Government Code 1770)

A vacancy on the Board also occurs when a Board member ceases to inhabit the trustee area which he/she represents on the Board. (58 Ops.Cal.Atty.Gen. 888 (1975))

6. A Board member's absence from the state beyond the period allowed by law without the permission required by law (Government Code 1770)

No Board member shall be absent from the state for more than 60 days, except in any of

the following situations: (Government Code 1064)

- a. Upon business of the school district with the approval of the Board
- b. With the consent of the Board for an additional period not to exceed a total absence of 90 days
- c. For federal military deployment not to exceed six months as a member of the armed forces of the United States or the California National Guard

If the absence of the Board member for this purpose exceeds six months, the Board may approve an additional six-month absence upon a showing that there is a reasonable expectation that the member will return within the second six-month period, and the Board may appoint an interim member to serve in his/her absence. If two or more members of the Board are absent by reason of these circumstances, and those absences result in the inability to establish a quorum at a regular meeting, the Board may immediately appoint one or more interim members as necessary to enable the Board to conduct business and discharge its responsibilities.

- d. In the case of illness or other urgent necessity, and upon a proper showing thereof, the time limited for absence from the state may be extended by the Board for an additional period not to exceed 30 days.

(cf. 9250 - Remuneration, Reimbursement and Other Benefits)

7. A Board member's ceasing to discharge the duties of his/her office for the period of three consecutive months, except when prevented by sickness or when absent from the state with the permission required by law (Government Code 1770)

8. A Board member's conviction of a felony or any offense involving a violation of his/her official duties or conviction of a designated crime resulting in a forfeiture of office (Government Code 1770, 3000-3003)

9. A Board member's refusal or neglect to file his/her required oath or bond within the time prescribed (Government Code 1770)

(cf. 9224 - Oath or Affirmation)

10. The decision of a competent tribunal declaring void a Board member's election or appointment (Government Code 1770)

11. The making of an order vacating a Board member's office or declaring the office vacant when the officer fails to furnish an additional or supplemental bond (Government Code 1770)

12. A Board member's commitment to a hospital or sanitarium as a drug addict,

dipsomaniac, inebriate, or stimulant addict by a court of competent jurisdiction, in which case the office shall not be deemed vacant until the order of commitment has become final (Government Code 1770)

13. A failure to elect when either no candidate or an insufficient number of candidates have filed to run for a Board seat(s) (Education Code 5090, 5326, 5328)

#### **Timelines for Filling a Vacancy**

When a vacancy occurs, the Board shall take the following action, as appropriate:

1. When a vacancy occurs less than four months before the end of a Board member's term, the Board shall take no action. (Education Code 5093)

2. When a vacancy occurs four or more months before the end of a Board member's term, the Board shall, within 60 days of the date of the vacancy or the filing of the member's deferred resignation, either order an election or make a provisional appointment, unless a special election is mandated as described in item #3 below. (Education Code 5091, 5093)

3. When a vacancy occurs from six months to 130 days before a regularly scheduled Board election at which the position is not scheduled to be filled, a special election to fill the position shall be consolidated with the regular election. The person so elected shall take office at the first regularly scheduled Board meeting following the certification of the election and shall serve only until the end of the term of the position which he/she was elected to fill. (Education Code 5093)

When a special election is not required, the Board may make a provisional appointment. (Education Code 5091, 5093)

#### **Provisional Appointments**

The first action of the board shall be to offer the provisional appointment to the person who received the next highest number of votes during the most recent Board member election. If that person is no longer available or declines the appointment, in order to draw from the largest possible number of candidates, the Board shall advertise in the local media to solicit candidate applications or nominations. A committee consisting of less than a quorum of the Board shall ensure that applicants are eligible for Board membership and announce the names of the eligible candidates. The Board shall interview the candidates at a public meeting, accept oral or written public input, and select the provisional appointee by a majority vote.

(cf. 9130 - Board Committees)  
(cf. 9323.2 - Actions by the Board)

In order to serve on the Board, a person must meet the eligibility requirements specified

in Education Code 35107.

(cf. 9220 - Governing Board Elections)

Within 10 days after the appointment is made, the Board shall post notices of the actual vacancy, or the filing of a deferred resignation, and the provisional appointment. The notice shall be published in the local newspaper pursuant to Government Code 6061 and posted in at least three public places within the district. (Education Code 5092)

The notice shall contain: (Education Code 5092)

1. The date of the occurrence of the vacancy or the date of the filing of, and the effective date of, the resignation
2. The full name of the appointee
3. The date of appointment
4. A statement notifying the voters that unless a petition calling for a special election pursuant to Education Code 5091 is filed in the office of the County Superintendent within 30 days of the provisional appointment, it shall become an effective appointment

The person appointed shall hold office until the next regularly scheduled election for district Board members and shall be afforded all the powers and duties of a Board member upon appointment. (Education Code 5091)

#### **Appointment Due to Failure to Elect**

When a vacancy occurs because no person or an insufficient number of candidates have been nominated (i.e., a failure to elect), and a district election will not be held, the Board shall appoint a qualified person to the office. This appointment shall be made at a meeting prior to the day fixed for the election and the appointee shall be seated at the organizational meeting as if elected at the district election. (Education Code 5328)

(cf. 9100 - Organization)

When an appointment is being made because of a failure to elect, the district shall publish a notice once in a newspaper of general circulation published in the district, or if no such newspaper exists, in a newspaper having general circulation within the district. This notice shall state that the Board intends to make an appointment and shall inform persons of the procedure available for applying for the appointment. (Education Code 5328.5)

The procedure for selecting and interviewing candidates shall be the same as the procedures for "Provisional Appointments," as specified above.

**Legal Reference:**

**EDUCATION CODE**

5000-5033 Elections

5090-5095 Vacancies

5200-5208 Districts governed by boards of education

5300-5304 Elections

5320-5329 Order and call of election

5340-5345 Consolidation of elections

5360-5363 Election notice

5420-5426 Cost of elections

5440-5442 Miscellaneous provisions, elections

35107 Eligibility of board members

35178 Resignation with deferred effective date

**ELECTIONS CODE**

10600-10604 School district elections

11381-11386 Candidates for recall

**GOVERNMENT CODE**

1064 Absence from state

1770 Vacancies: definition

3000-3002 Forfeiture of office

3060-3075 Removal other than by impeachment

6061 One time notice

54950-54963 The Ralph M. Brown Act

**PENAL CODE**

88 Bribery, forfeiture from office

**UNITED STATES CODE, TITLE 18**

704 Military medals or decorations

**ATTORNEY GENERAL OPINIONS**

58 Ops.Cal.Atty.Gen. 888 (1975)

**Management Resources:**

**CSBA PUBLICATIONS**

Filling a Board Vacancy, rev. January 2008

**WEB SITES**

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

California State Attorney General's Office, Quo Warranto Applications:

<http://caag.state.ca.us/opinions/quo.htm>

**Bylaw CENTER UNIFIED SCHOOL DISTRICT**  
adopted: April 1, 2009      Antelope, California

**NONDISCRIMINATION IN DISTRICT PROGRAMS AND ACTIVITIES**

Note: Government Code 11138 mandates districts to adopt rules and regulations to ensure that district programs and activities are free from unlawful discrimination. In accordance with various provisions of state and federal law, discrimination in education programs and activities is unlawful when it is based on certain actual or perceived characteristics of an individual. Education Code 220 prohibits discrimination based on race, nationality, ethnicity, gender, sex, sexual orientation, religion, or any other characteristic contained in the definition of hate crimes in Penal Code 422.55, and, as amended by AB 887 (Ch. 719, Statutes of 2011), gender identity and gender expression. Furthermore, Government Code 11135 prohibits discrimination based on all the foregoing characteristics, age, disability, and, as amended by SB 559 (Ch. 261, Statutes of 2011), an individual's genetic information. Title VI of the Civil Rights Act of 1964 (42 USC 2000d-2000d-7) prohibits discrimination on the basis of race, color, and national origin. Title IX (20 USC 1681-1688) prohibits discrimination on the basis of sex. The Americans with Disabilities Act (ADA) (42 USC 12101-12213) and Section 504 of the Rehabilitation Act of 1973 (29 USC 794) prohibit discrimination on the basis of disability.

Education Code 260 and 5 CCR 4900-4965 require the Governing Board to monitor district compliance with these state and federal laws. The federal laws are enforced by the Office of Civil Rights of the U.S. Department of Education, and the California Department of Education may investigate complaints regarding discrimination pursuant to 5 CCR 4600-4687.

Government Code 12940, as amended by both SB 559 and AB 887, prohibits employers from discriminating against employees and job applicants based on genetic information, gender identity, and/or gender expression. For policy language addressing these prohibitions, see BP 4030 - Nondiscrimination in Employment.

The Governing Board is committed to equal opportunity for all individuals in education. District programs, activities, and practices shall be free from discrimination based on race, color, ancestry, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity or expression, or genetic information; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

*(cf. 4030 - Nondiscrimination in Employment)*

*(cf. 4032 - Reasonable Accommodation)*

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

*(cf. 5131.2 - Bullying)*

*(cf. 5145.3 - Nondiscrimination/Harassment)*

*(cf. 5145.7 - Sexual Harassment)*

*(cf. 5146 - Married/Pregnant/Parenting Students)*

*(cf. 6145.2 - Athletic Competition)*

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

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

*(cf. 6178 - Career Technical Education)*

*(cf. 6200 - Adult Education)*

Note: Many nondiscrimination laws and regulations contain a notification requirement. For example, pursuant to 34 CFR 104.8 and 106.9, a district that receives federal aid is required to take "continuing steps" to notify students, parents/guardians, employees, employee organizations, and applicants for admission and employment that it does not discriminate on the bases of disability and sex in its educational programs or activities. To ensure consistent implementation of the laws, the same notification requirement should be adopted for all the protected categories as provided in the following paragraph.



**NONDISCRIMINATION IN DISTRICT PROGRAMS AND ACTIVITIES (continued)**

Pursuant to 34 CFR 104.8 and 34 CFR 106.9, the Superintendent or designee shall notify students, parents/guardians, employees, employee organizations, applicants for admission and employment, and sources of referral for applicants about the district's policy on nondiscrimination and related complaint procedures. Such notification shall be included in each announcement, bulletin, catalog, application form, or other recruitment materials distributed to these groups.

*(cf. 1312.3 - Uniform Complaint Procedures)*

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

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

*(cf. 5145.6 - Parental Notifications)*

Note: Pursuant to Education Code 48985, when 15 percent or more of students enrolled in a school speak a single primary language other than English, all notices and reports sent to the parents/guardians of these students must also be written in the primary language and may be answered by the parent/guardian in English or the primary language. In addition, the No Child Left Behind Act (20 USC 6311 and 6312) requires that districts receiving Title I funds provide parent/guardian notices in an understandable and uniform format and, to the extent practicable, in a language that parents/guardians understand.

The district's nondiscrimination policy and related informational materials shall be published in a format that parents/guardians can understand and, when required by law, in a language other than English.

**Access for Individuals with Disabilities**

Note: Pursuant to the ADA and its implementing regulations, 28 CFR 35.150 and 35.151, district facilities must be accessible to and usable by individuals with disabilities. Compliance methods may include equipment redesign, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, and alteration of existing facilities and construction of new facilities. In achieving compliance, a district need not make structural changes to existing facilities if other methods are effective and the district can demonstrate that the structural change would result in a fundamental alteration in the nature of the activity or an undue financial or administrative burden. However, starting March 15, 2012, all newly constructed facilities must comply with the 2010 ADA Standards for Accessible Designs pursuant to 28 CFR 35.151, as amended by 75 Fed. Reg. 178.

In addition, pursuant to 28 CFR 35.136, as amended by 75 Fed. Reg. 178, a district must permit an individual with a disability to be accompanied by a service animal on district premises when, without the animal's assistance, the individual with a disability will not be able to access or participate in a district program or activity. For language addressing this mandate, see AR 6163.2 - Animals at School. Districts with questions about compliance with the ADA should consult with legal counsel as appropriate.

District programs and facilities, viewed in their entirety, shall be in compliance with the Americans with Disabilities Act and any implementing standards and/or regulations.

*(cf. 6163.2 - Animals At School)*

*(cf. 7110 - Facilities Master Plan)*

*(cf. 7111 - Evaluating Existing Buildings)*

## **NONDISCRIMINATION IN DISTRICT PROGRAMS AND ACTIVITIES (continued)**

Note: Pursuant to 28 CFR 35.130 and 35.160, the ADA requires districts to provide services and aids to ensure that a disabled individual is not excluded from participation or denied a benefit, service, or program on the basis of a disability. However, if the district can show that providing such aids and services would fundamentally alter the nature of the function, program, or meeting or would be an undue burden, then the district need not provide them.

In addition, Government Code 54953.2 requires that all Board meetings meet the protections of the ADA and implementing regulations (28 CFR 35.160 and 36.303). In effect, the district must ensure that such meetings are accessible to persons with disabilities and that, upon the request of any person with a disability, disability-related accommodations, such as auxiliary aids and services, are made available.

The Superintendent or designee shall ensure that the district provides auxiliary aids and services when necessary to afford individuals with disabilities equal opportunity to participate in or enjoy the benefits of a service, program, or activity. These aids and services may include, but are not limited to, qualified interpreters or readers, assistive listening devices, notetakers, written materials, taped text, and Braille or large print materials.

*(cf. 6020 - Parent Involvement)*

Individuals with disabilities shall notify the Superintendent or principal if they have a disability that requires special assistance or services. Reasonable notification should be given prior to the school-sponsored function, program, or meeting.

*(cf. 9320 - Meetings and Notices)*

*(cf. 9322 - Agenda/Meeting Materials)*

### ***Legal Reference:***

#### **EDUCATION CODE**

***200-262.4 Prohibition of discrimination***

***48985 Notices to parents in language other than English***

***51007 Legislative intent: state policy***

#### **GOVERNMENT CODE**

***11000 Definitions***

***11135 Nondiscrimination in programs or activities funded by state***

***11138 Rules and regulations***

***12900-12996 Fair Employment and Housing Act***

***54953.2 Brown Act compliance with Americans with Disabilities Act***

***Legal Reference continued: (see next page)***

## **NONDISCRIMINATION IN DISTRICT PROGRAMS AND ACTIVITIES (continued)**

### *Legal Reference: (continued)*

#### **PENAL CODE**

422.55 *Definition of hate crime*

422.6 *Interference with constitutional right or privilege*

#### **CODE OF REGULATIONS, TITLE 5**

4600-4687 *Uniform complaint procedures*

4900-4965 *Nondiscrimination in elementary and secondary education programs*

#### **UNITED STATES CODE, TITLE 20**

1400-1482 *Individuals with Disabilities in Education Act*

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

2301-2415 *Carl D. Perkins Vocational and Applied Technology Act*

6311 *State plans*

6312 *Local education agency plans*

#### **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-2000h-6 *Title IX*

12101-12213 *Americans with Disabilities Act*

#### **CODE OF FEDERAL REGULATIONS, TITLE 28**

35.101-35.190 *Americans with Disabilities Act*

36.303 *Auxiliary aids and services*

#### **CODE OF FEDERAL REGULATIONS, TITLE 34**

100.1-100.13 *Nondiscrimination in federal programs, effectuating Title VI*

104.1-104.39 *Section 504 of the Rehabilitation Act of 1973*

106.1-106.61 *Discrimination on the basis of sex, effectuating Title IX, especially:*

106.9 *Dissemination of policy*

### *Management Resources:*

#### **CSBA PUBLICATIONS**

*Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011*

*Providing a Safe, Nondiscriminatory School Environment for All Students, Policy Brief, April 2010*

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

*Notice of Non-Discrimination, January 1999*

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

*Nondiscrimination in Employment Practices in Education, August 1991*

#### **WEB SITES**

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

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

Safe Schools Coalition: <http://www.casafeschoolscoalition.org>

Pacific ADA Center: <http://www.adapacific.org>

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

# **Board Policy**

## **Nondiscrimination In District Programs And Activities**

BP 0410

### **Philosophy, Goals, Objectives and Comprehensive Plans**

The Governing Board is committed to equal opportunity for all individuals in education. District programs and activities shall be free from discrimination based on gender, sex, race, color, religion, ancestry, national origin, ethnic group identification, marital or parental status, physical or mental disability, sexual orientation or the perception of one or more of such characteristics. The Board shall promote programs which ensure that discriminatory practices are eliminated in all district activities.

- (cf. 4030 - Nondiscrimination in Employment)
- (cf. 4032 - Reasonable Accommodation)
- (cf. 4119.11/4219.11/4319.11 - Sexual Harassment)
- (cf. 5145.3 - Nondiscrimination/Harassment)
- (cf. 5145.7 - Sexual Harassment)
- (cf. 5146 - Married/Pregnant/Parenting Students)
- (cf. 6145.2 - Athletic Competition)
- (cf. 6164.4 - Identification of Individuals for Special Education)
- (cf. 6164.6 - Identification and Education under Section 504)
- (cf. 6178 - Vocational Education)
- (cf. 6200 - Adult Education)

District programs and facilities, viewed in their entirety, shall be in compliance with the Americans with Disabilities Act.

The Superintendent or designee shall ensure that the district provides auxiliary aids and services when necessary to afford individuals with disabilities equal opportunity to participate in or enjoy the benefits of a service, program or activity. These aids and services may include, but are not limited to, qualified interpreters or readers, assistive listening devices, notetakers, written materials, taped text, and Braille or large print materials.

- (cf. 5124 - Communication with Parents/Guardians)

Individuals with disabilities shall notify the Superintendent or principal if they have a disability that requires special assistance or services. Reasonable notification should be given prior to the school-sponsored function, program or meeting.

- (cf. 9320 - Meetings and Notices)
- (cf. 9322 - Agenda/Meeting Materials)

The Superintendent or designee shall notify students, parents/guardians, employees, employee organizations and applicants for admission and employment, and sources of referral for applicants about the district's policy on nondiscrimination. Such notification shall be included in each announcement, bulletin, catalog, application form or other recruitment materials distributed to these groups. (34 CFR 104.8, 106.9)

The Superintendent or designee shall also provide information about related complaint procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 4031 - Complaints Concerning Discrimination in Employment)

In compliance with law, the district's nondiscrimination policy shall be published in the individual's primary language to the extent practicable.

(cf. 5145.6 - Parental Notifications)

**Legal Reference:**

**EDUCATION CODE**

200-262.4 Prohibition of discrimination

48985 Notices to parents in language other than English

**GOVERNMENT CODE**

11000 Definitions

11138 Rules and regulations

12900-12996 Fair Employment and Housing Act

54953.2 Brown Act compliance with Americans with Disabilities Act

**PENAL CODE**

422.55 Definition of hate crime

422.6 Interference with constitutional right or privilege

**CODE OF REGULATIONS, TITLE 5**

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

**UNITED STATES CODE, TITLE 20**

1400-1482 Individuals with Disabilities in Education Act

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

2301-2415 Carl D. Perkins Vocational and Applied Technology Act

6311 State plans

6312 Local education agency plans

**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-2000h-6 Title IX

12101-12213 Americans with Disabilities Act  
CODE OF FEDERAL REGULATIONS, TITLE 28  
35.101-35.190 Americans with Disabilities Act  
36.303 Auxiliary aids and services  
CODE OF FEDERAL REGULATIONS, TITLE 34  
100.1-100.13 Nondiscrimination in federal programs, effectuating Title VI  
104.1-104.39 Section 504 of the Rehabilitation Act of 1973  
106.1-106.61 Discrimination on the basis of sex, effectuating Title IX, especially:  
106.9 Dissemination of policy

**Management Resources:**

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

Protecting Students from Harassment and Hate Crime, January, 1999

Notice of Non-Discrimination, January, 1999

Nondiscrimination in Employment Practices in Education, August, 1991

**WEB SITES**

CDE: <http://www.cde.ca.gov>

Safe Schools Coalition: <http://www.casafeschoolscoalition.org>

Pacific Disability and Business Technical Assistance Center: <http://www.pacdbtac.org>

U.S. Department of Education, Office for Civil Rights:

<http://www.ed.gov/about/offices/list/ocr/index.html>

Policy CENTER UNIFIED SCHOOL DISTRICT  
adopted: October 1, 2003     Antelope, California

**CHARTER SCHOOL AUTHORIZATION**

Note: The following **optional** policy may be revised to reflect district practice. Education Code 47600-47616.7 authorize the establishment of a capped number of public charter schools, which are generally exempt from Education Code provisions governing school districts unless otherwise specified in law. To establish a charter school, petitioners must submit to the Governing Board for approval a petition which includes all components required by law as described in the accompanying administrative regulation.

Charter petitions also may be submitted to other entities under certain circumstances. Education Code 47605.5-47605.6 authorize petitioners to submit a petition directly to the County Board of Education when (1) the charter school will serve students for whom the county office of education would otherwise be responsible for providing direct education and related services or (2) the countywide program will provide educational services to a student population that cannot be served as well by a charter school operating in only one district in the county.

In addition, Education Code 47605.8 authorizes petitioners to submit a petition directly to the State Board of Education (SBE) to approve a "statewide benefit charter school" that may operate at multiple sites throughout the state. 5 CCR 11967.6.1 requires the petitioner to provide prior written notice to the board of each district where the petitioner proposes to locate a school site and to notify the board of the date that the SBE will meet to consider the petition.

The Governing Board recognizes that charter schools may assist the district in offering diverse learning opportunities for district students. In considering any petition to establish a charter school within the district, the Board shall give careful consideration to the potential of the charter school to provide students with a high-quality education that enables them to achieve to their fullest potential.

Note: Education Code 47605 allows for the conversion of an existing public school into a charter school, provided that the school adopts and maintains a policy giving admission preference to students who reside within the former attendance area of that public school. In addition, whenever a school receiving Title I funds has failed to make "adequate yearly progress" for five consecutive years, the federal No Child Left Behind Act (20 USC 6316) requires that the district create a plan for restructuring the school, one option of which is to reopen it as a public charter school. Furthermore, when a school is identified by the California Department of Education (CDE) as meeting certain criteria specified in Education Code 53300 (the Parent Empowerment Act), parents/guardians may petition the district, in accordance with 5 CCR 4800-4808, as added by Register 2011, No. 43, to convert the school or close and reopen it as a charter school.

The Board also may create a start-up charter school. A start-up or conversion charter school that is created by the Board and operates in a close relationship with the district is often described as a "dependent" charter school, although that term does not appear in law. A dependent charter school is subject to the same petition requirements and approval process as an "independent" charter school, which is typically formed by parents/guardians, teachers, community members, or a charter management organization.

Pursuant to Education Code 47606, a district may petition the Superintendent of Public Instruction and the SBE to convert all its schools to charter schools, provided that 50 percent of the district's teachers sign the petition, the petition contains all specified components, and arrangements are made for alternative attendance of students residing within the district who choose not to attend charter schools.

One or more persons may submit a petition for a start-up charter school to be established within the district. In addition, an existing district school may be converted to a charter

## **CHARTER SCHOOL AUTHORIZATION (continued)**

school when deemed beneficial by the district and community or when state or federal law requires restructuring of the school because of low performance.

*(cf. 0520.2 - Title I Program Improvement Schools)*

Any petition for a start-up charter school or conversion charter school shall include all components and signatures required by law and shall be submitted to the Board.

The Superintendent or designee may work with charter school petitioners prior to the formal submission of the petition in order to ensure compliance of the petition with legal requirements. As needed, he/she also may meet with the petitioners to establish workable plans for technical assistance or contracted services which the district may provide to the proposed charter school.

Within 30 days of receiving a petition to establish a charter school, the Board shall hold a public hearing to determine the level of support for the petition by teachers, other employees of the district, and parents/guardians. (Education Code 47605)

*(cf. 9320 - Meetings and Notices)*

Within 60 days of receiving a petition, or within 90 days with mutual consent of the petitioners and the Board, the Board shall either approve or deny the request to establish the charter school. (Education Code 47605)

The approval or denial of a charter petition shall not be controlled by collective bargaining agreements nor subject to review or regulation by the Public Employment Relations Board. (Education Code 47611.5)

### **Approval of Petition**

The Board shall approve the charter petition if doing so is consistent with sound educational practice. In granting charters, the Board shall give preference to schools best able to provide comprehensive learning experiences for academically low-achieving students according to standards established by the California Department of Education (CDE) under Education Code 54032. (Education Code 47605)

The Board may initially grant a charter for a specified term not to exceed five years. (Education Code 47607)

*(cf. 0420.42 - Charter School Renewal)*

*(cf. 0420.43 - Charter School Revocation)*



## **CHARTER SCHOOL AUTHORIZATION (continued)**

The Board shall ensure that any approved charter contains adequate processes and measures for holding the school accountable for fulfilling the terms of its charter. These shall include, but not be limited to, fiscal accountability systems, multiple measures for evaluating the educational program, and regular reports to the Board.

*(cf. 0420.41 - Charter School Oversight)*

The district shall not require any district student to attend the charter school nor shall it require any district employee to work at the charter school. (Education Code 47605)

Note: The following **optional** paragraph may be revised to reflect district practice. Although not required by law, CSBA's publication Charter Schools: A Manual for Governance Teams recommends one or more memoranda of understanding (MOUs) to address matters that are related to the charter petition but are not included in the petition, and to establish expectations for which the charter school can be held accountable. CSBA's manual provides examples of issues pertaining to business operations, administrative and support services, special education, and student assessment that might be addressed in an MOU.

A sample MOU between the SBE and a state-approved charter school, available on CDE's web site, may be adapted for use by districts.

The Board may approve one or more memoranda of understanding to clarify the financial and operational agreements between the district and the charter school. Any such memorandum of understanding shall be annually reviewed by the Board and charter school governing body and amended as necessary.

It shall be the responsibility of the petitioners to provide written notice of the Board's approval and a copy of the charter to the County Superintendent of Schools, the CDE, and the State Board of Education (SBE). (Education Code 47605)

### **Denial of Petition**

Note: Education Code 47605 provides that a district cannot approve a charter school serving students in a grade level not offered by the district unless the charter school also serves all the grade levels offered by the district. Thus, an elementary district cannot approve a charter for a high school, but may approve a charter for a K-12 school since it includes all grade levels served by the district.

The Board shall deny any petition to authorize the conversion of a private school to a charter school or that proposes to serve students in a grade level that is not served by the district, unless the petition proposes to serve students in all the grade levels served by the district. (Education Code 47602, 47605; 5 CCR 11965)

## CHARTER SCHOOL AUTHORIZATION (continued)

Note: Pursuant to Education Code 47605, a charter petition can be denied only if certain factual findings are made, as specified in items #1-5 below.

5 CCR 11967.5.1, which contains criteria that the SBE must consider in reviewing charter petitions, may be useful to the district in determining how it might evaluate whether a petition meets the conditions specified in items #1-5 below.

Any other charter petition shall be denied only if the Board presents written factual findings specific to the petition that one or more of the following conditions exist: (Education Code 47605)

1. The charter school presents an unsound educational program for the students to be enrolled in the charter school.
2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
3. The petition does not contain the number of signatures required.
4. The petition does not contain an affirmation of each of the conditions described in Education Code 47605(d).
5. The petition does not contain reasonably comprehensive descriptions of the charter provisions in Education Code 47605(b).

The Board shall not deny a petition based on the actual or potential costs of serving students with disabilities, nor shall it deny a petition solely because the charter school might enroll disabled students who reside outside the special education local plan area in which the district participates. (Education Code 47605.7, 47647)

*(cf. 0430 - Comprehensive Local Plan for Special Education)*

If the Board denies a petition, the petitioners may choose to submit the petition to the County Board of Education and, if then denied by the County Board, to the SBE. (Education Code 47605)

*Legal Reference: (see next page)*

## CHARTER SCHOOL AUTHORIZATION (continued)

### *Legal Reference:*

#### EDUCATION CODE

220 Nondiscrimination

17078.52-17078.66 Charter schools facility funding; state bond proceeds

17280-17317 Field Act

17365-17374 Field Act, fitness for occupancy

41365 Charter school revolving loan fund

42238.51-42238.53 Funding for charter districts

44237 Criminal record summary

44830.1 Certified employees, conviction of a violent or serious felony

45122.1 Classified employees, conviction of a violent or serious felony

46201 Instructional minutes

47600-47616.7 Charter Schools Act of 1992

47640-47647 Special education funding for charter schools

47650-47652 Funding of charter schools

51745-51749.3 Independent study

53300-53303 Parent Empowerment Act

56026 Special education

56145-56146 Special education services in charter schools

#### CORPORATIONS CODE

5110-6910 Nonprofit public benefit corporations

#### GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act

#### CODE OF REGULATIONS, TITLE 5

4800-4808 Parent Empowerment Act

11700.1-11705 Independent study

11960-11969 Charter schools

#### CODE OF REGULATIONS, TITLE 24

101 et seq. California Building Standards Code

#### UNITED STATES CODE, TITLE 20

6316 Program improvement

7223-7225 Charter schools

#### COURT DECISIONS

Ridgecrest Charter School v. Sierra Sands Unified School District, (2005) 130 Cal.App.4th 986

#### ATTORNEY GENERAL OPINIONS

89 Ops.Cal.Atty.Gen. 166 (2006)

80 Ops.Cal.Atty.Gen. 52 (1997)

78 Ops.Cal.Atty.Gen. 297 (1995)

*Management Resources: (see next page)*

## CHARTER SCHOOL AUTHORIZATION (continued)

### *Management Resources:*

#### CSBA PUBLICATIONS

*The Role of the Charter School Authorizer, Online Course*

*Charter Schools: A Manual for Governance Teams, rev. 2009*

*Charter School Facilities and Proposition 39: Legal Implications for School Districts, 2005*

#### CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

*Sample Copy of a Memorandum of Understanding*

*Special Education and Charter Schools: Questions and Answers, September 10, 2002*

#### U.S. DEPARTMENT OF EDUCATION GUIDANCE

*Charter Schools Program, July 2004*

*The Impact of the New Title I Requirements on Charter Schools, July 2004*

#### WEB SITES

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

California Charter Schools Association: <http://www.calcharters.org>

California Department of Education, Charter Schools: <http://www.cde.ca.gov/sp/cs>

National Association of Charter School Authorizers: <http://www.charterauthorizers.org>

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

# **Board Policy**

## **Charter Schools**

**BP 0420.4**

### **Philosophy, Goals, Objectives and Comprehensive Plans**

The Governing Board believes that charter schools provide one opportunity to implement school-level reform and to support innovations which improve student learning. These schools shall operate under the provisions of their charters, federal laws, specified state laws, and general oversight of the Board.

The Superintendent or designee may work with charter school petitioners prior to the formal submission of the petition in order to gather information about the proposal and suggest components that would align the petition with the district's vision and goals for student learning. As needed, he/she may work with the petitioners to establish workable plans for technical assistance or contracted services which the district may provide to the proposed charter school.

At his/her discretion, the Superintendent or designee may establish a staff advisory committee to review a submitted petition and the supporting documentation. Such a committee may be used to evaluate the completeness of the proposal, the merits of the proposed educational program, the level of community support, and any concerns that should be addressed by the petitioners. The Superintendent or designee shall also consult with legal counsel as appropriate regarding compliance of the proposal with legal requirements.

(cf. 1220 - Citizen Advisory Committees)

In determining whether to grant or deny a charter, the Board shall carefully review the proposed charter and any supplementary information, consider public and staff input, and determine whether the charter petition adequately addresses all the provisions required by law. The Board shall not deny a charter school petition unless specific written factual findings are made pursuant to law and administrative regulation.

The Board may approve one or more memoranda of understanding to clarify the financial and operational agreements between the district and the charter school. Any such memorandum of understanding shall be annually reviewed by the Board and charter school and adjusted as necessary.

The district shall not require any student to attend a charter school and shall not require any district employee to work at a charter school. (Education Code 47605)

The Board shall ensure that any charter granted by the Board contains adequate processes and measures for holding the school accountable for fulfilling the terms of its charter.

These shall include, but not be limited to, fiscal accountability systems, multiple measures for evaluating the educational program, and regular reports to the Board.

(cf. 0500 - Accountability)

The Board shall monitor each charter school to determine whether it makes "adequate yearly progress" as defined by the State Board of Education and federal Title I accountability requirements. If a charter school fails to make adequate yearly progress for two or more consecutive years, the Board shall take action for program improvement in accordance with law, Board policy, and administrative regulations.

(cf. 0520.2 - Title I Program Improvement Schools)

The Board may consider converting an existing school to a charter school when state or federal law requires restructuring of the school because of low performance or when otherwise deemed beneficial by the district and community.

**Legal Reference:**

**EDUCATION CODE**

17280-17317 Field Act

17365-17374 Field Act, fitness for occupancy

41365 Charter school revolving loan fund

42100 Annual statement of receipts and expenditures

42238.51-42238.53 Funding for charter districts

44237 Criminal record summary

44830.1 Certificated employees, conviction of a violent or serious felony

45122.1 Classified employees, conviction of a violent or serious felony

46201 Instructional minutes

47600-47616.7 Charter Schools Act of 1992, as amended

47640-47647 Special education funding for charter schools

47652 Funding of first-year charter schools

48000 Minimum age of admission (kindergarten)

48010 Minimum age of admission (first grade)

48011 Minimum age of admission from kindergarten or other school

51745-51749.3 Independent study

52052 Alternative accountability system

54032 Limited English or low-achieving pupils

56026 Special education

56145-56146 Special education services in charter schools

60600-60649 Assessment of academic achievement, including:

60605 Academic content and performance standards; assessments

60640-60649 Standardized Testing and Reporting Program

60850-60859 High school exit examination

**GOVERNMENT CODE**

**3540-3549.3 Educational Employment Relations Act**

**54950-54963 The Ralph M. Brown Act**

**PENAL CODE**

**667.5 Definition of violent felony**

**1192.7 Definition of serious felony**

**CODE OF REGULATIONS, TITLE 5**

**11700.1-11705 Independent study**

**11960-11969 Charter schools**

**CODE OF REGULATIONS, TITLE 24**

**101 et seq. California Building Standards Code**

**UNITED STATES CODE, TITLE 20**

**6311 Adequate yearly progress**

**6319 Qualifications of teachers and paraprofessionals**

**7223-7225 Charter schools**

**CODE OF FEDERAL REGULATIONS, TITLE 34**

**200.1-200.78 Accountability**

**300.18 Highly qualified special education teachers**

**ATTORNEY GENERAL OPINIONS**

**89 Ops.Cal.Atty.Gen. 166 (2006)**

**80 Ops.Cal.Atty.Gen. 52 (1997)**

**78 Ops.Cal.Atty.Gen. 297 (1995)**

**Management Resources:**

**CSBA PUBLICATIONS**

**Charter Schools: A Manual for Governance Teams, rev. 2005**

**CSBA ADVISORIES**

**Charter School Facilities and Proposition 39: Legal Implications for School Districts, September 2005**

**CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS**

**Special Education and Charter Schools: Questions and Answers, September 10, 2002**

**U.S. DEPARTMENT OF EDUCATION GUIDANCE**

**Charter Schools Program, July 2004**

**The Impact of the New Title I Requirements on Charter Schools, July 2004**

**WEB SITES**

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

**California Building Standards Commission: <http://www.bsc.ca.gov>**

**California Charter Schools Association: <http://www.charterassociation.org>**

**California Department of Education, Charter Schools: <http://www.cde.ca.gov/sp/cs>**

**Education Commission of the States: <http://www.ecs.org>**

**National Association of Charter School Authorizers: <http://www.charterauthorizers.org>**

**National School Boards Association: <http://www.nsba.org>**

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

**Policy CENTER UNIFIED SCHOOL DISTRICT**

**adopted: August 16, 2006    Antelope, California**



## **CHARTER SCHOOL AUTHORIZATION**

Note: The following administrative regulation is <b>optional</b> .
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### **Petition Signatures**

A petition for the establishment of a start-up charter school within the district must be signed by one of the following: (Education Code 47605)

1. A number of parents/guardians equivalent to at least one-half of the number of students that the charter school estimates will enroll in the school for its first year of operation
2. A number of teachers equivalent to at least one-half of the number of teachers that the charter school estimates will be employed at the school during its first year of operation

If the charter petition calls for an existing public school to be converted to a charter school, the petition must be signed by at least 50 percent of the permanent status teachers currently employed at the school. (Education Code 47605)

*(cf. 4116 - Permanent/Probationary Status)*

In circulating a petition, the petitioners shall include a prominent statement explaining that a parent/guardian's signature means that the parent/guardian is meaningfully interested in having his/her child attend the charter school or, in the case of a teacher's signature, that the teacher is meaningfully interested in teaching at the charter school. The proposed charter shall be attached to the petition. (Education Code 47605)

### **Components of Charter Petition**

Note: CSBA's publication <u><a href="#">Charter Schools: A Manual for Governance Teams</a></u> recommends specific content that might be included in the descriptions of each component listed in items #1-16 below.
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A charter petition shall include affirmations of the conditions described in Education Code 47605(d) as well as descriptions of all of the following: (Education Code 47605, 47611.5)

1. The educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an "educated person" in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling students to become self-motivated, competent, and lifelong learners.

**CHARTER SCHOOL AUTHORIZATION (continued)**

If the proposed school will serve high school students, the petition shall describe the manner in which the charter school will inform parents/guardians about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements. Courses offered by the charter school that are accredited by the Western Association of Schools and Colleges may be considered transferable, and courses approved by the University of California or the California State University as creditable under the "a-g" admissions criteria may be considered to meet college entrance requirements.

2. The measurable student outcomes identified for use by the charter school. *Student outcomes* means the extent to which all students of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school's educational program.
3. The method by which student progress in meeting those student outcomes is to be measured.
4. The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parent/guardian involvement.
5. The qualifications to be met by individuals to be employed by the school.
6. The procedures that the school will follow to ensure the health and safety of students and staff. These procedures shall include the requirement that each school employee furnish the school with a criminal record summary as described in Education Code 44237.
7. The means by which the school will achieve a racial and ethnic balance among its students that is reflective of the general population residing within the district's territorial jurisdiction.
8. Admission requirements, if applicable.
9. The manner in which annual, independent financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the Governing Board.
10. The procedures by which students can be suspended or expelled.
11. The manner by which staff members of the charter school will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.

**CHARTER SCHOOL AUTHORIZATION (continued)**

12. The public school attendance alternatives for students residing within the district who choose to not attend charter schools.
13. A description of the rights of any district employee upon leaving district employment to work in a charter school and of any rights of return to the district after employment at a charter school.
14. The procedures to be followed by the charter school and the Board to resolve disputes relating to charter provisions.

Note: Education Code 47605 requires charter petitions to contain the declaration specified in item #15 below regarding responsibilities for collective bargaining. If the charter school is not deemed a public school employer for purposes of collective bargaining under Government Code 3540-3549.3, the district where the charter school is located shall be deemed the public school employer for these purposes, pursuant to Education Code 47611.5.

Education Code 47611.5 further provides that, if the charter does not specify that the charter school shall comply with laws and regulations governing tenure or a merit or civil service system, the scope of representation for that charter school shall also include discipline and dismissal of charter school employees.

15. A declaration as to whether or not the charter school shall be deemed the exclusive public school employer of the school's employees for purposes of collective bargaining under Government Code 3540-3549.3.

Note: Education Code 47605 and 5 CCR 11962 require the charter petition to include procedures to be used in the event that the charter school closes for any reason, as provided in item #16 below. Duties of the district pertaining to charter school closures include notification requirements pursuant to Education Code 47604.32 and 5 CCR 11962.1; see BP 0420.41 - Charter School Oversight.

16. The procedures to be used if the charter school closes.

These procedures shall include, but not be limited to: (5 CCR 11962)

- a. Designation of a responsible entity to conduct closure-related activities
- b. Notification of the closure to parents/guardians, the Board, the county office of education, the special education local plan area in which the school participates, the retirement systems in which the school's employees participate, and the CDE, providing at least the following information:
  - (1) The effective date of the closure
  - (2) The name(s) of and contact information for the person(s) to whom reasonable inquiries may be made regarding the closure

**CHARTER SCHOOL AUTHORIZATION (continued)**

- (3) The students' districts of residence
- (4) The manner in which parents/guardians may obtain copies of student records, including specific information on completed courses and credits that meet graduation requirements
- c. Provision of a list of students at each grade level, the classes they have completed, and the students' district of residence to the responsible entity designated in accordance with item #16a above
- d. Transfer and maintenance of all student records, all state assessment results, and any special education records to the custody of the responsible entity designated in accordance with item #16a above, except for records and/or assessment results that the charter may require to be transferred to a different entity
- e. Transfer and maintenance of personnel records in accordance with applicable law
- f. Completion of an independent final audit within six months after the closure of the school that includes an accounting of all financial assets and liabilities pursuant to 5 CCR 11962 and an assessment of the disposition of any restricted funds received by or due to the school
- g. Disposal of any net assets remaining after all liabilities of the school have been paid or otherwise addressed pursuant to 5 CCR 11962
- h. Completion and filing of any annual reports required pursuant to Education Code 47604.33
- i. Identification of funding for the activities identified in item #16a-h above

Note: Education Code 47605 requires that petitioners provide to the Governing Board additional information listed in items #1-4 below. The Board may add its own additional requirements for information. For example, U.S. Department of Education nonregulatory guidance, The Impact of New Title I Requirements on Charter Schools, suggests that districts, at their discretion, choose to incorporate in the charter the state's definition of "adequate yearly progress" to assist charter schools in understanding their accountability requirements; see the accompanying Board policy and BP/AR 0520.2 - Title I Program Improvement Schools.

According to CSBA's publication Charter Schools: A Manual for Governance Teams, some districts request a school calendar, information regarding transportation arrangements, staff development plans, assurances that the school will provide appropriate services for English language learners and students with disabilities, or any other information that will assist the Board in understanding the proposal. Districts that wish to require additional information in the charter may list those items below.

## CHARTER SCHOOL AUTHORIZATION (continued)

Charter school petitioners shall provide information to the Board regarding the proposed operation and potential effects of the school, including, but not limited to: (Education Code 47605)

Note: Education Code 47605 requires that information on school facilities, listed in item #1 below, must specify where the school intends to locate. Unless otherwise exempted, the school must be located within the geographic boundaries of the chartering district; see section "Location of Charter School" below.

1. The facilities to be used by the school, including where the school intends to locate  
*(cf. 7160 - Charter School Facilities)*
2. The manner in which administrative services of the school are to be provided
3. Potential civil liability effects, if any, upon the school and district
4. Financial statements that include a proposed first-year operational budget, including start-up costs and cash-flow and financial projections for the first three years of operation

### Location of Charter School

Note: Education Code 47605 and 47605.1 establish geographic and site requirements for charter schools. Pursuant to Education Code 47605, a charter school granted by either the County Board of Education or the State Board of Education following initial denial by the district also must locate within the geographic boundaries of the district that denied the petition.

The Attorney General has opined, in 89 Ops.Cal.Atty.Gen. 166 (2006), that online charter schools are subject to the restrictions and conditions placed upon independent study programs, including the condition that students must reside in the charter school's home county or an adjacent county, and therefore may not receive state funding for the instruction of students who do not reside in the county where the school is chartered or in an adjacent county.

Unless otherwise exempted by law, the charter petition shall identify a single charter school that will operate within the geographic boundaries of the district. A charter school may propose to operate at multiple sites within the district as long as each location is identified in the petition. (Education Code 47605, 47605.1)

A charter school that is unable to locate within the district's jurisdictional boundaries may establish one site outside district boundaries but within the county, provided that: (Education Code 47605, 47605.1)

1. The district is notified prior to approval of the petition.

**CHARTER SCHOOL AUTHORIZATION (continued)**

2. The County Superintendent of Schools and Superintendent of Public Instruction are notified before the charter school begins operations.
3. The school has attempted to locate a single site or facility to house the entire program but such a facility or site is unavailable in the area in which the school chooses to locate, or the site is needed for temporary use during a construction or expansion project.

A charter school may establish a resource center, meeting space, or other satellite facility located in an adjacent county if both of the following conditions are met: (Education Code 47605.1)

1. The facility is used exclusively for the educational support of students who are enrolled in nonclassroom-based independent study of the charter school.
2. The charter school provides its primary educational services in, and a majority of the students it serves are residents of, the county in which the school is authorized.

**Petition Review Committee**

Note: The following section is **optional**. CSBA's publication Charter Schools: A Manual for Governance Teams suggests that a staff advisory committee is one method that can be used to obtain input on proposed charters. Such a committee might include representatives of the district's human resources, fiscal services, risk management, student services, curriculum, facilities, and other appropriate departments.

At his/her discretion, the Superintendent or designee may establish a staff advisory committee to review submitted petitions and supporting documentation. Such a committee may be used to evaluate the completeness of proposals, the merits of the proposed educational programs, and any concerns that should be addressed by the petitioners. The Superintendent or designee shall also consult with legal counsel as appropriate regarding compliance of the proposals with legal requirements.

*(cf. 1220 - Citizen Advisory Committees)*

# **Administrative Regulation**

## **Charter Schools**

**AR 0420.4**

### **Philosophy, Goals, Objectives and Comprehensive Plans**

#### **Petition Signatures**

To be considered by the Governing Board, a petition for the establishment of a charter school within the district must be signed by one of the following: (Education Code 47605)

1. A number of parents/guardians equivalent to at least one-half of the number of students that the charter school estimates will enroll in the charter school for its first year of operation
2. A number of teachers equivalent to at least one-half of the number of teachers that the charter school estimates will be employed at the school during its first year of operation

If the charter petition calls for an existing public school to be converted to a charter school, the petition must be signed by at least 50 percent of the permanent status teachers currently employed at the school. (Education Code 47605)

(cf. 4116 - Permanent/Probationary Status)

In circulating a petition, the petitioners shall include a prominent statement explaining that a signature means that the parent/guardian is meaningfully interested in having his/her child attend the charter school or, in the case of a teacher's signature, that the teacher is meaningfully interested in teaching at the charter school. The proposed charter shall be attached to the petition. (Education Code 47605)

#### **Components of Charter Petition**

A charter petition shall include affirmations of the conditions described in Education Code 47605(d) as well as descriptions of all of the following: (Education Code 47605, 47611.5)

1. The educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an "educated person" in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling students to become self-motivated, competent, and lifelong learners.

If the proposed school will serve high school students, the petition shall describe the

manner in which the charter school will inform parents/guardians about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements. Courses offered by the charter school that are accredited by the Western Association of Schools and Colleges may be considered transferable, and courses approved by the University of California or the California State University as creditable under the "A-G" admissions criteria may be considered to meet college entrance requirements.

2. The measurable student outcomes identified for use by the charter school. Student outcomes means the extent to which all students of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school's educational program.

3. The method by which student progress in meeting those student outcomes is to be measured.

4. The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parent/guardian involvement.

5. The qualifications to be met by individuals to be employed by the school.

6. The procedures that the school will follow to ensure the health and safety of students and staff. These procedures shall include the requirement that each school employee furnish the school with a criminal record summary as described in Education Code 44237.

7. The means by which the school will achieve a racial and ethnic balance among its students that is reflective of the general population residing within the district's territorial jurisdiction.

8. Admission requirements, if applicable.

9. The manner in which annual, independent financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the Board.

10. The procedures by which students can be suspended or expelled.

11. The manner by which staff members of the charter school will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.

12. The public school attendance alternatives for students residing within the district who choose not to attend charter schools.

13. A description of the rights of any district employee upon leaving district employment



to work in a charter school and of any rights of return to the district after employment at a charter school.

14. The procedures to be followed by the charter school and the Board to resolve disputes relating to charter provisions.

15. A declaration as to whether or not the charter school shall be deemed the exclusive public school employer of the school's employees for purposes of collective bargaining under Government Code 3540-3549.3.

16. The procedures to be used if the charter school closes. The procedures shall ensure a final audit of the charter school to determine the disposition of all assets and liabilities of the school, including plans for disposing of any net assets and for the maintenance and transfer of student records.

Charter school petitioners shall provide information to the Board regarding the proposed operation and potential effects of the school, including, but not limited to: (Education Code 47605)

1. The facilities to be used by the school, including where the school intends to locate  
(cf. 7160 - Charter School Facilities)
2. The manner in which administrative services of the school are to be provided
3. Potential civil liability effects, if any, upon the school and district
4. Financial statements that include a proposed first-year operational budget, including start-up costs and cash-flow and financial projections for the first three years of operation

#### Location of Charter School

Unless otherwise exempted by law, any charter petition submitted to the Board on or after July 1, 2002, shall identify a single charter school that will operate within the geographic boundaries of the district. A charter school may propose to operate at multiple sites within the district as long as each location is identified in the petition. (Education Code 47605, 47605.1)

A charter school that is unable to locate within the district's jurisdictional boundaries may establish one site outside district boundaries but within the county, provided that: (Education Code 47605, 47605.1)

1. The district is notified prior to approval of the petition.
2. The County Superintendent of Schools and Superintendent of Public Instruction (SPI) are notified before the charter school begins operations.

3. The school has attempted to locate a single site or facility to house the entire program but such a facility or site is unavailable in the area in which the school chooses to locate, or the site is needed for temporary use during a construction or expansion project.

A charter school may establish a resource center, meeting space, or other satellite facility located in an adjacent county if both of the following conditions are met: (Education Code 47605.1)

1. The facility is used exclusively for the educational support of students who are enrolled in nonclassroom-based independent study of the charter school.
2. The charter school provides its primary educational services in, and a majority of the students it serves are residents of, the county in which the school is authorized.

All charter schools shall be subject to these requirements by June 30, 2005, or upon the expiration of a charter that was in existence on January 1, 2003, whichever is later. Until the later of these dates, any charter school that provided educational services before July 1, 2002, shall be subject to these requirements only for new educational services or school sites it establishes or acquires. (Education Code 47605.1)

#### **Charter Approval/Denial**

Within 30 days of receiving a petition to establish a charter school, the Board shall hold a public hearing to determine the level of support for the petition by teachers, other employees of the district, and parents/guardians. (Education Code 47605)

(cf. 9320 - Meetings and Notices)

Within 60 days of receiving a petition, or within 90 days with the consent of the petitioners and the Board, the Board shall either grant or deny the request to establish a charter school. (Education Code 47605)

The Board shall grant the charter if doing so is consistent with sound educational practice. A charter shall be denied only if the Board presents written factual findings specific to the petition that one or more of the following conditions exist: (Education Code 47605)

1. The charter school presents an unsound educational program for the students to be enrolled in the charter school.
2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
3. The petition does not contain the number of signatures required.

4. The petition does not contain an affirmation of each of the conditions described in Education Code 47605(d).

5. The petition does not contain reasonably comprehensive descriptions of the charter provisions in Education Code 47605(b) listed in "Components of Charter Petition" above.

The Board shall not grant any charter that authorizes the conversion of a private school to a charter school. (Education Code 47602)

The Board shall not approve any charter petition that proposes to serve students in a grade level that is not served by the district, unless the petition proposes to serve students in all the grade levels served by the district. (Education Code 47605)

The Board shall not deny a petition based on the actual or potential costs of serving students with disabilities, nor shall it deny a petition solely because the charter school might enroll disabled students who reside outside the special education local plan area (SELPA) in which the district participates. (Education Code 47605.7, 47647)

The approval or denial of a charter petition shall not be controlled by collective bargaining agreements nor subject to review or regulation by the Public Employment Relations Board. (Education Code 47611.5)

In granting charter petitions, the Board shall give preference to schools best able to provide comprehensive learning experiences for academically low-achieving students according to standards established by the California Department of Education (CDE) under Education Code 54032. (Education Code 47605)

The Board may initially grant a charter for a specified term not to exceed five years. (Education Code 47607)

It shall be the responsibility of the petitioners to provide written notice of the Board's approval and a copy of the charter to the County Superintendent, the CDE, and the State Board of Education (SBE). (Education Code 47605)

#### **Material Revisions**

Material revisions to a charter may be made only with Board approval. Material revisions shall be governed by the same standards and criteria that apply to new charter petitions as set forth in Education Code 47605 and shall include, but not be limited to, a reasonably comprehensive description of any new requirement of charter schools enacted into law after the charter was originally granted or last renewed. (Education Code 47607)

If, after receiving approval of its petition, a charter school proposes to establish operations at one or more additional sites within the district's boundaries, the charter school shall request a material revision to its charter and shall notify the Board of those additional locations. The Board shall consider approval of the additional locations at an

open meeting. (Education Code 47605)

## **Renewals**

A charter school seeking renewal of its charter shall submit a written request to the Board at least 120 days before the term of the charter is due to expire.

At least 90 days before the term of the charter is due to expire, the Board shall conduct a public hearing to receive input on whether or not to extend the charter. At least 60 days before the expiration date, the Board shall either grant or deny the request for renewal.

Renewals shall be governed by the same standards and criteria that apply to new charter petitions as set forth in Education Code 47605 and shall include, but not be limited to, a reasonably comprehensive description of any new requirement of charter schools enacted into law after the charter was originally granted or last renewed. (Education Code 47607)

In addition, beginning on January 1, 2005, or after a charter school has been in operation for four years, whichever is later, a charter school shall meet at least one of the following criteria prior to receiving a charter renewal: (Education Code 47607)

1. The charter school attains its Academic Performance Index (API) growth target in the prior year or in two of the last three years, or in the aggregate for the prior three years.
2. The charter school ranks in deciles 4-10 on the API in the prior year or in two of the last three years.
3. The charter school ranks in deciles 4-10 on the API for a demographically comparable school in the prior year or in two of the last three years.
4. The Board determines that the academic performance of the charter school is at least equal to the academic performance of the public schools that the charter school students would otherwise have been required to attend, as well as the academic performance of district schools, taking into account the composition of the student population that is served at the charter school.

The Board's determination shall be based on documented, clear, and convincing data; student achievement data from the Standardized Testing and Reporting Program, and any other available assessments, for demographically similar student populations in comparison schools; and information submitted by the charter school. The Board shall submit to the SPI copies of supporting documentation and a written summary of the basis for its determination.

A charter renewal may not be granted to a charter school prior to 30 days after the school submits related materials.

5. The charter school qualifies for an alternative accountability system pursuant to

Education Code 52052(h).

Each renewal shall be for a period of five years. (Education Code 47607)

#### Revocations

The Board may revoke a charter whenever it finds, through a showing of substantial evidence, that the charter school has done any of the following: (Education Code 47607)

1. Committed a material violation of any of the conditions, standards, or procedures set forth in the charter
2. Failed to meet or pursue any of the student outcomes identified in the charter
3. Failed to meet generally accepted accounting principles or engaged in fiscal mismanagement
4. Violated any provision of law

Prior to revocation, the Board shall notify the charter school of any violation(s) listed in items #1-4 above and give the school a reasonable opportunity to remedy the violation(s) unless the Board determines, in writing, that the violation(s) constitutes a severe and imminent threat to the health or safety of the students. (Education Code 47607)

If the charter school does not successfully remedy the above violation(s), the Board shall provide the charter school with a written notice of intent to revoke the charter and notice of facts in support of revocation. No later than 30 days after providing the notice of intent to revoke the charter, the Board shall hold a public hearing, in the normal course of business, on the issue of whether evidence exists to revoke the charter. No later than 30 days after the public hearing, unless the Board and the charter school agree to a 30-day extension, the Board shall issue its final decision as to whether or not to revoke the charter. The Board shall not revoke a charter unless the action is supported by written factual findings supported by substantial evidence specific to the charter school. A decision to revoke a charter shall be reported to the County Board of Education and the CDE. (Education Code 47607)

#### Requirements for Charter Schools

In providing general oversight of a charter school, the Board shall determine whether the school meets the legal requirements applicable to charter schools. Each charter school shall:

1. Be nonsectarian in its programs, admission policies, employment practices, and all other operations (Education Code 47605)
2. Not charge tuition (Education Code 47605)

3. Not discriminate against any student on the basis of ethnicity, national origin, gender, or disability (Education Code 47605)

4. Adhere to all laws establishing minimum age for public school attendance (Education Code 47610)

(cf. 5111 - Admission)

5. Serve students who are California residents and who, if over 19 years of age, are continuously enrolled in a public school and making "satisfactory progress" toward a high school diploma as defined in 5 CCR 11965 (Education Code 47612)

6. Serve students with disabilities in the same manner as such students are served in other public schools (Education Code 47646, 56145)

(cf. 0430 - Comprehensive Local Plan for Special Education)

(cf. 6159 - Individualized Education Program)

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

7. Admit all students who wish to attend the school, according to the following criteria and procedures:

a. Admission to the charter school shall not be determined according to the student's place of residence, or that of his/her parents/guardians, within this state, except that any existing public school converting partially or entirely to a charter school shall adopt and maintain a policy giving admission preference to students who reside within the school's former attendance area. (Education Code 47605)

However, if a charter school will be physically located in a public elementary school attendance area in which 50 percent or more of the student enrollment is eligible for free or reduced-price meals, it may also establish an admissions preference for students who are currently enrolled in the public elementary school and for students who reside in the public school attendance area. (Education Code 47605.3)

b. If the number of students who wish to attend the charter school exceeds the school's capacity, attendance shall be determined by a public random drawing, except that preferences shall be extended to students currently attending the charter school and students who reside in the district, except as provided for in Education Code 47614.5. In the event of a drawing, the Board shall make reasonable efforts to accommodate the growth of the charter school and shall not take any action to impede the charter school from expanding enrollment to meet student demand. (Education Code 47605)

c. Other admissions preferences may be permitted by the Board on an individual school basis as consistent with law.

8. Require its teachers to hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold (Education Code 47605)

(cf. 4112.2 - Certification)

9. Require its teachers of core academic subjects to satisfy requirements for "highly qualified teachers" as defined by the SBE (20 USC 6319; 34 CFR 300.18)

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

10. Not hire any person, in either a certificated or classified position, who has been convicted of a violent or serious felony except as otherwise provided by law (Education Code 44830.1, 45122.1)

(cf. 4112.5 /4312.5 - Criminal Record Check)

(cf. 4212.5 - Criminal Record Check)

11. Meet the requirements of Education Code 47611 regarding the State Teachers' Retirement System (Education Code 47610)

12. Meet the requirements of Government Code 3540-3549.3 related to collective bargaining in public education employment (Education Code 47611.5)

13. If applicable, meet federal requirements for qualifications of paraprofessionals working in programs supported by Title I funds (20 USC 6319)

(cf. 4222 - Teacher Aides/Paraprofessionals)

14. Meet all statewide standards and conduct the student assessments required by Education Code 60605 and 60851 and any other statewide standards or student assessments applicable to noncharter public schools (Education Code 47605, 47612.5)

(cf. 6011 - Academic Standards)

(cf. 6162.51- Standardized Testing and Reporting Program)

(cf. 6162.52 - High School Exit Examination)

15. Offer at least the number of instructional minutes set forth in Education Code 47612.5 for the grade levels provided by the charter school (Education Code 47612.5)

(cf. 6111 - School Calendar)

16. Meet the requirements of Education Code 51745-51749.3 if it provides independent study, except that it may be allowed to offer courses required for graduation solely through independent study as an exception to Education Code 51745(e) (Education Code 47612.5, 51747.3; 5 CCR 11705)

**(cf. 6158 - Independent Study)**

**17. Identify and report to the SPI any portion of its average daily attendance that is generated through nonclassroom-based instruction, including, but not limited to, independent study, home study, work study, and distance and computer-based education (Education Code 47612.5, 47634.2)**

**18. On a regular basis, consult with parents/guardians and teachers regarding the school's educational programs (Education Code 47605)**

**19. Maintain written contemporaneous records that document all student attendance and make these records available for audit and inspection (Education Code 47612.5)**

**20. If a student subject to compulsory full-time education is expelled or leaves the charter school without graduating or completing the school year for any reason, notify the Superintendent of the school district of the student's last known address within 30 days and, upon request, provide that district with a copy of the student's cumulative record, including a transcript of grades or report card, and health information (Education Code 47605)**

**21. By January 1, 2007, comply with the California Building Standards Code as adopted and enforced by the local building enforcement agency with jurisdiction over the area in which the charter school is located, unless the charter school facility meets either of the following conditions: (Education Code 47610, 47610.5)**

**a. The facility complies with the Field Act pursuant to Education Code 17280-17317 and 17365-17374.**

**b. The facility is exclusively owned or controlled by an entity that is not subject to the California Building Standards Code, including, but not limited to, the federal government.**

**22. Promptly respond to all reasonable inquiries from the district, the county office of education, or the SPI, including, but not limited to, inquiries regarding its financial records (Education Code 47604.3)**

**23. Annually prepare and submit financial reports to the district Board and the County Superintendent in accordance with the following reporting cycle:**

**a. By July 1, a preliminary budget for the current fiscal year. For a charter school in its first year of operation, financial statements submitted with the charter petition pursuant to Education Code 47605(g) will satisfy this requirement. (Education Code 47604.33)**

**b. By December 15, an interim financial report for the current fiscal year reflecting**



changes through October 31. (Education Code 47604.33)

c. By March 15, a second interim financial report for the current fiscal year reflecting changes through January 31. (Education Code 47604.33)

d. By September 15, a final unaudited report for the full prior year. The report submitted to the Board shall include an annual statement of all the charter school's receipts and expenditures for the preceding fiscal year. (Education Code 42100, 47604.33)

e. By December 15, a copy of the charter school's annual, independent financial audit report for the preceding fiscal year, unless the charter school's audit is encompassed in the district's audit. The audit report shall also be submitted to the state Controller and the CDE. (Education Code 47605)

#### **Administrative and Other District Services**

The district may charge for the actual costs of supervisorial oversight of a charter school not to exceed one percent of the charter school's revenue. If the district is able to provide substantially rent-free facilities to the charter school, the district may charge actual costs up to three percent of the charter school's revenue for supervisorial oversight. (Education Code 47613)

The charter school may separately purchase administrative or other services from the district or any other source. (Education Code 47613)

At the request of a charter school, the Superintendent or designee shall create and submit any reports required by the State Teachers' Retirement System and the Public Employees' Retirement System on behalf of the charter school. The charter school may be charged for the actual costs of the reporting services, but shall not be required to purchase payroll processing services from the district as a condition for creating and submitting these reports. (Education Code 47611.3)

#### **Waivers**

If a charter school submits to the district an application for a waiver of any state Education Code provisions, the Board shall hold a public hearing on the waiver request no later than 90 days following receipt of the request. (Education Code 33054)

The Superintendent or designee shall subsequently prepare a summary of the public hearing to be forwarded with the waiver request to the SBE. If the Board recommends against approval of the waiver request, it shall set forth the reasons for its disapproval in written documentation that shall be forwarded to the SBE. (Education Code 33054)

#### **District Oversight**

**For each charter school under the Board's authority, the Superintendent shall: (Education Code 47604.32, 47604.33)**

- 1. Identify at least one staff member as a contact person for the charter school**
- 2. Visit the charter school at least annually**
- 3. Ensure that the charter school complies with all reports required of charter schools by law**
- 4. Monitor the fiscal condition of the charter school based on any financial information obtained from the charter school, including, but not limited to, the reports listed above in "Requirements for Charter Schools"**
- 5. Provide timely notification to the CDE if a renewal of the charter is granted or denied, the charter is revoked, or the charter school will cease operation for any reason**

**The Board and the Superintendent or designee may inspect or observe any part of the charter school at any time. (Education Code 47607)**

**Regulation      CENTER UNIFIED SCHOOL DISTRICT**  
**approved: May 2, 2007      Antelope, California**

# Add

## Philosophy, Goals, Objectives, and Comprehensive Plans

BP 0420.41(a)

### CHARTER SCHOOL OVERSIGHT

Note: The following **optional** policy may be revised to reflect district practice. The Governing Board is obligated to monitor the performance of any charter school it authorizes in order to ensure the school's compliance with legal requirements and progress toward meeting measurable outcomes specified in the charter. Information about the school's performance will be needed when determining whether or not to grant a renewal of the charter petition or whether a revocation of the charter is warranted; see BP 0420.42 - Charter School Renewal and BP 0420.43 - Charter School Revocation. In addition, pursuant to Education Code 47604, if the district complies with all oversight responsibilities required by law, it will not be liable for the debts or obligations of any charter school that operates as or is operated by a nonprofit public benefit corporation pursuant to Corporations Code 5110-6910.

Pursuant to Education Code 47605, if the State Board of Education (SBE) approves a petition upon appeal after the Board and County Board of Education have denied the petition, the SBE may, by mutual agreement, designate its supervisory and oversight responsibilities to the board that denied the petition or to any local educational agency in the county in which the charter school is located.

The Governing Board recognizes its ongoing responsibility to ensure that any charter school authorized by the Board is successfully fulfilling the terms of its charter and is providing a high-quality educational program for students enrolled in the charter school.

*(cf. 0420.4 - Charter School Authorization)*  
*(cf. 0500 - Accountability)*

The Superintendent or designee shall identify at least one staff member to serve as a contact for each charter school. (Education Code 47604.32)

Note: Education Code 47604.32 requires the district to visit each charter school at least once every year. CSBA's publication Charter Schools: A Manual for Governance Teams recommends more frequent visits, perhaps two or three times during the school year, in order to monitor school operations more closely and develop relationships with the staff at the charter school.

The Board and Superintendent or designee may inspect or observe any part of the charter school at any time. The Superintendent or designee shall visit each charter school at least annually. (Education Code 47604.32, 47607)

Note: The following **optional** paragraph may be revised to reflect district practice. Pursuant to Education Code 47604, if a charter school operates as or is operated by a nonprofit public benefit corporation, the Board is entitled to a single representative on the board of directors of the nonprofit public benefit corporation. CSBA's publication Charter Schools: A Manual for Governance Teams recommends that the district consult with legal counsel and consider any potential conflict of interest that might arise by an individual Board member voting as a member of the charter board of directors on issues on which the Board will need to provide oversight. CSBA's manual suggests that an alternative may be for the district to designate its charter school contact appointed pursuant to Education Code 47604.32 to sit on the charter board. In addition, the Board may consider whether to appoint a representative to serve as a nonvoting member of the charter board.

## **CHARTER SCHOOL OVERSIGHT (continued)**

Whenever a charter school operates as or is operated by a nonprofit public benefit corporation as authorized by Education Code 47604, the Superintendent shall recommend and the Board shall appoint a district representative, who may be the district's charter school contact, to serve as a voting or nonvoting member of the corporation's board of directors.

### **Provision of District Services**

Note: The following **optional** section may be revised to reflect district practice. A charter school may elect to receive its funding directly from the County Superintendent of Schools pursuant to Education Code 47651 and be directly responsible for the provision of payroll, human resources, maintenance and operations, legal services, and other administrative operations. Alternatively, a charter school may receive its funding through the district that granted its charter, as is the case with most "dependent" charter schools. CSBA's publication Charter Schools: A Manual for Governance Teams recommends one or more memoranda of understanding to clarify the financial and operational agreements between the district and the charter school, including any services that will be provided by the district; see BP 0420.4 - Charter School Authorization.

The district may charge for the actual costs of supervisory oversight of a charter school not to exceed one percent of the charter school's revenue. If the district is able to provide substantially rent-free facilities to the charter school, the district may charge actual costs up to three percent of the charter school's revenue for supervisory oversight. (Education Code 47613)

*(cf. 7160 - Charter School Facilities)*

The charter school may separately purchase administrative or other services from the district or any other source. (Education Code 47613)

At the request of a charter school, the Superintendent or designee shall create and submit any reports required by the State Teachers' Retirement System or Public Employees' Retirement System on behalf of the charter school. The charter school may be charged for the actual costs of the reporting services, but shall not be required to purchase payroll processing services from the district as a condition for creating and submitting these reports. (Education Code 47611.3)

### **Waivers**

Note: Charter schools are not authorized to submit general waiver requests to the SBE on their own behalf. Rather, the district must submit the waiver request for the charter school. The general waiver request form is available on the California Department of Education's (CDE) web site. Exceptions for which the charter school may directly apply for a waiver include a federal waiver of the Carl Perkins Career and Technical Education Act and a specific waiver of instructional time penalties.

## **CHARTER SCHOOL OVERSIGHT (continued)**

If the charter school wishes to request a general waiver of any state law or regulation, it shall request that the Superintendent or designee submit a general waiver request to the State Board of Education (SBE) on its behalf.

### **Material Revisions to Charter**

Material revisions to a charter may be made only with Board approval. Material revisions shall be governed by the same standards and criteria that apply to new charter petitions as set forth in Education Code 47605 and shall include, but not be limited to, a reasonably comprehensive description of any new requirement of charter schools enacted into law after the charter was originally granted or last renewed. (Education Code 47607)

If an approved charter school proposes to expand operations to one or more additional sites within the district's boundaries, the charter school shall request a material revision to its charter and shall notify the Board of those additional locations. The Board shall consider approval of the additional locations at an open meeting. (Education Code 47605)

The Board shall have the authority to determine whether a proposed change in charter school operations constitutes a material revision.

### **Monitoring Charter School Performance**

The Superintendent or designee shall regularly report to the Board on the charter school's performance, based on the academic and fiscal accountability measures specified in the approved charter.

<p>Note: Pursuant to Education Code 47604.32, it is the responsibility of the district to ensure the charter school's compliance with making all required reports. In addition, the Board should be aware of any other violation of law in order to determine whether a revocation is warranted pursuant to Education Code 47607. See the accompanying Exhibit for a list of legal requirements pertaining to the operation of charter schools.</p>
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In providing general oversight of a charter school, the Board and the Superintendent or designee shall determine whether the school complies with all legal requirements applicable to charter schools, including making all reports required of charter schools in accordance with Education Code 47604.32.

The Board shall monitor the fiscal condition of the charter school based on any financial information obtained from the charter school, including, but not limited to, the charter school's preliminary budget, first and second interim financial reports, and final unaudited report for the full prior year. (Education Code 47604.32, 47604.33)

**CHARTER SCHOOL OVERSIGHT (continued)**

Note: Pursuant to 20 USC 6311, charter schools are subject to the same federal Title I accountability requirements as all other public schools in the state, including requirements to make "adequate yearly progress" as defined by the SBE; see BP/AR 0520.2 - Title I Program Improvement Schools. U.S. Department of Education nonregulatory guidance, The Impact of the New Title I Requirements on Charter Schools, clarifies that the entity which authorizes the charter is responsible for ensuring that the charter school complies with accountability provisions.

The Board shall monitor each charter school to determine whether it is achieving the outcomes for student learning set forth in the charter agreement. In addition, the Board shall determine whether the charter school makes "adequate yearly progress" as defined by the SBE and federal Title I accountability requirements. If a charter school fails to make adequate yearly progress for two or more consecutive years, the Board shall take action for program improvement in accordance with law, Board policy, and administrative regulations.

*(cf. 0520.2 - Title I Program Improvement Schools)*

Evaluation data for the charter school shall be considered in the Board's determination of the renewal or revocation of a charter.

*(cf. 0420.42 - Charter School Renewal)*

*(cf. 0420.43 - Charter School Revocation)*

**School Closure**

Note: The following **optional** section may be revised to reflect district practice. Pursuant to Education Code 47605, procedures to be followed in the event a charter school ceases operation for any reason must be specified in the charter; see AR 0420.4 - Charter School Authorization. 5 CCR 11962 lists components that must be included in these procedures, including (1) designation of a responsible entity to conduct closure-related activities; (2) notifications to specified persons and entities; (3) provision of information about students' grade level, course completion, and district of residence; (4) transfer and maintenance of student and personnel records; (5) completion of an independent final audit; and (6) disposal of any net assets remaining after all liabilities of the charter school have been paid or otherwise addressed.

Depending on the terms of the charter, these duties may be performed by the charter school, the district, or another specified entity. However, Education Code 47604.32 specifies that it is the responsibility of the district to notify the CDE when a charter school ceases operation for any reason. The CDE's web site also recommends that, in addition to the notifications required by 5 CCR 11962, either the district or the charter school announce the closure to any school districts that may be responsible for providing education services to the former students of the charter school.

The CDE's web site recommends that charter school closures occur at the end of a school year if it is feasible to maintain a legally compliant program until then.

In the event that the Board revokes or denies renewal of a charter or the school closes for any other reason, the Superintendent or designee shall provide assistance, when applicable in accordance with the charter and/or a memorandum of understanding, to facilitate the transfer of the charter school's former students and to finalize financial reporting and close-out.

**CHARTER SCHOOL OVERSIGHT (continued)**

The Superintendent or designee shall provide notification to the California Department of Education, within 10 calendar days, if the charter school will cease operation for any reason. Such notification shall include, but not be limited to, a description of the circumstances of the closure, the effective date of the closure, and the location of student and personnel records. (Education Code 47604.32; 5 CCR 11962.1)

*Legal Reference:***EDUCATION CODE***220 Nondiscrimination**17280-17317 Field Act**17365-17374 Field Act, fitness for occupancy**35330 Field trips and excursions; student fees**38080-38086 School meals**42100 Annual statement of receipts and expenditures**44237 Criminal record summary**44830.1 Certificated employees, conviction of a violent or serious felony**45122.1 Classified employees, conviction of a violent or serious felony**46201 Instructional minutes**47600-47616.7 Charter Schools Act of 1992**47634.2 Nonclassroom-based instruction**47640-47647 Special education funding for charter schools**48000 Minimum age of admission for kindergarten; transitional kindergarten**48010-48011 Minimum age of admission (first grade)**48907 Students' exercise of free expression; rules and regulations**48950 Student speech and other communication**49061 Student records**49110 Authority of issue work permits**51745-51749.3 Independent study**52052 Alternative accountability system**56026 Special education**56145-56146 Special education services in charter schools**60600-60649 Assessment of academic achievement**60850-60859 High school exit examination***CORPORATIONS CODE***5110-6910 Nonprofit public benefit corporations***GOVERNMENT CODE***3540-3549.3 Educational Employment Relations Act**54950-54963 The Ralph M. Brown Act***LABOR CODE***1198.5 Personnel records related to performance and grievance***PENAL CODE***667.5 Definition of violent felony**1192.7 Definition of serious felony*

## CHARTER SCHOOL OVERSIGHT (continued)

### *Legal Reference: (continued)*

#### CALIFORNIA CONSTITUTION

*Article 9, Section 5 Common school system*

#### CODE OF REGULATIONS, TITLE 5

*11700.1-11705 Independent study*

*11960-11969 Charter schools*

#### CODE OF REGULATIONS, TITLE 24

*101 et seq. California Building Standards Code*

#### UNITED STATES CODE, TITLE 20

*6311 Adequate yearly progress*

*6319 Qualifications of teachers and paraprofessionals*

*7223-7225 Charter schools*

#### CODE OF FEDERAL REGULATIONS, TITLE 34

*200.1-200.78 Accountability*

*300.18 Highly qualified special education teachers*

#### COURT DECISIONS

*Ridgecrest Charter School v. Sierra Sands Unified School District, (2005) 130 Cal.App.4th 986*

#### ATTORNEY GENERAL OPINIONS

*89 Ops.Cal.Atty.Gen. 166 (2006)*

*80 Ops.Cal.Atty.Gen. 52 (1997)*

*78 Ops.Cal.Atty.Gen. 297 (1995)*

#### CALIFORNIA OFFICE OF ADMINISTRATIVE HEARINGS DECISIONS

*Student v. Horizon Instructional Systems Charter School, (2012) OAH Case No. 2011060763*

### *Management Resources:*

#### CSBA PUBLICATIONS

*The Role of the Charter School Authorizer, Online Course*

*Charter Schools: A Manual for Governance Teams, rev. 2009*

#### CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

*Sample Copy of a Memorandum of Understanding*

*Pupil Fees, Deposits, and Other Charges, Fiscal Management Advisory 11-01, November 9, 2011*

*Special Education and Charter Schools: Questions and Answers, September 10, 2002*

#### U.S. DEPARTMENT OF EDUCATION GUIDANCE

*Charter Schools Program, July 2004*

*The Impact of the New Title I Requirements on Charter Schools, July 2004*

#### WEB SITES

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

*California Charter Schools Association: <http://www.calcharters.org>*

*California Department of Education, Charter Schools: <http://www.cde.ca.gov/sp/cs>*

*National Association of Charter School Authorizers: <http://www.charterauthorizers.org>*

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



# Add

## Philosophy, Goals, Objectives, and Comprehensive Plans

E 0420.41(a)

### CHARTER SCHOOL OVERSIGHT

#### REQUIREMENTS FOR CHARTER SCHOOLS

Note: The following Exhibit lists some, but not necessarily all, legal requirements that apply to charter schools. Pursuant to Education Code 47610, charter schools are generally exempt from Education Code provisions governing school districts unless otherwise specified in law. Districts should consult with legal counsel regarding the applicability of state law other than the Education Code to charter schools.

Charter schools are generally exempt from provisions of the Education Code unless they are expressly included in the law. However, charter schools are subject to the terms of their charters, any memorandum of understanding with their chartering authority, and other legal requirements including, but not limited to, requirements that each charter school:

1. Comply with the state and federal constitution and applicable federal laws
2. Comply with state laws that apply to governmental agencies in general, such as the Brown Act requirements in Government Code 54950-54963
3. Be nonsectarian in its programs, admission policies, employment practices, and all other operations (Education Code 47605)
4. Not discriminate against any student on the basis of the characteristics listed in Education Code 220 (Education Code 47605)
5. Not charge tuition (Education Code 47605)

Note: Education Code 47605 specifically prohibits a charter school from charging tuition, but does not mention fees or other charges. As clarified in the California Department of Education's (CDE) advisory Pupil Fees, Deposits, and Other Charges, charter schools are subject to the California Constitution and therefore the free school guarantee of the California Constitution, Article IX, Section 5, applies to charter schools. Charter schools may only charge fees authorized by those Education Code sections that have been made explicitly applicable to charter schools. For example, charter schools may charge fees for meals and field trips pursuant to Education Code 35330, 38082, and 38084 because those provisions apply to charter schools. However, charter schools may not charge other fees authorized by law for school districts, except to the extent that any such fees do not relate to an activity that is an integral component of public education.

6. Not charge student fees for any activity that is an integral component of the educational program, except as authorized by those Education Code provisions that explicitly apply to charter schools
7. Adhere to all laws establishing minimum age for public school attendance (Education Code 47610)
8. Serve students who are California residents and who, if over 19 years of age, are continuously enrolled in a public school and making "satisfactory progress" toward a high school diploma as defined in 5 CCR 11965 (Education Code 47612)

**CHARTER SCHOOL OVERSIGHT (continued)**

Note: Education Code 56145 requires charter schools to serve students with disabilities in the same manner as other public schools. Pursuant to Education Code 47646, districts must ensure that each charter school receives an equitable share of state and federal special education funding and/or any necessary special education services provided by the district on behalf of disabled students in the charter school.

If a charter school is operating as a public school of the district for purposes of providing special education, the district retains responsibility and must determine how best to ensure that all special education students receive a free appropriate public education (FAPE). However, the California Office of Administrative Hearings has ruled (Student v. Horizon Instructional Systems Charter School) that a charter school operating as its own local educational agency for purposes of special education, including a charter school offering an independent study program, is solely responsible for providing special education students with FAPE.

9. Serve students with disabilities in the same manner as such students are served in other public schools (Education Code 47646, 56145)
10. Admit all students who wish to attend the school, according to the following criteria and procedures:
  - a. Admission to the charter school shall not be determined according to the student's place of residence, or that of his/her parents/guardians, within this state, except that any existing public school converting partially or entirely to a charter school shall adopt and maintain a policy giving admission preference to students who reside within the school's former attendance area. (Education Code 47605)
 

However, if a charter school will be physically located in a public elementary school attendance area in which 50 percent or more of the student enrollment is eligible for free or reduced-price meals, it may also establish an admissions preference for students who are currently enrolled in the public elementary school and for students who reside in the public school attendance area. (Education Code 47605.3)
  - b. If the number of students who wish to attend the charter school exceeds the school's capacity, attendance shall be determined by a public random drawing, except that preferences shall be extended to students currently attending the charter school and students who reside in the district, except as provided for in Education Code 47614.5. (Education Code 47605)
  - c. Other admissions preferences may be established on an individual school basis as consistent with law.
11. If the school offers a kindergarten program, offer a transitional kindergarten program to eligible students who do not yet meet the age criterion for entry into kindergarten (Education Code 48000)

**CHARTER SCHOOL OVERSIGHT (continued)**

12. Require its teachers to hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold (Education Code 47605)

Note: According to U.S. Department of Education (USDOE) nonregulatory guidance, The Impact of the New Title I Requirements on Charter Schools, teachers who teach core academic subjects in charter schools, in addition to meeting state charter school laws regarding teacher qualifications, must meet the requirements for "highly qualified" teachers pursuant to 20 USC 6319; see BP/AR/E 4112.24 - Teacher Qualifications Under the No Child Left Behind Act. 34 CFR 300.18 clarifies that, with regard to special education teachers in a charter school, "highly qualified" means that the teacher meets the certification requirements set forth in the state's charter school law.

13. Require its teachers of core academic subjects to satisfy requirements for "highly qualified teachers" as defined by the State Board of Education (SBE) (20 USC 6319; 34 CFR 300.18)

Note: Education Code 44830.1 and 45122.1 prohibit charter schools from hiring any person who has been convicted of a violent or serious felony as defined in Penal Code 667.5 and 1192.7, unless that person has received a certificate of rehabilitation and a pardon. Schools also may not retain in employment any temporary, substitute, or probationary employee who has been convicted of a violent or serious felony. See AR 4112.5/4312.5 - Criminal Record Check and AR 4212.5 - Criminal Record Check.

14. Not hire any person, in either a certificated or classified position, who has been convicted of a violent or serious felony except as otherwise provided by law (Education Code 44830.1, 45122.1)
15. Meet the requirements of Education Code 47611 regarding the State Teachers' Retirement System (Education Code 47610)
16. Meet the requirements of Government Code 3540-3549.3 related to collective bargaining in public education employment (Education Code 47611.5)

Note: According to USDOE nonregulatory guidance, The Impact of the New Title I Requirements on Charter Schools, charter schools that receive Title I funds and have paraprofessionals working in programs supported by Title I funds must comply with requirements of 20 USC 6319 regarding paraprofessional qualifications; see BP/AR/E 4222 - Teacher Aides/Paraprofessionals.

17. If applicable, meet federal requirements for qualifications of paraprofessionals working in programs supported by Title I funds (20 USC 6319)
18. Meet all statewide standards and conduct the student assessments required by Education Code 60605 and 60851 and any other statewide standards or assessments applicable to noncharter public schools (Education Code 47605, 47612.5)

**CHARTER SCHOOL OVERSIGHT (continued)**

Note: Pursuant to Education Code 47612.5, which specifies the minimum number of instructional minutes that must be offered each fiscal year by grade level, any charter school that fails to meet that requirement will have its state apportionment reduced in proportion to the percentage of instructional minutes that the school fails to offer. Education Code 47612.5 and 47612.6 provide that neither the State Board of Education (SBE) nor the Superintendent of Public Instruction (SPI) may waive the required number of instructional minutes but may waive the fiscal penalties under specified conditions.

19. Offer at least the number of instructional minutes set forth in Education Code 47612.5 for the grade levels provided by the charter school (Education Code 47612.5)

Note: Education Code 47612.5 provides that charter schools offering independent study are subject to Education Code 51745-51749.3. Education Code 51745 requires that no course included among the courses required for graduation may be offered solely through independent study. However, pursuant to 5 CCR 11705, a charter school offering grades 9-12 shall be deemed to be an "alternative school" for purposes of independent study and thus, according to the CDE, would comply with this provision because students in such alternative schools are enrolled voluntarily and, if they wished, could attend any other district high school in which the courses were offered via classroom instruction.

20. Meet the requirements of Education Code 51745-51749.3 if it provides independent study, except that it may be allowed to offer courses required for graduation solely through independent study as an exception to Education Code 51745(e) (Education Code 47612.5, 51747.3; 5 CCR 11705)

Note: Pursuant to Education Code 47634.2 and 5 CCR 11963.2, charter schools offering nonclassroom-based instruction will receive 70 percent of the level of funding to which the charter school would otherwise be entitled, unless the SBE determines that a different percentage is appropriate.

21. Identify and report to the Superintendent of Public Instruction (SPI) any portion of its average daily attendance that is generated through nonclassroom-based instruction, including, but not limited to, independent study, home study, work study, and distance and computer-based education (Education Code 47612.5, 47634.2; 5 CCR 11963.2)
22. On a regular basis, consult with parents/guardians and teachers regarding the school's educational programs (Education Code 47605)

Note: Education Code 48907 requires charter schools to establish a written "publications code" related to students' rights to freedom of speech and of the press. These written rules and regulations must include reasonable provisions for the time, place, and manner in which free expression may take place within the charter school's jurisdiction.

23. Provide students the right to exercise freedom of speech and of the press including, but not limited to, the use of bulletin boards; the distribution of printed materials or petitions; the wearing of buttons, badges, and other insignia; and the right of expression in official publications (Education Code 48907, 48950)

**CHARTER SCHOOL OVERSIGHT (continued)**

24. Maintain written contemporaneous records that document all student attendance and make these records available for audit and inspection (Education Code 47612.5)
25. If a student subject to compulsory full-time education is expelled or leaves the charter school without graduating or completing the school year for any reason, notify the Superintendent of the school district of the student's last known address within 30 days and, upon request, provide that district with a copy of the student's cumulative record, including a transcript of grades or report card, and health information (Education Code 47605)
26. Comply with the California Building Standards Code as adopted and enforced by the local building enforcement agency with jurisdiction over the area in which the charter school is located, unless the charter school facility meets either of the following conditions: (Education Code 47610, 47610.5)
  - a. The facility complies with the Field Act pursuant to Education Code 17280-17317 and 17365-17374.
  - b. The facility is exclusively owned or controlled by an entity that is not subject to the California Building Standards Code, including, but not limited to, the federal government.
27. Promptly respond to all reasonable inquiries from the district, the county office of education, or the SPI, including, but not limited to, inquiries regarding its financial records (Education Code 47604.3)
28. Annually prepare and submit financial reports to the Governing Board and the County Superintendent of Schools in accordance with the following reporting cycle:
  - a. By July 1, a preliminary budget for the current fiscal year. For a charter school in its first year of operation, financial statements submitted with the charter petition pursuant to Education Code 47605(g) will satisfy this requirement. (Education Code 47604.33)
  - b. By December 15, an interim financial report for the current fiscal year reflecting changes through October 31. (Education Code 47604.33)
  - c. By March 15, a second interim financial report for the current fiscal year reflecting changes through January 31. (Education Code 47604.33)

**CHARTER SCHOOL OVERSIGHT (continued)**

- d. By September 15, a final unaudited report for the full prior year. The report submitted to the Board shall include an annual statement of all the charter school's receipts and expenditures for the preceding fiscal year. (Education Code 42100, 47604.33)
- e. By December 15, a copy of the charter school's annual, independent financial audit report for the preceding fiscal year, unless the charter school's audit is encompassed in the district's audit. The audit report shall also be submitted to the state Controller and the California Department of Education. (Education Code 47605)

# Add

## Philosophy, Goals, Objectives, and Comprehensive Plans

BP 0420.42(a)

### CHARTER SCHOOL RENEWAL

Note: The following policy is **optional**. 5 CCR 11966.4, as added by Register 2011, No. 43, establishes procedures for submission and review of a renewal petition.

Pursuant to Education Code 47605, when a charter school was originally granted its charter by the State Board of Education (SBE) on appeal, it must first submit its petition for renewal to the district that initially denied the charter. If the Governing Board denies the renewal, the school may then petition the SBE for renewal.

The Governing Board believes that the ongoing operation of a charter school established within the district should be dependent on the school's effectiveness in achieving its mission and goals for student learning and other student outcomes. Whenever a charter school submits a petition for renewal of its charter, the Board shall review the petition in a thorough and timely manner.

*(cf. 0420.4 - Charter School Authorization)*

*(cf. 0420.41 - Charter School Oversight)*

*(cf. 0420.43 - Charter School Revocation)*

*(cf. 0500 - Accountability)*

Note: The following **optional** paragraph may be revised to reflect district practice. 5 CCR 11966.4, as added by Register 2011, No. 43, requires that the Board grant or deny the renewal petition within 60 days of receiving the petition. However, it is recommended that the charter school submit its renewal petition sufficiently early (e.g., nine months before the term of the charter is due to expire) so that, in the event that the Board denies the renewal, the charter school may be able to appeal to the County Board of Education and then to the SBE pursuant to Education Code 47607.5 and, if the school closes, for students of the charter school to transfer to another school.

A charter school seeking renewal of its charter is encouraged to submit a petition for renewal to the Board sufficiently early before the term of the charter is due to expire.

The signature requirement applicable to new charter petitions shall not be applicable to petitions for renewal. (5 CCR 11966.4)

The petition for renewal shall include a reasonably comprehensive description of how the charter school has met all new charter school requirements enacted into law after the charter was originally granted or last renewed. The petition also shall include documentation that the charter school meets at least one of the criteria for academic performance specified in Education Code 47607(b). (Education Code 47607; 5 CCR 11966.4)

The Board shall not grant a renewal until at least 30 days after the charter school submits such documentation of its academic performance. (Education Code 47607)

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

Within 30 days of receiving the renewal petition, the Board shall hold a public hearing to review documentation submitted by the charter school and obtain public input.

## **CHARTER SCHOOL RENEWAL (continued)**

Within 60 days of receiving the renewal petition, or within 90 days if extended by mutual written agreement of the Board and the charter school, the Board shall either grant or deny the request to renew the charter. (Education Code 47607; 5 CCR 11966.4)

Renewals shall be governed by the same standards and criteria that apply to new charter petitions as set forth in Education Code 47605. When considering a petition for renewal, the Board shall consider the past performance of the charter school's academics, finances, and operations in evaluating the likelihood of future success, along with plans for improvement, if any. (Education Code 47607; 5 CCR 11966.4)

Each renewal shall be for a period of five years. (Education Code 47607)

Note: Education Code 47607 and 5 CCR 11966.4, as added by Register 2011, No. 43, establish grounds for denial of charter renewals. See CSBA's publication [Charter Schools: A Manual for Governance Teams](#) for additional information about making the determinations specified in items #1-4 below.

The Board shall deny a renewal petition only if it makes a written factual finding setting forth specific facts to support one or more of the following grounds: (Education Code 47605, 47607; 5 CCR 11966.4)

1. The charter school presents an unsound educational program for the students to be enrolled in the charter school.
2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
3. The petition does not contain an affirmation of each of the conditions described in Education Code 47605(d).
4. The petition does not contain reasonably comprehensive descriptions of the charter provisions in Education Code 47605(b).
5. The charter school has failed to meet at least one of the following criteria of academic performance:
  - a. Attainment of its Academic Performance Index (API) growth target in the prior year or in two of the last three years, or in the aggregate for the prior three years
  - b. An API ranking in deciles 4-10 in the prior year or in two of the last three years



**CHARTER SCHOOL RENEWAL (continued)**

- c. An API ranking in deciles 4-10 for a demographically comparable school in the prior year or in two of the last three years
- d. Academic performance at least equal to the academic performance of the public schools that the charter school students would otherwise have been required to attend, as well as the academic performance of district schools, taking into account the composition of the student population that is served at the charter school

In determining whether the charter school satisfies this criterion, the Board shall base its decision on documented, clear, and convincing data; student achievement data including, but not limited to, results from the Standardized Testing and Reporting Program for demographically similar student populations in comparison schools; and information submitted by the charter school at least 30 days prior to the Board's decision.

Note: Education Code 47607 requires the district to submit copies of supporting documentation and a written summary of the basis for its determination to the Superintendent of Public Instruction (SPI), as provided below. The SPI will review the materials and make recommendations to the district; those recommendations may be the basis for a revocation of the charter by the SBE.

The district shall submit copies of supporting documentation and a written summary of the basis for its determination to the Superintendent of Public Instruction.

*(cf. 6162.51 - Standardized Testing and Reporting Program)*

- e. Qualification for an alternative accountability system pursuant to Education Code 52052(h)

If the Board fails to make a written factual finding pursuant to items #1-5 above within the required time period, the absence of a written factual finding shall be deemed an approval of the renewal petition. (5 CCR 11966.4)

The Superintendent or designee shall provide notification to the California Department of Education, within 10 calendar days of the Board's action, whenever a renewal of the charter is granted or denied. (Education Code 47604.32; 5 CCR 11962.1)

If the Board denies a renewal petition, the charter school may submit its application for renewal to the County Board of Education within 30 days of the Board's written factual findings supporting the denial. If the County Board then fails to deny or grant the petition

## CHARTER SCHOOL RENEWAL (continued)

within 60 days of receiving the petition, or within 90 days if extended by written mutual agreement of the charter school and the County Board, the charter school may submit the petition to the State Board of Education.

Note: Pursuant to Education Code 47604.32, if a charter school ceases operation for any reason, including denial of its renewal, the district must notify the California Department of Education; see BP 0420.41 - Charter School Oversight. In addition, the district and/or charter school must implement the school closure procedures specified in the charter in accordance with Education Code 47605 and 5 CCR 11962; see AR 0420.4 - Charter School Authorization.

### *Legal Reference:*

#### EDUCATION CODE

47600-47616.7 *Charter Schools Act of 1992*

52052 *Alternative accountability system*

56145-56146 *Special education services in charter schools*

60600-60649 *Assessment of academic achievement*

#### CODE OF REGULATIONS, TITLE 5

11960-11969 *Charter schools*

#### UNITED STATES CODE, TITLE 20

7223-7225 *Charter schools*

### *Management Resources:*

#### CSBA PUBLICATIONS

*The Role of the Charter School Authorizer, Online Course*

*Charter Schools: A Manual for Governance Teams, rev. 2009*

#### WEB SITES

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

California Charter Schools Association: <http://www.calcharters.org>

California Department of Education, Charter Schools: <http://www.cde.ca.gov/sp/cs>

National Association of Charter School Authorizers: <http://www.charterauthorizers.org>

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

# Add

## Philosophy, Goals, Objectives, and Comprehensive Plans

BP 0420.43(a)

### CHARTER SCHOOL REVOCATION

Note: The following policy is **optional**. Education Code 47607 and 5 CCR 11968.5.2-11968.5.3, as added by Register 2011, No. 46, authorize the Governing Board to revoke a charter of a charter school in its jurisdiction when certain substantiated findings are made. In Today's Fresh Start, Inc. v. Los Angeles County Office of Education, the court of appeal confirmed that compliance with the revocation process prescribed in the Education Code provides a charter school with sufficient due process and that a charter school is not entitled to any additional evidentiary hearing by a neutral third party.

In addition, Education Code 47604.5 authorizes the State Board of Education (SBE) to revoke the charter of any charter school, whether or not the SBE is the chartering authority, if it makes certain findings relating to gross financial mismanagement, illegal or improper use of funds, or substantial and sustained departure from measurably successful practices that jeopardize the educational development of students. SBE revocation procedures are specified in 5 CCR 11968.5-11968.5.1, as added by Register 2011, No. 2 and No. 46.

The Governing Board expects any charter school authorized by the Board to provide a sound educational program that promotes student learning and to comply with law and the terms of its charter. However, when necessary, the Board may revoke a charter before the date it is due to expire.

*(cf. 0420.4 - Charter School Authorization)*  
*(cf. 0420.41 - Charter School Oversight)*  
*(cf. 0420.42 - Charter School Renewal)*  
*(cf. 0500 - Accountability)*

The Board may revoke a charter whenever it makes a written factual finding, supported by substantial evidence, that the charter school has done any of the following: (Education Code 47607)

1. Committed a material violation of any of the conditions, standards, or procedures set forth in the charter
2. Failed to meet or pursue any of the student outcomes identified in the charter
3. Failed to meet generally accepted accounting principles or engaged in fiscal mismanagement
4. Violated any provision of law

At least 72 hours prior to any Board meeting at which the Board will consider issuing a Notice of Violation, the Board shall provide the charter school with notice and all relevant documents related to the proposed action. (5 CCR 11968.5.2)

*(cf. 9320 - Meetings and Notices)*

If the Board takes action to issue a Notice of Violation, it shall deliver the Notice of Violation to the charter school's governing body. The Notice of Violation shall identify: (Education Code 47607; 5 CCR 11965, 11968.5.2)

## **CHARTER SCHOOL REVOCATION (continued)**

1. The charter school's alleged violation(s).
2. All evidence relied upon by the Board in determining that the charter school committed the alleged violation(s), including the date and duration of the alleged violation(s). The Notice shall show that the violation(s) are both material and uncured and that the alleged violation(s) occurred within a reasonable period of time before the Notice of Violation is issued.
3. The period of time that the Board has concluded is a reasonable period of time for the charter school to remedy or refute the identified violation(s). In identifying this time period, the Board shall consider the amount of time reasonably necessary to remedy each identified violation, which may include the charter school's estimation as to the anticipated remediation time.

By the end of the remedy period identified in the Notice of Violation, the charter school's governing body may submit to the Board a detailed written response and supporting evidence addressing each identified violation, including the refutation, remedial action taken, or proposed remedial action. (5 CCR 11968.5.2)

Within 60 calendar days of the conclusion of the remedy period, the Board shall evaluate any response and supporting evidence provided by the charter school's governing body and shall take one of the following actions: (5 CCR 11968.5.2)

1. Discontinue revocation of the charter and provide timely written notice of such action to the charter school's governing body

Note: Pursuant to Education Code 47607 and 5 CCR 11968.5.2, as added by Register 2011, No. 46, a decision to issue a Notice of Intent to Revoke as provided in item #2 below must be supported by substantial evidence that the charter school has failed to remedy or refute a violation. "Substantial evidence" is not defined in law or state regulations. The district should consult legal counsel as necessary.
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2. If there is substantial evidence that the charter school has failed to remedy or refute to the Board's satisfaction a violation identified in the Notice of Violation, continue revocation of the charter by issuing a Notice of Intent to Revoke to the charter school's governing body

If the Board issues a Notice of Intent to Revoke, it shall hold a public hearing concerning the revocation on the date specified in the notice, which shall be no later than 30 days after providing the notice. Within 30 calendar days after the public hearing, or within 60 calendar days if extended by written mutual agreement of the Board and the charter school, the Board shall issue a final decision to revoke or decline to revoke the charter. (Education Code 47607; 5 CCR 11968.5.2)

## **CHARTER SCHOOL REVOCATION (continued)**

If the Board fails to meet the timelines specified above for issuing a Notice of Intent to Revoke or a final decision, the revocation process shall be deemed terminated. (5 CCR 11968.5.2)

Within 10 calendar days of the Board's final decision, the Superintendent or designee shall provide a copy of the final decision to the California Department of Education (CDE) and the County Board of Education. (Education Code 47604.32; 5 CCR 11968.5.2)

Note: Pursuant to Education Code 47604.32, if a charter school ceases operation for any reason, including revocation, the district must notify the California Department of Education; see BP 0420.41 - Charter School Oversight. In addition, the district and/or charter school must implement the school closure procedures specified in the charter in accordance with Education Code 47605 and 5 CCR 11962; see AR 0420.4 - Charter School Authorization.

### **Severe and Imminent Threat**

Note: Education Code 47607 and 5 CCR 11968.5.3, as added by Register 2011, No. 46, authorize the Board to forego the above revocation procedures and immediately revoke a charter when there is a severe and imminent threat to the health or safety of students, as provided below.

The procedures specified above shall not be applicable when the Board determines that any violation under Education Code 47607 constitutes a severe and imminent threat to the health or safety of students. In such circumstances, the Board may immediately revoke the school's charter by approving and delivering a Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety to the charter school's governing body, the County Board, and the CDE. (Education Code 47607; 5 CCR 11968.5.3)

### **Appeals**

Note: Pursuant to Education Code 47607 and 5 CCR 11968.5.3-11968.5.5, as added by Register 2011, No. 46, a charter school may appeal the revocation of its charter, including a revocation based on a severe and imminent threat, to the County Board of Education within 30 days of the Board's final decision. The County Board may reverse the revocation if it determines that the district's findings are not supported by substantial evidence, in which case the district may appeal the reversal to the SBE. If the County Board upholds the district's revocation or does not issue a decision within 90 days of its receipt of the appeal, the charter school may appeal to the SBE. Pursuant to Education Code 47607, if either the County Board or the SBE reverses the revocation, the district remains the chartering authority.

Education Code 47607 further provides that, while an appeal is pending, a charter school whose revocation proceedings are based on a material violation of any of the conditions, standards, or procedures set forth in the charter or based on a failure to meet or pursue any of the student outcomes identified in the charter will continue to qualify as a charter school for funding and all other purposes of the Charter Schools Act and may continue to hold all existing grants, resources, and facilities in order to ensure that the education of students enrolled in the school is not disrupted.

## CHARTER SCHOOL REVOCATION (continued)

In the event that the Board revokes the charter, the charter school may, within 30 days of the Board's final decision, appeal the revocation to the County Board. Either the charter school or the district may subsequently appeal the County Board's decision to the SBE. (Education Code 47607; 5 CCR 11968.5.3-11968.5.5)

### *Legal Reference:*

#### EDUCATION CODE

47600-47616.7 Charter Schools Act of 1992, especially:

47607 Charter renewals and revocations

#### CODE OF REGULATIONS, TITLE 5

11960-11969 Charter schools, especially:

11968.5-11968.5.5 Charter revocations

#### COURT DECISIONS

Today's Fresh Start, Inc. v. Los Angeles County Office of Education, (2011) 197 Cal.App.4th 436

### *Management Resources:*

#### CSBA PUBLICATIONS

The Role of the Charter School Authorizer, Online Course

Charter Schools: A Manual for Governance Teams, rev. 2009

#### WEB SITES

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

California Charter Schools Association: <http://www.calcharters.org>

California Department of Education, Charter Schools: <http://www.cde.ca.gov/sp/cs>

National Association of Charter School Authorizers: <http://www.charterauthorizers.org>

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

## VISITORS/OUTSIDERS

The Governing Board believes that it is important for parents/guardians and community members to take an active interest in the issues affecting district schools and students. Therefore, the Board encourages interested parents/guardians and community members to visit the schools and participate in the educational program.

*(cf. 1240 - Volunteer Assistance)*

*(cf. 5020 - Parent Rights and Responsibilities)*

*(cf. 6020 - Parent Involvement)*

Note: In Reeves v. Rocklin Unified School District, a California Court of Appeal affirmed districts' authority to establish reasonable regulations for student safety and protection against disruptions on school campuses.

To ensure the safety of students and staff and minimize interruption of the instructional program, the Superintendent or designee shall establish procedures which facilitate visits during regular school days. Visits during school hours should be arranged with the principal or designee. When a visit involves a conference with a teacher or the principal, an appointment should be scheduled during noninstructional time.

*(cf. 6116 - Classroom Interruptions)*

Note: Penal Code 627.2 requires "outsiders" to register upon entering school grounds during school hours, and Penal Code 627.1 lists individuals who are not "outsiders" for this purpose; see the accompanying administrative regulation. Education Code 32212 authorizes the Governing Board to adopt policy to control classroom interruptions consistent with local circumstances (see AR 6116 - Classroom Interruptions) and Education Code 35160 authorizes the Board to act in any manner not inconsistent with law. Therefore, it appears that a district has the authority to require all visitors, including parents/guardians as well as those not defined as "outsiders" in Penal Code 627.1, to register upon entering school campus and to comply with other reasonable requirements.

Pursuant to Penal Code 627.1, media representatives are not "outsiders." However, the Attorney General has opined (95 Ops.Cal.Atty.Gen. 509 (1996)) that the Board may restrict media representatives' access in the same manner as access by the general public may be limited (e.g., registration or accompaniment by a staff member when on school grounds). Therefore, if a district has developed a policy requiring all visitors or outsiders to register upon entering school grounds, then media may be subject to the same requirements; see BP 1112 - Media Relations.

The following options may be revised to reflect district practice. Option 1 requires anyone who is not a student or staff member to register. Option 2 requires registration only for individuals who are not listed in Penal Code 627.1 (i.e., individuals who are "outsiders").

**OPTION 1:** Any person who is not a student or staff member shall register immediately upon entering any school building or grounds when school is in session.

~~**OPTION 2:** All outsiders, as defined in law and administrative regulation, shall register immediately upon entering any school building or grounds when school is in session. (Penal Code 627.2)~~

*(cf. 1112 - Media Relations)*

## **VISITORS/OUTSIDERS (continued)**

Note: The remainder of this policy may be used by all districts.

The principal or designee may provide a visible means of identification for all individuals who are not students or staff members while on school premises.

No electronic listening or recording device may be used by any person in a classroom without the teacher's and principal's permission. (Education Code 51512)

Note: Pursuant to Education Code 35160, the Board is responsible for maintaining order in schools under its jurisdiction. Therefore, in accordance with law, the district may authorize school administrators to direct disruptive individuals to leave school grounds; see AR 3515.2 - Disruptions. 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.

The following optional paragraph should be modified to reflect district practice.

The Board encourages all individuals to assist in maintaining a safe and secure school environment by behaving in an orderly manner while on school grounds and by utilizing the district's complaint processes if they have concerns with any district program or employee. In accordance with Penal Code 626.7, the principal or designee may request that any individual who is causing a disruption, including exhibiting volatile, hostile, aggressive, or offensive behavior, immediately leave school grounds.

*(cf. 1312.1 - Complaints Concerning District Employees)*  
*(cf. 1312.2 - Complaints Concerning Instructional Materials)*  
*(cf. 1312.3 - Uniform Complaint Procedures)*  
*(cf. 1312.4 - Williams Uniform Complaint Procedures)*  
*(cf. 3515.2 - Disruptions)*

### **Presence of Sex Offender on Campus**

Note: Pursuant to Penal Code 626.81, registered sex offenders are prohibited from school buildings and grounds except for lawful business and with written permission. In addition, pursuant to Education Code 49091.10 and 51101, parents/guardians, including those who are required to register as sex offenders, have a prescribed right to be involved in the education of their children. Thus, the district must adopt measures that are effective in maintaining a safe school environment while avoiding a violation of the statutory rights of such parents/guardians, as provided in the following optional paragraph.

Any person who is required to register as a sex offender pursuant to Penal Code 290, including a parent/guardian of a district student, shall request written permission from the principal before entering the school campus or grounds. As necessary, the principal shall consult with local law enforcement authorities before allowing the presence of any such person at school or other school activity. The principal also shall report to the Superintendent or designee anytime he/she gives such written permission.



## VISITORS/OUTSIDERS (continued)

### *Legal Reference:*

#### EDUCATION CODE

- 32210 Willful disturbance of public school or meeting*
- 32211 Threatened disruption or interference with classes; misdemeanor*
- 32212 Classroom interruptions*
- 35160 Authority of governing boards*
- 35292 Visits to schools (board members)*
- 49091.10 Parental right to inspect instructional materials and observe school activities*
- 51101 Parent Rights Act of 2002*
- 51512 Prohibited use of electronic listening or recording device*

#### EVIDENCE CODE

- 1070 Refusal to disclose news source*

#### LABOR CODE

- 230.8 Discharge or discrimination for taking time off to participate in child's educational activities*

#### PENAL CODE

- 290 Sex offenders*
- 626-626.10 Schools*
- 626.81 Misdemeanor for registered sex offender to come onto school grounds*
- 627-627.10 Access to school premises, especially:*
  - 627.1 Definitions*
  - 627.2 Necessity of registration by outsider*
  - 627.7 Misdemeanors; punishment*

#### COURT DECISIONS

- Reeves v. Rocklin Unified School District, (2003) 109 Cal.App.4th 652*

#### ATTORNEY GENERAL OPINIONS

- 95 Ops.Cal.Atty.Gen. 509 (1996)*

# **Board Policy**

## **Visitors/Outsiders**

**BP 1250**

### **Community Relations**

The Governing Board believes that it is important for parents/guardians and community members to take an active interest in the issues affecting district schools and students. Therefore, the Board encourages interested parents/guardians and community members to visit the schools and participate in the educational program.

(cf. 1240 - Volunteer Assistance)

(cf. 5020 - Parent Rights and Responsibilities)

(cf. 6020 - Parent Involvement)

To ensure the safety of students and staff and minimize interruption of the instructional program, the Superintendent or designee shall establish procedures which facilitate visits during regular school days. Visits during school hours should be arranged with the principal or designee. When a visit involves a conference with a teacher or the principal, an appointment should be scheduled during noninstructional time.

(cf. 6116 - Classroom Interruptions)

Any person who is not a student or staff member shall register immediately upon entering any school building or grounds when school is in session.

(cf. 1112 - Media Relations)

The principal or designee may provide a visible means of identification for all individuals who are not students or staff members while on school premises.

No electronic listening or recording device may be used by any person in a classroom without the teacher and principal's permission. (Education Code 51512)

The Board encourages all individuals to assist in maintaining a safe and secure school environment by behaving in an orderly manner while on school grounds and by utilizing the district's complaint processes if they have concerns with any district program or employee. In accordance with Penal Code 626.7, the principal or designee may request that any individual who is causing a disruption, including exhibiting volatile, hostile, aggressive, or offensive behavior, immediately leave school grounds.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.2 - Complaints Concerning Instructional Materials)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 1312.4 - Williams Uniform Complaint Procedures)  
(cf. 3515.2 - Disruptions)

**Legal Reference:**

**EDUCATION CODE**

32210 Willful disturbance of public school or meeting  
32211 Threatened disruption or interference with classes; misdemeanor  
32212 Classroom interruptions  
35160 Authority of governing boards  
35292 Visits to schools (board members)  
51512 Prohibited use of electronic listening or recording device

**EVIDENCE CODE**

1070 Refusal to disclose news source

**LABOR CODE**

230.8 Discharge or discrimination for taking time off to participate in child's educational activities

**PENAL CODE**

626-626.10 Schools  
627-627.10 Access to school premises, especially:  
627.1 Definitions  
627.2 Necessity of registration by outsider  
627.7 Misdemeanors; punishment

**COURT DECISIONS**

Reeves v. Rocklin Unified School District, (2003) 109 Cal.App.4th 652

**ATTORNEY GENERAL OPINIONS**

95 Ops.Cal.Atty.Gen. 509 (1996)

**Policy CENTER UNIFIED SCHOOL DISTRICT**  
adopted: October 20, 2010 Antelope, California

**UNIFORM COMPLAINT PROCEDURES**

Note: To address prohibited discrimination and possible violations of state and federal laws governing educational programs, 5 CCR 4621 mandates districts to adopt uniform complaint policies and procedures consistent with the state's complaint procedures specified in 5 CCR 4600-4687. The California Department of Education (CDE) monitors districts for compliance with these procedures through its Federal Program Monitoring (FPM) process (formerly Categorical Program Monitoring). The FPM includes a review of written district policies and procedures for required language and records of required activities, such as annual notification provided to students, employees, and other school community members.

The Governing Board recognizes the district's responsibility to comply with applicable state and federal laws and regulations governing educational programs. The district shall investigate any complaints alleging failure to comply with such laws and/or alleging unlawful discrimination, and shall seek to resolve those complaints in accordance with the district's uniform complaint procedures.

Note: The following paragraph lists types of discrimination prohibited by state and federal law, as well as protected groups listed in 5 CCR 4610. Pursuant to Education Code 220, as amended by AB 887 (Ch. 719, Statutes of 2011), and Government Code 11135, as amended by SB 559 (Ch. 261, Statutes of 2011), it is unlawful to discriminate against any person based on his/her gender identity, gender expression, or genetic information.

The district shall use the uniform complaint procedures to resolve any complaint alleging unlawful discrimination in district programs and activities based on actual race, color, ancestry, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity or expression, or genetic information; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

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

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

Note: 5 CCR 4610 specifies programs and activities for which state and/or federal funding is provided to districts and for which districts are required to establish a uniform system of complaint processing. In addition, Education Code 32289 authorizes an individual to file a complaint if he/she believes that the district has not complied with the school safety planning requirements of the No Child Left Behind Act, 20 USC 7114(d)(7). The CDE has interpreted this to mean that complaints as to the development and adoption of the school safety plan may be considered under this procedure.

Uniform complaint procedures shall also be used to address any complaint alleging the district's failure to comply with state and/or federal laws in adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and training programs, child care and development programs, child nutrition programs, special education programs, and the development and adoption of the school safety plan.

*(cf. 0450 - Comprehensive Safety Plan)*

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

*(cf. 1312.2 - Complaints Concerning Instructional Materials)*

## UNIFORM COMPLAINT PROCEDURES (continued)

(cf. 3553 - Free and Reduced Price Meals)  
(cf. 3555 - Nutrition Program Compliance)  
(cf. 5141.4 - Child Abuse Prevention and Reporting)  
(cf. 5148 - Child Care and Development)  
(cf. 6159 - Individualized Education Program)  
(cf. 6171 - Title I Programs)  
(cf. 6174 - Education for English Language Learners)  
(cf. 6175 - Migrant Education Program)  
(cf. 6178 - Career Technical Education)  
(cf. 6178.1 - Work-Based Learning)  
(cf. 6178.2 - Regional Occupational Center/Program)  
(cf. 6200 - Adult Education)

Note: 5 CCR 4621 mandates that the district's policy ensure that complainants are protected from retaliation.

The Board prohibits any form of retaliation against any complainant in the complaint process. Participation in the complaint process shall not in any way affect the status, grades, or work assignments of the complainant.

The Board encourages the early, informal resolution of complaints at the site level whenever possible.

Note: 5 CCR 4631 authorizes the district to utilize alternative dispute resolution methods, including mediation, to resolve complaints before initiating a formal investigation. The following optional paragraph provides for a neutral mediator and should be revised to reflect district practice.

The Board recognizes that a neutral mediator can often suggest a compromise that is agreeable to all parties in a dispute. In accordance with uniform complaint procedures, whenever all parties to a complaint agree to try resolving the problem through mediation, the Superintendent or designee shall initiate that process. The Superintendent or designee shall ensure that the results are consistent with state and federal laws and regulations.

Note: The following paragraph is mandated pursuant to 5 CCR 4621. Appropriate disclosure will vary in each case depending on the facts and circumstances.

In investigating complaints, the confidentiality of the parties involved and the integrity of the process shall be protected. As appropriate, the Superintendent or designee may keep the identity of a complainant confidential to the extent that the investigation of the complaint is not obstructed.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)  
(cf. 5125 - Student Records)  
(cf. 9011 - Disclosure of Confidential/Privileged Information)

## UNIFORM COMPLAINT PROCEDURES (continued)

Note: Education Code 35186 requires the district to use uniform complaint procedures, with modifications, to investigate and resolve complaints related to items #1-4 below (i.e., "Williams complaints"). However, because Education Code 35186 sets forth different timelines for investigation and resolution of these kinds of complaints than the timelines specified in law for other uniform complaints, the CDE has created a separate uniform complaint process for the Williams complaints. See AR 1312.4 - Williams Uniform Complaint Procedures for the separate procedure.

The district's Williams uniform complaint procedures, AR 1312.4, shall be used to investigate and resolve any complaint related to the following:

1. Sufficiency of textbooks or instructional materials
2. Emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff
3. Teacher vacancies and misassignments

Note: Districts that do not receive funding for California High School Exit Examination intensive instruction and services pursuant to Education Code 37254 should delete item #4 below.

4. Deficiency in the district's provision of instruction and/or services to any student who, by the completion of grade 12, has not passed one or both parts of the high school exit examination

*(cf. 1312.4 - Williams Uniform Complaint Procedures)*  
*(cf. 6162.52 - High School Exit Examination)*  
*(cf. 6179 - Supplemental Instruction)*

*Legal Reference: (see next page)*

## UNIFORM COMPLAINT PROCEDURES (continued)

### *Legal Reference:*

#### EDUCATION CODE

200-262.4 *Prohibition of discrimination*  
8200-8498 *Child care and development programs*  
8500-8538 *Adult basic education*  
18100-18203 *School libraries*  
32289 *School safety plan, uniform complaint procedures*  
35186 *Williams uniform complaint procedures*  
37254 *Intensive instruction and services for students who have not passed exit exam*  
41500-41513 *Categorical education block grants*  
48985 *Notices in language other than English*  
49060-49079 *Student records*  
49490-49590 *Child nutrition programs*  
52160-52178 *Bilingual education programs*  
52300-52490 *Career technical education*  
52500-52616.24 *Adult schools*  
52800-52870 *School-based program coordination*  
54000-54028 *Economic impact aid programs*  
54100-54145 *Miller-Unruh Basic Reading Act*  
54400-54425 *Compensatory education programs*  
54440-54445 *Migrant education*  
54460-54529 *Compensatory education programs*  
56000-56867 *Special education programs*  
59000-59300 *Special schools and centers*  
64000-64001 *Consolidated application process*

#### GOVERNMENT CODE

11135 *Nondiscrimination in programs or activities funded by state*  
12900-12996 *Fair Employment and Housing Act*

#### PENAL CODE

422.6 *Interference with constitutional right or privilege*

#### CODE OF REGULATIONS, TITLE 5

3080 *Application of section*  
4600-4687 *Uniform complaint procedures*  
4900-4965 *Nondiscrimination in elementary and secondary education programs*

#### UNITED STATES CODE, TITLE 20

6301-6577 *Title I basic programs*  
6601-6777 *Title II preparing and recruiting high quality teachers and principals*  
6801-6871 *Title III language instruction for limited English proficient and immigrant students*  
7101-7184 *Safe and Drug-Free Schools and Communities Act*  
7201-7283g *Title V promoting informed parental choice and innovative programs*  
7301-7372 *Title V rural and low-income school programs*

### *Management Resources:*

#### WEB SITES

CSBA: <http://www.csba.org>  
California Department of Education: <http://www.cde.ca.gov>  
U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

# **Board Policy**

## **Uniform Complaint Procedures**

### **BP 1312.3**

#### **Community Relations**

The Governing Board recognizes that the district is primarily responsible for complying with applicable state and federal laws and regulations governing educational programs. The district shall investigate complaints alleging failure to comply with such laws and/or alleging discrimination and shall seek to resolve those complaints in accordance with the district's uniform complaint procedures. (5 CCR 4620)

The district shall follow uniform complaint procedures when addressing complaints alleging unlawful discrimination against any protected group as identified under Education Code 200 and 220 and Government Code 11135, including actual or perceived sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability, or age, or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics in any district program or activity that receives or benefits from state financial assistance. (5 CCR 4610)

Uniform complaint procedures shall also be used when addressing complaints alleging failure to comply with state and/or federal laws in adult education programs, consolidated categorical aid programs, migrant education, career technical and technical education and career technical and technical training programs, child care and development programs, child nutrition programs, and special education programs. (5 CCR 4610)

- (cf. 0410 - Nondiscrimination in District Programs and Activities)
- (cf. 1312.1 - Complaints Concerning District Employees)
- (cf. 1312.2 - Complaints Concerning Instructional Materials)
- (cf. 3553 - Free and Reduced Price Meals)
- (cf. 4031 - Complaints Concerning Discrimination in Employment)
- (cf. 5141.4 - Child Abuse Prevention and Reporting)
- (cf. 5148 - Child Care and Development)
- (cf. 6159 - Individualized Education Program)
- (cf. 6171 - Title I Programs)
- (cf. 6174 - Education for English Language Learners)
- (cf. 6175 - Migrant Education Program)
- (cf. 6178 - Vocational Education)
- (cf. 6200 - Adult Education)

Complaints related to sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of pupils or staff, and teacher vacancies and misassignments shall be investigated pursuant to the district's



**Williams uniform complaint procedure (AR 1312.4).**

**(cf. 1312.4 - Williams Uniform Complaint Procedures)**

**The Board encourages the early, informal resolution of complaints at the site level whenever possible.**

**The Board acknowledges and respects every individual's right to privacy. Discrimination complaints shall be investigated in a manner that protects the confidentiality of the parties and the integrity of the process. This may include keeping the identity of the complainant confidential, as appropriate and except to the extent necessary to carry out the investigation or proceedings, as determined by the Superintendent or designee, on a case-by-case basis.**

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

**(cf. 5125 - Pupil Records)**

**(cf. 9011 - Disclosure of Confidential/Privileged Information)**

**The Board prohibits any form of retaliation against any complainant in the complaint process, including but not limited to a complainant's filing of a complaint or the reporting of instances of discrimination. Such participation shall not in any way affect the status, grades, or work assignments of the complainant.**

**The Board recognizes that a neutral mediator can often suggest a compromise that is agreeable to all parties in a dispute. In accordance with uniform complaint procedures, whenever all parties to a complaint agree to try resolving their problem through mediation, the Superintendent or designee shall initiate that process. The Superintendent or designee shall ensure that the results are consistent with state and federal laws and regulations.**

**Legal Reference:**

**EDUCATION CODE**

**200-262.4 Prohibition of discrimination**

**8200-8498 Child care and development programs**

**8500-8538 Adult basic education**

**18100-18203 School libraries**

**32289 School safety plan, uniform complaint procedure**

**35186 Williams uniform complaint procedure**

**41500-41513 Categorical education block grants**

**48985 Notices in language other than English**

**49060-49079 Student records**

**49490-49590 Child nutrition programs**

**52160-52178 Bilingual education programs**

52300-52490 Career-technical education  
52500-52616.24 Adult schools  
52800-52870 School-based coordinated programs  
54000-54028 Economic impact aid programs  
54100-54145 Miller-Unruh Basic Reading Act  
54400-54425 Compensatory education programs  
54440-54445 Migrant education  
54460-54529 Compensatory education programs  
56000-56867 Special education programs  
59000-59300 Special schools and centers  
64000-64001 Consolidated application process

**PENAL CODE**

422.6 Interference with constitutional right or privilege

**CODE OF REGULATIONS, TITLE 5**

3080 Application of section

4600-4687 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

**UNITED STATES CODE, TITLE 20**

6301-6577 Title I basic programs

6601-6777 Title II preparing and recruiting high quality teachers and principals

6801-6871 Title III language instruction for limited English proficient and immigrant students

7101-7184 Safe and Drug-Free Schools and Communities Act

7201-7283g Title V promoting informed parental choice and innovative programs

7301-7372 Title V rural and low-income school programs

**Management Resources:**

**WEB SITES**

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

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

U.S. Department of Education, Office for Civil Rights:

<http://www.ed.gov/about/offices/list/ocr/index.html>

**Policy CENTER UNIFIED SCHOOL DISTRICT**

adopted: August 16, 2006 Antelope, California

## **UNIFORM COMPLAINT PROCEDURES**

### **Compliance Officers**

Note: 5 CCR 4621 mandates the district to identify in its policies and procedures the person(s), position(s), or unit(s) responsible for ensuring compliance with state and federal law and for receiving and investigating complaints alleging noncompliance or discrimination. During its Federal Program Monitoring (FPM) process (formerly Categorical Program Monitoring), California Department of Education (CDE) staff will check to ensure that the district's policy lists the specific title(s) of the employee(s) responsible for investigating complaints. Districts should identify the specific title(s) of the compliance officer(s) in the space provided below.

The following compliance officer(s) shall receive and investigate complaints and shall ensure district compliance with law:

Director of Personnel & Student Services  
8408 Watt Avenue, Antelope, CA 95843  
(916) 338-6320

Note: 5 CCR 4621 mandates that the district's policy provide that employees responsible for compliance and/or investigation of complaints are knowledgeable about the laws and programs they are assigned to investigate. The second sentence below may be modified to reflect district practice.

The Superintendent or designee shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Designated employees may have access to legal counsel as determined by the Superintendent or designee.

*(cf. 9124 - Attorney)*

### **Notifications**

Note: During the FPM process, CDE staff will check to ensure that the district's policy contains a statement ensuring annual dissemination of notice of the district's uniform complaint procedures. A sample of the annual notice is available through the CDE web site. 5 CCR 4622 requires that the notice be provided to private school representatives and others specified below.

The Superintendent or designee shall annually provide written notification of the district's uniform complaint procedures to students, employees, parents/guardians, the district advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties. (5 CCR 4622)

*(cf. 0420 - School Plans/Site Councils)*  
*(cf. 1220 - Citizen Advisory Committees)*  
*(cf. 4112.9/4212.9/4312.9 - Employee Notifications)*  
*(cf. 5145.6 - Parental Notifications)*

## **UNIFORM COMPLAINT PROCEDURES (continued)**

**Note:** During the FPM process, CDE staff will check the notice to ensure that it contains a summary of the complaint procedures as specified in items #1-4 below.

The notice shall:

1. Identify the person(s), position(s), or unit(s) responsible for receiving complaints
2. Advise the complainant of any civil law remedies that may be available to him/her under state or federal discrimination laws, if applicable
3. Advise the complainant of the appeal process pursuant to Education Code 262.3, including the complainant's right to take a complaint directly to the California Department of Education (CDE) or to pursue remedies before civil courts or other public agencies
4. Include statements that:
  - a. The district is primarily responsible for compliance with state and federal laws and regulations.
  - b. The complaint review shall be completed within 60 calendar days from the date of receipt of the complaint unless the complainant agrees in writing to an extension of the timeline.
  - c. An unlawful discrimination complaint must be filed not later than six months from the date the alleged discrimination occurs, or six months from the date the complainant first obtains knowledge of the facts of the alleged discrimination.
  - d. The complainant has a right to appeal the district's decision to the CDE by filing a written appeal within 15 days of receiving the district's decision.
  - e. The appeal to the CDE must include a copy of the complaint filed with the district and a copy of the district's decision.

**Note:** To ensure that the public is made aware of districts' obligation to provide the uniform complaint procedures free of charge pursuant to 5 CCR 4622, CDE staff review the notice during the FPM process.

- f. Copies of the district's uniform complaint procedures are available free of charge.

## **UNIFORM COMPLAINT PROCEDURES (continued)**

### **Procedures**

Note: 5 CCR 4621 mandates that district's uniform complaint procedures be consistent with the procedures of 5 CCR 4600-4687. 5 CCR 4631 requires that all complaints be investigated and completely resolved within 60 days of the receipt of the complaint. **The sample timelines in Steps #1-3 below are designed to ensure that the district complies with the 60-day requirement and should be revised to reflect district practice.** Pursuant to 5 CCR 4640, when a complaint is erroneously sent to the CDE without first being filed with the district, the 60-day period specified in 5 CCR 4631 begins when the district receives the complaint.

The following procedures shall be used to address all complaints which allege that the district has violated federal or state laws or regulations governing educational programs or has committed unlawful discrimination.

All complaints shall be investigated and resolved within 60 days of the receipt of the complaint. Compliance officers shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with 5 CCR 4631 and 4633.

All parties involved in allegations shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made.

#### **Step 1: Filing of Complaint**

Any individual, public agency, or organization may file a written complaint of the district's alleged noncompliance with federal or state laws or regulations governing educational programs. (5 CCR 4630)

A complaint concerning unlawful discrimination may be filed only by a person who alleges that he/she personally suffered unlawful discrimination or by a person who believes that an individual or any specific class of individuals has been subjected to unlawful discrimination. The complaint shall be initiated no later than six months from the date when the alleged discrimination occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged discrimination. However, upon written request by the complainant, the Superintendent or designee may extend the filing period for up to 90 days. (5 CCR 4630)

Note: The following paragraph may be revised to reflect district practice.

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and a date stamp.

If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist him/her in the filing of the complaint. (5 CCR 4600)

## **UNIFORM COMPLAINT PROCEDURES (continued)**

### **Step 2: Mediation**

Note: The following **optional** section should be used only by those districts that have decided to establish procedures for attempting to resolve complaints through mediation; see the accompanying Board policy. Timelines should be revised to reflect district practice.

Within three days of receiving the complaint, the compliance officer may informally discuss with all the parties the possibility of using mediation. If the parties agree to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a discrimination complaint, the compliance officer shall ensure that all parties agree to make the mediator a party to related confidential information.

If the mediation process does not resolve the problem within the parameters of law, the compliance officer shall proceed with his/her investigation of the complaint.

The use of mediation shall not extend the district's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. (5 CCR 4631)

### **Step 3: Investigation of Complaint**

Note: 5 CCR 4631, which requires the district to provide the complainant with the opportunity to present relevant information, does not provide any timeline. Thus, the **timeline specified below may be modified to reflect district practice.**

Within 10 days of receiving the complaint, the compliance officer shall provide the complainant and/or his/her representative an opportunity to present the complaint and any evidence, or information leading to evidence, to support the allegations in the complaint. The compliance officer also shall collect all documents and interview all witnesses with information pertinent to the complaint.

Note: 5 CCR 4631 allows the district to dismiss a complaint when the complainant refuses to provide the investigator with relevant documents or otherwise obstructs the investigation. 5 CCR 4631 also provides that, if the district refuses to provide the investigator with access to records or other documents, the investigator may issue a finding in favor of the complainant. During the FPM process, CDE staff will check to ensure that both of these statements regarding the provision of access to information are included in the district's policy, as specified below.

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or engagement in any other obstruction of the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegation. (5 CCR 4631)

## **UNIFORM COMPLAINT PROCEDURES (continued)**

In accordance with law, the district shall provide the investigator with access to records and/or other information related to the allegation in the complaint. (5 CCR 4631)

### **Step 4: Response**

Note: Pursuant to 5 CCR 4631, the district's written decision must be sent to the complainant within 60 days of receiving the complaint. Option 1 below is for districts that do not allow complainants to appeal the compliance officer's decision to the Board. Option 2 is for districts that allow appeals to the Board, and it requires the compliance officer's decision within 30 days so that the Board's decision can still be given within the 60-day time limit.

#### **OPTION 1:**

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant a written report of the district's investigation and decision, as described in Step #5 below, within 60 days of the district's receipt of the complaint. (5 CCR 4631)

#### **OPTION 2:**

~~Within 30 days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report of the district's investigation and decision, as described in Step #5 below. If the complainant is dissatisfied with the compliance officer's decision, he/she may, within five days, file his/her complaint in writing with the Board.~~

~~The Board may consider the matter at its next regular Board meeting or at a special Board meeting convened in order to meet the 60-day time limit within which the complaint must be answered. The Board may decide not to hear the complaint, in which case the compliance officer's decision shall be final.~~

~~If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 days of the district's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant. (5 CCR 4631)~~

### **Step 5: Final Written Decision**

The district's decision shall be in writing and sent to the complainant. (5 CCR 4631)

Note: Education Code 48985 requires that reports sent to parents/guardians be written in the primary language when 15 percent or more of a school's enrolled students speak a single primary language other than English. During the FPM process, CDE staff will check to ensure compliance with this requirement.

The district's decision shall be written in English and, when required by Education Code 48985, in the complainant's primary language.

## **UNIFORM COMPLAINT PROCEDURES (continued)**

Note: 5 CCR 4631 specifies components that should be part of the district's decision. Inclusion of these items will help protect the district's position in case of an appeal to the CDE or if litigation is filed.

For all complaints, the decision shall include: (5 CCR 4631)

1. The findings of fact based on the evidence gathered
2. The conclusion(s) of law
3. Disposition of the complaint
4. Rationale for such disposition
5. Corrective actions, if any are warranted
6. Notice of the complainant's right to appeal the district's decision within 15 days to the CDE and procedures to be followed for initiating such an appeal

In addition, any decision concerning a discrimination complaint based on state law shall include a notice that the complainant must wait until 60 days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies. (Education Code 262.3)

Note: The following paragraph provides a means for ensuring that the privacy rights of individuals involved are protected even as appropriate action is being taken to address a complaint and may be revised to reflect district practice.

If investigation of a complaint results in discipline to a student or an employee, the decision shall simply state that effective action was taken and that the student or employee was informed of district expectations. The report shall not give any further information as to the nature of the disciplinary action.

### **Appeals to the California Department of Education**

If dissatisfied with the district's decision, the complainant may appeal in writing to the CDE within 15 days of receiving the district's decision. When appealing to the CDE, the complainant shall specify the basis for the appeal of the decision and whether the facts are incorrect and/or the law has been misapplied. The appeal shall be accompanied by a copy of the locally filed complaint and a copy of the district's decision. (5 CCR 4632)

Upon notification by the CDE that the complainant has appealed the district's decision, the Superintendent or designee shall forward the following documents to the CDE: (5 CCR 4633)



## **UNIFORM COMPLAINT PROCEDURES (continued)**

1. A copy of the original complaint
2. A copy of the decision
3. A summary of the nature and extent of the investigation conducted by the district, if not covered by the decision
4. A copy of the investigation file including, but not limited to, all notes, interviews, and documents submitted by the parties and gathered by the investigator
5. A report of any action taken to resolve the complaint
6. A copy of the district's uniform complaint procedures
7. Other relevant information requested by the CDE

Note: 5 CCR 4650 details circumstances under which the Superintendent of Public Instruction may directly intervene without waiting for action by the district. One such circumstance is when the district has not taken action on a complaint within 60 days of the date that the complaint was filed with the district.

The CDE may directly intervene in a complaint without waiting for action by the district when one of the conditions listed in 5 CCR 4650 exists, including cases in which the district has not taken action within 60 days of the date the complaint was filed with the district.

### **Civil Law Remedies**

Note: During the FPM process, CDE staff will expect to see a statement detailing a complainant's right to pursue civil law remedies (i.e., action in a court of law) in addition to or in conjunction with the right to pursue administrative remedies from the CDE.

A complainant may pursue available civil law remedies outside of the district's complaint procedures. Complainants may seek assistance from mediation centers or public/private interest attorneys. Civil law remedies that may be imposed by a court include, but are not limited to, injunctions and restraining orders.

Note: Pursuant to Education Code 262.3, a complainant alleging discrimination based on state law must wait until 60 days after filing an appeal with the CDE before filing a civil suit, except when he/she is only seeking injunctive relief from the court such as an injunction or restraining order. The 60-day waiting period does not apply when the discrimination complaint is based on federal law.

For discrimination complaints based on state law, a complainant shall wait until 60 days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies,

**UNIFORM COMPLAINT PROCEDURES (continued)**

provided the district has appropriately and in a timely manner apprised the complainant of his/her right to file a complaint in accordance with 5 CCR 4622. The moratorium does not apply to injunctive relief and to discrimination complaints based on federal law.

Note: 5 CCR 4611 details complaint issues that are not subject to the district's uniform complaint procedures and not under the jurisdiction of the CDE. Such issues include, but are not limited to, allegations of child abuse, health and safety complaints related to a child development program, allegations of fraud, and employment discrimination complaints. For procedures related to complaints of discrimination in employment, see AR 4031 - Complaints Concerning Discrimination in Employment.

# **Administrative Regulation**

## **Uniform Complaint Procedures**

**AR 1312.3**  
**Community Relations**

### **Compliance Officers**

The Governing Board designates the following compliance officer(s) to receive and investigate complaints and to ensure district compliance with law:

Assistant Superintendent - Instructional Services  
8408 Watt Avenue, Antelope California 95843  
(916) 338-6413

The Superintendent or designee shall ensure that employees designated to investigate complaints are knowledgeable about the laws and programs for which they are responsible. Designated employees may have access to legal counsel as determined by the Superintendent or designee.

(cf. 9124 - Attorney)

### **Notifications**

The Superintendent or designee shall annually provide written notification of the district's uniform complaint procedures to students, employees, parents/guardians, the district advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties. (5 CCR 4622)

The Superintendent or designee shall make available copies of the district's uniform complaint procedures free of charge. (5 CCR 4622)

The notice shall:

1. Identify the person(s), position(s), or unit(s) responsible for receiving complaints
2. Advise the complainant of any civil law remedies that may be available to him/her under state or federal discrimination laws, if applicable
3. Advise the complainant of the appeal process pursuant to Education Code 262.3, including the complainant's right to take a complaint directly to the California Department of Education (CDE) or to pursue remedies before civil courts or other public agencies

**4. Include statements that:**

- a. The district is primarily responsible for compliance with state and federal laws and regulations**
- b. The complaint review shall be completed within 60 calendar days from the date of receipt of the complaint unless the complainant agrees in writing to an extension of the timeline**
- c. An unlawful discrimination complaint must be filed not later than six months from the date the alleged discrimination occurs, or six months from the date the complainant first obtains knowledge of the facts of the alleged discrimination**
- d. The complainant has a right to appeal the district's decision to the CDE by filing a written appeal within 15 days of receiving the district's decision**
- e. The appeal to the CDE must include a copy of the complaint filed with the district and a copy of the district's decision**

**(cf. 5145.6 - Parental Notifications)**

**Procedures**

**The following procedures shall be used to address all complaints which allege that the district has violated federal or state laws or regulations governing educational programs. Compliance officers shall maintain a record of each complaint and subsequent related actions, including all information required for compliance with 5 CCR 4631 and 4633.**

**All parties involved in allegations shall be notified when a complaint is filed, when a complaint meeting or hearing is scheduled, and when a decision or ruling is made.**

**Step 1: Filing of Complaint**

**Any individual, public agency, or organization may file a written complaint of alleged noncompliance by the district. (5 CCR 4630)**

**A complaint alleging unlawful discrimination shall be initiated no later than six months from the date when the alleged discrimination occurred, or six months from the date when the complainant first obtained knowledge of the facts of the alleged discrimination. A complaint may be filed by a person who alleges that he/she personally suffered unlawful discrimination or by a person who believes that an individual or any specific class of individuals has been subjected to unlawful discrimination. (5 CCR 4630)**

**The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and a date stamp.**

If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist him/her in the filing of the complaint. (5 CCR 4600)

#### **Step 2: Mediation**

Within three days of receiving the complaint, the compliance officer may informally discuss with the complainant the possibility of using mediation. If the complainant agrees to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a discrimination complaint, the compliance officer shall ensure that all parties agree to make the mediator a party to related confidential information.

If the mediation process does not resolve the problem within the parameters of law, the compliance officer shall proceed with his/her investigation of the complaint.

The use of mediation shall not extend the district's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. (5 CCR 4631)

#### **Step 3: Investigation of Complaint**

The compliance officer is encouraged to hold an investigative meeting within five days of receiving the complaint or an unsuccessful attempt to mediate the complaint. This meeting shall provide an opportunity for the complainant and/or his/her representative to repeat the complaint orally.

The complainant and/or his/her representative shall have an opportunity to present the complaint and evidence or information leading to evidence to support the allegations in the complaint. (5 CCR 4631)

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, or his/her failure or refusal to cooperate in the investigation or his/her engagement in any other obstruction of the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegation. (5 CCR 4631)

The district's refusal to provide the investigator with access to records and/or other information related to the allegation in the complaint, or its failure or refusal to cooperate in the investigation or its engagement in any other obstruction of the investigation, may result in a finding, based on evidence collected, that a violation has occurred and may result in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

#### **Step 4: Response**

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant a written report of the district's investigation and decision, as described in Step #5 below, within 60 days of the district's receipt of the complaint. (5 CCR 4631)

The Board may consider the matter at its next regular Board meeting or at a special Board meeting convened in order to meet the 60-day time limit within which the complaint must be answered. The Board may decide not to hear the complaint, in which case the compliance officer's decision shall be final.

If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 days of the district's initial receipt the complaint or within the time period that has been specified in a written agreement with the complainant. (5 CCR 4631)

#### **Step 5: Final Written Decision**

The district's decision shall be in writing and sent to the complainant. (5 CCR 4631)

The district's decision shall be written in English and in the language of the complainant whenever feasible or as required by law.

The decision shall include:

1. The findings of fact based on the evidence gathered (5 CCR 4631)
2. The conclusion(s) of law (5 CCR 4631)
3. Disposition of the complaint (5 CCR 4631)
4. Rationale for such disposition (5 CCR 4631)
5. Corrective actions, if any are warranted (5 CCR 4631)
6. Notice of the complainant's right to appeal the district's decision within 15 days to the CDE and procedures to be followed for initiating such an appeal (5 CCR 4631)
7. For discrimination complaints, notice that the complainant must wait until 60 days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies (Education Code 262.3)

If an employee is disciplined as a result of the complaint, the decision shall simply state that effective action was taken and that the employee was informed of district expectations. The report shall not give any further information as to the nature of the disciplinary action.

## **Appeals to the California Department of Education**

If dissatisfied with the district's decision, the complainant may appeal in writing to the CDE within 15 days of receiving the district's decision. When appealing to the CDE, the complainant must specify the basis for the appeal of the decision and whether the facts are incorrect and/or the law has been misapplied. The appeal shall be accompanied by a copy of the locally filed complaint and a copy of the district's decision. (5 CCR 4632)

Upon notification by the CDE that the complainant has appealed the district's decision, the Superintendent or designee shall forward the following documents to the CDE: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the decision
3. A summary of the nature and extent of the investigation conducted by the district, if not covered by the decision
4. A copy of the investigation file, including but not limited to all notes, interviews, and documents submitted by the parties and gathered by the investigator
5. A report of any action taken to resolve the complaint
6. A copy of the district's complaint procedures
7. Other relevant information requested by the CDE

The CDE may directly intervene in the complaint without waiting for action by the district when one of the conditions listed in 5 CCR 4650 exists, including cases in which the district has not taken action within 60 days of the date the complaint was filed with the district.

### **Civil Law Remedies**

A complainant may pursue available civil law remedies outside of the district's complaint procedures. Complainants may seek assistance from mediation centers or public/private interest attorneys. Civil law remedies that may be imposed by a court include, but are not limited to, injunctions and restraining orders. For discrimination complaints, however, a complainant must wait until 60 days have elapsed from the filing of an appeal with the CDE before pursuing civil law remedies. The moratorium does not apply to injunctive relief and is applicable only if the district has appropriately, and in a timely manner, apprised the complainant of his/her right to file a complaint in accordance with 5 CCR 4622.

Regulation    CENTER UNIFIED SCHOOL DISTRICT  
approved: August 16, 2006    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 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 or school activity if:

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. (Education Code 44810, 44811; Penal Code 626.7)
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. (Penal Code 415.5)
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. (Penal Code 653b)

Note: Penal Code 626.81 prohibits registered sex offenders from school grounds unless they have lawful business and written permission from the principal or designee. However, pursuant to Education Code 49091.10 and 51101, any sex offender who is a parent/guardian of a student must, like other parents/guardians, be allowed to be involved in the education of his/her child. Thus, districts must adopt reasonable measures to maintain the rights of such sex offender parents/guardians to be involved in their children's education, while keeping students safe. See BP 1250 - Visitors/Outsiders.

4. The person is required to register as a sex offender pursuant to Penal Code 290 and does not have a lawful purpose and written permission from the principal or designee to be on school grounds. (Penal Code 626.81)

*(cf. 1250 - Visitors/Outsiders)*

*(cf. 3515.5 - Sex Offender Notification)*

5. The person is a specified drug offender as defined in Penal Code 626.85 and does not have written permission from the principal or designee to be on school grounds. However, such specified drug offender may be on school grounds during any school activity if he/she is a student or the parent/guardian of a student attending the school. (Penal Code 626.85)

## **DISRUPTIONS (continued)**

Note: The following **optional** item should be deleted by high school districts. Pursuant to Penal Code 626.8, as amended by AB 123 (Ch. 161, Statutes of 2011), it is a misdemeanor to threaten the physical safety of any student in grades K-8 as provided below.

6. The person willfully or knowingly creates a disruption with the intent to threaten the immediate physical safety of any student in grades K-8 while attending, arriving at, or leaving school. (Penal Code 626.8)
7. The person has otherwise established a continued pattern of unauthorized entry on school grounds. (Penal Code 626.8)

*(cf. 1240 - Volunteer Assistance)*  
*(cf. 3515.3 - District Police/Security Department)*  
*(cf. 4158/4258/4358 - Employee Security)*  
*(cf. 6145.2 - Athletic Competition)*

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)*

## **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)

**DISRUPTIONS (continued)**

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 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.

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)

**Regulation     CENTER UNIFIED SCHOOL DISTRICT**  
**approved: June 16, 2010     Antelope, California**

**NONDISCRIMINATION IN EMPLOYMENT**

Note: The following policy reflects the provisions of the California Fair Employment and Housing Act (FEHA) (Government Code 12900-12996) which prohibit employers from discriminating against employees and job applicants on the basis of actual or perceived race, color, ancestry, national origin, sex, sexual orientation, gender, religion, physical or mental disability, medical condition, marital status, or age. Pursuant to Government Code 12940, as amended by SB 559 (Ch. 261, Statutes of 2011) and AB 887 (Ch. 719, Statutes of 2011), the list of protected categories has been expanded to include genetic information, gender identity, and gender expression. All of these protections also are provided under various provisions of federal law, including 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 Genetic Information Nondiscrimination Act (42 USC 2000ff-2000ff-11).

Pursuant to Government Code 12940, it is not age discrimination for districts to offer their retirees health benefits that may be altered, reduced, or eliminated when those retirees become eligible to receive Medicare health benefits.

For policy addressing sexual harassment of and by employees, see BP/AR 4119.11/4219.11/4319.11 - Sexual Harassment.

The Governing Board desires to provide a positive work environment where employees and job applicants are free from harassment and are assured of equal access and opportunities in accordance with law. The Board prohibits any district employee from harassing or discriminating against any other district employee or job applicant on the basis of the person's actual or perceived race, religion, color, national origin, ancestry, age, marital status, pregnancy, physical or mental disability, medical condition, genetic information, veteran status, gender, gender identity, gender expression, sex, or sexual orientation.

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

*(cf. 4032 - Reasonable Accommodation)*

*(cf. 4033 - Lactation 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 consists of any adverse employment action, including termination or denial of promotion, job assignment, or training, based on any of the prohibited categories of discrimination listed above. Harassment consists of any unwelcome verbal, physical, or visual conduct that is based on any of the prohibited categories of discrimination listed above and that is so severe and pervasive that it adversely affects an individual's employment opportunities, has the purpose or effect of unreasonably interfering with the individual's work performance, or creates an intimidating, hostile, or offensive work environment.

## NONDISCRIMINATION IN EMPLOYMENT (continued)

Note: In Thompson v. North American Stainless LP, the Supreme Court held that a third party may file an antiretaliation suit.

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 in prohibited discrimination, harassment, or retaliation or who aids, abets, incites, compels, or coerces another to engage or attempt to engage in such behavior in violation of this policy 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: Many nondiscrimination laws and regulations require identification of an employee who will be responsible for compliance with the nondiscrimination laws, as provided in the following paragraph. For example, 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 following position is designated as Coordinator for Nondiscrimination in Employment:

Director of Personnel & Student Services  
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 should, as appropriate, 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 complaint.

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.

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)*

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

Note: Pursuant to 2 CCR 7287.6, 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 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.

Any supervisory or management employee who observes or has knowledge of an incident of prohibited discrimination or harassment shall report the incident to 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 job 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 district schools and offices including staff lounges and student government meeting rooms. (5 CCR 4960)



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

### *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

#### 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

#### 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

6101-6107 Age discrimination in federally assisted programs

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

110.1-110.39 Nondiscrimination on the basis of age

#### COURT DECISIONS

Thompson v. North American Stainless LP, (2011) 131 S.Ct. 863

Shepard v. Loyola Marymount, (2002) 102 Cal.App.4th 837

*Management Resources: (see next page)*

## NONDISCRIMINATION IN EMPLOYMENT (continued)

### *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 PUBLICATIONS

Notice of Non-Discrimination, August 2010

#### 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 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.

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)

The Board designates the following position as Coordinator 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)

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

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)

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**

**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>**

**Policy CENTER UNIFIED SCHOOL DISTRICT**  
**adopted: June 16, 2010      Antelope, California**

**CONTRACTS**

Note: The following **optional** policy addresses employment contracts for individuals occupying certificated and classified administrative, supervisory, and management positions. For policy language regarding superintendent contracts, see BP 2121 - Superintendent's Contract.

The Governing Board recognizes the importance of qualified and competent individuals to lead district programs and to assist the Superintendent in coordinating efforts to achieve district goals and objectives. To that end, the Board may fill certificated administrative and supervisory positions and classified senior management positions on a contract basis.

*(cf. 0000 - Vision)*

*(cf. 2121 - Superintendent's Contract)*

*(cf. 4111/4211/4311 - Recruitment and Selection)*

*(cf. 4300 - Administrative and Supervisory Personnel)*

*(cf. 4313.2 - Demotion/Reassignment)*

*(cf. 4314 - Transfers)*

Note: Education Code 35031 authorizes continuing contracts, as specified below, for any deputy, associate, or assistant superintendent in a position requiring certification qualifications. Pursuant to Education Code 35030, the title of deputy, associate, or assistant superintendent may be assigned to a business management position.

The Board may offer a continuing contract of up to four years to any deputy, associate, or assistant superintendent; any certificated employee holding a position requiring a supervision or administration credential; or any senior manager of the classified service. (Education Code 35031, 44929.20)

Prior to entering into any such contract, the Board and Superintendent shall consider the financial impact of the contract on the district. The proposed contract shall also be reviewed by legal counsel to ensure that all legally required provisions are included in the contract and to address any potentially adverse obligations to the district.

*(cf. 3460 - Financial Reports and Accountability)*

Note: Pursuant to Government Code 54957, personnel matters related to the appointment or employment of any employee may appropriately be discussed in closed session. However, pursuant to Government Code 54956, as amended by AB 1344 (Ch. 692, Statutes of 2011), the Governing Board is prohibited from calling a special meeting on the salary or other compensation of the Superintendent and other management employee. See BB 9320 - Meetings and Notices and BB 9321 - Closed Session Purposes and Agendas.

The Board shall deliberate in the closed session of a regular meeting about the terms of an employment contract for a deputy, associate, or assistant superintendent; other certificated employee holding a position requiring a supervision or administration credential; or a senior manager of the classified service. (Government Code 54957)

*(cf. 9320 - Meetings and Notices)*

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

*(cf. 9321.1 - Closed Session Actions and Reports)*

## **CONTRACTS (continued)**

Any such employment contract shall be ratified by the Board during an open session of a regularly scheduled Board meeting and reflected in the Board's minutes. Copies of the contracts shall be available to the public upon request. (Government Code 53262)

*(cf. 1340 - Access to District Records)*

*(cf. 9322 - Agenda/Meeting Materials)*

*(cf. 9324 - Minutes and Recordings)*

### **Extension of Contract and Reemployment**

Note: The following **optional** paragraph provides that any contract extension be based on Board action rather than automatic "rollover" or "evergreen" provisions. Government Code 3511.2, as added by AB 1344 (Ch. 692, Statutes of 2011), prohibits the automatic renewal of a contract with a provision for automatic increase that exceeds the cost-of-living adjustment.

A contract shall be extended only by Board action and subsequent to a satisfactory evaluation of the employee's performance. No employment contract shall include a provision for automatic renewal of the contract.

*(cf. 4315 - Evaluation/Supervision)*

During the term of the contract and with the consent of the employee involved, the Board may reelect or reemploy the employee starting on the next succeeding first day of July and based on terms and conditions mutually agreed upon by the Board and the employee. (Education Code 35031)

If the Board decides not to reelect or reemploy a deputy, associate, or assistant superintendent or a senior manager of the classified service upon the expiration of his/her term, it shall notify the employee in writing 45 days prior to the expiration of the term of the contract. (Education Code 35031)

### **Termination of Contract**

Note: Pursuant to Government Code 53260-53264, employee contracts must include a provision limiting the maximum cash settlement the employee may receive upon termination of the contract to an amount equal to his/her monthly salary multiplied by the number of months left on the unexpired term of the contract. If the unexpired term is greater than 18 months, this maximum is equal to the monthly salary times 18. Cash settlements may be less than these caps. The cash settlement may not include any noncash items other than health benefits, which may be continued for the unexpired term up to 18 months or until the employee finds other employment, whichever occurs first. The district must make copies of termination agreements available to the public upon request. See AR 4117.5/ 4217.5/ 4317.5 - Termination Agreements.

Every employee contract shall include a provision specifying the legal maximum cash settlement that the employee may receive in the event that the Board finds it necessary to terminate the contract prior to its expiration date. (Government Code 53260)

*(cf. 4117.5/4217.5/4317.5 - Termination Agreements)*



## CONTRACTS (continued)

Note: Pursuant to Government Code 53243-53243.4, as added by AB 1344 (Ch. 692, Statutes of 2011), effective January 1, 2012, any management employee contract to be executed or renewed by the Board must contain a provision requiring the employee to fully reimburse the district in circumstances specified below.

In addition, all employee contracts shall include a provision that, if the employee is convicted of a crime involving an abuse of his/her office or position, he/she shall fully reimburse the district for payments he/she receives as paid leave salary pending investigation or as cash settlement upon his/her termination and for any funds expended by the district in his/her criminal legal defense. (Government Code 53243-53243.4, 53260)

### *Legal Reference:*

#### EDUCATION CODE

35030 *Title of deputy, associate or assistant superintendent for certain positions*

35031 *Term of employment*

44842 *Automatic declining of employment*

44843 *Notice of employment to county superintendent*

44929.20 *Continuing contract*

44951 *Continuation in position unless notified*

#### GOVERNMENT CODE

3511.1-3511.2 *Local agency executives*

53243-53243.4 *Abuse of office*

53260-53264 *Employment contracts*

54954 *Time and place of regular meetings*

54956 *Brown Act - Open meeting laws; special meetings*

54957 *Closed session, personnel matters*

### *Management Resources:*

#### CSBA PUBLICATIONS

*Maximizing School Board Governance: The Board's Relationship to District Staff, 2007*

#### WEB SITES

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

Association of California School Administrators: <http://www.acsa.org>

# **Board Policy**

## **Contracts**

**BP 4312.1**

### **Personnel**

The Governing Board recognizes the importance of attracting and retaining qualified administrative and supervisory personnel to help the district achieve its goals for student learning. To that end, the Board may employ certificated administrative and supervisory personnel and senior management of the classified staff on a contract basis. Prior to entering into any such contract, the Board and Superintendent shall consider the financial and legal implications of the contract in order to protect the district from any potentially adverse obligations.

(cf. 0000 - Vision)  
(cf. 2121 - Superintendent's Contract)  
(cf. 3460 - Financial Reports and Accountability)  
(cf. 4111/4211/4311 - Recruitment and Selection)  
(cf. 4300 - Administrative and Supervisory Personnel)  
(cf. 4313.2 - Demotion/Reassignment)  
(cf. 4314 - Transfers)

The Board may offer a deputy, associate, or assistant superintendent, or any other person holding a position requiring a supervision or administrative credential, a continuing contract for a period longer than one year but not to exceed four years. (Education Code 35031, 44929.20)

All contracts shall be ratified by the Board during an open session of a Board meeting and reflected in the Board's minutes. Copies of the contracts shall be available to the public upon request. (Education Code 35031; Government Code 53262)

(cf. 1340 - Access to District Records)  
(cf. 9322 - Agenda/Meeting Materials)  
(cf. 9324 - Minutes and Recordings)

A contract shall be extended only by Board action and subsequent to a satisfactory evaluation of the employee's performance.

(cf. 4315 - Evaluation/Supervision)

During the term of the contract and with the consent of the employee, the Board may reemploy, effective on the next succeeding first day of July, a deputy, associate, or assistant superintendent and reelect/reemploy him/her on those terms and conditions mutually agreed upon by the Board and the employee for a new term to begin on the

effective date of the termination of the existing term of employment. (Education Code 35031)

If the Board decides not to reelect or reemploy a deputy, associate, or assistant superintendent or a senior manager of the classified service upon the expiration of his/her term, it shall notify the employee in writing 45 days prior to the expiration of the term of the contract. (Education Code 35031)

Employee contracts shall include a provision specifying the legal maximum cash settlement that the employee may receive upon termination of the contract. (Government Code 53260)

(cf. 4117.5/4217.5/4317.5 - Termination Agreements)

**Legal Reference:**

**EDUCATION CODE**

35030 Title of deputy, associate or assistant superintendent for certain positions

35031 Term of employment

44842 Automatic declining of employment

44843 Notice of employment to county superintendent

44929.20 Continuing contract

44951 Continuation in position unless notified

**GOVERNMENT CODE**

53260-53264 Employment contracts

54954 Time and place of regular meetings

54957 Closed session, personnel matters

**Management Resources:**

**CSBA PUBLICATIONS**

Maximizing School Board Governance: The Board's Relationship to District Staff, 2007

**WEB SITES**

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

Association of California School Administrators: <http://www.acsa.org>

**Policy CENTER UNIFIED SCHOOL DISTRICT**

adopted: October 17, 2007 Antelope, California

## **AWARDS FOR ACHIEVEMENT**

The Governing Board encourages excellence as a goal for all students and wishes to publicly recognize students for exemplary achievement in academic, athletic, extracurricular, or community service activities.

*(cf. 5121 - Grades/Evaluation of Student Achievement)*

*(cf. 5127 - Graduation Ceremonies and Activities)*

*(cf. 6142.4 - Service Learning/Community Service Classes)*

### **District/School Awards**

Note: Education Code 44015 authorizes the Governing Board to give district-level awards to students for "excellence" and mandates that the district adopt rules and regulations implementing any such awards program. See the accompanying administrative regulation for language implementing this mandate.

Student awards may include verbal recognition, a letter, a certificate, a Board resolution, public ceremony, trophy, gift, plaque, or cash gift.

The Superintendent or designee shall develop criteria for the selection of student award recipients.

### **Golden State Seal Merit Diploma**

Note: The following **optional** section is for use by districts that maintain high schools. Education Code 51450-51455 establish the Golden State Seal Merit Diploma which may be awarded by the Superintendent of Public Instruction (SPI) and the State Board of Education to students identified by the district as demonstrating mastery of the high school core curriculum. See the accompanying administrative regulation for eligibility criteria.

At graduation from high school, special recognition shall be awarded to those students whose academic achievements in core curriculum areas have been outstanding.

The Superintendent or designee shall identify high school students who have demonstrated mastery of the high school curriculum qualifying them for the Golden State Seal Merit Diploma. (Education Code 51454)

*(cf. 6162.51 - Standardized Testing and Reporting Program)*

### **Biliteracy Award**

Note: The following **optional** paragraph is for use by districts maintaining one or more high schools. Education Code 51460-51464, as added by AB 815 (Ch. 618, Statutes of 2011), establish the State Seal of Biliteracy, a voluntary program which recognizes high school graduates who have attained a high level of proficiency in one or more languages in addition to English. The SPI will provide an insignia that can be affixed to the diploma or transcript of eligible students. See the accompanying administrative regulation for eligibility criteria for the award. Districts that choose to adopt their own criteria and present a district-level biliteracy award may revise the following paragraph accordingly.

## **AWARDS FOR ACHIEVEMENT (continued)**

The district shall present the State Seal of Biliteracy to each graduating high school student who has attained a high level of proficiency in speaking, reading, and writing in one or more languages in addition to English. (Education Code 51460-51464)

*(cf. 6142.2 - World/Foreign Language Instruction)*

*(cf. 6174 - Education for English Language Learners)*

Note: The following optional paragraph is for use by districts that choose to present biliteracy awards at other grade levels, and should be revised to reflect district practice. Californians Together, a statewide coalition working to enhance the success of English learners, recommends issuing local "pathway awards" recognizing benchmarks toward biliteracy at preschool, grade 3, end of elementary school, and end of middle school.

In order to affirm the value of bilingualism and encourage students' enrollment in world language programs, the Superintendent or designee may present awards at appropriate grade levels to recognize the pursuit and/or attainment of grade-level proficiency in one or more languages in addition to English.

## **Scholarship and Loan Fund**

~~Note: The following section is optional. Education Code 35310-35319 authorize the Board to establish and maintain a scholarship and loan fund. If the district chooses to establish such a fund, it should revise the following paragraph to reflect only those purposes for which it wishes to make money available.~~

~~The Board shall establish and maintain a scholarship and loan fund which may be used to provide interest free loans for educational advancement, scholarship, or grants in aid to bona fide organizations, students, or graduates of district schools. (Education Code 35310, 35315)~~

~~*(cf. 1260 - Educational Foundation)*~~

~~*(cf. 3290 - Gifts, Grants and Bequests)*~~

*Legal Reference: (see next page)*

## **AWARDS FOR ACHIEVEMENT (continued)**

### *Legal Reference:*

#### **EDUCATION CODE**

*220 Nondiscrimination*

*35160 Authority of governing boards*

*35310-35319 Scholarship and loan funds*

*44015 Awards to employees and students*

*51243-51245 Credit for private school foreign language instruction*

*51450-51455 Golden State Seal Merit Diploma*

*51460-51464 State Seal of Biliteracy*

*52164.1 Assessment of English language skills of English learners*

#### **CODE OF REGULATIONS, TITLE 5**

*876 Golden State Seal Merit Diploma*

*1632 Credit for private school foreign language instruction*

*11510-11516 California English Language Development Test*

### *Management Resources:*

#### **WEB SITES**

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

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

*Californians Together: <http://www.californianstogether.org>*

# **Board Policy**

## **Awards For Achievement**

**BP 5126**

### **Students**

The Governing Board encourages excellence as a goal for all students and wishes to publicly recognize students for exemplary achievements in academic, athletic, extracurricular, or community service activities.

(cf. 5121 - Grades/Evaluation of Student Achievement)  
(cf. 5127 - Graduation Ceremonies and Activities)  
(cf. 6142.4 - Service Learning/Community Service Classes)

Student awards may include verbal recognition, a letter, a certificate, a Board resolution, public ceremony, trophy, gift, plaque, or cash gift.

The Superintendent or designee shall develop criteria for the appropriate selection of student award recipients.

### **Golden State Seal Merit Diploma**

At graduation from high school, special recognition shall be awarded to those students whose academic achievements in core curriculum areas have been outstanding.

The Superintendent or designee shall identify high school students who have demonstrated mastery of the high school curriculum qualifying them for the Golden State Seal Merit Diploma. (Education Code 51454)

(cf. 6162.51 - Standardized Testing and Reporting Program)

### **Biliteracy Award**

In order to recognize and encourage linguistic proficiency and cultural literacy, the district shall present a biliteracy award to each graduating high school student who demonstrates proficiency in speaking, reading, and writing in one or more languages in addition to English. The Superintendent or designee shall approve applications for the award based on a review of student qualifications in accordance with district-established criteria.

(cf. 6142.2 - World/Foreign Language Instruction)  
(cf. 6174 - Education for English Language Learners)

**Legal Reference:**

**EDUCATION CODE**

220 Nondiscrimination

35160 Authority of governing boards

35310-35319 Scholarship and loan funds

44015 Awards to employees and students

51243-51245 Credit for private school foreign language instruction

51450-51455 Golden State Seal Merit Diploma

**CODE OF REGULATIONS, TITLE 5**

876 Golden State Seal Merit Diploma

1632 Credit for private school foreign language instruction

**Management Resources:**

**WEB SITES**

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

California Department of Education, Golden State Seal Merit Diploma:

<http://www.cde.ca.gov/ta/tg/sr/meritdiploma.asp>

Californians Together: <http://www.californianstogether.org>

**Policy CENTER UNIFIED SCHOOL DISTRICT**

**adopted: June 3, 2009                      Antelope, California**



## AWARDS FOR ACHIEVEMENT

### District/School Awards

Note: Education Code 44015 authorizes the Governing Board to give district-level awards to students for "excellence." Before any awards are given under the authority of this law, the Board is **mandated** to adopt rules and regulations implementing the awards program. The following section should be revised to reflect any such rules and regulations adopted by the district.

The Superintendent or designee may appoint an awards committee at each school which may consist of school administrators, teachers, parents/guardians, community members, and student representatives. The committee shall submit recommendations for student awards to the Superintendent or designee for approval.

*(cf. 1220 - Citizen Advisory Committees)*

Individual awards in excess of \$200 must be expressly approved by the Governing Board. (Education Code 44015)

### Golden State Seal Merit Diploma

Note: The following **optional** section is for use by districts that maintain high schools. Education Code 51450-51455 establish the Golden State Seal Merit Diploma which may be awarded by the Superintendent of Public Instruction (SPI) and the State Board of Education (SBE) to students identified by the district as demonstrating mastery of the high school curriculum according to the following criteria.

Education Code 51452 requires the SBE to determine the means, performance standards, and achievement levels that demonstrate mastery of the curriculum. Eligibility criteria are published on the California Department of Education (CDE) web site.

To be eligible to receive the Golden State Seal Merit Diploma upon high school graduation, a student shall complete all requirements for a high school diploma and demonstrate, in accordance with the means adopted by the State Board of Education, mastery of the curriculum in at least six subject areas, four of which shall be mathematics, English language arts, science, and United States history, with the remaining two subject matter areas selected by the student. (Education Code 51451, 51452; 5 CCR 876)

*(cf. 6143 - Courses of Study)*

*(cf. 6146.1 - High School Graduation Requirements)*

*(cf. 6146.11 - Alternative Credits Toward Graduation)*

*(cf. 6162.52 - High School Exit Examination)*

Note: Items #1-5 below reflect the means adopted by the SBE for students to demonstrate mastery of the curriculum for purposes of awarding the Golden State Seal Merit Diploma.

## **AWARDS FOR ACHIEVEMENT (continued)**

To demonstrate mastery of these subject areas, the student shall earn a scaled score of 370 or above on six separate high school California Standards Tests (CST), including:

1. One mathematics exam, including Algebra II, Geometry, Summative High School Mathematics, or Integrated Mathematics 2 or 3
2. One English language arts exam at grade 9, 10, or 11
3. One science exam, including Biology, Chemistry, Physics, Earth Science, or Integrated/Coordinated Science 1, 2, 3, or 4
4. The grade 11 History-Social Science exam (United States history)
5. Two CSTs of the student's choice, which may include World History or any additional exams listed in items #1-4 above which have not already been used to establish eligibility

*(cf. 6162.51 - Standardized Testing and Reporting Program)*

The Superintendent or designee shall maintain appropriate records to identify students who are eligible for the merit diploma and shall affix an insignia to the diploma and transcript of each student awarded the merit diploma. (Education Code 51454)

*(cf. 5125 - Student Records)*

Note: The CDE requires each district to annually submit one districtwide insignia request on a form provided by the CDE. The CDE's web site encourages districts to submit the request far enough in advance of the graduation ceremony date to allow sufficient time for processing by the CDE and for district staff to place the insignias on the diplomas. The CDE begins mailing requested insignias the first week of April.

The Superintendent or designee shall submit an insignia request form to the California Department of Education in sufficient time to allow processing of the request prior to the high school graduation ceremony.

### **Biliteracy Award**

Note: The following **optional** section is for use by districts that maintain high schools and choose to recognize graduating students' bilingual/multilingual proficiency with the State Seal of Biliteracy pursuant to Education Code 51460-51464, as added by AB 815 (Ch. 618, Statutes of 2011); see the accompanying Board policy. Districts that choose to present district-level biliteracy awards to students at other grade levels may revise the following section to add eligibility criteria for those awards.

To be eligible to receive the State Seal of Biliteracy upon graduation, a student shall meet all the following criteria: (Education Code 51461)

**AWARDS FOR ACHIEVEMENT (continued)**

1. Complete all English language arts requirements for high school graduation with an overall grade point average (GPA) of 2.0 or above in those classes
2. Pass the CST in English language arts administered in grade 11 at the proficient level or above
3. Demonstrate proficiency in one or more foreign languages, which may include American sign language, by fulfilling one of the following criteria:

Note: Education Code 51461, as added by AB 815 (Ch. 618, Statutes of 2011), authorizes the SPI to provide a list of equivalent summative tests that districts may use in place of an Advanced Placement examination for the purpose described below when an Advanced Placement examination is not available in a particular language.

- a. Pass a foreign language Advanced Placement examination with a score of 3 or higher or an International Baccalaureate examination with a score of 4 or higher

*(cf. 6141.5 - Advanced Placement)*

Note: Pursuant to Education Code 51243-51245 and 5 CCR 1632, districts are required to grant credit toward high school graduation for foreign language studies completed in a private school; see BP/AR 6146.11 - Alternative Credits Toward Graduation.

- b. Successfully complete a four-year high school course of study in a foreign language, attaining an overall GPA of 3.0 or above in that course of study

*(cf. 6142.2 - World/Foreign Language Instruction)*

Note: Pursuant to Education Code 51461, when an Advanced Placement or off-the-shelf language test does not exist in a particular language, the district may develop a foreign language test for the purpose of determining eligibility for the State Seal of Biliteracy, provided the district certifies to the SPI that the exam meets the rigor of a four-year high school course of study in that language. When an Advanced Placement or off-the-shelf test is available, the district may only offer a district-developed foreign language test if it first receives approval from the SPI.

- c. Pass a district language examination that meets the rigor of a four-year high school course of study in that language, provided the test has been certified to or approved by the Superintendent of Public Instruction
- d. Pass the SAT II foreign language examination with a score of 600 or higher

## **AWARDS FOR ACHIEVEMENT (continued)**

In addition to meeting the criteria in items #1-3 above, a student in any of grades 9-12 whose primary language is other than English shall attain the early advanced proficiency level or higher on the California English Language Development Test (CELDT). As necessary for this purpose, the district may administer the CELDT an additional time outside of the regularly scheduled administration specified in AR 6174 - Education for English Language Learners. (Education Code 51461)

*(cf. 6174 - Education for English Language Learners)*

Note: The CDE requires each district to submit one districtwide insignia request on a form provided by the CDE. The CDE begins mailing requested insignias the first week of April.

The Superintendent or designee shall maintain appropriate records to identify high school students who qualify for the award and shall affix the insignia to the diploma or transcript of each student who earns the award. (Education Code 51463)

## **Scholarship and Loan Fund**

~~Note: The following section is for use by any district whose board has established a scholarship and loan fund pursuant to Education Code 35310-35319; see the accompanying Board policy. Pursuant to Education Code 35310, districts maintaining this fund are mandated to develop rules and regulations specifying the terms of office and method of selection of the committee appointed to administer the fund. The following section should be revised to reflect district practice. Districts that have not established such a program should delete this section.~~

~~The district's scholarship and loan fund shall be administered by a district committee composed of Board members, the Superintendent, and such other community, teacher, administrative, and/or student representatives as determined by the Board. (Education Code 35310)~~

~~Members of this committee shall be appointed by the Board and shall serve two-year terms.~~

~~The Superintendent shall serve as chairperson of the committee and chief executive officer of the fund. The committee shall meet at least once each fiscal year and at other such times as it may be called into session by the Superintendent. (Education Code 35311, 35312)~~

~~Scholarship and loan funds shall be deposited, administered, and audited in accordance with Education Code 35314 and 35318.~~

~~(cf. 3400—Management of District Assets/Accounts)  
(cf. 3460—Financial Reports and Accountability)~~

**AWARDS FOR ACHIEVEMENT (continued)**

~~The committee may accept gifts, donations, and bequests made for the purposes of the fund. The committee also may prescribe conditions or restrictions on these gifts and bequests. The committee shall review any conditions imposed by the donor and make a recommendation to the Board as to the compatibility of such conditions with the intent and purpose of the fund. The Board may prohibit the committee from accepting any donation under conditions it finds incompatible with the fund's intents and purposes. (Education Code 35313)~~

~~(cf. 1260—Educational Foundation)~~

~~(cf. 3290—Gifts, Grants and Bequests)~~

~~Note: Education Code 35316 mandates that districts maintaining this fund adopt regulations governing applications, provided such regulations do not limit student eligibility based on any conditions listed in Education Code 220; see BP 0410—Nondiscrimination in District Activities and Programs. The following paragraph may be expanded to describe the district's application procedures.~~

~~The Superintendent or designee shall establish criteria, procedures, and deadlines for student applications for scholarships and/or loans from the fund. As applicable, he/she may require the student to submit letters of recommendation or other supplementary materials providing evidence of the student's accomplishments and/or need.~~

~~(cf. 0410—Nondiscrimination in District Activities and Programs)~~

~~The Superintendent or designee shall report to the Board at least annually regarding the status and activity of the fund. (Education Code 35319)~~

**Notifications**

~~Note: The following optional section may be revised to reflect programs offered by the district.~~

~~The Superintendent or designee shall annually distribute information about eligibility requirements for the Golden State Seal Merit Diploma, State Seal of Biliteracy, and/or any district awards programs to students at the applicable grade levels.~~

# **Administrative Regulation**

## **Awards For Achievement**

**AR 5126**

**Students**

The Superintendent or designee may appoint a committee at each school to consider awards for student accomplishments. This committee may consist of school administrators, teachers, parents/guardians, community members, and student representatives.

(cf. 1220 - Citizen Advisory Committees)

The committee shall submit recommendations for student awards to the Superintendent or designee for approval.

Individual awards in excess of \$200 must be expressly approved by the Governing Board. (Education Code 44015)

### **Golden State Seal Merit Diploma**

To be eligible to receive the Golden State Seal Merit Diploma upon graduation, students shall complete all requirements for a high school diploma and shall demonstrate a mastery of at least six subject areas, four of which shall be mathematics, English language arts, science and United States history, with the remaining two subject areas selected by the student. (Education Code 51451)

(cf. 6162.51 - Standardized Testing and Reporting Program)

The Superintendent or designee shall maintain appropriate records to identify students who are eligible for the merit and shall affix an insignia to the diploma and transcript of each student awarded the merit diploma. (Education Code 51454)

(cf. 5125 - Student Records)

The Superintendent or designee shall submit an insignia request form to the California Department of Education in sufficient time to allow processing of the request prior to the high school graduation ceremony.

### **Biliteracy Award**

To be eligible to receive the district's biliteracy award upon graduation, a student shall:

1. Complete all requirements for a high school diploma, including all English language arts requirements, with an overall grade point average (GPA) of 2.0 or above

**2. Demonstrate proficiency in one or more languages other than English, by fulfilling at least one of the following requirements:**

**a. Receive a passing score of 3 or higher on the Advanced Placement or International Baccalaureate exam for foreign language**

**(cf. 6141.5 - Advanced Placement)**

**b. Successfully complete a four-year course of study in the same foreign language, attaining an overall GPA of 3.0 or above in those courses**

**c. Pass a district-established foreign language exam, when available, at a proficient level or higher**

**d. Pass a foreign government's approved language exam and receive a certificate of competency for that language from the authorizing government agency**

**(cf. 6142.2 World/Foreign Language Instruction)**

**The Superintendent or designee shall annually distribute information about the eligibility requirements for the award and the application process to students in grade 12.**

**The Superintendent or designee shall affix an insignia to the diploma of each student awarded the biliteracy award.**

**Regulation      CENTER UNIFIED SCHOOL DISTRICT**  
**approved: June 3, 2009      Antelope, California**

**CONDUCT**

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

The Governing Board believes that all students have the right to be educated in a positive learning environment free from disruptions. Students shall be expected to exhibit appropriate conduct that does not infringe upon the rights of others or interfere with the school program while on school grounds, going to or coming from school, at school activities, or using district transportation.

*(cf. 0450 - Comprehensive Safety Plan)*

*(cf. 5131.1 - Bus Conduct)*

*(cf. 5137 - Positive School Climate)*

*(cf. 6145.2 - Athletic Competition)*

The Superintendent or designee shall ensure that each school develops standards of conduct and discipline consistent with Board policies and administrative regulations. Students and parents/guardians shall be notified of district and school rules related to conduct.

Note: The district may modify, delete, or add to the **optional** items below to reflect district practice. Also see AR 5144.1 - Suspension and Expulsion/Due Process for conduct that constitutes grounds for suspension or expulsion.

Prohibited student conduct includes, but is not limited to:

1. Conduct that endangers students, staff, or others, including, but not limited to, physical violence, possession of a firearm or other weapon, and terrorist threats

*(cf. 5131.7 - Weapons and Dangerous Instruments)*

*(cf. 5142 - Safety)*

Note: Education Code 234.1, as amended by AB 9 (Ch. 723, Statutes of 2011), requires the Governing Board to adopt policy prohibiting discrimination, harassment, intimidation, and bullying based on specified characteristics and requires school personnel who witness such acts to take immediate steps to intervene when safe to do so; see BP 5131.2 - Bullying, BP 5145.3 - Nondiscrimination/Harassment, and BP/AR 5145.7 - Sexual Harassment. In addition, AB 1156 (Ch. 732, Statutes of 2011) amended Education Code 32282 to encourage comprehensive safety plans to include policies and procedures aimed at the prevention of bullying; see BP 0450 - Comprehensive Safety Plan.

2. Discrimination, harassment, intimidation, or bullying of students or staff, including sexual harassment, hate-motivated behavior, cyberbullying, hazing or initiation activity, extortion, or any other verbal, written, or physical conduct that causes or threatens to cause violence, bodily harm, or substantial disruption

*(cf. 5131.2 - Bullying)*

*(cf. 5145.3 - Nondiscrimination/Harassment)*

*(cf. 5145.7 - Sexual Harassment)*

*(cf. 5145.9 - Hate-Motivated Behavior)*



**CONDUCT (continued)**

3. Conduct that disrupts the orderly classroom or school environment

*(cf. 5131.4 - Student Disturbances)*

4. Willful defiance of staff's authority

5. Damage to or theft of property belonging to students, staff, or the district

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

*(cf. 5131.5 - Vandalism and Graffiti)*

The district shall not be responsible for students' personal belongings which are brought on campus or to a school activity and are lost, stolen, or damaged.

6. Obscene acts or use of profane, vulgar, or abusive language

*(cf. 5145.2 - Freedom of Speech/Expression)*

7. Possession, use, or being under the influence of tobacco, alcohol, or other prohibited drugs

*(cf. 5131.6 - Alcohol and Other Drugs)*

*(cf. 5131.62 - Tobacco)*

*(cf. 5131.63 - Steroids)*

Note: Penal Code 417.27 prohibits students from possessing laser pointers on school premises, unless the pointer is used for valid instructional or other school-related purpose, as provided in item #8 below. Penal Code 417.25 states that aiming or pointing a laser scope (i.e., a portable device capable of projecting a laser light on objects at a distance) at another person in a threatening manner, whether or not the laser scope is attached to a firearm, may be a misdemeanor if intended to cause a person fear of bodily harm.

8. Possession or use of a laser pointer, unless for a valid instructional or other school-related purpose (Penal Code 417.27)

Prior to bringing a laser pointer on school premises for a valid instructional or school-related purpose, a student shall obtain permission from the principal or designee.

Note: Pursuant to Education Code 48901.5, the district may regulate the use of electronic signaling devices that operate through the transmission or receipt of radio waves. Districts that choose to prohibit all possession of such devices on campus should revise item #9 accordingly; however, student use of such devices may not be prohibited if essential for a student's health.

9. Use of a cellular/digital telephone, pager, or other mobile communications device during instructional time

## CONDUCT (continued)

Such devices shall be turned off in class, except when being used for a valid instructional or other school-related purpose as determined by the teacher or other district employee, and at any other time directed by a district employee. Any device with camera, video, or voice recording function shall not be used in any manner which infringes on the privacy rights of any other person.

No student shall be prohibited from possessing or using an electronic signaling device that is determined by a licensed physician or surgeon to be essential for the student's health and the use of which is limited to purposes related to the student's health. (Education Code 48901.5)

### 10. Plagiarism or dishonesty on school work or tests

*(cf. 5131.9 - Academic Honesty)*

*(cf. 6162.54 - Test Integrity/Test Preparation)*

*(cf. 6162.6 - Use of Copyrighted Materials)*

### 11. Inappropriate attire

*(cf. 5132 - Dress and Grooming)*

### 12. Tardiness or unexcused absence from school

*(cf. 5113 - Absences and Excuses)*

*(cf. 5113.1 - Chronic Absence and Truancy)*

### 13. Failure to remain on school premises in accordance with school rules

*(cf. 5112.5 - Open/Closed Campus)*

Employees are expected to provide appropriate supervision to enforce standards of conduct and, if they observe or receive a report of a violation of these standards, to immediately intervene or call for assistance. If an employee believes a matter has not been resolved, he/she shall refer the matter to his/her supervisor or an administrator for further investigation.

Note: When school officials want to search a student or his/her belongings (e.g., backpack, purse, cell phone, computer) as part of an investigation of suspected student misconduct, the legality of the search will depend on whether the search is "reasonable" (*New Jersey v. T.L.O.*); see BP/AR 5145.12 - Search and Seizure. The "reasonableness" of a search depends on (1) whether there is individualized suspicion that the search will turn up evidence of a student's violation of the law or school rules and (2) whether the search is reasonably related to the objectives of the search and not excessively intrusive in light of the student's age, gender, and/or the nature of the infraction. It is recommended that the district consult with legal counsel as appropriate.

## CONDUCT (continued)

When a school official suspects that a search of a student or his/her belongings will turn up evidence of the student's violation of the law or school rules, such a search shall be conducted in accordance with BP/AR 5145.12 - Search and Seizure.

*(cf. 5145.12 - Search and Seizure)*

When a student uses any prohibited device, or uses a permitted device in any unethical or illegal activity, a district employee may confiscate the device. The employee shall store the item in a secure manner until an appropriate time.

Students who violate district or school rules and regulations may be subject to discipline including, but not limited to, suspension, expulsion, transfer to alternative programs, referral to a student success team or counseling services, or denial of participation in extracurricular or cocurricular activities or other privileges in accordance with Board policy and administrative regulation. The Superintendent or designee shall notify local law enforcement as appropriate.

*(cf. 1020 - Youth Services)*

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

*(cf. 5020 - Parent Rights and Responsibilities)*

*(cf. 5127 - Graduation Ceremonies and Activities)*

*(cf. 5138 - Conflict Resolution/Peer Mediation)*

*(cf. 5144 - Discipline)*

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

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

*(cf. 6020 - Parent Involvement)*

*(cf. 6145 - Extracurricular and Cocurricular Activities)*

*(cf. 6159.4 - Behavioral Interventions for Special Education Students)*

*(cf. 6164.2 - Guidance/Counseling Services)*

*(cf. 6164.5 - Student Success Teams)*

*(cf. 6184 - Continuation Education)*

*(cf. 6185 - Community Day School)*

Note: The following **optional** paragraph addresses students' off-campus conduct during nonschool hours; also see BP 5145.2 - Freedom of Speech/Expression. In general, the courts have upheld districts' discipline of students for off-campus conduct that posed a threat to the safety of other students, staff, or school property or presented a risk of substantial disruption of school activities, provided that the district was able to document the impact or disruption that the conduct had, or could be expected to have, on school activities. In addition, courts have analyzed the reasonableness of the district's policy and whether the disciplinary action taken by the district was in proportion to the student's misbehavior. In adopting policy related to off-campus conduct, districts should consult with legal counsel to ensure that the policy does not violate students' First Amendment rights to freedom of speech or expression.

Students also may be subject to discipline, in accordance with law, Board policy, or administrative regulation, for any off-campus conduct during nonschool hours which poses a threat or danger to the safety of students, staff, or district property, or substantially disrupts school activities.

## CONDUCT (continued)

### *Legal Reference:*

#### EDUCATION CODE

200-262.4 Prohibition of discrimination

32280-32289 Comprehensive safety plan

35181 Governing board authority to set policy on responsibilities of students

35291-35291.5 Rules

44807 Duty concerning conduct of students

48900-48925 Suspension and expulsion

51512 Prohibition against electronic listening or recording device in classroom without permission

#### CIVIL CODE

1714.1 Liability of parents and guardians for willful misconduct of minor

#### PENAL CODE

288.2 Harmful matter with intent to seduce

313 Harmful matter

417.25-417.27 Laser scope or laser pointer

647 Use of camera or other instrument to invade person's privacy; misdemeanor

653.2 Electronic communication devices, threats to safety

#### VEHICLE CODE

23123-23124 Prohibitions against use of electronic devices while driving

#### CODE OF REGULATIONS, TITLE 5

300-307 Duties of students

#### UNITED STATES CODE, TITLE 42

2000h-2000h6 Title IX, 1972 Education Act Amendments

#### COURT DECISIONS

*J.C. v. Beverly Hills Unified School District*, (2010) 711 F.Supp.2d 1094

*LaVine v. Blaine School District*, (2000, 9th Cir.) 257 F.3d 981

*Emmett v. Kent School District No. 415*, (2000) 92 F.Supp. 1088

*Bethel School District No. 403 v. Fraser*, (1986) 478 U.S. 675

*New Jersey v. T.L.O.*, (1985) 469 U.S. 325

*Tinker v. Des Moines Independent Community School District*, (1969) 393 U.S. 503

### *Management Resources:*

#### CSBA PUBLICATIONS

*Safe Schools: Strategies for Governing Boards to Ensure Student Success*, 2011

*Providing a Safe, Nondiscriminatory School Environment for All Students*, Policy Brief, April 2010

*Cyberbullying: Policy Considerations for Boards*, Policy Brief, July 2007

#### CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

*Bullying at School*, 2003

#### WEB SITES

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

California Department of Education, Safe Schools Office: <http://www.cde.ca.gov/lr/ss>

Center for Safe and Responsible Internet Use: <http://cyberbully.org>

National School Boards Association: <http://www.nsba.org>

National School Safety Center: <http://www.schoolsafety.us>

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

# **Board Policy**

## **Conduct**

**BP 5131**

### **Students**

The Governing Board believes that all students have the right to be educated in a positive learning environment free from disruptions. Students shall be expected to exhibit appropriate conduct that does not infringe upon the rights of others or interfere with the school program while on school grounds, while going to or coming from school, while at school activities, and while on district transportation.

(cf. 5112.5 - Open/Closed Campus)

(cf. 5131.1 - Bus Conduct)

(cf. 6145.2 - Athletic Competition)

Conduct is considered appropriate when students are diligent in study, careful with school property, courteous, and respectful toward their teachers, other staff, students, and volunteers.

The Superintendent or designee shall ensure that each school site develops standards of conduct and discipline consistent with district policies and administrative regulations. Students and parents/guardians shall be notified of district and school rules related to conduct.

Prohibited student conduct includes, but is not limited to:

1. Conduct that endangers students, staff, or others

(cf. 0450 - Comprehensive Safety Plan)

(cf. 5131.7 - Weapons and Dangerous Instruments)

(cf. 5142 - Safety)

2. Conduct that disrupts the orderly classroom or school environment

(cf. 5131.4 - Student Disturbances)

3. Harassment of students or staff, such as bullying, including cyberbullying, intimidation, hazing or initiation activity, ridicule, extortion, or any other verbal, written, or physical conduct that causes or threatens to cause bodily harm or emotional suffering, in accordance with the section entitled "Bullying/Cyberbullying" below

"Cyberbullying" includes the transmission of communications, posting of harassing messages, direct threats, social cruelty, or other harmful texts, sounds, or images on the

Internet, social networking sites, or other digital technologies using a telephone, computer, or any wireless communication device. Cyberbullying also includes breaking into another person's electronic account and assuming that person's identity in order to damage that person's reputation or friendships.

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

(cf. 5145.9 - Hate-Motivated Behavior)

4. Damage to or theft of property belonging to students, staff, or the district

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

(cf. 5131.5 - Vandalism, Theft and Graffiti)

5. Possession or use of a laser pointer, unless used for a valid instructional or other school-related purpose, including employment

Prior to bringing a laser pointer on school premises, students shall first obtain permission from the principal or designee. The principal or designee shall determine whether the requested use of the laser pointer is for a valid instructional or other school-related purpose.

6. Use of profane, vulgar, or abusive language

(cf. 5145.2 - Freedom of Speech/Expression)

7. Plagiarism or dishonesty in school work or on tests

(cf. 5131.9 - Academic Honesty)

(cf. 6162.54 - Test Integrity/Test Preparation)

(cf. 6162.6 - Use of Copyrighted Materials)

8. Inappropriate attire

(cf. 5132 - Dress and Grooming)

9. Tardiness or unexcused absence from school

(cf. 5113 - Absences and Excuses)

(cf. 5113.1 - Truancy)

10. Failure to remain on school premises in accordance with school rules

11. Possession, use, or being under the influence of tobacco, alcohol, or other prohibited drug in violation of school rules

(cf. 5131.6 - Alcohol and Other Drugs)  
(cf. 5131.62 - Tobacco)  
(cf. 5131.63 - Steroids)

Employees are expected to provide appropriate supervision to enforce standards of conduct and, if they observe or receive a report of a violation of these standards, to immediately intervene or call for assistance. If an employee believes a matter has not been resolved, he/she shall refer the matter to his/her supervisor or administrator for further investigation.

Students who violate district or school rules and regulations may be subject to discipline including, but not limited to, suspension, expulsion, transfer to alternative programs, or denial of participation in extracurricular or cocurricular activities in accordance with Board policy and administrative regulation. The Superintendent or designee shall notify local law enforcement as appropriate.

(cf. 1020 - Youth Services)  
(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)  
(cf. 5020 - Parent Rights and Responsibilities)  
(cf. 5144 - Discipline)  
(cf. 5144.1 - Suspension and Expulsion/Due Process)  
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))  
(cf. 6020 - Parent Involvement)  
(cf. 6145 - Extracurricular and Cocurricular Activities)  
(cf. 6184 - Continuation Education)  
(cf. 6185 - Community Day School)

Students also may be subject to discipline for any off-campus conduct during nonschool hours which poses a threat or danger to the safety of students, staff, or district property, or substantially disrupts the educational program of the district or any other district in accordance with law, Board policy, or administrative regulation.

#### **Possession/Use of Cellular Phones and Other Mobile Communications Devices**

No student shall be prohibited from possessing or using an electronic signaling device that is determined by a licensed physician or surgeon to be essential for the student's health and the use of which is limited to health-related purposes. (Education Code 48901.5)

Students may possess or use on school campus personal electronic signaling devices including, but not limited to, pagers and cellular/digital telephones, as well as other mobile communications devices including, but not limited to, digital media players, personal digital assistants (PDAs), compact disc players, portable game consoles, cameras, digital scanners, and laptop computers, provided that such devices do not disrupt the educational program or school activity and are not used for illegal or unethical activities such as cheating on assignments or tests.

If a disruption occurs or a student uses any mobile communications device for improper activities, a school employee shall direct the student to turn off the device and/or shall confiscate it. If the school employee finds it necessary to confiscate the device, he/she shall return it at the end of the class period or school day.

In accordance with the Board's policy and administrative regulation on search and seizure, a school official may search a student's mobile communications device, including, but not limited to, reviewing messages or viewing pictures.

(cf. 5145.12 - Search and Seizure)

Students shall not use mobile communications devices, even in hands-free mode, while driving on school grounds or to or from a school-related activity.

A student who violates this policy may be prohibited from possessing a mobile communications device at school or school-related events and/or may be subject to further discipline in accordance with Board policy and administrative regulation.

#### **Bullying/Cyberbullying**

The Board desires to prevent bullying by establishing a positive, collaborative school climate and clear rules for student conduct.

(cf. 5137 - Positive School Climate)  
(cf. 5138 - Conflict Resolution/Peer Mediation)  
(cf. 6164.2 - Guidance/Counseling Services)

The district may provide students instruction, in the classroom or other educational settings, that promotes communication, social skills, and assertiveness skills and educates students about appropriate online behavior and strategies to prevent and respond to bullying and cyberbullying. This instruction may involve parents/guardians, staff, and community members.

(cf. 1220 - Citizen Advisory Committees)  
(cf. 6163.4 - Student Use of Technology)

School staff shall receive related professional development, including information about early warning signs of harassing/intimidating behaviors and effective prevention and intervention strategies. Parents/guardians and students also may be provided with similar information.

(cf. 4131 - Staff Development)  
(cf. 4231 - Staff Development)  
(cf. 4331 - Staff Development)  
(cf. 5136 - Gangs)



Students may submit a verbal or written complaint of conduct they consider to be bullying to a teacher or administrator and may also request that their name be kept in confidence. The Superintendent or designee may establish other processes for students to submit anonymous reports of bullying. Complaints of bullying or harassment shall be investigated and resolved in accordance with site-level grievance procedures specified in AR 5145.7 - Sexual Harassment.

When a student is suspected of or reported to be using electronic or digital communications to engage in cyberbullying against other students or staff or to threaten district property, the investigation shall include documentation of the activity, identification of the source, and a determination of the impact or potential impact on school activity or school attendance.

Students shall be encouraged to save and print any messages sent to them that they feel constitute cyberbullying and to notify a teacher, the principal, or other employee so that the matter may be investigated.

Any student who engages in cyberbullying using district-owned equipment, on school premises, or off-campus in a manner that impacts a school activity or school attendance shall be subject to discipline in accordance with district policies and regulations. If the student is using a social networking site or service that has terms of use that prohibit posting of harmful material, the Superintendent or designee also may file a complaint with the Internet site or service to have the material removed.

**Legal Reference:**

**EDUCATION CODE**

200-262.4 Prohibition of discrimination

32261 Bullying

35181 Governing board policy on responsibilities of students

35291-35291.5 Rules

44807 Duty concerning conduct of students

48900-48925 Suspension or expulsion, especially:

48908 Duties of students

51512 Prohibition against electronic listening or recording device in classroom without permission

**CIVIL CODE**

1714.1 Liability of parents and guardians for willful misconduct of minor

**PENAL CODE**

288.2 Harmful matter with intent to seduce

313 Harmful matter

417.25-417.27 Laser scope

647 Use of camera or other instrument to invade person's privacy; misdemeanor

647.7 Use of camera or other instrument to invade person's privacy; punishment

653.2 Electronic communication devices, threats to safety

**VEHICLE CODE**

23124 Use of cellular phones provisional license holders

**CODE OF REGULATIONS, TITLE 5**

300-307 Duties of pupils

**UNITED STATES CODE, TITLE 42**

2000h-2000h6 Title IX, 1972 Education Act Amendments

**UNITED STATES CODE, TITLE 47**

254 Universal service discounts (e-rate)

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Tinker v. Des Moines Independent Community School District, (1969) 393 U.S. 503

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**NATIONAL SCHOOL SAFETY CENTER PUBLICATIONS**

Bullying in School: Fighting the Bullying Battle, 2006

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California Department of Education, Safe Schools Office: <http://www.cde.ca.gov/lr/ss>

Center for Safe and Responsible Internet Use: <http://cyberbully.org>

National School Boards Association: <http://www.nsba.org>

National School Safety Center: <http://www.schoolsafety.us>

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

**Policy CENTER UNIFIED SCHOOL DISTRICT**

adopted: April 1, 2009      Antelope, California

# Add

**Students**

BP 5131.2(a)

## **BULLYING**

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

Education Code 234.1, as amended by AB 9 (Ch. 723, Statutes of 2011), requires the Governing Board to adopt policy prohibiting discrimination, harassment, intimidation, and bullying based on specified characteristics; see BP 5145.3 - Nondiscrimination/Harassment for language fulfilling this mandate. In addition, AB 1156 (Ch. 732, Statutes of 2011) amended Education Code 32282 to encourage comprehensive safety plans to include policies and procedures aimed at the prevention of bullying; see BP 0420 - Comprehensive Safety Plan.

The Governing Board recognizes the harmful effects of bullying on student learning and school attendance and desires to provide safe school environments that protect students from physical and emotional harm. District employees shall establish student safety as a high priority and shall not tolerate bullying of any student.

No student or group of students shall, through physical, written, verbal, or other means, harass, sexually harass, threaten, intimidate, cyberbully, cause bodily injury to, or commit hate violence against any other student or school personnel.

*(cf. 5131 - Conduct)*

*(cf. 5136 - Gangs)*

*(cf. 5145.3 - Nondiscrimination/Harassment)*

*(cf. 5145.7 - Sexual Harassment)*

*(cf. 5145.9 - Hate-Motivated Behavior)*

Note: Pursuant to Education Code 32261 and 48900.2-48900.4, the definition of "bullying" for purposes of establishing grounds for suspension or expulsion includes bullying via an electronic act. AB 746 (Ch. 72, Statutes of 2011) amended Education Code 32261 to expand the definition of bullying committed by means of an electronic act to include posting of messages on social media networks; see AR 5144.1 - Suspension and Expulsion/Due Process.

In addition, Penal Code 653.2 makes it a crime for a person to distribute personal identity information electronically with the intent to cause harassment by a third party and to threaten a person's safety or that of his/her family (e.g., placing a person's picture or address online so that he/she receives harassing messages). Penal Code 288.2 makes it a crime to send a message to a minor if the message contains matter that is sexual in nature with the intent of seducing the minor (i.e., sexting).

**Cyberbullying** includes the transmission of harassing communications, direct threats, or other harmful texts, sounds, or images on the Internet, social media, or other technologies using a telephone, computer, or any wireless communication device. Cyberbullying also includes breaking into another person's electronic account and assuming that person's identity in order to damage that person's reputation.

*(cf. 5145.2 - Freedom of Speech/Expression)*

## **BULLYING (continued)**

Strategies for bullying prevention and intervention shall be developed with involvement of key stakeholders in accordance with law, Board policy, and administrative regulation governing the development of comprehensive safety plans and shall be incorporated into such plans.

*(cf. 0420 - School Plans/Site Councils)*  
*(cf. 0450 - Comprehensive Safety Plan)*  
*(cf. 1220 - Citizen Advisory Committees)*  
*(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)*  
*(cf. 6020 - Parent Involvement)*

### **Bullying Prevention**

To the extent possible, district and school strategies shall focus on prevention of bullying by establishing clear rules for student conduct and strategies to establish a positive, collaborative school climate. Students shall be informed, through student handbooks and other appropriate means, of district and school rules related to bullying, mechanisms available for reporting incidents or threats, and the consequences for perpetrators of bullying.

*(cf. 5137 - Positive School Climate)*  
*(cf. 6164.2 - Guidance/Counseling Services)*

Note: California content standards related to student education about bullying and violence prevention (e.g., recognizing the characteristics of bullying, examining the effects of bullying on others, demonstrating what to say and do when witnessing bullying) are addressed within the health education content standards adopted by the State Board of Education.

47 USC 254 requires districts that receive e-rate discounts to adopt a policy which addresses educating students about appropriate online behavior, including the interaction with other individuals on social networking web sites and in chat rooms, as well as providing information about cyberbullying awareness and response. See BP 6163.4 - Student Use of Technology for language implementing this mandate.

The district may provide students with instruction, in the classroom or other educational settings, that promotes effective communication and conflict resolution skills, social skills, character/values education, respect for cultural and individual differences, self-esteem development, assertiveness skills, and appropriate online behavior.

*(cf. 6163.4 - Student Use of Technology)*  
*(cf. 6142.8 - Comprehensive Health Education)*  
*(cf. 6142.94 - History-Social Science Instruction)*

School staff shall receive related professional development, including information about early warning signs of harassing/intimidating behaviors and effective prevention and intervention strategies.

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

## **BULLYING (continued)**

Based on an assessment of bullying incidents at school, the Superintendent or designee may increase supervision and security in areas where bullying most often occurs, such as classrooms, playgrounds, hallways, restrooms, cafeterias.

### **Intervention**

Students are encouraged to notify school staff when they are being bullied or suspect that another student is being victimized. In addition, the Superintendent or designee shall develop means for students to report threats or incidents confidentially and anonymously.

Note: Education Code 234.1, as amended by AB 9 (Ch. 723, Statutes of 2011), requires the district to adopt a process requiring school personnel who witness acts of discrimination, harassment, intimidation, or bullying to take immediate steps to intervene when safe to do so; also see BP 5145.3 - Nondiscrimination/Harassment.

School staff who witness bullying shall immediately intervene to stop the incident when it is safe to do so. (Education Code 234.1)

As appropriate, the Superintendent or designee shall notify the parents/guardians of victims and perpetrators. He/she also may involve school counselors, mental health counselors, and/or law enforcement.

### **Complaints and Investigation**

Note: Education Code 234.1, as amended by AB 9 (Ch. 723, Statutes of 2011), requires districts to adopt a process for receiving and investigating complaints of discrimination, harassment, intimidation, and bullying which includes timelines applicable to all district schools, an appeal process, and translation of complaint forms pursuant to Education Code 48985. The following **optional** paragraph provides that complaints regarding bullying will be investigated using the district's grievance procedure for investigation of sexual harassment pursuant to AR 5145.7 - Sexual Harassment. Districts that wish to use another procedure should modify the following paragraph accordingly.

Students may submit to a teacher or administrator a verbal or written complaint of conduct they consider to be bullying. Complaints of bullying shall be investigated and resolved in accordance with site-level grievance procedures specified in AR 5145.7 - Sexual Harassment.

Note: Districts have the authority to monitor students' use of the district's Internet system and to conduct individual searches of students' accounts if there is reasonable suspicion that a user has violated district policy or the law; see BP/AR 5145.12 - Search and Seizure and BP/AR 6163.4 - Student Use of Technology.

As noted in the section "Discipline" below, the courts have generally upheld a district's authority to discipline a student for off-campus conduct when that conduct causes, or is foreseeably likely to cause, a substantial disruption of school activities. Thus, in complaints regarding off-campus conduct, districts should document, with specific examples, how the speech significantly disrupted or was likely to significantly disrupt school activities and the targeted student's educational performance.

## **BULLYING (continued)**

When a student is reported to be engaging in bullying off campus, the Superintendent or designee shall investigate and document the activity and shall identify specific facts or circumstances that explain the impact or potential impact on school activity, school attendance, or the targeted student's educational performance.

When the circumstances involve cyberbullying, individuals with information about the activity shall be encouraged to save and print any electronic or digital messages sent to them that they feel constitute cyberbullying and to notify a teacher, the principal, or other employee so that the matter may be investigated.

If the student is using a social networking site or service that has terms of use that prohibit posting of harmful material, the Superintendent or designee also may file a complaint with the Internet site or service to have the material removed.

### **Discipline**

Note: Pursuant to Education Code 32261 and 48900.2-48900.4, "bullying" is a ground for suspension or expulsion in grades 4-12; see AR 5144.1 - Suspension and Expulsion/Due Process.

As noted in the section "Complaints and Investigation" above, the courts have generally upheld discipline for off-campus conduct that posed a threat to the safety of other students, staff, or school property or presented a risk of substantial disruption of school activities, provided that the district was able to document the impact or disruption that the conduct had, or could be expected to have, on school activities (e.g., Lavine v. Blaine School District). In addition, courts have analyzed the reasonableness of the district's policy and whether the disciplinary action taken by the district was in proportion to the student's misbehavior. For example, the court in J.C. v. Beverly Hills Unified School District found that the district would be able to discipline a student for a video recorded off campus and posted on YouTube, but that the discipline imposed on this particular student was not justified since the district did not present evidence of specific facts that led school officials to predict that the video would cause substantial disruption (e.g., the video was not violent or threatening nor did it lead to any confrontations between the students). When the conduct does not rise to the level of "substantial disruption," the district may implement interventions other than suspension or expulsion to address the bullying. For further information, see CSBA's policy brief Cyberbullying: Policy Considerations for Boards. Also see BP 5131 - Conduct and BP 5145.2 - Freedom of Speech/Expression.

Any student who engages in bullying on school premises, or off campus in a manner that causes or is likely to cause a substantial disruption of a school activity or school attendance, shall be subject to discipline, which may include suspension or expulsion, in accordance with district policies and regulations.

*(cf. 5138 - Conflict Resolution/Peer Mediation)*

*(cf. 5144 - Discipline)*

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

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

*(cf. 6159.4 - Behavioral Interventions for Special Education Students)*

*Legal Reference: (see next page)*

## **BULLYING (continued)**

### *Legal Reference:*

#### EDUCATION CODE

200-262.4 *Prohibition of discrimination*

32282 *Comprehensive safety plan*

35181 *Governing board policy on responsibilities of students*

35291-35291.5 *Rules*

48900-48925 *Suspension or expulsion*

48985 *Translation of notices*

#### PENAL CODE

647 *Use of camera or other instrument to invade person's privacy; misdemeanor*

647.7 *Use of camera or other instrument to invade person's privacy; punishment*

653.2 *Electronic communication devices, threats to safety*

#### UNITED STATES CODE, TITLE 47

254 *Universal service discounts (e-rate)*

#### COURT DECISIONS

*J.C. v. Beverly Hills Unified School District*, (2010) 711 F.Supp.2d 1094

*Lavine v. Blaine School District*, (2002) 279 F.3d 719

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*Bullying at School*, 2003

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California Department of Education, Safe Schools Office: <http://www.cde.ca.gov/lss>

Center for Safe and Responsible Internet Use: <http://cyberbully.org>

National School Boards Association: <http://www.nsba.org>

National School Safety Center: <http://www.schoolsafety.us>

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

**SUSPENSION AND EXPULSION/DUE PROCESS**

Note: Education Code 35291 requires the Governing Board to prescribe rules and regulations for maintaining discipline in the schools under its jurisdiction. In addition, Education Code 48918 mandates the setting of rules and regulations for student expulsion; see the accompanying administrative regulation.

The Governing Board desires to provide district students access to educational opportunities in an orderly school environment that protects their safety and security, ensures their welfare and well-being, and promotes their learning and development. The Board shall develop rules and regulations setting the standards of behavior expected of district students and the disciplinary processes and procedures for addressing violations of those standards, including suspension and/or expulsion.

*(cf. 5131 - Conduct)*  
*(cf. 5144 - Discipline)*

The grounds for suspension and expulsion and the procedures for considering, recommending, and/or implementing suspension and expulsion shall be those specified in law and administrative regulation.

Note: The following optional paragraph highlights the importance of ensuring fairness in the dispensing of suspension and/or expulsion to students who violate school rules. The U.S. Department of Education's Office for Civil Rights' (OCR) March 2012 publication, Civil Rights Data Collection Summary, indicates that males, certain ethnic minority students, and students with disabilities are being suspended or expelled at a disproportionately higher rate than other students.

District staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, and in accordance with the district's nondiscrimination policies.

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

Note: The following optional paragraph may be revised to reflect district practice. Although the term "zero tolerance" does not appear in law, the federal Gun-Free Schools Act (20 USC 7151) requires a district to expel for one year a student who brings a firearm to school without permission. This requirement has commonly been labeled as "zero tolerance." Education Code 48915(c) also requires the mandatory suspension and recommendation for expulsion of students who possess, sell, or furnish a firearm, brandish a knife, sell a controlled substance, commit or attempt to commit a sexual assault or sexual battery, or possess an explosive. See BP/AR 5131.7 - Weapons and Dangerous Instruments.

The extent to which a district can develop policies mandating a recommendation for expulsion beyond those specified in the Education Code is unclear. In T.H. v. San Diego Unified School District, a district's zero tolerance policy that went beyond the requirements for mandatory recommendation for expulsion in Education Code 48915(c) was upheld because the policy did not interfere with the student's statutory right for due process or conflict with the Education Code. Districts should consult legal counsel as necessary.

Except for single acts of a grave nature or offenses for which suspension or expulsion is required by law, suspension or expulsion shall be used only when the student involved has a



## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

history of misconduct and other means of correction have failed to bring about proper conduct or the student's presence causes a continuing danger to himself/herself or others.

To correct the behavior of students who are subject to discipline, the Superintendent or designee, to the extent allowed by law, shall use alternative disciplinary measures that keep students in school during the school day.

*(cf. 1020 - Youth Services)*  
*(cf. 5138 - Conflict Resolution/Peer Mediation)*  
*(cf. 6142.4 - Service Learning/Community Service Classes)*  
*(cf. 6164.2 - Guidance/Counseling Services)*  
*(cf. 6164.5 - Student Success Teams)*

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 also shall be used with students who are truant, tardy, or otherwise absent from assigned school activities.

*(cf. 5113 - Absences and Excuses)*  
*(cf. 5113.1 - Chronic Absence and Truancy)*

Note: The following paragraph is optional.

Suspended or expelled students shall be denied the privilege of participation in all extracurricular activities during the period of suspension or expulsion.

*(cf. 6145 - Extracurricular and Cocurricular Activities)*  
*(cf. 6145.2 - Athletic Competition)*

### **Due Process**

The Board shall provide for the fair and equitable treatment of students facing suspension and expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices, hearings, and appeals as specified in law and administrative regulation. (Education Code 48911, 48915, 48915.5)

*(cf. 5119 - Students Expelled from Other Districts)*  
*(cf. 5144.2 - Suspension and Expulsion/Due Process (Individuals with Disabilities))*

### **Removal from Class by a Teacher and Parental Attendance**

Note: The following section is for use by any district that chooses to require parents/guardians to attend a portion of the school day when their child is removed from class for specified behaviors, as authorized by Education Code 48900.1. For any such district, the Board is required to include the components specified in this section. Districts that do not require parental attendance should delete this section.

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

When suspending a student from class for committing an obscene act, engaging in habitual profanity or vulgarity, disrupting school activities, or otherwise willfully defying valid staff authority, the teacher of the class may require any parent/guardian who lives with the student to attend a portion of the school day in the class from which the student is being suspended, to assist in resolving the classroom behavior problems. (Education Code 48900.1)

Teachers should reserve the option of required parental attendance for cases in which they have determined that it is the best strategy to promote positive interaction between the student and his/her parents/guardians and to improve classroom behavior.

Any teacher requiring parental attendance pursuant to this policy shall apply the policy uniformly to all students within the classroom. (Education Code 48900.1)

When a teacher requires parental attendance, the principal shall send a written notice to the parent/guardian stating that his/her attendance is required pursuant to law. (Education Code 48900.1)

Note: Education Code 48900.1 **mandates** that the district's policy include procedures to ensure that parents/guardians who attend school meet with the principal or designee after completing the classroom visitation and before leaving the school.

A parent/guardian who has received a written notice shall attend class as specified in the notice. After completing the classroom visit and before leaving school premises, the parent/guardian also shall meet with the principal or designee. (Education Code 48900.1)

Note: Education Code 48900.1 **mandates** that the district's policy include procedures for contacting parents/guardians who do not respond to the request to attend. The following paragraph may be revised to reflect district practice.

When a parent/guardian does not respond to the request to attend school, the principal or designee shall contact him/her by telephone, mail, or other means that maintains the confidentiality of the student's records.

*(cf. 5125 - Student Records)*

District regulations and school-site rules for student discipline shall include procedures for implementing parental attendance requirements. Parents/guardians shall be notified of this policy prior to its implementation. (Education Code 48900.1)

*(cf. 5145.6 - Parental Notifications)*

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

### **Supervised Suspension Classroom**

Note: As an alternative to off-campus suspension, Education Code 48911.1 authorizes a supervised suspension classroom program for students who pose no imminent danger to anyone at school and who have not been recommended for expulsion, as specified below. Education Code 48911.2 states that if the number of students suspended during the prior year exceeds 30 percent of the school's enrollment, the district should consider implementing this program and/or another program of on-campus progressive discipline.

The following optional section is for use by districts implementing a supervised suspension classroom program; such districts may continue to claim apportionments for students so assigned, provided they meet specific criteria which are set forth under "Supervised Suspension Classroom" in the accompanying administrative regulation.

To ensure the proper supervision and ongoing learning of students who are suspended for any of the reasons enumerated in Education Code 48900 and 48900.2, but who pose no imminent danger or threat to anyone at school and for whom expulsion proceedings have not been initiated, the Superintendent or designee ~~shall~~ may establish a supervised classroom suspension program which meets the requirements of law. The use of such alternatives does not preclude off-campus suspensions.

### **Decision Not to Enforce Expulsion Order**

Note: Pursuant to Education Code 48917, the Board may decide to suspend the enforcement of an order for expulsion if a student satisfies specific conditions. See the accompanying administrative regulation for criteria. In addition, the Attorney General opined in 80 Ops.Cal.Atty.Gen. 85 (1997) that a board may suspend the enforcement of an expulsion even in those cases where the student has committed an offense for which expulsion must be ordered by law. Legal counsel should be consulted as appropriate.

Option 1 below is for use by boards that choose not to suspend the enforcement of an order for expulsion in cases where the student has committed an offense for which expulsion is mandatory pursuant to Education Code 48915(c). Option 2 is for use by boards that, on a case-by-case basis, may determine that an order for expulsion be suspended for any type of offense.

~~**OPTION 1:** In cases where expulsion is mandatory pursuant to Education Code 48915(c), the enforcement of an expulsion order shall not be suspended by the Board. In all other cases of expulsion, the order for expulsion may be suspended by the Board, on case by case basis, pursuant to the requirements of law and administrative regulation.~~

**OPTION 2:** On a case-by-case basis, the enforcement of an expulsion order may be suspended by the Board pursuant to the requirements of law and administrative regulation.

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

*Legal Reference:*

**EDUCATION CODE**

212.5 Sexual harassment  
1981 Enrollment of students in community school  
17292.5 Program for expelled students  
32261 Interagency School Safety Demonstration Act of 1985  
35146 Closed sessions (re suspensions)  
35291 Rules (for government and discipline of schools)  
35291.5 Rules and procedures on school discipline  
48660-48667 Community day schools  
48900-48927 Suspension and expulsion  
48950 Speech and other communication  
49073-49079 Privacy of student records

**CIVIL CODE**

47 Privileged communication  
48.8 Defamation liability

**CODE OF CIVIL PROCEDURE**

1985-1997 Subpoenas; means of production

**GOVERNMENT CODE**

11455.20 Contempt  
54950-54963 Ralph M. Brown Act

**HEALTH AND SAFETY CODE**

11014.5 Drug paraphernalia  
11053-11058 Standards and schedules

**LABOR CODE**

230.7 Discharge or discrimination against employee for taking time off to appear in school on behalf of a child

**PENAL CODE**

31 Principal of a crime, defined  
240 Assault defined  
241.2 Assault fines  
242 Battery defined  
243.2 Battery on school property  
243.4 Sexual battery  
245 Assault with deadly weapon  
245.6 Hazing  
261 Rape defined  
266c Unlawful sexual intercourse  
286 Sodomy defined  
288 Lewd or lascivious acts with child under age 14  
288a Oral copulation  
289 Penetration of genital or anal openings  
626.2 Entry upon campus after written notice of suspension or dismissal without permission  
626.9 Gun-Free School Zone Act of 1995  
626.10 Dirks, daggers, knives, razors or stun guns  
868.5 Supporting person; attendance during testimony of witness

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

### *Legal Reference: (continued)*

#### WELFARE AND INSTITUTIONS CODE

729.6 Counseling

#### UNITED STATES CODE, TITLE 18

921 Definitions, firearm

#### UNITED STATES CODE, TITLE 20

7151 Gun free schools

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*T.H. v. San Diego Unified School District* (2004) 122 Cal. App. 4<sup>th</sup> 1267

*Woodbury v. Dempsey* (2003) 108 Cal. App. 4<sup>th</sup> 421

*Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H.*, (2001) 85 Cal.App.4<sup>th</sup> 1321

*Garcia v. Los Angeles Board of Education* (1991) 123 Cal.App.3d 807

*Fremont Union High School District v. Santa Clara County Board* (1991) 235 Cal. App. 3d 1182

*John A. v. San Bernardino School District* (1982) 33 Cal. 3d 301

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84 *Ops.Cal.Atty.Gen.* 146 (2001)

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#### U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

*Civil Rights Data Collection Summary*, March 2012

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California Attorney General's Office: <http://www.oag.ca.gov>

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

U.S. Department of Education, Office for Civil Rights:

<http://www.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf>

U.S. Department of Education, Office of Safe and Drug-Free Schools:

<http://www.ed.gov/about/offices/list/osdfs>

# **Board Policy**

## **Suspension And Expulsion/Due Process**

**BP 5144.1**

### **Students**

The Governing Board has established policies and standards of behavior in order to promote learning and protect the safety and well-being of all students. When these policies and standards are violated, it may be necessary to suspend or expel a student from regular classroom instruction.

(cf. 5144 - Discipline)

Suspended or expelled students shall be excluded from all school-related extracurricular activities during the period of suspension or expulsion.

(cf. 6145 - Extracurricular and Cocurricular Activities)

Except where suspension for a first offense is warranted in accordance with law, suspension shall be imposed only when other means of correction fail to bring about proper conduct. (Education Code 48900.5)

Expulsion is an action taken by the Board for severe or prolonged breaches of discipline by a student. Except for single acts of a grave nature, expulsion is used only when there is a history of misconduct, when other forms of discipline, including suspension, have failed to bring about proper conduct, or when the student's presence causes a continuing danger to him/herself or others. (Education Code 48915)

The grounds for suspension and expulsion and the procedures for considering, recommending and/or implementing suspension and expulsion shall be specified in administrative regulation.

### **Zero Tolerance**

The Board supports a zero tolerance approach to serious offenses. This approach makes the removal of potentially dangerous students from the classroom a top priority. It ensures fair and equal treatment of all students and requires that all offenders be punished to the fullest extent allowed by law. Staff shall immediately report to the Superintendent or designee any incidence of offenses specified in law, Board policy and administrative regulation as cause for suspension or expulsion.

The Superintendent or designee shall notify staff, students and parents/ guardians about the district's zero tolerance policy and the consequences which may result from student offenses. He/she shall also ensure strict enforcement of this policy.

## **Student Due Process**

The Board shall provide for the fair and equitable treatment of students facing suspension and expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices and appeals as specified in administrative regulation and law. (Education Code 48911, 48915, 48915.5)

(cf. 5119 - Students Expelled from Other Districts)

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

The Superintendent or designee shall examine alternatives to off-campus suspension and may establish a suspension program which involves progressive discipline during the school day on campus; use of conferences between staff, parents/guardians and students; detention; student study teams or other assessment-related teams; and/or referral to school support services staff. The use of such alternatives does not preclude off-campus suspensions.

## **Required Parental Attendance**

The Board believes that parental involvement plays an important role in the resolution of classroom behavior problems. The Board expects that teachers will communicate with parents/guardians when behavior problems arise.

Whenever a student is removed from a class because he/she committed an obscene act, engaged in habitual profanity or vulgarity, disrupted school activities or otherwise willfully defied valid staff authority, the teacher of the class from which the student was removed may provide that the student's parent/guardian attend a portion of a school day in that class. After completing the classroom visit and before leaving school premises, the parent/guardian also shall meet with the principal or designee. (Education Code 48900.1)

The Board encourages teachers, before requiring parental attendance, to make reasonable efforts to have the parent/guardian visit the class voluntarily. The teacher also may inform the parent/guardian about available resources and parent education opportunities. Teachers should reserve the option of required parental attendance for cases in which they have determined that it is the best strategy to promote positive interaction between the student and the parent/guardian and to improve classroom behavior.

The teacher shall apply this policy uniformly to all students within the classroom. This policy shall apply only to a parent/guardian who lives with the student. (Education Code 48900.1)

Parental attendance may be requested on the day the student returns to class or within one week thereafter. The principal or designee shall contact any parents/guardians who do not respond to the request to attend school. The Board recognizes that parental

compliance with this policy may be delayed, modified or prevented for reasons such as serious illness/injury/disability, absence from town, or inability to get certain release time from work.

District regulations and school-site rules for student discipline shall include procedures for implementing parental attendance requirements.

#### **Decision not to Enforce Expulsion Order**

In cases where expulsion is mandatory pursuant to Education Code 48915(c), the enforcement of an expulsion order shall not be suspended by the Board. In all other cases of expulsion, the order for expulsion may be suspended by the Board, on case-by-case basis, pursuant to the requirements of law.

#### **Legal Reference:**

##### **EDUCATION CODE**

212.5 Sexual harassment

1981 Enrollment of students

17292.5 Program for expelled students

33032.5 Hate violence reduction

35146 Closed sessions (re suspensions)

35291 Rules (for government and discipline of schools)

35291.5 Rules and procedures on school discipline

48660-48666 Community day schools

48900-48926 Suspension and expulsion

48950 Speech and other communication

49073-49079 Privacy of student records

##### **CODE OF CIVIL PROCEDURE**

1985-1997 Subpoenas; means of production

##### **GOVERNMENT CODE**

11525 Contempt

54950-54962 Ralph M. Brown Act (re closed sessions)

##### **HEALTH AND SAFETY CODE**

11014.5 Drug paraphernalia

11053-11058 Standards and schedules

##### **LABOR CODE**

230.7 Discharge or discrimination against employee for taking time off to appear in school on behalf of a child

##### **PENAL CODE**

240 Assault defined

242 Battery defined

243.4 Sexual battery

245 Assault with deadly weapon

245.6 Hazing

261 Rape defined



266c Unlawful sexual intercourse  
286 Sodomy defined  
288 Lewd or lascivious acts with child under age 14  
288a Oral copulation  
289 Penetration of genital or anal openings  
422.6 Interference with civil rights; damaging property  
422.7 Aggravating factors for punishment  
422.75 Protected classes  
626.2 Entry upon campus after written notice of suspension or dismissal without permission  
626.9 Gun-Free School Zone Act of 1995  
626.10 Dirks, daggers, knives, razors or stun guns  
868.5 Supporting person; attendance during testimony of witness  
UNITED STATES CODE, TITLE 20  
6301-8962 Improving America's Schools Act, especially:  
8921-8922 Gun-Free Schools Act of 1994  
COURT DECISIONS  
John A. v. San Bernardino School District (1982) 33 Cal. 3d 301, 308  
Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 1182  
Garcia v. Los Angeles Board of Education (1991) 123 Cal.App.3d 807  
80 Ops.Cal.Atty.Gen. 85 (1997)  
80 Ops.Cal.Atty.Gen. 91 (1997)  
80 Ops.Cal.Atty.Gen. 347 (1997)

**Management Resources:**

**CDE PROGRAM ADVISORIES**

0306.96 Expulsion Policies and Educational Placements, SPB 95/96-04

**Policy CENTER UNIFIED SCHOOL DISTRICT**  
adopted: August 5, 1998      Antelope, California

**SUSPENSION AND EXPULSION/DUE PROCESS**

Note: Education Code 35291 requires the Governing Board to adopt rules and regulations for maintaining discipline in the schools under its jurisdiction. In addition, Education Code 48918 and 48918.5 **mandate** rules concerning the due process rights of students in expulsion situations, and Education Code 48916 **mandates** procedures for filing and processing requests for readmission. Specific language complying with these mandates is included throughout this administrative regulation.

**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))

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

### **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, including suspension and expulsion. (Education Code 35291, 48900.1, 48980)

*(cf. 5144 - Discipline)*

*(cf. 5145.6 - Parental Notifications)*

### **Grounds for Suspension and Expulsion**

Any student, including a student with disabilities, may be subject to suspension or expulsion when it is determined that he/she:

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

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 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, at the time he/she committed the crime, the aider or abettor was aware of the crime and specifically intended to commit the crime. 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, such a student may be suspended or expelled pursuant to Education Code 48900(a) when 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.

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

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, 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 such 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 products containing tobacco or nicotine products, including, but not limited to, cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel, except that 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, offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5. (Education Code 48900(j))

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

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))

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 pre-initiation 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.

Note: As amended by AB 1156 (Ch. 732, Statutes of 2011), Education Code 48900(r) defines "bullying" as "any severe or pervasive physical or verbal act or conduct directed toward a student and which would have certain consequences upon a reasonable student."

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

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

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 5131.2 - Bullying and BP 5145.2 - Freedom of Speech/Expression.

**18. Engaged in an act of bullying. (Education Code 48900(r))**

*Bullying* means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, directed toward one or more students that has or can reasonably be predicted to have the effect of placing a reasonable student in fear of harm to himself/herself or his/her property; cause the student to experience a substantially detrimental effect on his/her physical or mental health; or cause the student to experience substantial interferences with his/her academic performance or ability to participate in or benefit from the services, activities, or privileges provided by a school.

Note: "Bullying" also would include any act of sexual harassment, hate violence, or harassment, threat, or intimidation (as set forth in Education Code 48900.2, 48900.3, or 48900.4; see items #20-22 below) that is committed by a student of any grade level, when the act results in harm to a reasonable student as specified in the above paragraph. However, when bullying is found under these circumstances, students below grade 4 may not be disciplined for the underlying violations of items #20-22 below, but may only be disciplined for "bullying."

Bullying shall include any act of sexual harassment, hate violence, or harassment, threat, or intimidation, as defined in Education Code 48900.2, 48900.3, or 48900.4 (items #20-22 below), that has any of the effects described above on a reasonable student.

Note: Education Code 48900(r), as amended by AB 1732 (Ch. 157, Statutes of 2012), defines "electronic act" to include posts on social network Internet web sites as specified below. However, Education Code 48900(r) provides that an electronic act shall not constitute pervasive conduct solely by reason of its transmission on the Internet.

*Electronic act* means the transmission of a communication, including, but not limited to, a message, text, sound, image, or post on a social network Internet web site, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager. A post on a social network Internet web site shall include, but is not limited to, the posting or creation of a burn page or the creation of a credible impersonation or false profile for the purpose of causing a reasonable student any of the effects of bullying described above.

*Reasonable student* means a student, including, but not limited to, a student who has been identified as a student with a disability, who exercises average care, skill, and judgment in conduct for a person of his/her age, or for a person of his/her age with his/her disability. (Education Code 48900(r))

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

(cf. 1114 - District-Sponsored Social Media)

(cf. 5131.2 - Bullying)

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

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

19. 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 additional grounds apply only to students in grades 4-12 and may be revised to reflect grade levels offered by the district. As discussed in item #18 above, although Education Code 48900(r) defines bullying to include acts involving items #20-22, only students in grades 4-12 may be suspended or expelled for the individual acts that constitute sexual harassment, hate violence, and harassment as stated in items #20-22 below. The interplay between items #18 and #20-22 can raise complex legal issues. Districts should consult legal counsel as appropriate.

A student in grades 4-12 is also subject to suspension or recommendation for expulsion when it is determined that he/she:

20. Committed sexual harassment as defined in Education Code 212.5. (Education Code 48900.2)

*Sexual harassment* means conduct which, 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)

21. 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 a victim, interfering with the exercise of a victim's civil rights, or damaging a victim's property because of the victim's race, ethnicity, religion, nationality, disability, gender, gender identity, gender expression, or sexual orientation; a perception of the presence of any of those characteristics in the victim; or the victim's association with a person or group with one or more of those actual or perceived characteristics. (Education Code 233; Penal Code 422.55)

(cf. 5145.9 - Hate-Motivated Behavior)

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

22. 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)*

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 or within any other school district, at any time, including, but not limited to, the following: (Education Code 48900)

1. While on school grounds
2. While going to or coming from school

*(cf. 5131.1 - Bus Conduct)*

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

**Removal from Class by a Teacher and Parental Attendance**

Note: The following section is optional and may be revised to reflect district practice.
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A teacher may remove 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)

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. If that action requires the continuing presence of the student at school, he/she 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)



## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

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 remainder of this section 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.

Pursuant to Board policy, a teacher may require the parent/guardian of a student whom the teacher has removed to 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: Education Code 48900.1 requires the principal's notice to specify when the parent/guardian must attend the class and to take into account reasonable factors that may prevent the parent/guardian from complying, such as illness, injury, disability, or absence from town. The following paragraph establishes a one-week deadline for the parent/guardian's attendance. This deadline may be modified to reflect district practice.

The notice shall specify that the attendance may be on either the date the student is scheduled to return to class or within one week thereafter.

Note: Items #1-3 below are optional and should be modified to reflect district practice.

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 Designee**

The Superintendent, principal, or designee may suspend a student for any of the acts listed in "Grounds for Suspension and Expulsion" above. A student may be suspended only when the Superintendent or principal has determined that other means of correction have failed to bring about proper conduct in the student. (Education Code 48900.5)

However, the Superintendent, principal, or designee may impose a suspension upon a first offense if he/she 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)

In addition, the Superintendent, principal, or designee 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)
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

The Superintendent, principal, or designee may suspend a student from school for not more than five consecutive school days unless the suspension is extended pending expulsion. (Education Code 48911)

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)

*(cf. 6184 - Continuation Education)*

## **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 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 involving 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 a 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. 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.

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

4. **Parent/Guardian Conference:** Whenever a student is suspended, school officials may meet with the parent/guardian to discuss the cause(s) 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 his/her child'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 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)*

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

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)

### **Authority to Expel**

A student may be expelled only by the Board. (Education Code 48918(j))

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)

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

For all other grounds listed above under "Grounds for Suspension and Expulsion," the Board shall order a student expelled upon the recommendation of the Superintendent, principal, or designee, hearing officer, or administrative panel, only if the Board makes a finding of either or both of the following: (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 Superintendent, principal, or designee finds that expulsion is inappropriate due to particular circumstances, the Superintendent, principal, 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**

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 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."

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

The Superintendent, principal, 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.

Any student recommended for expulsion shall be entitled to a hearing to determine whether he/she should be expelled. The hearing shall be held within 30 school days after the Superintendent, principal, or designee determines that the student has committed one of the acts listed under "Grounds for Suspension and Expulsion." (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))

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

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))

Note: The following optional paragraph may be revised to reflect district practice. "Stipulated expulsion" is for districts that have adopted an expedited procedure which requires a student to waive his/her right to a hearing in exchange for an agreement as to the term of the expulsion. Because such waivers are not covered in the Education Code, districts should consult legal counsel as appropriate.

After a determination that one of the grounds listed above under "Grounds for Suspension and Expulsion" has occurred, the Superintendent, principal, or designee ~~shall~~ may offer the student and his/her parent/guardian the option to waive a hearing and stipulate to the expulsion. The stipulation agreement shall be in writing and shall be signed by the student and his/her parent/guardian.

### **Rights of Complaining Witness**

Note: Education Code 48918.5 mandates the following 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.

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 at the hearing at the time he/she testifies
3. Have a closed hearing during the time he/she testifies



## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

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.

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.

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

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.

Instead of the Board conducting an expulsion hearing, it may appoint a hearing officer or an impartial administrative panel to conduct the hearing; see section "Alternative Expulsion Hearing: Hearing Officer or Administrative Panel" below. Even if the district conducts all expulsion hearings in this manner, the requirements of that section must be met.

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 a request is made, the meeting shall be public unless another student's privacy rights would be violated. (Education Code 48918(c))

Note: For the purpose of Board deliberations during the closed session described below, the presence of any person other than the Board members, including the Superintendent, necessitates allowing the presence of the parent/guardian, student, and student's counsel.

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; the district should consult legal counsel as 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:** The Board's decision as to 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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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))

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

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," including the requirement to issue its decision within 40 school days of the student's removal from school, unless the student requests that the decision be postponed. (Education Code 48918(a) and (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)

### **Final Action by the Board**

Note: Education Code 48918 mandates the Board to adopt procedures that include the following paragraph.
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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 section below entitled "Notifications to Law Enforcement Authorities."
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**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

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 any 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 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.
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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 above under "Grounds for Suspension and Expulsion" (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)

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

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 order, 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 enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order. (Education Code 48917)



**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

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 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 period of expulsion, and the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of his/her status with the expelling district, pursuant to Education Code 48915.1(b). (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 order 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 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. However, when the student involved in such a case is a student with a disability, Education Code 49076, as amended by AB 143 (Ch. 434, Statutes of 2011), requires any law enforcement authority to which student information is disclosed to certify that those records will not be disclosed to another party without the prior written consent of the student's parent/guardian or other person invested with the student's educational right; see AR 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities). For other language that must be submitted to the CDE, see section above entitled "Final Action by the Board."

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

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 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)

### **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 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, 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, middle, junior, or senior high school, expelled students may be referred to the community day 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

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

*(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 #20-22 under "Grounds for Suspension and Expulsion" above may be 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 that 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.

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)

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

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 district shall maintain a record of each suspension and expulsion, including its specific cause(s). (Education Code 48900.8)

Expulsion records of any student shall be maintained in the student's mandatory interim record, and sent to any school in which the student subsequently enrolls upon written request by that school. (Education Code 48918(k))

*(cf. 5125 - Student Records)*

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

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

5. The type of referral made after the expulsion
6. The disposition of the student after the end of the expulsion period

# **Center USD**

## **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(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)

## 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))

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))

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))

(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))

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; 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)

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)

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)

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)

(cf. 6184 - Continuation Education)

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)

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 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**

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)

#### **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 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

#### **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 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

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 a 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))

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, 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)

## **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**

**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)**

#### **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. 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**

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)

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: June 16, 2010      Antelope, California

**SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES)**

Note: Education Code 35291 requires the Governing Board to prescribe rules and regulations for maintaining discipline in the schools under its jurisdiction. While many of the required rules and regulations are in BP/AR 5144.1 - Suspension and Expulsion/Due Process, the following administrative regulation addresses special procedures required when disciplining students who have been identified for special education and related services. This administrative regulation reflects 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. 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 a 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 and procedures for suspension and expulsion which apply to students without disabilities, except as otherwise specified in this administrative regulation.

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

**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 limit 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. 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. (Education Code 48903; 34 CFR 300.530)

**SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)**

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)*

The Superintendent or designee 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 either 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.

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 students, 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.

If a student's removal is determined to be a change of placement as specified in items #1-2 above, or the student is suspended for more than 10 school days in the same school year, the

## **SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)**

student's IEP team shall determine the appropriate educational services. Such services shall be designed to enable the student to continue to participate in the general education curriculum in another setting, to progress toward meeting the goals set out in his/her IEP, and to address the student's behavior violation so that it does not recur. (20 USC 1412(a)(1)(A); 34 CFR 300.530)

If the IEP of a student with a disability requires the district to provide the student with transportation, the district shall provide the student with an alternative form of transportation at no cost to him/her or to his/her parent/guardian when he/she is to be excluded from school bus transportation. (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

**SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)**

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.
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On the date the decision to take disciplinary action is made, the student's parent/guardian 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 student's parent/guardian 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)

**SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)**

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 either of the above conditions applies, the student's conduct shall then be determined to be a manifestation of his/her 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 student's conduct has been determined to be a manifestation of his/her disability, the IEP team shall conduct a functional behavioral assessment, unless one 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 Superintendent or designee 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:** When it has been determined that the student's conduct was not a manifestation of his/her disability, the student may be disciplined in accordance with the procedures for students without disabilities. However, the student's IEP team shall determine services necessary to enable him/her 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. (20 USC 1415(k)(1)(D); 34 CFR 300.530)



## **SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)**

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)*

### **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 due process 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)

## **SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)**

### **Readmission**

Note: There is no state or federal law that requires special procedures for readmission of expelled students with disabilities; however, districts have an ongoing obligation to make FAPE available to students with disabilities.

Readmission procedures for students with disabilities shall be the same as those adopted for students without disabilities. Upon readmission of a student with disabilities, an IEP team meeting shall be convened to review and, as necessary, modify the student's IEP.

### **Decision Not to Enforce Expulsion Order**

Note: For district criteria applicable to all students when the Board is considering whether or not to suspend the enforcement of an expulsion order, see BP 5144.1 - Suspension and Expulsion/Due Process. The district should consult legal counsel when considering the suspension of an expulsion order involving a special education student.

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 these required notifications and Education Code 49076, as amended by AB 143 (Ch. 434, Statutes of 2011), requires any law enforcement authority to which information regarding a student with disabilities is disclosed to certify that those records will not be disclosed to another party without the prior written consent of the student's parent/guardian or other person invested with the student's educational right. 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.

When giving any required notification concerning a student with disabilities to any law enforcement official, the principal or designee shall require the law enforcement official to certify in writing that he/she will not disclose the student's information or records to any other person without the prior written consent of the student's parent/guardian. (Education Code 49076)

*(cf. 5131.7 - Weapons and Dangerous Instruments)*

**SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)**

**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, bring 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)

**Procedures for Students Not Yet Eligible for Special Education Services**

A student who has not been determined to be eligible for special education and related services and who has violated the district's code of student conduct may nevertheless assert any of the protections under IDEA, if the district had *knowledge* of the student's disability. (20 USC 1415(k)(5); 34 CFR 300.534)

*Knowledge* means that, before the occurrence of the behavior that precipitated the disciplinary action, one of the following occurred: (20 USC 1415(k)(5); 34 CFR 300.534)

1. The parent/guardian, in writing, has expressed concern to district supervisory or administrative personnel, 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 20 USC 1414(a)(1)(B) or 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 other supervisory district personnel about a pattern of behavior demonstrated by the student.

However, the district shall not be deemed to have knowledge of a student's disability if the student's parent/guardian has not allowed him/her to be evaluated for special education services or has refused services or, after evaluating the student pursuant to 34 CFR 300.300-300.311, the district determined that he/she was not an individual with a disability.

**SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)**

When the district is deemed to not have knowledge of a student's 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)

*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  
49076 Access to student records  
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

*Legal Reference continued: (see next page)*

**SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)**

*Legal Reference: (continued)*

**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/osep>*

# **Administrative Regulation**

## **Suspension And Expulsion/Due Process (Students With Disabilities)**

**AR 5144.2**

### **Students**

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.

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. (34 CFR 300.530; Education Code 48903)

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 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**

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, 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**
- 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)

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)

#### **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**

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**

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:**

#### **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,  
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300.530-300.537 Discipline procedures  
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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>

**Regulation**      **CENTER UNIFIED SCHOOL DISTRICT**

**approved: June 16, 2010      Antelope, California**

**NONDISCRIMINATION/HARASSMENT**

Note: The following mandated policy reflects various provisions of state and federal law which prohibit discrimination against students in educational programs and activities based on certain actual or perceived characteristics of an individual, including Education Code 220, which prohibits discrimination based on race, nationality, ethnicity, gender, sex, sexual orientation, religion, or any other characteristic contained in the definition of hate crimes in Penal Code 422.55; Title VI (42 USC 2000d-2000e-17), which prohibits discrimination based on race, color, or national origin; and Title IX (20 USC 1681-1688), which prohibits discrimination based on sex. 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.

Education Code 234.1, as amended by AB 9 (Ch. 728, Statutes of 2011), mandates that districts adopt policy prohibiting discrimination, harassment, intimidation, and bullying based on the foregoing characteristics as well as gender identity and gender expression, at school, in any school activity, related to school attendance, or under the authority of the district.

The Governing Board desires to provide a safe school environment that allows all students equal access and opportunities in the district's academic and other educational support programs, services, and activities. The Board prohibits, at any district school or school activity, unlawful discrimination, harassment, intimidation, and bullying of any student based on the student's actual race, color, ancestry, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, or gender expression; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

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

*(cf. 5131 - Conduct)*

*(cf. 5131.2 - Bullying)*

*(cf. 5137 - Positive School Climate)*

*(cf. 5145.9 - Hate-Motivated Behavior)*

*(cf. 5146 - Married/Pregnant/Parenting Students)*

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

Prohibited discrimination, harassment, intimidation, or bullying 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 effect of substantially or unreasonably interfering with a student's academic performance; or otherwise adversely affects a student's educational opportunities.

The Board also prohibits any form of retaliation against any student who files a complaint or report regarding an incident of discrimination, harassment, intimidation, or bullying.

## **NONDISCRIMINATION/HARASSMENT (continued)**

Note: In its October 2010 Dear Colleague Letter: Harassment and Bullying, the U.S. Department of Education's Office for Civil Rights (OCR) identifies training of the school community as one of the key measures for minimizing discriminatory and harassing behavior in school. Such training should include how to recognize prohibited behaviors and what to do when they occur. The following paragraph is optional and may be modified to reflect district practice.

The Superintendent or designee shall provide age-appropriate training and information to students, parents/guardians, and employees regarding discrimination, harassment, intimidation, and bullying, including, but not limited to, the district's nondiscrimination policy, what constitutes prohibited behavior, how to report incidents, and to whom such reports should be made.

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

In providing instruction, guidance, supervision, or other services to district students, employees and volunteers shall carefully guard against segregating or stereotyping students.

*(cf. 1240 - Volunteer Assistance)*

*(cf. 6145 - Extracurricular and Cocurricular Activities)*

*(cf. 6145.2 - Athletic Competition)*

*(cf. 6164.2 - Guidance/Counseling Services)*

Note: In some situations, the district may have to provide individualized accommodation to a student to protect him/her from harassment or bullying. For example, to protect a student from discrimination on the basis of his/her gender identity or gender expression pursuant to Education Code 210.7, the district may need to provide the 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. See CSBA's policy brief Providing a Safe, Nondiscriminatory School Environment for All Students.

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 prohibits a district from 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.

## **NONDISCRIMINATION/HARASSMENT (continued)**

Students who engage in discrimination, harassment, intimidation, bullying, or retaliation 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 prohibited discrimination, harassment, intimidation, bullying, or retaliation 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))*

*(cf. 5145.2 - Freedom of Speech/Expression)*

## **Grievance Procedures**

Note: Education Code 234.1, as amended by AB 9 (Ch. 723, Statutes of 2011), mandates that districts adopt a process for receiving and investigating complaints of discrimination, harassment, intimidation, and bullying based on specified actual or perceived characteristics. Such a process must include (1) a requirement that school personnel who witness an act take immediate steps to intervene when safe to do so, (2) a timeline for investigating and resolving complaints, (3) an appeal process, and (4) translation of forms when required by Education Code 48985. The following section includes these required components and may be modified to reflect district practice.

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. 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 school).

The following position is designated Coordinator for Nondiscrimination to handle complaints regarding discrimination, harassment, intimidation, or bullying, and to answer inquiries regarding the district's nondiscrimination policies:

Director of Personnel & Student Services  
8408 Watt Avenue, Antelope, CA 95843  
(916) 338-6320

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

*(cf. 1312.3 - Uniform Complaint Procedures)*

## **NONDISCRIMINATION/HARASSMENT (continued)**

Any student who feels that he/she has been subjected to discrimination, harassment, intimidation, or bullying should immediately contact the Coordinator, the principal, or any other staff member. In addition, any student who observes any such incident should report the incident to the Coordinator or principal, whether or not the victim files a complaint.

Any school employee who observes an incident of discrimination, harassment, intimidation, or bullying shall report the incident to the Coordinator or principal, whether or not the victim files a complaint.

In addition, the employee shall immediately intervene when safe to do so. (Education Code 234.1)

Note: In its October 2010 Dear Colleague Letter: Harassment and Bullying, OCR reiterates the requirement that district procedures for investigating complaints must be prompt, thorough, and impartial, as 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 procedures that are different should modify the following paragraph accordingly.

Upon receiving a complaint of discrimination, harassment, intimidation, or bullying, the Coordinator shall immediately investigate the complaint in accordance with the site-level grievance procedures specified in AR 5145.7 - Sexual Harassment.

*(cf. 5145.7 - Sexual Harassment)*

Within 30 days of receiving the district's report, the complainant may appeal to the Board if he/she disagrees with the resolution of the complaint. The Board shall make a decision at its next regular meeting and its decision shall be final.

Note: As part of its responsibility to monitor district compliance with legal requirements concerning discrimination pursuant to Education Code 234.1, the CDE is required to ensure that the district posts its nondiscrimination policies in all schools, offices, staff lounges, and student government meeting rooms. The following paragraph may be revised to specify the means by which the district posts its nondiscrimination policies.

The Superintendent or designee shall ensure that the student handbook clearly describes the district's nondiscrimination policy, procedures for filing a complaint regarding discrimination, harassment, intimidation, or bullying, and the resources that are available to students who feel that they have been the victim of any such behavior. The district's policy shall also be posted on the district web site or any other location that is easily accessible to students.

*(cf. 1113 - District and School Web Sites)*

*(cf. 1114 - District-Sponsored Social Media)*

*(cf. 6163.4 - Student Use of Technology)*



## **NONDISCRIMINATION/HARASSMENT (continued)**

When required pursuant to Education Code 48985, complaint forms shall be translated into the student's primary language.

### *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  
48950 Freedom of speech  
48985 Translation of notices  
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: (see next page)*

## NONDISCRIMINATION/HARASSMENT (continued)

### *Management Resources:*

#### CSBA PUBLICATIONS

*Safe Schools: Strategies for Governing Boards to Ensure Student Success*, 2011

*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

*Dear Colleague Letter: Harassment and Bullying*, October 2010

*Notice of Non-Discrimination*, January 1999

#### WEB SITES

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

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

California Safe Schools Coalition: <http://www.casafeschools.org>

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**

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)

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.

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**

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.

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  
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>**

**Policy CENTER UNIFIED SCHOOL DISTRICT**

**adopted: June 16, 2010      Antelope, California**

**PARENTAL NOTIFICATIONS**

**Cautionary Notice:** As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009), ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), and SB 70 (Ch. 7, Statutes of 2011), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs and provides that districts are deemed in compliance with the program and funding requirements for these programs for the 2008-09 through 2014-15 fiscal years. As a result of this flexibility, the district may choose to temporarily suspend certain provisions of the following policy or administrative regulation that reflect those requirements. However, this flexibility does not affect or alter any existing contract or bargaining agreement that the district may have in place. Thus, districts should examine the terms of those contracts and agreements and consult with district legal counsel for additional guidance. Also see BP 2210 - Administrative Discretion Regarding Board Policy.

**Cautionary Notice 2010-13:** AB 1610 (Ch. 724, Statutes of 2010) amended Education Code 37252.2 and Government Code 17581.5 to relieve districts from the obligation, until July 1, 2013, to perform any activities that are deemed to be reimbursable state mandates under those sections. As a result, certain provisions of the following policy or administrative regulation that reflect those requirements may be suspended.

Note: The following exhibit lists notices which the law requires be provided to parents/guardians. Unless otherwise indicated, code numbers below refer to Education Code sections.

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
<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
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	46010.1	BP 5113	Absence for confidential medical services
Beginning of each school year	48980	BP 6111	Schedule of minimum days
Beginning of each school year	48980, 231.5; 5 CCR 4917	AR 5145.7	Sexual harassment policy as related to students
Beginning of each school year	48980, 32255- 32255.6	AR 5145.8	Right to refrain from harmful or destructive use of animals

**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, 35160.5, 46600-46611, 48204	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, if Board has adopted resolution allowing such absence	48980, 46014	BP 5113 AR 5113	Absence for religious purposes
Beginning of each school year	48980, 48205	BP 5113 AR 5113 AR 6154	Excused absences; grade/credit cannot be reduced due to excused absence if work or test has been completed
Beginning of each school year	48980, 48206.3, 48207, 48208	AR 6183	Availability of home/hospital instruction for students with temporary disabilities
Beginning of each school year	48980, 49403	BP 5141.31	Consent to school immunization program
Beginning of each school year	48980, 49423, 49480	AR 5141.21	Administration of prescribed medication
Beginning of each school year	48980, 49451; 20 USC 1232h	AR 5141.3	Right to refuse consent to physical examination
Beginning of each school year	48980, 49472	BP 5143	Availability of insurance
Beginning of each school year	49063	AR 5125 AR 5125.3	Challenge, review, and expunging of records
Beginning of each school year	49063, 49069; 20 USC 1232g; 34 CFR 99.7	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 legitimate educational interest, course prospectus availability
Beginning of each school year	49063, 49073; 20 USC 1232g; 34 CFR 99.37	AR 5125.1	Release of directory information



**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	49520, 48980; 42 USC 1758; 7 CFR 245.5	AR 3553	Free and reduced price meals
Annually	56301	BP 6164.4	Parental rights re: special education identification, referral, assessment, instructional planning, implementation and review, and procedures for initiating a referral for assessment
Beginning of each school year	58501, 48980	AR 6181	Alternative schools
Annually	Health & Safety Code 104855	AR 5141.6	Availability of dental fluoride treatment; opportunity to accept or deny treatment
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 BP 6162.8	Notice of privacy policy and dates of activities re: survey, health examination, or collection of personal information for marketing; process to opt out of such activities
Beginning of each school year, if district receives Title I funds	20 USC 6311; 34 CFR 200.61	AR 4112.24 AR 4222	Right to request information re: professional qualifications of child's teacher and paraprofessional
Annually, if district schools have been identified for program improvement or corrective action	20 USC 6316	AR 0520.2	Availability of supplemental educational services, identity of providers, description of services, qualifications, effectiveness of providers
Beginning of each school year	34 CFR 104.8, 106.9	BP 0410 BP 6178	Nondiscrimination

**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>			
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
<b>II. <u>At Specific Times During the Student's Academic Career</u></b>			
Beginning in grade 7, at least once prior to course selection and career counseling	221.5, 48980	AR 6164.2	Course selection and career counseling
When child first enrolls in a public school, if the school offers a fingerprinting program	32390, 48980	AR 5142.1	Fingerprinting program
Upon registration in K-6, if 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 for high school students, if high school is open campus	44808.5, 48980	AR 5112.5	Open campus
Beginning of each school year in grades 9-12, if district allows career technical education (CTE) course to satisfy graduation requirement	48980, 51225.3	AR 6146.1	How each high school graduation requirement does or does not satisfy college entrance a-g course criteria; list of district CTE courses that satisfy a-g course criteria
Beginning of each school year, for high school students	48980, 52244	AR 6141.5	Availability of state funds to cover costs of advanced placement exam fees
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

**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>			
When students entering grade 7	49452.7	AR 5141.3	Specified information on type 2 diabetes
When in kindergarten, or first grade if not previously enrolled in public school	49452.8	AR 5141.32	Requirement for oral health assessment, explanation of law, importance of oral health, agency contact, privacy rights
Beginning of each school year for students in grades 9-12	51229, 48980	AR 6143	College admission requirements, UC and CSU web sites that list certified courses, description of CTE, 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
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
When child is enrolled in kindergarten	Health & Safety Code 124100	AR 5141.32	Health screening examination
To students in grades 11-12, early enough to enable registration for fall test	5 CCR 11523	AR 6146.2	Notice of proficiency examination provided under Education Code 48412
To secondary students, if district receives 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
<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

**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 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
When student is identified as English learner and district receives Title III funds, not later than 30 days after beginning of school year	440; 20 USC 7012	AR 6174	Student's identification for program for English learners; any failure of district to meet annual measurable achievement objectives
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
At least 72 hours before use of pesticide product not included in annual list	17612	AR 3514.2	Intended use of pesticide product
To members of athletic teams	32221.5	AR 5143	Offer of insurance; no-cost and low-cost program options
If school has lost its WASC accreditation status	35178.4	BP 6190	Loss of status, potential consequences
At least six months before implementing a schoolwide uniform policy	35183	AR 5132	Dress code policy requiring schoolwide uniform
Beginning of each term, when student has not passed the exit exam by the end of grade 12	37254	AR 6179	Availability of intensive instruction and services for two consecutive academic years and right to file complaint
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
Before early entry to kindergarten, if offered	48000	AR 5111	Effects, advantages and disadvantages of early entry

**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 student identified as being at risk of retention	48070.5	AR 5123	Student at risk of retention
When student excluded due to quarantine, contagious or infectious disease, danger to safety or health	48213	AR 5112.2 BP 5141.33	Student has been excluded from school
Before student is excluded for lack of immunization	48216	AR 5141.31	Two weeks to submit evidence of immunization or exemption; referral to medical care
When a student is classified a truant	48260.5, 48262	AR 5113.1	Truancy, parental obligation, availability of alternative programs, student consequences, need for conference
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
When a school is identified on the state's Open Enrollment List	48354; 5 CCR 4702	AR 5118	Student's option to transfer to another school
Within 60 days of receiving application for transfer out of open enrollment school	48357; 5 CCR 4702	AR 5118	Whether student's transfer application is accepted or rejected; reasons for rejection
Prior to involuntary transfer to continuation school	48432.5	AR 6184	Right to require meeting prior to involuntary transfer to continuation school
When student is removed from class and teacher requires parental attendance at school	48900.1	BP 5144.1 AR 5144.1	Parental attendance required; timeline for attendance
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

**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>			
At time of suspension	48911	BP 5144.1 AR 5144.1	Notice of suspension
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 to a judge or probation officer for conducting 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	AR 5141.3	Scoliosis screening
When test results in discovery of visual or hearing defects	49456	AR 5141.3	Vision or hearing test
Annually to parents/guardians of student athletes before their first practice or competition	49475	AR 6145.2	Information on concussions and head injuries
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	AR 6142.1	Instruction in HIV/AIDS or sexual health education by guest speaker or outside consultant
Prior to administering survey regarding health risks and behaviors to students in 7-12	51938	AR 5022	Notice that the survey will be administered
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	Assessment results; program of education for English language learners
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

**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 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
When hearing is requested by person asked to leave school premises	Penal Code 627.5	AR 3515.2	Notice of hearing
Prior to student participation in gifted and talented program	5 CCR 3831	AR 6172	Gifted and talented student program
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
Within 30 calendar days of receipt of CELDT results	5 CCR 11511.5	AR 6174	CELDT test results
When child participates in licensed child care and development program	5 CCR 18066	AR 5148	Policies re: unexcused absences
When district substantively changes policy on student privacy rights	20 USC 1232h	AR 5022	Notice of any substantive change in policy or regulation
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



**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 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
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
When district identified for program improvement	20 USC 6316	AR 0520.3	Explanation status, reasons for identification, how parents can participate in upgrading district
For schools receiving Title I funds, upon development of parent involvement policy	20 USC 6318	AR 6020	Notice of policy
When household is selected for verification of eligibility for free or reduced-price meals	42 USC 1758; 7 CFR 246.6a	AR 3553	Notice of need to submit verification information; any subsequent change in benefits; right to appeal
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

**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>			
Early enough to ensure opportunity for parent to attend IEP meeting	56341.5; 34 CFR 300.322	AR 6159	Time, purpose, location, who 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
When student is selected to be assessed with the California Modified Assessment	5 CCR 850	AR 6162.51	Notice that the student's achievement will be measured based on modified achievement standard
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
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, including when parent/guardian revokes consent for services	20 USC 1415(c); 34 CFR 300.300, 300.503	AR 6159 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

**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>			
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
Eligibility for services under Section 504	34 CFR 104.32, 104.36	AR 6164.6	Procedural safeguards, district responsibilities
<b>V. Classroom Notices</b>			
In each classroom in each school	35186	AR/E 1312.4	Complaint rights re: sufficiency of instructional materials, teacher vacancy and misassignment, maintenance of facilities, and, for classrooms with grades 10-12, right of students who did not pass exit exam to receive intensive instruction after grade 12

# **Exhibit**

## **Parental Notifications**

**E 5145.6**

### **Students**

**Cautionary Notice:** As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009), ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), and SB 70 (Ch. 7, Statutes of 2011), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs. The Center Unified School District has accepted this flexibility and thus is deemed in compliance with the statutory or regulatory program and funding requirements for these programs for the 2008-09 through 2014-15 fiscal years. As a result, the district may temporarily suspend certain provisions of the following policy or regulation that reflect these requirements. For further information, please contact the Superintendent or designee.

**Cautionary Notice 2010-13:** AB 1610 (Ch. 724, Statutes of 2010) amended Education Code 37252.2 to relieve districts from the obligation, until July 1, 2013, to perform any activities that are deemed to be reimbursable state mandates under that section. As a result, certain provisions of the following policy or administrative regulation that reflect those requirements may be suspended.

**\*\*\*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 or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** Education Code 48980  
**Board Policy/Administrative Regulation #:** See AR 5111.1, See AR 5116.1 See AR 5117  
**Subject:** All statutory attendance options, available local attendance options, options for meeting residency

**When to Notify:** Beginning of each school year  
**Education or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** Education Code 48980  
**Board Policy/Administrative Regulation #:** See BP 6111  
**Subject:** Schedule of minimum days

**When to Notify:** Beginning of each school year  
**Education or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** Education Code 49472, 48980

**Board Policy/Administrative Regulation #: See BP 5143**  
**Subject: Availability of insurance**

**When to Notify: Beginning of each school year**  
**Education or Other Legal Code: Education Code 49510-49520, 48980**  
**Board Policy/Administrative Regulation #: See BP 3553**  
**Subject: Free and reduced price meals**

**When to Notify: Annually**  
**Education or Other Legal Code: 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 or Other Legal Code: Education Code 58501**  
**Board Policy/Administrative Regulation #: See BP 6181**  
**Subject: Alternative schools**

**When to Notify: Beginning of each school year**  
**Education or Other Legal Code: 20 USC 1681-1688, 42 USC 2000d-2000d-7, 34 CFR 106.9**  
**Board Policy/Administrative Regulation #: See BP 0410, See BP 6178**  
**Subject: Nondiscrimination on basis of sex, disability, ethnicity or lack of English skills**

**When to Notify: Annually**  
**Education or Other Legal Code: 5 CCR 4622**  
**Board Policy/Administrative Regulation #: See AR 1312.3**  
**Subject: Uniform complaint procedures, available appeals, civil law remedies, and identity of coordinator**

**When to Notify: Beginning of each school year**  
**Education or Other Legal Code: 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**  
**Education or Other Legal Code: 20 USC 6311**  
**Board Policy/Administrative Regulation #: See AR 4112.24, See AR 4222**  
**Subject: Right to request information re: professional qualifications of their child's teacher and paraprofessional**

**When to Notify: Annually to parent, teacher and employee organizations or, in their absence, individuals**

Education or Other Legal Code: 40 CFR 763.84, 40 CFR 763.93

Board Policy/Administrative Regulation #: See AR 3514

Subject: Availability of asbestos management plan; any inspections, response actions or post-response actions planned or in progress

## **II. At Specific Times During the Student's Academic Career**

When to Notify: At least once before counseling in grades 7 through 12

Education or Other Legal Code: 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 each school year if student has been placed in structured English immersion program

Education or Other Legal Code: 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 or Other Legal Code: 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 or Other Legal Code: 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 or Other Legal Code: 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: When child first enrolls in a public school, if the school offers a fingerprinting program

Education or Other Legal Code: Education Code 32390, 48980

Board Policy/Administrative Regulation #: See BP 5142.1

Subject: Fingerprinting program

When to Notify: Beginning of each term for students who have not passed the exit exam by the end of grade 12

Education or Other Legal Code: 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:** Upon registration, if K-6 students have not previously been transported  
**Education or Other Legal Code:** 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 light crossing instructions, bus danger zones, walking to and from stops

**When to Notify:** Beginning of each school year in grades 7-12  
**Education or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** 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 student transfers into the district  
**Education Code** 48980, 60850  
**Board Policy/Administrative Regulation #:** See AR 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 students entering grade 7  
**Education or Other Legal Code:** Education Code 49452.7  
**Board Policy/Administrative Regulation #:** None  
**Subject:** Specified information on type 2 diabetes

**When to Notify:** When in kindergarten or 1st grade if not previously enrolled in public school  
**Education or Other Legal Code:** Education Code 49452.8  
**Board Policy/Administrative Regulation #:** See AR 5141.32  
**Subject:** Requirement for oral health assessment, explanation of law, importance of teeth health, agency contact, privacy rights

**When to Notify:** Beginning of each school year for students in grades 9-12

**Education or Other Legal Code:** 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 or Other Legal Code:** 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's 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 or Other Legal Code:** 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 or Other Legal Code:** 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 student  
**Education or Other Legal Code:** 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  
**Education or Other Legal Code:** Health and Safety Code 124100  
**Board Policy/Administrative Regulation #:** See BP 5141.32  
**Subject:** Health screening examination

**When to Notify:** Prior student participation in gifted and talented program  
**Education or Other Legal Code:** 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 CELDT results  
**Education or Other Legal Code:** 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

Education or Other Legal Code: 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

Education or Other Legal Code: 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 or Other Legal Code: 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 or Other Legal Code: 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 or Other Legal Code: 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 or Other Legal Code: Education Code 35183

Board Policy/Administrative Regulation #: See AR 5132

Subject: Dress code policy requiring schoolwide uniform

When to Notify: Before implementing a year-round schedule

Education or Other Legal Code: Education Code 37616

Board Policy/Administrative Regulation #: See BP 6117

Subject: Year-round schedule

When to Notify: When interdistrict transfer is requested and not approved or denied within 30 days

Education or Other Legal Code: 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 or Other Legal Code:** 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 or Other Legal Code:** Education Code 48260.5  
**Board Policy/Administrative Regulation #:** See AR 5113.1  
**Subject:** Truancy, parental obligation, availability of alternative programs, student consequences

**When to Notify:** When a truant is referred to a SARB or probation department  
**Education or Other Legal Code:** Education Code 48263  
**Board Policy/Administrative Regulation #:** See AR 5113.1  
**Subject:** Name and address of SARB or probation department and reason for referral

**When to Notify:** Prior to involuntary transfer to continuation school  
**Education or Other Legal Code:** Education Code 48432.5  
**Board Policy/Administrative Regulation #:** See AR 6184  
**Subject:** Right to require meeting prior to involuntary transfer to continuation school

**When to Notify:** Prior to withholding grades, diplomas, or transcripts  
**Education or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** Education Code 48987  
**Board Policy/Administrative Regulation #:** See AR 5141.4  
**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 or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** Education Code 49077  
**Board Policy/Administrative Regulation #:** See AR 5125  
**Subject:** Release of information pursuant to court order or subpoena

**When to Notify:** When screening results in suspicion that student has scoliosis  
**Education or Other Legal Code:** 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 or Other Legal Code:** 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 or Other Legal Code:** Education Code 51513  
**Board Policy/Administrative Regulation #:** See AR 5022  
**Subject:** Permission for test, survey questioning personal beliefs

**When to Notify:** Within 14 days of instruction if arrangement made for guest speaker after beginning of school year  
**Education or Other Legal Code:** 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 or Other Legal Code:** 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**

**Education or Other Legal Code: 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**

**Education or Other Legal Code: 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 the information, right to examine, right to refuse to share**

**When to Notify: When hearing is requested by person asked to leave school premises**

**Education or Other Legal Code: 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 programs**

**Education or Other Legal Code: 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**

**Education or Other Legal Code: 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"**

**Education or Other Legal Code: 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**

**Education or Other Legal Code: 20 USC 6312**

**Board Policy/Administrative Regulation #: See AR 0520.2**

**Subject: Notice of failure to parents of English language learners**

**When to Notify: When school identified for program improvement or corrective action**

**Education or Other Legal Code: 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**

**Education or Other Legal Code: 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**

**Education or Other Legal Code: 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**

**Education or Other Legal Code: 20 USC 6318**

**Board Policy/Administrative Regulation #: See AR 6020**

**Subject: Notice of policy**

**When to Notify: For districts with secondary students receiving Title I funds**

**Education or Other Legal Code: 20 USC 7908**

**Board Policy/Administrative Regulation #: See AR 5125.1**

**Subject: Notice that parents may request district to not release name, address, phone number of child to military recruiters without prior written consent**

**When to Notify: When student transfers out of state and records are disclosed without consent pursuant to 34 CFR 99.30**

**Education or Other Legal Code: 34 CFR 99.34**

**Board Policy/Administrative Regulation #: AR 5125**

**Subject: Right to review records**

#### **IV. Special Education Notices**

**When to Notify: Prior to conducting initial evaluation**

**Education or Other Legal Code: Education Code 56301, 56321, 56321.5, 56321.6, 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 or Other Legal Code: Education Code 56341.1**



**Board Policy/Administrative Regulation #: See AR 6159**

**Subject: Intention to audio-record IEP meeting**

**When to Notify: Early enough to ensure opportunity for parent to attend IEP meeting**

**Education or Other Legal Code: 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 or Other Legal Code: 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 or Other Legal Code: Education Code 60852.4**

**Board Policy/Administrative Regulation #: See AR 6162.52**

**Subject: Right to FAPE**

**When to Notify: Before functional behavioral assessment begins**

**Education or Other Legal Code: 5 CCR 3052**

**Board Policy/Administrative Regulation #: See AR 6159.4**

**Subject: Notification and consent**

**When to Notify: Before modification of behavioral intervention plan**

**Education or Other Legal Code: 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**

**Education or Other Legal Code: 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**

**Education or Other Legal Code: 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**

**Education or Other Legal Code: 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 15, 2011      Antelope, California

**SEXUAL HARASSMENT**

Note: Education Code 231.5 and 34 CFR 106.9 mandate the district to have written policies on sexual harassment. The following policy addresses harassment by and/or of students; for policy addressing the sexual harassment by and/or of employees, see BP/AR 4119.11/4219.11/4319.11 - Sexual Harassment.

A district can be held liable for student-on-student or employee-on-student sexual harassment pursuant to Title IX (20 USC 1681-1688) and/or Education Code 220, if the district is found to have been "deliberately indifferent" in its response to known sexual harassment. In Davis v. Monroe County Board of Education, the Supreme Court held that a district would be deliberately indifferent if (1) the harasser and the context in which the sexual harassment occurred were within the district's control; (2) the harassment was so severe, pervasive, and objectively offensive that it deprived the victim of access to educational opportunities or benefits provided by the district; (3) the district had actual knowledge of the harassment; and (4) the district's conduct was unreasonable considering the surrounding circumstances. This standard was applied by an appellate court in Donovan v. Poway Unified School District based on Education Code 220.

In addition to filing a private civil lawsuit, a victim of sexual harassment may file a complaint with the California Department of Education and/or the U.S. Department of Education's Office for Civil Rights (OCR). In April 2011, OCR issued its Dear Colleague Letter: Sexual Violence to supplement its January 2001 Revised Sexual Harassment Guidance on federal Title IX requirements as they pertain to sexual harassment. In the letter, OCR clarifies that sexual violence, including rape, sexual assault, sexual battery, and sexual coercion, is a form of sexual harassment that must be addressed by districts in the same way as other forms of sexual harassment, such as unwelcome sexual advances.

The Governing Board is committed to maintaining a safe school environment that is free from harassment and discrimination. The Board prohibits sexual harassment of students at school or at school-sponsored or school-related activities. The Board also prohibits retaliatory behavior or action against any person who files a complaint, testifies, or otherwise participates in district complaint processes.

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

(cf. 1312.3 - Uniform Complaint Procedures)

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

(cf. 5131 - Conduct)

(cf. 5131.2 - Bullying)

(cf. 5137 - Positive School Climate)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)

**Instruction/Information**

Note: In its April 2011 Dear Colleague Letter: Sexual Violence, OCR restates the requirement that a district's procedure for investigating sexual harassment complaints must be widely disseminated and be written in language appropriate to the age of the school's students so that students understand how it works. Examples include having copies of the procedure available throughout the school, publishing the procedure in the student handbook, and identifying individuals who can explain how the procedure works. The following optional section is based on OCR recommendations and may be revised to better accommodate student needs and district practice.

## **SEXUAL HARASSMENT (continued)**

The Superintendent or designee shall ensure that all district students receive age-appropriate instruction and information on sexual harassment. Such instruction and information shall include:

1. What acts and behavior constitute sexual harassment, including the fact that sexual harassment could occur between people of the same sex and could involve sexual violence

Note: In its April 2011 Dear Colleague Letter: Sexual Violence, OCR acknowledges that possible rule violations by victims or other students may affect their willingness to report sexual harassment or violence. For example, a victim who is sexually harassed while he/she is away from school without permission may be reluctant to file a complaint if he/she believes that he/she may be disciplined for the violation. Thus, OCR suggests that, in communicating items #2 and #3 below, districts should emphasize that student safety is the primary concern and that any other rule violation will be addressed separately from the sexual harassment or violence issue.

2. A clear message that students do not have to endure sexual harassment
3. Encouragement to report observed instances of sexual harassment, even where the victim of the harassment has not complained
4. Information about the district's procedure for investigating complaints and the person(s) to whom a report of sexual harassment should be made
5. Information about the rights of students and parents/guardians to file a criminal complaint, as applicable

## **Complaint Process**

Note: Pursuant to Education Code 231.5, the district's policy must contain information on where to obtain a specific procedure for reporting charges of sexual harassment and pursuing available remedies. In addition, 34 CFR 106.8 requires a district to adopt and publish a grievance procedure providing for a prompt and equitable resolution of student complaints alleging sexual harassment. Because courts have held that a district may be liable for student-on-student harassment if an employee with authority to take corrective action has actual knowledge of the harassment, it is recommended that the district's instruction to its students include examples of employees who may have such authority (e.g., principals, teachers, and coaches). In addition, even if the matter has been referred to law enforcement for investigation, a district still has a responsibility to investigate the complaint as a matter of sex discrimination.

The accompanying administrative regulation details a site-level complaint procedure, including timelines, conduct of the investigation, and remedies. However, districts may instead consider using the uniform complaint procedures, pursuant to 5 CCR 4600-4687, to resolve such complaints; see BP/AR 1312.3 - Uniform Complaint Procedures.

## **SEXUAL HARASSMENT (continued)**

Any student who feels that he/she is being or has been sexually harassed on school grounds or at a school-sponsored or school-related activity (e.g., by a visiting athlete or coach) shall immediately contact his/her teacher or any other employee. An employee who receives such a complaint shall report it in accordance with administrative regulation.

*(cf. 1312.1 - Complaints Concerning District Employees)*  
*(cf. 5141.4 - Child Abuse Prevention and Reporting)*

The Superintendent or designee shall ensure that any complaints regarding sexual harassment are immediately investigated in accordance with administrative regulation. When the Superintendent or designee has determined that harassment has occurred, he/she shall take prompt, appropriate action to end the harassment and to address its effects on the victim.

### **Disciplinary Actions**

Note: Pursuant to Education Code 48900.2, a student in grades 4-12 may be suspended and/or expelled from school for sexual harassment. However, districts should note that Education Code 48915(c) requires the Superintendent or designee to recommend expulsion for any student, irrespective of grade, who commits sexual assault or battery as defined in the Penal Code. See AR 5144.1 - Suspension and Expulsion/Due Process.

Any student who engages in sexual harassment or sexual violence at school or at a school-sponsored or school-related activity is in violation of this policy and shall be subject to disciplinary action. For students in grades 4-12, disciplinary action may include suspension and/or expulsion, provided that, in imposing such discipline, the entire circumstances of the incident(s) shall be taken into account.

*(cf. 5144.1 - Suspension and Expulsion/Due Process)*  
*(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))*

### **Confidentiality and Record-Keeping**

Note: Pursuant to 5 CCR 4964, districts are required to keep complaints and allegations of sexual harassment confidential, except when disclosure is necessary to further the investigation, other needed remedial action, or ongoing monitoring. In its April 2011 Dear Colleague Letter: Sexual Violence, OCR counsels districts to respond to sexual harassment that comes to their attention even when a victim requests anonymity.

All complaints and allegations of sexual harassment shall be kept confidential except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

*(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)*  
*(cf. 5125 - Student Records)*

## **SEXUAL HARASSMENT (continued)**

The Superintendent or designee shall maintain a record of all reported cases of sexual harassment to enable the district to monitor, address, and prevent repetitive harassing behavior in the schools.

### *Legal Reference:*

#### EDUCATION CODE

200-262.4 *Prohibition of discrimination on the basis of sex*

48900 *Grounds for suspension or expulsion*

48900.2 *Additional grounds for suspension or expulsion; sexual harassment*

48904 *Liability of parent/guardian for willful student misconduct*

48980 *Notice at beginning of term*

#### CIVIL CODE

51.9 *Liability for sexual harassment; business, service and professional relationships*

1714.1 *Liability of parents/guardians for willful misconduct of minor*

#### GOVERNMENT CODE

12950.1 *Sexual harassment training*

#### CODE OF REGULATIONS, TITLE 5

4600-4687 *Uniform complaint procedures*

4900-4965 *Nondiscrimination in elementary and secondary education programs*

#### UNITED STATES CODE, TITLE 20

1681-1688 *Title IX, discrimination*

#### UNITED STATES CODE, TITLE 42

1983 *Civil action for deprivation of rights*

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

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

#### CODE OF FEDERAL REGULATIONS, TITLE 34

106.1-106.71 *Nondiscrimination on the basis of sex in education programs*

#### COURT DECISIONS

Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567

Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130

Reese v. Jefferson School District, (2001, 9th Cir.) 208 F.3d 736

Davis v. Monroe County Board of Education, (1999) 526 U.S. 629

Gebser v. Lago Vista Independent School District, (1998) 524 U.S. 274

Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473

Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447

*Management Resources: (see next page)*

## SEXUAL HARASSMENT (continued)

### *Management Resources:*

#### CSBA PUBLICATIONS

*Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011*

*Providing a Safe, Nondiscriminatory School Environment for All Students, Policy Brief, April 2010*

#### OFFICE FOR CIVIL RIGHTS PUBLICATIONS

*Dear Colleague Letter: Sexual Violence, April 4, 2011*

*Sexual Harassment: It's Not Academic, September 2008*

*Revised Sexual Harassment Guidance, January 2001*

#### WEB SITES

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

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

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

# **Board Policy**

## **Sexual Harassment**

**BP 5145.7**  
**Students**

The Governing Board is committed to maintaining an educational environment that is free from harassment and discrimination. The Board prohibits sexual harassment of students by other students, employees, or other persons, at school or at school-sponsored or school-related activities. The Board also prohibits retaliatory behavior or action against persons who complain, testify, assist, or otherwise participate in district complaint processes.

(cf. 0410 - Nondiscrimination in District Programs and Activities)  
(cf. 1312.3 - Uniform Complaint Procedures)  
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)

### **Instruction/Information**

The Superintendent or designee shall ensure that all district students receive age-appropriate instruction and information on sexual harassment. Such instruction and information shall include:

1. What acts and behavior constitute sexual harassment, including the fact that sexual harassment could occur between people of the same sex
2. A clear message that students do not have to endure sexual harassment
3. Encouragement to report observed instances of sexual harassment, even where the victim of the harassment has not complained
4. Information about the district's procedure for investigating complaints and the person(s) to whom a report of sexual harassment should be made

(cf. 5131.5 - Vandalism, Theft and Graffiti)  
(cf. 5137 - Positive School Climate)  
(cf. 5145.3 - Nondiscrimination/Harassment)  
(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)

### **Complaint Process**

Any student who feels that he/she is being or has been sexually harassed by a school employee, another student, or a non-employee on school grounds or at a school-related activity (e.g., a visiting athlete or coach) shall immediately contact his/her teacher or any



other employee. An employee who receives such a complaint shall report it in accordance with administrative regulation.

(cf. 1312.1 - Complaints Concerning District Employees)  
(cf. 5141.4 - Child Abuse Prevention and Reporting)

The Superintendent or designee shall ensure that any complaints regarding sexual harassment are immediately investigated in accordance with administrative regulation. When the Superintendent or designee has determined that harassment has occurred, he/she shall take prompt, appropriate action to end the harassment and to address its effects on the victim.

### **Disciplinary Actions**

Any student who engages in sexual harassment of anyone at school or at a school-sponsored or school-related activity is in violation of this policy and shall be subject to disciplinary action. For students in grades 4-12, disciplinary action may include suspension and/or expulsion, provided that, in imposing such discipline, the entire circumstances of the incident(s) shall be taken into account.

(cf. 5131 - Conduct)  
(cf. 5144.1 - Suspension and Expulsion/Due Process)  
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

### **Confidentiality and Record-Keeping**

All complaints and allegations of sexual harassment shall be kept confidential except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)  
(cf. 5125 - Student Records)

The Superintendent or designee shall maintain a record of all reported cases of sexual harassment to enable the district to monitor, address, and prevent repetitive harassing behavior in the schools.

### **Legal Reference:**

#### **EDUCATION CODE**

200-262.4 Prohibition of discrimination on the basis of sex

48900 Grounds for suspension or expulsion

48900.2 Additional grounds for suspension or expulsion; sexual harassment

48904 Liability of parent/guardian for willful student misconduct

48980 Notice at beginning of term

## **CIVIL CODE**

**51.9 Liability for sexual harassment; business, service and professional relationships**

**1714.1 Liability of parents/guardians for willful misconduct of minor**

## **GOVERNMENT CODE**

**12950.1 Sexual harassment training**

## **CODE OF REGULATIONS, TITLE 5**

**4600-4687 Uniform Complaint Procedures**

**4900-4965 Nondiscrimination in elementary and secondary education programs**

## **UNITED STATES CODE, TITLE 20**

**1681-1688 Title IX, discrimination**

## **UNITED STATES CODE, TITLE 42**

**1983 Civil action for deprivation of rights**

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

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

## **CODE OF FEDERAL REGULATIONS, TITLE 34**

**106.1-106.71 Nondiscrimination on the basis of sex in education programs**

## **COURT DECISIONS**

**Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567**

**Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130**

**Reese v. Jefferson School District, (2001, 9th Cir.) 208 F.3d 736**

**Davis v. Monroe County Board of Education, (1999) 526 U.S. 629**

**Gebser v. Lago Vista Independent School District, (1998) 524 U.S. 274**

**Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473**

**Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447**

## **Management Resources:**

### **OFFICE FOR CIVIL RIGHTS PUBLICATIONS**

**Sexual Harassment: It's Not Academic, September 2008**

**Revised Sexual Harassment Guidance, January 2001**

### **WEB SITES**

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

**U.S. Department of Education, Office for Civil Rights:**

**<http://www.ed.gov/about/offices/list/ocr/index.html>**

**Policy CENTER UNIFIED SCHOOL DISTRICT**

**adopted: June 3, 2009                      Antelope, California**

**SEXUAL HARASSMENT**

Note: For purposes of suspension and expulsion, Education Code 48900.2 defines sexual harassment as conduct, when considered from the perspective of a reasonable person of the same gender as the victim, that is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment. See AR 5144.1 - Suspension and Expulsion/Due Process.

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature made against another person of the same or opposite sex in the educational setting, when made on the basis of sex and under any of the following conditions: (Education Code 212.5; 5 CCR 4916)

1. Submission to the conduct is explicitly or implicitly made a term or condition of a student's academic status or progress.
2. Submission to or rejection of the conduct by a student is used as the basis for academic decisions affecting the student.
3. The conduct has the purpose or effect of having a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment.
4. Submission to or rejection of the conduct by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through any district program or activity.

*(cf. 5131 - Conduct)*

*(cf. 5131.2 - Bullying)*

*(cf. 5137 - Positive School Climate)*

*(cf. 5145.3 - Nondiscrimination/Harassment)*

*(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)*

Note: The following list contains common examples of sexual harassment from the U.S. Department of Education's Office for Civil Rights' (OCR) April 2011 [Dear Colleague Letter: Sexual Violence](#), its January 2001 publication [Revised Sexual Harassment Guidance](#), and definitions specified in 5 CCR 4916.

Examples of types of conduct which are prohibited in the district and which may constitute sexual harassment include, but are not limited to:

1. Unwelcome leering, sexual flirtations, or propositions
2. Unwelcome sexual slurs, epithets, threats, verbal abuse, derogatory comments, or sexually degrading descriptions

**SEXUAL HARASSMENT (continued)**

3. Graphic verbal comments about an individual's body or overly personal conversation
4. Sexual jokes, derogatory posters, notes, stories, cartoons, drawings, pictures, obscene gestures, or computer-generated images of a sexual nature
5. Spreading sexual rumors
6. Teasing or sexual remarks about students enrolled in a predominantly single-sex class
7. Massaging, grabbing, fondling, stroking, or brushing the body
8. Touching an individual's body or clothes in a sexual way
9. Impeding or blocking movements or any physical interference with school activities when directed at an individual on the basis of sex
10. Displaying sexually suggestive objects
11. Sexual assault, sexual battery, or sexual coercion

**School-Level Complaint Process/Grievance Procedure**

Note: In its April 2011 Dear Colleague Letter: Sexual Violence and January 2001 Revised Sexual Harassment Guidance, OCR acknowledges that procedures adopted by districts to address student harassment complaints will vary considerably depending on a number of factors, including the size of the district. Items #1-8 below reflect the factors relied on by OCR to ensure that a district's procedures are "prompt and equitable" and are effective in remedying sexual harassment and preventing recurrence.

While OCR requires prompt resolution of complaints, neither the law nor OCR delineates specific time frames. OCR also recommends that the district's procedure include designated and reasonably prompt timelines for the major stages of the complaint process. The timelines suggested below will normally be sufficient to comply with OCR's Guidance; however, OCR acknowledges that whether a complaint is considered "prompt" may vary depending on the seriousness and complexity of the circumstances.

Pursuant to 34 CFR 106.8, the district is required to designate a person(s) responsible for the overall implementation of the requirements of Title IX, including the receipt of complaints. For language designating a district Coordinator for Nondiscrimination, see BP 5145.3 - Nondiscrimination/Harassment. Depending on the size and structure of the district, sexual harassment complaints may be investigated either by the Coordinator or principal at the applicable school site, in which case the Coordinator would be responsible for overall coordination and oversight to ensure consistency across the district. The following section should be revised to reflect the title of the position responsible for investigation of sexual harassment complaints.

The following optional grievance procedure, including any applicable timelines, is based on OCR recommendations and may be revised to reflect district practice.

## **SEXUAL HARASSMENT (continued)**

Complaints of sexual harassment, or any behavior prohibited by the district's Nondiscrimination/Harassment policy - BP 5145.3, shall be handled in accordance with the following procedure:

1. **Notice and Receipt of Complaint:** Any student who believes he/she has been subjected to sexual harassment or who has witnessed sexual harassment may file a complaint with any school employee. Within 24 hours of receiving a complaint, the school employee shall report it to the district Coordinator for Nondiscrimination/Principal. In addition, any school employee who observes any incident of sexual harassment involving a student shall, within 24 hours, report this observation to the Coordinator/Principal, whether or not the victim files a complaint.

In any case of sexual harassment involving the Coordinator/Principal to whom the complaint would ordinarily be made, the employee who receives the student's report or who observes the incident shall instead report to the Superintendent or designee.

Note: In its April 2011 Dear Colleague Letter: Sexual Violence, OCR cautions that districts may have an obligation to respond to student-on-student sexual harassment which occurs off school grounds or outside school-sponsored or school-related programs or activities, since the sexual harassment may still create a hostile environment for the victim at school.

2. **Initiation of Investigation:** The Coordinator/Principal shall initiate an impartial investigation of an allegation of sexual harassment within five school days of receiving notice of the harassing behavior, regardless of whether a formal complaint has been filed. The district shall be considered to have "notice" of the need for an investigation upon receipt of information from a student who believes he/she has been subjected to harassment, the student's parent/guardian, an employee who received a complaint from a student, or any employee or student who witnessed the behavior.

Note: According to the OCR's Guidance, while the nature and extent of the district's investigation may be limited if the student wishes to remain anonymous or decides to not file a complaint, the district must still take all feasible steps to respond to harassment of which it has notice.

If the Coordinator/Principal receives an anonymous complaint or media report about alleged sexual harassment, he/she shall determine whether it is reasonable to pursue an investigation considering the specificity and reliability of the information, the seriousness of the alleged incident, and whether any individuals can be identified who were subjected to the alleged harassment.

**SEXUAL HARASSMENT (continued)**

3. **Initial Interview with Student:** When a student or parent/guardian has complained or provided information about sexual harassment, the Coordinator/Principal shall describe the district's grievance procedure and discuss what actions are being sought by the student in response to the complaint. The student who is complaining shall have an opportunity to describe the incident, identify witnesses who may have relevant information, provide other evidence of the harassment, and put his/her complaint in writing. If the student requests confidentiality, he/she shall be informed that such a request may limit the district's ability to investigate.
4. **Investigation Process:** The Coordinator/Principal shall keep the complaint and allegation confidential, except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

The Coordinator/Principal shall interview individuals who are relevant to the investigation, including, but not limited to, the student who is complaining, the person accused of harassment, anyone who witnessed the reported harassment, and anyone mentioned as having relevant information. The Coordinator/Principal may take other steps such as reviewing any records, notes, or statements related to the harassment or visiting the location where the harassment is alleged to have taken place.

When necessary to carry out his/her investigation or to protect student safety, the Coordinator/Principal also may discuss the complaint with the Superintendent or designee, the parent/guardian of the student who complained, the parent/guardian of the alleged harasser if the alleged harasser is a student, a teacher or staff member whose knowledge of the students involved may help in determining who is telling the truth, law enforcement and/or child protective services, and district legal counsel or the district's risk manager.

*(cf. 5141.4 - Child Abuse Prevention and Reporting)*

5. **Interim Measures:** The Coordinator/Principal shall determine whether interim measures are necessary during and pending the results of the investigation, such as placing students in separate classes or transferring a student to a class taught by a different teacher.
6. **Optional Mediation:** In cases of student-on-student harassment, when the student who complained and the alleged harasser so agree, the Coordinator/Principal may arrange for them to resolve the complaint informally with the help of a counselor, teacher, administrator, or trained mediator. The student who complained shall never be asked to work out the problem directly with the accused person unless such help is provided and both parties agree, and he/she shall be advised of the right to end the informal process at any time.

*(cf. 5138 - Conflict Resolution)*

**SEXUAL HARASSMENT (continued)**

**7. Factors in Reaching a Determination:** In reaching a decision about the complaint, the Coordinator/Principal may take into account:

- a. Statements made by the persons identified above
- b. The details and consistency of each person's account
- c. Evidence of how the complaining student reacted to the incident
- d. Evidence of any past instances of harassment by the alleged harasser
- e. Evidence of any past harassment complaints that were found to be untrue

To judge the severity of the harassment, the Coordinator/Principal may take into consideration:

- a. How the misconduct affected one or more students' education
  - b. The type, frequency, and duration of the misconduct
  - c. The identity, age, and sex of the harasser and the student who complained, and the relationship between them
  - d. The number of persons engaged in the harassing conduct and at whom the harassment was directed
  - e. The size of the school, location of the incidents, and context in which they occurred
  - f. Other incidents at the school involving different students
- 8. Written Report on Findings and Follow-Up:** No more than 30 days after receiving the complaint, the Coordinator/Principal shall conclude the investigation and prepare a written report of his/her findings. This timeline may be extended for good cause. If an extension is needed, the Coordinator/Principal shall notify the student who complained and explain the reasons for the extension.

Note: In its September 2008 publication, Sexual Harassment: It's Not Academic, OCR states that the appropriate steps and responsive measures to remedy a violation should be tailored to the specific situation. Examples of appropriate measures might include the development of new policies, counseling, training, separating the victim and the harasser, or providing services to the student who was harassed, such as tutoring or grade adjustment.

**SEXUAL HARASSMENT (continued)**

The report shall include the decision and the reasons for the decision and shall summarize the steps taken during the investigation. If it is determined that harassment occurred, the report shall also include any corrective actions that have or will be taken to address the harassment and prevent any retaliation or further harassment. This report shall be presented to the student who complained, the person accused, the parents/guardians of the student who complained and the student who was accused, and the Superintendent or designee.

In addition, the Coordinator/Principal shall ensure that the harassed student and his/her parent/guardian are informed of the procedures for reporting any subsequent problems. The Coordinator/Principal shall make follow-up inquiries to see if there have been any new incidents or retaliation and shall keep a record of this information.

**Enforcement of District Policy**

The Superintendent or designee shall take appropriate actions to reinforce the district's sexual harassment policy. As needed, these actions may include any of the following:

1. Removing vulgar or offending graffiti

*(cf. 5131.5 - Vandalism and Graffiti)*

Note: Government Code 12950.1 requires any district with 50 or more employees to provide two hours of sexual harassment training and education to supervisory employees once every two years. See AR 4119.11/4219.11/4319.11 - Sexual Harassment. In addition, in its April 2011 Dear Colleague Letter: Sexual Violence, OCR underlies the importance of training in preventing and responding to sexual harassment and encourages districts to provide training to all segments of the school community.

2. Providing training to students, staff, and parents/guardians about how to recognize harassment and how to respond

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

3. Disseminating and/or summarizing the district's policy and regulation regarding sexual harassment

4. Consistent with the laws regarding the confidentiality of student and personnel records, communicating the school's response to parents/guardians and the community

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

*(cf. 5125 - Student Records)*



## **SEXUAL HARASSMENT (continued)**

### **5. Taking appropriate disciplinary action**

In addition, disciplinary measures may be taken against any person who is found to have made a complaint of sexual harassment which he/she knew was not true.

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

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

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

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

### **Notifications**

Note: In its January 2001 Revised Sexual Harassment Guidance, OCR states that a procedure for sexual harassment complaints cannot be prompt or equitable unless it is widely disseminated and written in language appropriate to the age of the school's students so that students understand how it works. Examples include having copies of the procedures available throughout the school, publishing the procedures in the student handbook, and identifying individuals who can explain how the procedure works.

A copy of the district's sexual harassment policy and regulation shall:

1. Be included in the notifications that are sent to parents/guardians at the beginning of each school year (Education Code 48980; 5 CCR 4917)

*(cf. 5145.6 - Parental Notifications)*

2. Be displayed in a prominent location in the main administrative building or other area where notices of district rules, regulations, procedures, and standards of conduct are posted, including school web sites (Education Code 231.5)
3. Be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session (Education Code 231.5)
4. Appear in any school or district publication that sets forth the school's or district's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)

Note: Items #5 and #6 below are optional.

5. Be included in the student handbook
6. Be provided to employees and employee organizations

# **Administrative Regulation**

## **Sexual Harassment**

**AR 5145.7**

### **Students**

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature made against another person of the same or opposite sex in the educational setting, when made on the basis of sex and under any of the following conditions: (Education Code 212.5; 5 CCR 4916)

1. Submission to the conduct is explicitly or implicitly made a term or condition of a student's academic status or progress
2. Submission to or rejection of the conduct by a student is used as the basis for academic decisions affecting the student
3. The conduct has the purpose or effect of having a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment
4. Submission to or rejection of the conduct by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through any district program or activity

Examples of types of conduct which are prohibited in the district and which may constitute sexual harassment include, but are not limited to:

1. Unwelcome leering, sexual flirtations, or propositions
2. Unwelcome sexual slurs, epithets, threats, verbal abuse, derogatory comments, or sexually degrading descriptions
3. Graphic verbal comments about an individual's body or overly personal conversation
4. Sexual jokes, derogatory posters, notes, stories, cartoons, drawings, pictures, obscene gestures, or computer-generated images of a sexual nature
5. Spreading sexual rumors
6. Teasing or sexual remarks about students enrolled in a predominantly single-sex

class

7. Massaging, grabbing, fondling, stroking, or brushing the body
8. Touching an individual's body or clothes in a sexual way
9. Impeding or blocking movements or any physical interference with school activities when directed at an individual on the basis of sex
10. Displaying sexually suggestive objects

#### **School-Level Complaint Process/Grievance Procedure**

1. **Notice and Receipt of Complaint:** Any student who believes he/she has been subjected to sexual harassment or who has witnessed sexual harassment may file a complaint with any school employee. Within 24 hours of receiving a complaint, the school employee shall report it to the district Coordinator for Nondiscrimination/Principal. In addition, any school employee who observes any incident of sexual harassment involving a student shall, within 24 hours, report this observation to the Coordinator/Principal, whether or not the victim files a complaint.

In any case of sexual harassment involving the Coordinator/Principal to whom the complaint would ordinarily be made, the employee who receives the student's report or who observes the incident shall instead report to the Superintendent or designee.

2. **Initiation of Investigation:** The Coordinator/Principal shall initiate an impartial investigation of an allegation of sexual harassment within five school days of receiving notice of the harassing behavior, regardless of whether a formal complaint has been filed. The district shall be considered to have "notice" of the need for an investigation upon receipt of information from a student who believes he/she has been subjected to harassment, the student's parent/guardian, an employee who received a complaint from a student, or any employee or student who witnessed the behavior.

If the Coordinator/Principal receives an anonymous complaint or media report about alleged sexual harassment, he/she shall consider the specificity and reliability of the information, the seriousness of the alleged incident, and whether any individuals can be identified who were subjected to the alleged harassment in determining whether it is reasonable to pursue an investigation.

3. **Initial Interview with Student:** When a student or parent/guardian has complained or provided information about sexual harassment, the Coordinator/Principal shall describe the district's grievance procedure and discuss what actions are being sought by the student in response to the complaint. The student who is complaining shall have an opportunity to describe the incident, identify witnesses who may have relevant information, provide other evidence of the harassment, and put his/her complaint in writing. If the student requests confidentiality, he/she shall be informed that such a

request may limit the district's ability to investigate.

**4. Investigation Process:** The Coordinator/Principal shall keep the complaint and allegation confidential, except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

The Coordinator/Principal shall interview individuals who are relevant to the investigation, including, but not limited to, the student who is complaining, the person accused of harassment, anyone who witnessed the reported harassment, and anyone mentioned as having relevant information. The Coordinator/Principal may take other steps such as reviewing any records, notes, or statements related to the harassment or visiting the location where the harassment is alleged to have taken place.

When necessary to carry out his/her investigation or to protect student safety, the Coordinator/Principal also may discuss the complaint with the Superintendent or designee, the parent/guardian of the student who complained, the parent/guardian of the alleged harasser if the alleged harasser is a student, a teacher or staff member whose knowledge of the students involved may help in determining who is telling the truth, law enforcement and/or child protective services, and district legal counsel or the district's risk manager.

(cf. 5141.4 - Child Abuse Prevention and Reporting)

**5. Interim Measures:** The Coordinator/Principal shall determine whether interim measures are necessary during and pending the results of the investigation, such as placing students in separate classes or transferring a student to a class taught by a different teacher.

**6. Optional Mediation:** In cases of student-to-student harassment, when the student who complained and the alleged harasser so agree, the Coordinator/Principal may arrange for them to resolve the complaint informally with the help of a counselor, teacher, administrator, or trained mediator. The student who complained shall never be asked to work out the problem directly with the accused person unless such help is provided and both parties agree, and he/she shall be advised of the right to end the informal process at any time.

**7. Factors in Reaching a Determination:** In reaching a decision about the complaint, the Coordinator/Principal may take into account:

- a. Statements made by the persons identified above
- b. The details and consistency of each person's account
- c. Evidence of how the complaining student reacted to the incident
- d. Evidence of any past instances of harassment by the alleged harasser

- e. Evidence of any past harassment complaints that were found to be untrue

To judge the severity of the harassment, the Coordinator/Principal may take into consideration:

- a. How the misconduct affected one or more students' education
- b. The type, frequency, and duration of the misconduct
- c. The identity, age, and sex of the harasser and the student who complained, and the relationship between them
- d. The number of persons engaged in the harassing conduct and at whom the harassment was directed
- e. The size of the school, location of the incidents, and context in which they occurred
- f. Other incidents at the school involving different students

8. **Written Report on Findings and Follow-Up:** No more than 30 days after receiving the complaint, the Coordinator/Principal shall conclude the investigation and prepare a written report of his/her findings. This timeline may be extended for good cause. If an extension is needed, the Coordinator/Principal shall notify the student who complained and explain the reasons for the extension.

The report shall include the decision and the reasons for the decision and shall summarize the steps taken during the investigation. If sexual harassment occurred, the report shall also include any corrective actions that have or will be taken to address the harassment and prevent any retaliation or further harassment. This report shall be presented to the student who complained, the person accused, the parents/guardians of the student who complained and the student who was accused, and the Superintendent or designee.

In addition, the Coordinator/Principal shall ensure that the harassed student and his/her parent/guardian are informed of the procedures for reporting any subsequent problems. The Coordinator/Principal shall also make follow-up inquiries to see if there have been any new incidents or retaliation and shall keep a record of this information.

#### **Enforcement of District Policy**

The Superintendent or designee shall take appropriate actions to reinforce the district's sexual harassment policy. As needed, these actions may include any of the following:

- 1. Removing vulgar or offending graffiti

(cf. 5131.5 - Vandalism, Theft, and Graffiti)

2. Providing training to students, staff, and parents/guardians about how to recognize harassment and how to respond

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

3. Disseminating and/or summarizing the district's policy and regulation regarding sexual harassment

4. Consistent with the laws regarding the confidentiality of student and personnel records, communicating the school's response to parents/guardians and the community

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

(cf. 5125 - Student Records)

5. Taking appropriate disciplinary action

In addition, disciplinary measures may be taken against any person who is found to have made a complaint of sexual harassment which he/she knew was not true.

(cf. 4118 - Suspension/Disciplinary Action)

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

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

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

#### Notifications

A copy of the district's sexual harassment policy and regulation shall:

1. Be included in the notifications that are sent to parents/guardians at the beginning of each school year (Education Code 48980; 5 CCR 4917)

(cf. 5145.6 - Parental Notifications)

2. Be displayed in a prominent location in the main administrative building or other area where notices of district rules, regulations, procedures, and standards of conduct are posted (Education Code 231.5)

3. Be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session (Education Code 231.5)

4. Appear in any school or district publication that sets forth the school's or district's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)
5. Be included in the student handbook
6. Be provided to employees and employee organizations

Regulation      CENTER UNIFIED SCHOOL DISTRICT  
approved: June 3, 2009      Antelope, California

**EXTRACURRICULAR AND COCURRICULAR ACTIVITIES**

The Governing Board recognizes that extracurricular and cocurricular activities enrich the educational and social development of students and enhance students' feelings of connectedness with the schools. The district shall encourage and support student participation in extracurricular and cocurricular activities without compromising the integrity and purpose of the educational program.

*(cf. 1330 - Use of School Facilities)*

*(cf. 5137 - Positive School Climate)*

*(cf. 6145.2 - Athletic Competition)*

*(cf. 5148.2 - Before/After School Programs)*

Note: Pursuant to various provisions of state and federal law (e.g., Education Code 220; Government Code 11135; 20 USC 1681-1688; 42 USC 2000d-2000d-7 and 12101-12213; 29 USC 794), discrimination in education programs and activities is unlawful when it is based on certain actual or perceived characteristics of an individual; see BP 0410 - Nondiscrimination in District Programs and Activities.

No extracurricular or cocurricular program or activity shall be provided or conducted separately on the basis of any actual or perceived characteristic listed as a prohibited category of discrimination in state or federal law, nor shall any student's participation in an extracurricular or cocurricular activity be required or refused on those bases. Prerequisites for student participation in extracurricular and cocurricular activities shall be limited to those that have been demonstrated to be essential to the success of the activity. (5 CCR 4925)

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

*(cf. 5145.3 - Nondiscrimination/Harassment)*

*(cf. 5145.7 - Sexual Harassment)*

*(cf. 6145.5 - Student Organizations and Equal Access)*

Any complaint alleging unlawful discrimination in the district's extracurricular or cocurricular programs or activities shall be filed in accordance with BP/AR 1312.3 - Uniform Complaint Procedures.

*(cf. 1312.3 - Uniform Complaint Procedures)*

Note: The courts have interpreted California's constitutional "free school" guarantee, as specified in Article 9, Section 5, to extend to all activities which constitute an integral part of a student's education, including extracurricular activities. Pursuant to 5 CCR 350, constitutionally permissible fees may be charged only when specifically authorized by law, and any other fees charged for "educational activities" would be unconstitutional. However, the line between "educational activities" (no fees) and "recreational activities" (fees permissible) is not always clear. In Hartzell v. Connell, the California Supreme Court held that "educational activities" include extracurricular activities, drama productions, vocal music groups, instrumental groups, and cheerleading. Examples of "recreational activities" include attendance at weekend dances or athletic events. It is important to note that the Court in Hartzell determined that a district policy allowing for waivers of the fee based on financial need or inability to pay does not render the fee constitutional. For further information, see BP/AR 3260 - Fees and Charges and CSBA's advisory Student Fees Litigation Update. Districts are advised to seek legal counsel before charging fees for any activity which may be construed as related to the educational program.



## **EXTRACURRICULAR AND COCURRICULAR ACTIVITIES (continued)**

Unless specifically authorized by law, no fee shall be charged to students for participation in extracurricular and cocurricular activities related to the educational program, including materials or equipment related to the activity.

*(cf. 3260 - Fees and Charges)*

*(cf. 3452 - Student Activity Funds)*

### **Eligibility Requirements**

Note: If the district maintains any of grades 7-12, Education Code 35160.5 mandates the Governing Board to adopt policy establishing eligibility requirements for student participation in extracurricular and cocurricular activities in grades 7-12. Pursuant to Education Code 35160.5, students must demonstrate "satisfactory educational progress," as provided in items #1-2 below, but districts may adopt stricter academic eligibility criteria provided such action is taken at a public meeting in accordance with Education Code 35145. Districts that have adopted stricter criteria should modify the following paragraph accordingly.

To be eligible to participate in extracurricular and cocurricular activities, students in grades 7-12 must demonstrate satisfactory educational progress in the previous grading period, including, but not limited to: (Education Code 35160.5)

1. Maintenance of a minimum of 2.0 grade point average on a 4.0 scale in all enrolled classes
2. Maintenance of minimum progress toward meeting high school graduation requirements

*(cf. 5121 - Grades/Evaluation of Student Achievement)*

*(cf. 6146.1 - High School Graduation Requirements)*

*(cf. 6162.52 - High School Exit Examination)*

The Superintendent or designee may grant ineligible students a probationary period not to exceed one semester. Students granted probationary eligibility must meet the required standards by the end of the probationary period in order to remain eligible for participation. (Education Code 35160.5)

Note: Education Code 48850 specifies that, when the residence of a student in foster care changes pursuant to a court order or decision of a child welfare worker, the student shall be immediately deemed to meet all residency requirements for participation in extracurricular activities and interscholastic sports; see AR 6173.1 - Education for Foster Youth.

In addition, Education Code 49700-49701 establish a uniform means of assisting children of active duty military families transferred from one state to another, by reducing or eliminating the barriers to their educational success caused by the frequent moves and deployments of their parents/guardians. Among other things, Education Code 49701 requires flexibility of districts' local rules to facilitate eligibility for extracurricular activities. See BP/AR 6173.2 - Education of Children of Military Families.

## **EXTRACURRICULAR AND COCURRICULAR ACTIVITIES (continued)**

Any decision regarding the eligibility of any child in foster care or a child of an active duty military family for extracurricular or cocurricular activities shall be made by the Superintendent or designee in accordance with Education Code 48850 and 49701.

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

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

The Superintendent or designee may revoke a student's eligibility for participation in extracurricular and cocurricular activities when the student's poor citizenship is serious enough to warrant loss of this privilege.

### **Student Conduct at Extracurricular/Cocurricular Events**

Note: The following paragraph is optional. Pursuant to Education Code 35181, the Board has authority to set expectations and/or rules for student attendance, academic performance, in-school behavior, and any other aspect of school life that it deems relevant to maintaining order in district schools.

When attending or participating in extracurricular and cocurricular activities on or off campus, district students are subject to district policies and regulations relating to student conduct. Students who violate district policies and regulations may be subject to discipline including, but not limited to, suspension, expulsion, transfer to alternative programs, or denial of participation in extracurricular or cocurricular activities in accordance with Board policy and administrative regulation. When appropriate, the Superintendent or designee shall notify local law enforcement.

*(cf. 5131 - Conduct)*

*(cf. 5131.1 - Bus Conduct)*

*(cf. 5144 - Discipline)*

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

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

### **Annual Policy Review**

Note: Education Code 35160.5 requires annual review of this policy, as it relates to the participation of students in grades 7-12 in extracurricular and cocurricular activities. The following paragraph is optional for districts without any of grades 7-12.

The Board shall annually review this policy and implementing regulations.

*Legal Reference: (see next page)*

## EXTRACURRICULAR AND COCURRICULAR ACTIVITIES (continued)

### *Legal Reference:*

#### EDUCATION CODE

35145 *Public meetings*

35160.5 *District policy rules and regulations; requirements; matters subject to regulation*

35179 *Interscholastic athletics; associations or consortia*

35181 *Students' responsibilities*

48850 *Participation of foster youth in extracurricular activities and interscholastic sports*

48930-48938 *Student organizations*

49024 *Activity Supervisor Clearance Certificate*

49700-49704 *Education of children of military families*

#### CALIFORNIA CONSTITUTION

*Article 9, Section 5 Common school system*

#### CODE OF REGULATIONS, TITLE 5

350 *Fees not permitted*

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

5531 *Supervision of extracurricular activities of pupils*

#### UNITED STATES CODE, TITLE 42

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

#### COURT DECISIONS

*Hartzell v. Connell*, (1984) 35 Cal. 3d 899

### *Management Resources:*

#### CSBA PUBLICATIONS

*Student Fees Litigation Update*, ELA Advisory, May 20, 2011

#### CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

*Pupil Fees, Deposits, or Other Charges*, Fiscal Management Advisory 11-01, November 9, 2011

#### CALIFORNIA TASK FORCE REPORT TO THE LEGISLATURE

*Compact on Educational Opportunity for Military Children: Preliminary Final Report*, March 2009

#### COMMISSION ON TEACHER CREDENTIALING CODED CORRESPONDENCE

10-11 *Information on Assembly Bill 346 Concerning the Activity Supervisor Clearance Certificate (ASCC)*, July 20, 2010

#### WEB SITES

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

California Association of Directors of Activities: <http://www.cadal.org>

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

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

# **Board Policy**

## **Extracurricular And Cocurricular Activities**

**BP 6145**

### **Instruction**

The Governing Board recognizes that extracurricular and cocurricular activities enrich the educational and social development and experiences of students. The district shall encourage and support student participation in extracurricular and cocurricular activities without compromising the integrity and purpose of the educational program.

No extracurricular or cocurricular program or activity shall be provided or conducted separately, and no district student's participation in extracurricular and cocurricular activities shall be required or refused, based on the student's sex, gender, sexual orientation, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability. Requirements for participation in extracurricular and cocurricular activities shall be limited to those that are essential to the success of the activity. (5 CCR 4925)

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

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

Any complaint regarding the district's extracurricular and cocurricular programs or activities shall be filed in accordance with BP/AR 1312.3 - Uniform Complaint Procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

No student shall be prohibited from participating in extracurricular and cocurricular activities related to the educational program because of inability to pay fees associated with the activity.

(cf. 3260 - Fees and Charges)

### **Eligibility Requirements**

To be eligible to participate in extracurricular and cocurricular activities, students in grades 7-12 must demonstrate satisfactory educational progress in the previous grading period, including, but not limited to: (Education Code 35160.5)

1. Maintenance of a minimum of 2.0 grade point average on a 4.0 scale
2. Maintenance of minimum progress toward meeting high school graduation

## **requirements**

(cf. 5121 - Grades/Evaluation of Student Achievement)  
(cf. 6146.1 - High School Graduation Requirements)  
(cf. 6162.52 - High School Exit Examination)

The Superintendent or designee may grant ineligible students a probationary period of not more than one semester. Students granted probationary eligibility must meet the required standards by the end of the probationary period in order to remain eligible for participation.

(cf. 6164.5 - Student Success Teams)  
(cf. 6176 - Weekend/Saturday Classes)  
(cf. 6177 - Summer School)  
(cf. 6179 - Supplemental Instruction)

Any decision regarding the eligibility of any child in foster care or a child of a military family for extracurricular or cocurricular activities shall be made by the Superintendent or designee in accordance with Education Code 48850 and 49701.

(cf. 6173.1 - Education for Foster Youth)  
(cf. 6173.2 - Education of Children of Military Families)

The Superintendent or designee may revoke a student's eligibility for participation in extracurricular and cocurricular activities when the student's poor citizenship is serious enough to warrant loss of this privilege.

## **Student Conduct at Extracurricular/Cocurricular Events**

When attending or participating in extracurricular and/or cocurricular activities on or off campus, district students are subject to district policies and regulations relating to student conduct. Students who violate district policies and regulations may be subject to discipline including, but not limited to, suspension, expulsion, transfer to alternative programs, or denial of participation in extracurricular or cocurricular activities in accordance with Board policy and administrative regulation. When appropriate, the Superintendent or designee shall notify local law enforcement.

(cf. 5131 - Conduct)  
(cf. 5131.1 - Bus Conduct)  
(cf. 5144 - Discipline)  
(cf. 5144.1 - Suspension and Expulsion/Due Process)  
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))  
(cf. 6145.2 - Athletic Competition)

## **Annual Policy Review**

**The Board shall annually review this policy and implementing regulations.**

**Legal Reference:**

**EDUCATION CODE**

**35145 Public meetings**

**35160.5 District policy rules and regulations; requirements; matters subject to regulation**

**35179 Interscholastic athletics; associations or consortia**

**35181 Students' responsibilities**

**48850 Participation of foster youth in extracurricular activities and interscholastic sports**

**48930-48938 Student organizations**

**49700-49704 Education of children of military families**

**CODE OF REGULATIONS, TITLE 5**

**350 Fees not permitted**

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

**5531 Supervision of extracurricular activities of pupils**

**UNITED STATES CODE, TITLE 42**

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

**COURT DECISIONS**

**Hartzell v. Connell, (1984) 35 Cal. 3d 899**

**Management Resources:**

**CALIFORNIA TASK FORCE REPORT TO THE LEGISLATURE**

**Compact on Educational Opportunity for Military Children: Preliminary Final Report, March 2009**

**WEB SITES.**

**California Association of Directors of Activities: <http://www.cadal.org>**

**California Department of Education, Educational Options Office:  
<http://www.cde.ca.gov/ls/pf/mc>**

**California Department of Education, Foster Youth Services:  
<http://www.cde.ca.gov/ls/pf/fy/>**

**Policy CENTER UNIFIED SCHOOL DISTRICT  
adopted: February 17, 2010 Antelope, California**

## **EXTRACURRICULAR AND COCURRICULAR ACTIVITIES**

### **Definitions**

For purposes of applying eligibility criteria for student participation, extracurricular and cocurricular activities shall be defined as follows: (Education Code 35160.5)

1. *Extracurricular activities* are not part of the regular school curriculum, are not graded, do not offer credit, do not take place during classroom time, and have all of the following characteristics:
  - a. The program is supervised or financed by the school district.
  - b. Students participating in the program represent the school district.
  - c. Students exercise some degree of freedom in the selection, planning, or control of the program.
  - d. The program includes both preparation for performance and performance before an audience or spectators.
2. *Cocurricular activities* are programs that may be associated with the curriculum in a regular classroom.

An activity is not an extracurricular or cocurricular activity if either of the following conditions applies: (Education Code 35160.5)

1. It is a teacher-graded or required program or activity for a course which satisfies the entrance requirements for admission to the California State University or the University of California.

(*cf. 6143 - Courses of Study*)

2. It is a program that has as its primary goal the improvement of academic or educational achievement of students.

### **Eligibility Requirements**

The grade point average (GPA) used to determine eligibility for extracurricular and cocurricular activities shall be based on grades of the last previous grading period during which the student attended class at least a majority of the time. If a student was not in attendance for all, or a majority of, the grading period due to absences excused by the school for reasons such as serious illness or injury, approved travel, or work, the GPA used to determine eligibility shall be the grading period immediately prior to the excluded grading period(s). (Education Code 35160.5)

(*cf. 5113 - Absences and Excuses*)

**EXTRACURRICULAR AND COCURRICULAR ACTIVITIES (continued)**

Note: The following paragraph is **optional**. Districts that do not allow a probationary period as authorized by Education Code 35160.5 (see the accompanying Board policy) should revise the following paragraph accordingly.

When a student becomes ineligible to participate in extracurricular or cocurricular activities in the upcoming grading period, or when he/she is subject to probation, the principal or designee shall provide written notice to the student and his/her parent/guardian.

**Supervision**

All extracurricular activities conducted under the name or auspices of a district school or any class or organization of the school, regardless of where the activities are held, shall be under the direct supervision of certificated employees. (5 CCR 5531)

Note: Education Code 49024 requires any noncertificated person who works with students in a district-sponsored student activity program, whether in a paid or volunteer position, to obtain an Activity Supervisor Clearance Certificate from the Commission on Teacher Credentialing, unless the district requires the person to clear a Department of Justice and Federal Bureau of Investigation criminal background check prior to beginning the duties. "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. Also see BP/AR 1240 - Volunteer Assistance and BP 4127/4227/4327 - Temporary Athletic Team Coaches.

Any noncertificated person working with students in a district-sponsored extracurricular student activity program shall ~~possess an Activity Supervisor Clearance Certificate from the Commission on Teacher Credentialing or~~ shall have cleared a Department of Justice and Federal Bureau of Investigation criminal background check prior to beginning his/her duties, in accordance with BP 4127/4227/4327 - Temporary Athletic Team Coaches. (Education Code 49024)

*(cf. 1240 - Volunteer Assistance)*

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

*(cf. 4212.5 - Criminal Record Check)*



# **Administrative Regulation**

## **Extracurricular and Cocurricular Activities - Junior High School**

**AR 6145**

### **Instruction**

The intent of this policy is to foster academic excellence by emphasizing that the primary responsibility of each student is to meet the academic challenge of learning.

Extracurricular and cocurricular activities are an integral, but supplemental, part of the educational program and are encouraged as a way to enhance academic and career goals.

In order to participate in extracurricular or cocurricular activities at Center Junior High School, the student must meet the following standards:

1. The student must maintain a minimum 2.0 overall grade point average (GPA), on a 4.0 scale, in all enrolled courses.
2. The student must have no "F" grades on the preceeding quarter's report card.
3. All incoming 7th graders must meet the 2.0 GPA requirement to participate in extracurricular or cocurricular activities.
4. All eighth graders and repeating 7th graders must meet the minimum 2.0 GPA requirement to participate in extracurricular and cocurricular activities.

**Method of Appeal.** A student may appeal any decision made pursuant to this policy before an independent academic committee made up of administration and faculty. Subject to review and approval by the school principal, the decision of this committee shall be final.

**Determining Eligibility.** Eligibility to participate in extracurricular and cocurricular activities shall be determined by the student's report card grades at the end of the quarter preceeding the activity.

**Discipline.** Students who are a discipline problem at school will be subject to discipline by their extracurricular/cocurricular coach/advisor as follows:

1. A student who has been placed in in-school detention or has been suspended from school is suspended from participation in extracurricular/cocurricular activities for five (5) days.
2. Upon a second in-school detention or school suspension, the student will be dropped from a sport or activity for the remainder of the sport or activity.

**Friday Reports.** Students whose parents have requested a Friday Report will be monitored by their parents. Continued participation in a given extracurricular/cocurricular activity based upon that report, shall be the parents' decision, and not the decision of the coach/advisor.

**Definitions.** Extracurricular, cocurricular and curricular activities have been defined by the Education Code as follows:

1. "....an 'extracurricular activity' is not part of the regular school curriculum, is not graded, does not offer credit, and does not take place during classroom time." (Education Code 35160.5)
2. "A 'cocurricular activity' is defined as a program that may be associated with the curriculum in a regular classroom." (Education Code 35160.5)
3. "A program that has, at its primary goal, the improvement of academic or educational achievements of pupils is not an extracurricular or cocurricular activity..." (Education Code 35160.5)

Activities required in courses such as modern dance, band, orchestra, choir, and drama, or an educational field trip in other approved courses may be classified as curricular.

There are some activities that fit none of the criteria of Education Code 35160.5 and are not affected by this policy. The most common of those activities at Center Junior High School would be social activities such as noncurricular clubs, dances, etc.

A more detailed account of the definitions under Education Code 35160.5 is available from the school principal upon request.

Regulation  
approved: June 3, 1987

CENTER UNIFIED SCHOOL DISTRICT  
Antelope, California

**INDIVIDUALIZED EDUCATION PROGRAM**

**Note:** The following mandated administrative regulation reflects the federal Individuals with Disabilities Education Act (IDEA) (20 USC 1400-1482), implementing federal regulations (34 CFR 300.1-300.818), and conforming state legislation. Note that in cases where state law provides greater protections, state law supersedes federal law.

Pursuant to Education Code 56302.5, the term "assessment" as used in state law has the same meaning as "evaluation" provided in 20 USC 1414. The following administrative regulation uses the terms interchangeably.

At the beginning of each school year, the district shall have an individualized education program (IEP) in effect for each student with a disability within district jurisdiction. The IEP shall be a written statement designed by the IEP team to meet the unique educational needs of a student with a disability. (Education Code 56344; 34 CFR 300.323)

**Members of the IEP Team**

The IEP team for any student with a disability shall include the following members: (Education Code 56341, 56341.5; 20 USC 1414(d)(1); 34 CFR 300.321)

1. One or both of the student's parents/guardians and/or a representative selected by them
2. If the student is or may be participating in the regular education program, at least one of the student's regular education teachers designated by the Superintendent or designee to represent the student's teachers

The regular education teacher shall, to the extent appropriate, participate in the development, review, and revision of the student's IEP, including assisting in the determination of appropriate positive behavioral interventions, supports, and other strategies for the student, and supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student, consistent with 34 CFR 300.320. (Education Code 56341; 20 USC 1414(d)(3)(C); 34 CFR 300.324)

*(cf. 6159.4 - Behavioral Interventions for Special Education Students)*

3. At least one of the student's special education teachers or, where appropriate, special education providers
4. A representative of the district who is:
  - a. Qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities
  - b. Knowledgeable about the general education curriculum

**INDIVIDUALIZED EDUCATION PROGRAM (continued)**

- c. Knowledgeable about the availability of district and/or special education local plan area (SELPA) resources

*(cf. 0430 - Comprehensive Local Plan for Special Education)*

5. An individual who can interpret the instructional implications of assessment results

This individual may already be a member of the team as described in items #2-4 above or in item #6 below.

Note: Pursuant to Education Code 56341 and 34 CFR 300.321, the determination as to whether an individual identified in item #6 below has "knowledge or special expertise" must be made by the party (either the district or parent/guardian) who invites the individual to the IEP team meeting.

The Analysis of Comments to the federal regulations, 71 Fed. Reg. 156, pg. 46670, explains that a person who does not have knowledge and special expertise regarding the student, and who is not requested to be present at the IEP team meeting by the parent/guardian or district, would not be permitted to be a member of the team or attend the meeting as an observer. This comment is consistent with an Attorney General opinion (85 Ops.Cal.Atty.Gen. 157 (2002)) which stated that members of the media may not attend an IEP team meeting as observers even though the parents/guardians have consented to such attendance. The Attorney General based this decision on the fact that the media would be "observers," not a "person with knowledge or expertise," as detailed below.

6. At the discretion of the parent/guardian or the Superintendent or designee, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate

The determination of whether the individual has knowledge or special expertise regarding the student shall be made by the party who invites the individual to be a member of the IEP team.

7. Whenever appropriate, the student with a disability

In the development, review, or revision of his/her IEP, the student shall be allowed to provide confidential input to any representative of his/her IEP team. (Education Code 56341.5)

8. When the student is suspected of having a specific learning disability, at least one individual who is qualified to conduct individual diagnostic examinations of the student such as a school psychologist, speech language pathologist, or remedial reading teacher

**INDIVIDUALIZED EDUCATION PROGRAM (continued)**

In accordance with 34 CFR 300.310, at least one team member other than the student's regular education teacher shall observe the student's academic performance and behavior in the areas of difficulty in his/her learning environment, including in the regular classroom setting. If the child is younger than five years or not enrolled in school, a team member shall observe the child in an environment appropriate for a child of that age.

Note: The requirement for a district to request the participation of a county mental health agency in the IEP team before it refers a student to the county mental health agency has been eliminated due to the repeal of Education Code 56331 by AB 114 (Ch. 43, Statutes of 2011), effective January 1, 2012.

In the following circumstances, the Superintendent or designee shall invite other specified individuals to an IEP team meeting:

1. When the student has been placed in a group home by the juvenile court, a representative of the group home shall be invited to attend IEP team meetings. (Education Code 56341.2)
2. Whenever the IEP team is meeting to consider the student's postsecondary goals and the transition services needed to assist him/her in reaching the goals as stated in Education Code 56345(a)(8), the following individuals shall be invited to attend: (34 CFR 300.321)
  - a. The student, regardless of his/her age
 

If the student does not attend the IEP team meeting, the Superintendent or designee shall take other steps to ensure that the student's preferences and interests are considered.
  - b. To the extent appropriate, and with the consent of the parent/guardian, a representative of any other agency that is likely to be responsible for providing or paying for the transition services
3. If the student was previously served under the Early Education for Individuals with Exceptional Needs (Education Code 56425-56432) or the California Early Intervention Services Act (Government Code 95000-95004), and upon request of the student's parent/guardian, the Superintendent or designee shall invite the Infant and Toddlers with Disabilities Coordinator or other representative of the early education or early intervention system to the initial IEP team meeting to assist with the smooth transition of services. (Education Code 56341; 20 USC 1414(d)(1)(D); 34 CFR 300.321)

**INDIVIDUALIZED EDUCATION PROGRAM (continued)**

A member of the IEP team shall not be required to attend an IEP team meeting, in whole or in part, if the parent/guardian and the district agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting. Even if the meeting involves a discussion of the IEP team member's area of the curriculum or related service, the member may be excused from the meeting if the parent/guardian, in writing, and the district consent to the excusal after conferring with the member and the member submits to the parent/guardian and team written input into the development of the IEP prior to the meeting. (Education Code 56341; 20 USC 1414(d)(1)(C); 34 CFR 300.321)

**Contents of the IEP**

The IEP shall include, but not be limited to, all of the following: (Education Code 56043, 56345, 56345.1; 20 USC 1414(d)(1)(A); 34 CFR 300.320)

1. A statement of the present levels of the student's academic achievement and functional performance, including:
  - a. The manner in which the student's disability affects his/her involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled students)
  - b. For a preschool child, as appropriate, the manner in which the disability affects his/her participation in appropriate activities
  - c. For a student with a disability who takes alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives

Note: Education Code 56345 requires a statement of a student's academic and functional goals, as specified below, and expresses legislative recognition that, although some students with disabilities may not meet the growth projected in the annual goals and objectives, districts must make a good faith effort to assist them in achieving the goals in their IEP.

2. A statement of measurable annual goals, including academic and functional goals, designed to:
  - a. Meet the student's needs that result from his/her disability in order to enable the student to be involved in and progress in the general education curriculum
  - b. Meet each of the student's other educational needs that result from his/her disability

**INDIVIDUALIZED EDUCATION PROGRAM (continued)**

3. A description of the manner in which the student's progress toward meeting the annual goals described in item #2 above will be measured and when the district will provide periodic reports on the progress the student is making toward meeting the annual goals, such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards
4. A statement of the special education instruction and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student to:
  - a. Advance appropriately toward attaining the annual goals
  - b. Be involved and make progress in the general education curriculum in accordance with item #1 above and to participate in extracurricular and other nonacademic activities
  - c. Be educated and participate with other students with disabilities and nondisabled students in the activities described in the IEP

*(cf. 3541.2 - Transportation for Students with Disabilities)*

5. An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in extracurricular and other nonacademic activities described in the IEP

Note: Pursuant to 20 USC 1412(a), students with disabilities must be included in state and district assessments, such as the Standardized Testing and Reporting Program (STAR) (Education Code 60640-60649) and the California High School Exit Examination (Education Code 60850-60859), with appropriate accommodations. However, with respect to such assessments, exceptions exist. For example, pursuant to Education Code 60640 and 5 CCR 850, a student with disabilities may be exempted from the STAR program by his/her parents/guardians and may be eligible for an alternate assessment in accordance with his/her IEP. In addition, pursuant to Education Code 60852.3, students with disabilities are currently exempted from the requirement to pass the high school exit exam as a condition of receiving a diploma. For specific program requirements, exceptions, waivers, and permitted accommodations concerning such state or districtwide assessments, see AR 6162.51 - Standardized Testing and Reporting Program and AR 6162.52 - High School Exit Examination.

34 CFR 300.320 and Education Code 56345 require a description of the individual accommodations that will be used by the student and, if the student will not participate in the regular assessment, a statement as to the reason for that determination and what alternate assessment will be provided.

**INDIVIDUALIZED EDUCATION PROGRAM (continued)**

6. A statement of any appropriate individual accommodations necessary to measure the academic achievement and functional performance of the student on state and districtwide assessments

If the IEP team determines that the student shall take an alternate assessment instead of a particular regular state or districtwide assessment, the student's IEP also shall include a statement of the reason that he/she cannot participate in the regular assessment and the reason that the particular alternate assessment selected is appropriate for him/her.

*(cf. 6146.4 - Differential Graduation and Competency Standards for Students with Disabilities)*

*(cf. 6162.51 - Standardized Testing and Reporting Program)*

*(cf. 6162.52 - High School Exit Examination)*

7. The projected date for the beginning of the services and modifications described in item #4 above and the anticipated frequency, location, and duration of those services and modifications
8. Beginning not later than the first IEP to be in effect when the student is 16 years of age, or younger if determined appropriate by the IEP team, and updated annually thereafter, the following:
  - a. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills
  - b. The transition services, including courses of study, needed to assist the student in reaching those goals
9. Beginning at least one year before the student reaches age 18, a statement that the student has been informed of his/her rights, if any, that will transfer to him/her upon reaching age 18, pursuant to Education Code 56041.5

Where appropriate, the IEP shall also include: (Education Code 56345)

1. For a student in grades 7-12, any alternative means and modes necessary for the student to complete the district's prescribed course of study and to meet or exceed proficiency standards required for graduation

*(cf. 6146.1 - High School Graduation Requirements)*

*(cf. 6146.11 - Alternative Credits Toward Graduation)*



**INDIVIDUALIZED EDUCATION PROGRAM (continued)**

2. Linguistically appropriate goals, objectives, programs, and services for a student whose native language is not English

*(cf. 6174 - Education for English Language Learners)*

3. Extended school year services when the IEP team determines, on an individual basis, that the services are necessary for the provision of a free appropriate public education (FAPE)

*(cf. 5148.2 - Before/After School Programs)*

*(cf. 6177 - Summer School)*

4. Provision for transition into the regular education program if the student is to be transferred from a special class or center or nonpublic, nonsectarian school into a regular education program in a public school for any part of the school day, including descriptions of activities intended to:

- a. Integrate the student into the regular education program, including indications of the nature of each activity and the time spent on the activity each day or week
- b. Support the transition of the student from the special education program into the regular education program

*(cf. 6176 - Weekend/Saturday Classes)*

*(cf. 6178 - Career Technical Education)*

*(cf. 6181 - Alternative Schools/Programs of Choice)*

5. Specialized services, materials, and equipment for a student with low incidence disabilities, consistent with the guidelines pursuant to Education Code 56136

**Development of the IEP**

Within 30 days of a determination that a student needs special education and related services, the Superintendent or designee shall ensure that a meeting to develop an initial IEP is conducted. (34 CFR 300.323)

Any IEP required as a result of an assessment of a student shall be developed within 60 days from the date of receipt of the parent/guardian's written consent for assessment, unless the parent/guardian agrees, in writing, to an extension. Days between the student's regular school sessions, terms, or vacation of more than five school days shall not be counted. In the case of school vacations, the 60-day time limit shall recommence on the date that the student's school days reconvene. (Education Code 56344)

**INDIVIDUALIZED EDUCATION PROGRAM (continued)**

However, when the IEP is required as a result of an assessment of a student for whom a referral has been made 30 days or less prior to the end of the preceding regular school year, the IEP shall be developed within 30 days after the commencement of the subsequent regular school year. (Education Code 56344)

In developing the IEP, the IEP team shall consider all of the following: (Education Code 56341.1, 56345; 20 USC 1414(d)(3)(A); 34 CFR 300.324)

1. The strengths of the student
2. The concerns of the parents/guardians for enhancing the education of their child
3. The results of the initial or most recent assessment of the student
4. The academic, developmental, and functional needs of the student
5. In the case of a student whose behavior impedes his/her learning or that of others, the use of positive behavioral interventions and supports and other strategies to address that behavior
6. In the case of a student with limited English proficiency, the language needs of the student as such needs relate to the student's IEP
7. In the case of a student who is blind or visually impaired, the need to provide for instruction in Braille and instruction in the use of Braille

However, such instruction need not be included in the IEP if the IEP team determines that instruction in Braille or the use of Braille is not appropriate for the student. This determination shall be based upon an assessment of the student's reading and writing skills, his/her future needs for instruction in Braille or the use of Braille, and other appropriate reading and writing media.

8. The communication needs of the student and, in the case of a student who is deaf or hard of hearing, the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode

The team shall also consider the related services and program options that provide the student with an equal opportunity for communication access, as described in Education Code 56345.

9. Whether the student requires assistive technology devices and services

**INDIVIDUALIZED EDUCATION PROGRAM (continued)**

If, in considering the special factors in items #1-9 above, the IEP team determines that the student needs a particular device or service, including an intervention, accommodation, or other program modification, in order to receive FAPE, the team shall include a statement to that effect in the student's IEP. (Education Code 56341.1)

**Provision of Special Education and Related Services**

Note: Effective January 1, 2012, AB 114 (Ch. 43, Statutes of 2011) repealed Education Code 56331 which required county mental health agencies to be responsible for providing mental health services (AB 3632 services) if required in a student's IEP. Thus, districts are solely responsible for ensuring that students with disabilities receive special education and related services to meet their needs. The CDE web site clarifies that districts may contract with county mental health agencies for the provision of some services and/or may employ their own professionals or contract with organizations or professionals in the community.

The district shall ensure that, as soon as possible following development of the IEP, special education services and related services are made available to the student in accordance with his/her IEP. (Education Code 56344; 34 CFR 300.323)

The Superintendent or designee shall ensure that the student's IEP is accessible to each regular education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation. The Superintendent or designee also shall ensure that such teachers and providers are informed of their specific responsibilities related to implementing the IEP and the specific accommodations, modifications, and supports that must be provided to the student in accordance with the IEP. (34 CFR 300.323)

**Review and Revision of the IEP**

Note: Education Code 56043 and 56380 mandate the district to maintain procedures to ensure that the IEP team reviews the IEP periodically, but at least annually, to determine whether the annual goals for the student are being achieved and, as appropriate, revises the IEP to address the conditions specified below.

The Superintendent or designee shall ensure that the IEP team reviews the IEP periodically, but at least annually, in order to: (Education Code 56043, 56341.1, 56380; 20 USC 1414(d)(4); 34 CFR 300.324)

1. Determine whether the annual goals for the student are being achieved
2. Revise the IEP, as appropriate, to address:
  - a. Any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate
  - b. The results of any reassessment conducted pursuant to Education Code 56381

**INDIVIDUALIZED EDUCATION PROGRAM (continued)**

- c. Information about the student provided to or by the parents/guardians regarding review of evaluation data pursuant to 34 CFR 300.305(a)(2) and Education Code 56381(b)
  - d. The student's anticipated needs
  - e. Any other relevant matter
3. Consider the special factors listed in items #5-9 above under "Development of the IEP," when reviewing the IEP of any student with a disability to whom one of those factors may apply

The IEP team shall also meet at any other time upon request by the student's parent/guardian or teacher to review or revise the IEP. (Education Code 56343)

When a parent/guardian requests an IEP team meeting to review the IEP, the team shall meet within 30 days of receiving the parent/guardian's written request, not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days. If a parent/guardian makes an oral request, the district shall notify the parent/guardian of the need for a written request and the procedure for filing such a request. (Education Code 56043, 56343.5)

**Note: Education Code 56195.8 mandates that the district's policy set forth procedures and timelines for the review of a classroom assignment of a student with a disability when so requested by a regular or special education teacher. Education Code 56195.8 does not state a specific deadline for the review. The following paragraph provides a timeline of 20 days for reviewing the request and 30 days for convening an IEP team meeting. The district should revise this timeline to be consistent with district practice and the policies and regulations of the SELPA in which the district participates and should specify the title of the individual responsible for the review, rather than "Superintendent or designee."**

A regular education or special education teacher may request a review of the classroom assignment of a student with a disability by submitting a written request to the Superintendent or designee. The Superintendent or designee shall consider the request within 20 days of receiving it, not counting days when school is not in session or, for year-round schools, days when the school is off track. If the review indicates a need for change in the student's placement, instruction, and/or related services, the Superintendent or designee shall convene an IEP team meeting, which shall be held within 30 days of the Superintendent or designee's review, not counting days when school is not in session or days when school is off track, unless the student's parent/guardian consents in writing to an extension of time.

If a participating agency other than the district fails to provide the transition services described in the student's IEP, the team shall reconvene to identify alternative strategies to meet the transition service objectives set out for the student in the IEP. (Education Code 56345.1; 20 USC 1414(d); 34 CFR 300.324)

## **INDIVIDUALIZED EDUCATION PROGRAM (continued)**

Note: Education Code 56157 specifies that when the district has placed a foster student in a nonpublic, nonsectarian school, the district must conduct an annual evaluation, as specified below. In addition, Education Code 56157 requires the nonpublic, nonsectarian school to report to the district regarding the educational progress made by the student.

If a student with a disability residing in a licensed children's institution or foster family home has been placed by the district in a nonpublic, nonsectarian school, the Superintendent or designee shall conduct an annual evaluation as part of the IEP process of whether the placement is the least restrictive environment that is appropriate to meet the student's needs. (Education Code 56157)

*(cf. 6159.2 - Nonpublic, Nonsectarian School and Agency Services for Special Education)*  
*(cf. 6173.1 - Education for Foster Youth)*

When an IEP calls for a residential placement as a result of a review by an expanded IEP team, the IEP shall include a provision for a review, at least every six months, by the full IEP team of the case progress, the continuing need for out-of-home placement, the extent of compliance with the IEP, and progress toward alleviating the need for out-of-home care. (Education Code 56043)

To the extent possible, the Superintendent or designee shall encourage the consolidation of reassessment meetings and other IEP team meetings for a student. (20 USC 1414(d)(3)(A); 34 CFR 300.324)

When a change is necessary to a student's IEP after the annual IEP team meeting for the school year has been held, the parent/guardian and the Superintendent or designee may agree not to convene an IEP team meeting for the purpose of making the change and instead may develop a written document to amend or modify the student's current IEP. The IEP team shall be informed of any such changes. Upon request, the Superintendent or designee shall provide the parent/guardian with a revised copy of the IEP with the incorporated amendments. (20 USC 1414(d)(3)(D); 34 CFR 300.324)

### **Audio Recording of IEP Team Meetings**

Note: Pursuant to Education Code 56341.1, parents/guardians and the district may audio record an IEP team meeting subject to certain requirements as specified in the following section. Audio recordings made by a district, SELPA, or county office of education are subject to the federal Family Educational Rights and Privacy Act (20 USC 1232g) and the confidentiality requirements of 34 CFR 300.610-300.626.

Parents/guardians and the Superintendent or designee shall have the right to audio record the proceedings of IEP team meetings, provided members of the IEP team are notified of this intent at least 24 hours before the meeting. If the Superintendent or designee gives notice of intent to audio record a meeting and the parent/guardian objects or refuses to attend because

**INDIVIDUALIZED EDUCATION PROGRAM (continued)**

the meeting would be audio recorded, the meeting shall not be audio recorded. Parents/guardians also have the right to: (Education Code 56341.1)

1. Inspect and review the audio recordings
2. Request that an audio recording be amended if they believe it contains information that is inaccurate, misleading, or in violation of the student's privacy rights or other rights
3. Challenge, in a hearing, information that the parents/guardians believe is inaccurate, misleading, or in violation of the student's privacy rights or other rights

**Parent/Guardian Participation and Other Rights**

The Superintendent or designee shall take steps to ensure that one or both of the parents/guardians of the student with a disability are present at each IEP team meeting or are afforded the opportunity to participate. These steps shall include notifying the parents/guardians of the meeting early enough to ensure that they will have the opportunity to attend and scheduling the meeting at a mutually agreed upon time and place. (Education Code 56341.5; 34 CFR 300.322)

The Superintendent or designee shall send parents/guardians notices of IEP team meetings that: (Education Code 56341.5; 34 CFR 300.322)

1. Indicate the purpose, time, and location of the meeting
2. Indicate who will be in attendance at the meeting
3. Inform them of:
  - a. Their right to bring to the meeting other individuals who have knowledge or special expertise about the student, pursuant to Education Code 56341(b)(6)
  - b. The provision of Education Code 56341(i) relating to the participation of the Infant and Toddlers with Disabilities Coordinator at the initial IEP team meeting, if the student was previously served under Early Education for Individuals with Exceptional Needs (Education Code 56425-56432) or the California Early Intervention Services Act (Government Code 95000-95004)

In addition, when the IEP team meeting is to consider the development, review, or revision of the IEP of a student with a disability who is 16 years of age or older, or younger than 16 if deemed appropriate by the IEP team, the Superintendent or designee's notice to the student's parents/guardians shall include the following: (Education Code 56341.5)

**INDIVIDUALIZED EDUCATION PROGRAM (continued)**

1. An indication that a purpose of the meeting will be the consideration of postsecondary goals and transition services for the student pursuant to Education Code 56345.1, 20 USC 1414(d)(1)(A)(i)(VIII), and 34 CFR 300.320(b)
2. An indication that the student is invited to the IEP team meeting
3. Identification of any other agency that will be invited to send a representative

*(cf. 5145.6 - Parental Notifications)*

At each IEP team meeting convened by the district, the district administrator or specialist on the team shall inform the parent/guardian and student of the federal and state procedural safeguards included in the notice of parental rights provided pursuant to Education Code 56321. (Education Code 56500.1)

*(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)*

The parent/guardian shall have the right and opportunity to examine all of his/her child's school records upon request, before any IEP meeting, and in connection with any hearing or resolution session on matters affecting his/her child, including, but not limited to, initial formal assessment, procedural safeguards, and due process. Upon receipt of an oral or written request, the Superintendent or designee shall provide complete copies of the records within five business days. (Education Code 56043, 56504)

*(cf. 5125 - Student Records)*

The parent/guardian shall have the right to present information to the IEP team in person or through a representative and the right to participate in meetings that relate to eligibility for special education and related services, recommendations, and program planning. (Education Code 56341.1)

If neither parent/guardian can attend the meeting, the Superintendent or designee shall use other methods to ensure parent/guardian participation, including video conferences or individual or conference telephone calls. (Education Code 56341.5; 20 USC 1414(f); 34 CFR 300.322)

An IEP team meeting may be conducted without a parent/guardian in attendance if the Superintendent or designee is unable to convince the parent/guardian that he/she should attend. In such a case, the Superintendent or designee shall maintain a record of the attempts to arrange a mutually agreed upon time and place for the meeting, including: (Education Code 56341.5; 34 CFR 300.322)

1. Detailed records of telephone calls made or attempted and the results of those calls

## **INDIVIDUALIZED EDUCATION PROGRAM (continued)**

2. Copies of correspondence sent to the parent/guardian and any responses received
3. Detailed records of visits made to the parent/guardian's home or place of employment and the results of those visits

The Superintendent or designee shall take any action necessary to ensure that the parents/guardians understand the proceedings of the meeting, including arranging for an interpreter for parents/guardians with deafness or whose native language is not English. (Education Code 56341.5; 34 CFR 300.322)

The Superintendent or designee shall give the parents/guardians of a student with a disability a copy of his/her child's IEP at no cost. (Education Code 56341.5; 34 CFR 300.322)

### **Parent/Guardian Consent for Provision of Special Education and Services**

Before providing special education and related services to any student, the Superintendent or designee shall seek to obtain informed consent of the student's parent/guardian pursuant to 20 USC 1414(a)(1). The district shall not provide services by utilizing the due process hearing procedures pursuant to 20 USC 1415(f) if the parent/guardian refuses to consent to the initiation of services. If the parent/guardian does not consent to all of the components of the IEP, then those components to which the parent/guardian has consented shall be implemented so as not to delay providing instruction and services to the student. (Education Code 56346)

If the Superintendent or designee determines that a part of a proposed IEP to which the parent/guardian does not consent is necessary in order to provide the student with FAPE, a due process hearing shall be initiated in accordance with 20 USC 1415(f). While the due process hearing is pending, the student shall remain in the current placement unless the parent/guardian and the Superintendent or designee agree otherwise. (Education Code 56346)

Note: 34 CFR 300.300 authorizes a parent/guardian to revoke, at any time and in writing, his/her consent for the continued provision of special education and related services to his/her child. Once this revocation has been received, the district need not convene an IEP team meeting or develop an IEP, but rather must promptly provide "prior written notice" and, within a reasonable period of time, discontinue all services to the child. For details regarding the contents of the prior written notice, see AR 6159.1 - Procedural Safeguards and Complaints for Special Education.

In addition, 34 CFR 300.300 and Education Code 56346 specify that a district may not override the parent/guardian's revocation by filing for a due process hearing or requesting mediation in order to require that services be provided. In such a situation, the district shall be deemed to be in compliance with the requirement to make free appropriate public education (FAPE) available to the student and is under no obligation to convene an IEP team meeting or to develop an IEP for further provision of special education and related services to the student.



**INDIVIDUALIZED EDUCATION PROGRAM (continued)**

If at any time subsequent to the initial provision of services, the student's parent/guardian, in writing, revokes consent for the continued provision of special education services, the Superintendent or designee shall provide prior written notice within a reasonable time before ceasing to provide services to the student. The Superintendent or designee shall not request a due process hearing or pursue mediation in order to require an agreement or ruling that services be provided to the student. (Education Code 56346; 34 CFR 300.300, 300.503)

Note: The following paragraph is optional and should be modified to reflect district practice.

Prior to the discontinuation of services, the Superintendent or designee may offer to meet with the parents/guardians to discuss concerns for the student's education. However, this meeting shall be voluntary on the part of the parent/guardian and shall not delay the implementation of the parent/guardian's request for discontinuation of services. In addition, the Superintendent or designee shall send a letter to the parent/guardian confirming the parent/guardian's decision to discontinue all services.

Note: Pursuant to 34 CFR 300.9, when a parent/guardian revokes his/her consent for provision of special education services, the district is not required to amend the student's records to remove any reference to the student's prior receipt of special education services. In some circumstances, a student who is no longer receiving special education services may be eligible for accommodation under Section 504 of the Rehabilitation Act of 1973; see BP/AR 6164.6 - Identification and Education under Section 504. However, because the law is unclear, districts with questions should consult legal counsel, as appropriate.

When the district ceases to provide special education services in response to the parent/guardian's revocation of consent, the student shall be classified as a general education student.

**Transfer Students**

Note: Education Code 56325 details the requirements for students transferring from districts within and outside of California, as specified below. Districts should be careful to comply with the time requirements, though in Marshall v. Monrovia Unified School District, the Ninth Circuit Court of Appeals ruled in favor of defendant school district on the question of whether the district denied FAPE to a student with a disability by not developing a valid IEP within 30 days of the student's transfer into the district. The court reasoned that the delay in developing the IEP was minimal and that the student did not suffer any deprivation of educational benefit.

To facilitate the transition of a student with a disability who is transferring into the district, the Superintendent or designee shall take reasonable steps to promptly obtain the student's records, including his/her IEP and the supporting documents related to the provision of special education services. (Education Code 56325; 34 CFR 300.323)

**INDIVIDUALIZED EDUCATION PROGRAM (continued)**

If the student transfers into the district from another school district within the same SELPA during the school year, the district shall continue to provide services comparable to those described in the student's existing IEP, unless his/her parent/guardian and the district agree to develop, adopt, and implement a new IEP that is consistent with state and federal law. (Education Code 56325; 34 CFR 300.323)

If the student transfers into the district from a school district outside of the district's SELPA during the school year, the district shall provide the student with FAPE, including services comparable to those described in the previous district's IEP. Within 30 days, the Superintendent or designee shall, in consultation with the student's parents/guardians, adopt the previous district's IEP or shall develop, adopt, and implement a new IEP that is consistent with state and federal law. (Education Code 56325; 34 CFR 300.323)

If the student transfers into the district from an out-of-state district during the school year, the district shall provide the student with FAPE, including services comparable to the out-of-state district's IEP, in consultation with the parent/guardian, until such time as the Superintendent or designee conducts an assessment, if it determines that such an assessment is necessary, and develops, adopts, and implements a new IEP, if appropriate. (Education Code 56325; 34 CFR 300.323)

# **Administrative Regulation**

## **Individualized Education Program**

**AR 6159**  
**Instruction**

### **Members of the Individualized Education Program Team**

The district shall ensure that the individualized education program (IEP) team for any student with a disability includes the following members: (Education Code 56341, 56341.2, 56341.5; 20 USC 1414(d)(1); 34 CFR 300.321)

1. One or both of the student's parents/guardians, and/or a representative selected by the parent/guardian
2. If the student is or may be participating in the regular education program, at least one regular education teacher

If more than one regular education teacher is providing instructional services to the student, the district may designate one such teacher to represent the others.

3. At least one special education teacher or, where appropriate, at least one special education provider for the student
4. A representative of the district who is:
  - a. Qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities
  - b. Knowledgeable about the general education curriculum
  - c. Knowledgeable about the availability of district and/or special education local plan area (SELPA) resources

(cf. 0430 - Comprehensive Local Plan for Special Education)

5. An individual who can interpret the instructional implications of assessment results

This individual may already be a member of the team as described in items #2-4 above or in item #6 below.

6. At the discretion of the parent/guardian or district, other individuals who have knowledge or special expertise regarding the student, including related services

personnel, as appropriate

The determination of whether the individual has knowledge or special expertise regarding the student shall be made by the party who invites the individual to be a member of the IEP team.

7. Whenever appropriate, the student with a disability

8. For transition service consideration:

a. The student, regardless of his/her age, if the purpose of the meeting is the consideration of the student's postsecondary goals and the transition services needed to assist him/her in reaching those goals pursuant to 34 CFR 300.320(b)

If the student does not attend the IEP team meeting, the district shall take other steps to ensure that his/her preferences and interests are considered.

b. To the extent appropriate, and with the consent of the parent/guardian, a representative of any other agency that is likely to be responsible for providing or paying for transition services

9. For students suspected of having a specific learning disability in accordance with 34 CFR 300.308 and 34 CFR 300.310, at least one individual who is qualified to conduct individual diagnostic examinations of the student, such as a school psychologist, speech language pathologist, or remedial reading teacher

In accordance with 34 CFR 300.310, at least one team member other than the student's regular education teacher shall observe the student's academic performance and behavior in the areas of difficulty in his/her learning environment, including in the regular classroom setting. If the child is younger than five years or not enrolled in school, a team member shall observe the child in an environment appropriate for a child of that age.

10. For students who have been placed in a group home by the juvenile court, a representative of the group home

If a student with a disability is identified as potentially requiring mental health services, the district shall request the participation of the county mental health program in the IEP team meeting prior to referring the student to a county mental health agency for services. (Education Code 56331)

Upon request of the parent/guardian of a child who was previously served under Early Education for Individuals with Exceptional Needs (Education Code 56425-56432) or the California Early Intervention Services Act (Government Code 95000-95004), the district shall invite the Infant and Toddlers with Disabilities Coordinator or other representative of the early education or early intervention system to the initial IEP team meeting to

assist with the smooth transition of services. (Education Code 56341; 20 USC 1414(d)(1)(D); 34 CFR 300.321)

A member of the IEP team shall not be required to attend an IEP team meeting, in whole or in part, if the parent/guardian and the district agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting. Even if the meeting involves a discussion of the IEP team member's area of the curriculum or related service, the member may be excused from the meeting if the parent/guardian, in writing, and the district consent to the excusal after conferring with the member and the member submits to the parent/guardian and team written input into the development of the IEP prior to the meeting. (Education Code 56341; 20 USC 1414(d)(1)(C); 34 CFR 300.321)

#### **Parent/Guardian Participation and Other Rights**

The Superintendent or designee shall take steps to ensure that one or both of the parents/guardians of the student with a disability are present at each IEP team meeting or are afforded the opportunity to participate. These steps shall include notifying the parents/guardians of the meeting early enough to ensure that they will have the opportunity to attend and scheduling the meeting at a mutually agreed upon time and place. (Education Code 56341.5; 34 CFR 300.322)

The Superintendent or designee shall send parents/guardians notices of IEP team meetings that: (Education Code 56341.5; 34 CFR 300.322)

1. Indicate the purpose, time, and location of the meeting
2. Indicate who will be in attendance at the meeting
3. Inform them of:
  - a. Their right to bring to the meeting other individuals who have knowledge or special expertise about the student, pursuant to Education Code 56341(b)(6)
  - b. The provision of Education Code 56341(i) relating to the participation of the Infant and Toddlers with Disabilities Coordinator at the initial IEP team meeting, if the student was previously served under Early Education for Individuals with Exceptional Needs (Education Code 56425-56432) or the California Early Intervention Services Act (Government Code 95000-95004)

In addition, when the IEP team meeting is to consider the development, review, or revision of the IEP of a student with a disability who is 16 years of age, or younger than 16 if deemed appropriate by the IEP team, the Superintendent or designee's notice to the student's parents/guardians shall include the following: (Education Code 56341.5)

1. An indication that a purpose of the meeting will be the consideration of

postsecondary goals and transition services for the student pursuant to Education Code 56345.1, 20 USC 1414(d)(1)(A)(i)(VIII), and 34 CFR 300.320(b)

2. An indication that the student is invited to the IEP team meeting
3. Identification of any other agency that will be invited to send a representative

(cf. 5145.6 - Parental Notifications)

At each IEP team meeting convened by the district, the district administrator or specialist on the team shall inform the parent/guardian and student of the federal and state procedural safeguards included in the notice of parental rights provided pursuant to Education Code 56321. (Education Code 56500.1)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

The parent/guardian shall have the right and opportunity to examine all of his/her child's school records upon request and before any IEP meeting. Upon receipt of an oral or written request, the district shall provide complete copies of the records within five business days. (Education Code 56043)

(cf. 5125 - Student Records)

If neither parent/guardian can attend the meeting, the Superintendent or designee shall use other methods to ensure parent/guardian participation, including video conferences or individual or conference telephone calls. (Education Code 56341.5; 20 USC 1414(f); 34 CFR 300.322)

An IEP team meeting may be conducted without a parent/guardian in attendance if the district is unable to convince the parent/guardian that he/she should attend. In such a case, the district shall maintain a record of its attempts to arrange a mutually agreed upon time and place for the meeting, including: (Education Code 56341.5; 34 CFR 300.322)

1. Detailed records of telephone calls made or attempted and the results of those calls
2. Copies of correspondence sent to the parent/guardian and any responses received
3. Detailed records of visits made to the parent/guardian's home or place of employment and the results of those visits

Parents/guardians and the district shall have the right to audio record the proceedings of IEP team meetings, provided members of the IEP team are notified of this intent at least 24 hours before the meeting. If the district gives notice of intent to audio record a meeting and the parent/guardian objects or refuses to attend because the meeting would be audio recorded, the meeting shall not be audio recorded. Parents/guardians also have

the right to: (Education Code 56341.1)

1. Inspect and review the audio recordings
2. Request that an audio recording be amended if they believe it contains information that is inaccurate, misleading, or in violation of the student's privacy rights or other rights
3. Challenge, in a hearing, information that the parents/guardians believe is inaccurate, misleading, or in violation of the student's privacy rights or other rights

The district shall take any action necessary to ensure that the parents/guardians understand the proceedings of the meeting, including arranging for an interpreter for parents/guardians with deafness or whose native language is not English. (Education Code 56341.5; 34 CFR 300.322)

The district shall give the parents/guardians of a student with disabilities a copy of his/her child's IEP at no cost. (Education Code 56341.5; 34 CFR 300.322)

#### Parent/Guardian Consent

Before providing special education and related services, the district shall seek to obtain informed consent pursuant to 20 USC 1414(a)(1). The district shall not provide services by utilizing the due process hearing procedures pursuant to 20 USC 1415(f) if the parent/guardian refuses to consent to the initiation of services. If the parent/guardian does not consent to all of the components of the IEP, then those components to which the parent/guardian has consented shall be implemented so as not to delay providing instruction and services to the student. (Education Code 56346)

If the district determines that a part of a proposed IEP to which the parent/guardian does not consent is necessary in order to provide the student with a free appropriate public education (FAPE), a due process hearing shall be initiated in accordance with 20 USC 1415(f). While the due process hearing is pending, the student shall remain in the current placement unless the parent/guardian and the district agree otherwise. (Education Code 56346)

If at any time subsequent to the initial provision of services, the student's parent/guardian revokes consent, in writing, for the continued provision of special education services, the Superintendent or designee shall provide prior written notice within a reasonable time before

ceasing to provide services to the student. The district shall not request a due process hearing or pursue mediation in order to require an agreement or ruling that services be provided to the student. (Education Code 56346; 34 CFR 300.300, 300.503)

Prior to the discontinuation of services, the Superintendent or designee may offer to meet

with the parents/guardians to discuss concerns for the student's education. However, this meeting shall be voluntary on the part of the parent/guardian and shall not delay the implementation of the parent/guardian's request for discontinuation of services. In addition, the Superintendent or designee shall send a letter to the parent/guardian confirming the parent/guardian's decision to discontinue all services.

When the district ceases to provide special education services in response to the parent/guardian's revocation of consent, the student shall be classified as a general education student.

#### **Contents of the IEP**

The IEP shall be a written statement developed, reviewed, and revised in a meeting of the IEP team. It shall include, but is not limited to, all of the following: (Education Code 56043, 56345, 56345.1; 20 USC 1414(d)(1)(A); 34 CFR 300.320)

1. A statement of the present levels of the student's academic achievement and functional performance, including:
  - a. The manner in which the student's disability affects his/her involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled students)
  - b. For a preschool child, as appropriate, the manner in which the disability affects his/her participation in appropriate activities
  - c. For students with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives
2. A statement of measurable annual goals, including academic and functional goals, designed to:
  - a. Meet the student's needs that result from his/her disability in order to enable the student to be involved in and progress in the general education curriculum
  - b. Meet each of the student's other educational needs that result from his/her disability
3. A description of the manner in which the student's progress toward meeting the annual goals described in item #2 above will be measured and when the district will provide periodic reports on the progress the student is making toward meeting the annual goals, such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards
4. A statement of the special education instruction and related services and supplementary aids and services, based on peer-reviewed research to the extent



practicable, to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student to:

- a. Advance appropriately toward attaining the annual goals
  - b. Be involved and make progress in the general education curriculum in accordance with item #1 above and to participate in extracurricular and other nonacademic activities
  - c. Be educated and participate with other students with disabilities and nondisabled students in the activities described in the statement, pursuant to Education Code 56345 (cf. 3541.2 - Transportation for Students with Disabilities)
5. An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in extracurricular and other nonacademic activities described in the statement mentioned in item #4 above
6. A statement of any appropriate individual accommodations necessary to measure the academic achievement and functional performance of the student on state and districtwide assessments

If the IEP team determines that the student shall take an alternate assessment instead of a particular regular state or districtwide assessment, the student's IEP also shall include a statement of the reason that he/she cannot participate in the regular assessment and the reason that the particular alternate assessment selected is appropriate for him/her.

(cf. 6146.4 - Differential Graduation and Competency Standards for Students with Disabilities)

(cf. 6162.51 - Standardized Testing and Reporting Program)

(cf. 6162.52 - High School Exit Examination)

7. The projected date for the beginning of the services and modifications described in item #4 above and the anticipated frequency, location, and duration of those services and modifications
8. Beginning not later than the first IEP to be in effect when the student is 16 years of age, or younger if determined appropriate by the IEP team, and updated annually thereafter, the following:
- a. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills
  - b. The transition services, including courses of study, needed to assist the student in reaching those goals

9. Beginning at least one year before the student reaches age 18, a statement that the student has been informed of his/her rights, if any, that will transfer to him/her upon reaching age 18, pursuant to Education Code 56041.5

Where appropriate, the IEP shall also include: (Education Code 56345)

1. For students in grades 7-12, any alternative means and modes necessary for the student to complete the district's prescribed course of study and to meet or exceed proficiency standards required for graduation

(cf. 6146.1 - High School Graduation Requirements)

(cf. 6146.11 - Alternative Credits Toward Graduation)

2. Linguistically appropriate goals, objectives, programs, and services for students whose native language is not English

(cf. 6174 - Education for English Language Learners)

3. Extended school year services when the IEP team determines, on an individual basis, that the services are necessary for the provision of FAPE

(cf. 5148.2 - Before/After School Programs)

(cf. 6177 - Summer School)

4. Provision for transition into the regular education program if the student is to be transferred from a special class or center or nonpublic, nonsectarian school into a regular education program in a public school for any part of the school day

The IEP shall include descriptions of activities intended to:

a. Integrate the student into the regular education program, including indications of the nature of each activity and the time spent on the activity each day or week

b. Support the transition of the student from the special education program into the regular education program

(cf. 6176 - Weekend/Saturday Classes)

(cf. 6178 - Career Technical Education)

(cf. 6181 - Alternative Schools/Programs of Choice)

5. Specialized services, materials, and equipment for students with low incidence disabilities, consistent with the guidelines pursuant to Education Code 56136

Development, Review, and Revision of the IEP

In developing the IEP, the IEP team shall consider all of the following: (Education Code

56341.1, 56345; 20 USC 1414(d)(3)(A); 34 CFR 300.324)

1. The strengths of the student
2. The concerns of the parents/guardians for enhancing the education of their child
3. The results of the initial assessment or most recent assessment of the student
4. The academic, developmental, and functional needs of the student
5. In the case of a student whose behavior impedes his/her learning or that of others, the use of positive behavioral interventions and supports and other strategies to address that behavior
6. In the case of a student with limited English proficiency, the language needs of the student as such needs relate to the student's IEP
7. In the case of a student who is blind or visually impaired, the need to provide for instruction in Braille and instruction in the use of Braille

However, such instruction need not be included in the IEP if the IEP team determines that instruction in Braille or the use of Braille is not appropriate for the student. This determination shall be based upon an assessment of the student's reading and writing skills, his/her future needs for instruction in Braille or the use of Braille, and other appropriate reading and writing media.

8. The communication needs of the student, and in the case of a student who is deaf or hard of hearing, the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode

The team shall also consider the related services and program options that provide the student with an equal opportunity for communication access, as described in Education Code 56345.

9. Whether the student requires assistive technology devices and services

If, in considering the special factors in items #1-9 above, the IEP team determines that a student needs a particular device or service, including an intervention, accommodation, or other program modification, in order to receive FAPE, the IEP team shall include a statement to that effect in the student's IEP. (Education Code 56341.1)

The Superintendent or designee shall ensure that the IEP team: (Education Code 56043, 56341.1, 56380; 20 USC 1414(d)(4); 34 CFR 300.324)

1. Reviews the IEP periodically, but at least annually, to determine whether the annual goals for the student are being achieved and the appropriateness of placement
2. Revises the IEP, as appropriate, to address:
  - a. Any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate
  - b. The results of any reassessment conducted pursuant to Education Code 56381
  - c. Information about the student provided to or by the parents/guardians regarding review of evaluation data pursuant to 34 CFR 305(a)(2) and Education Code 56381(b)
  - d. The student's anticipated needs
  - e. Other matters
3. Considers the special factors listed in items #5-9 above when reviewing the IEP of a student with a disability who has additional behavior or communication needs

The IEP team shall also meet: (Education Code 56343)

1. Whenever the student has received an initial formal assessment and, when desired, when the student receives any subsequent formal assessment
2. Upon request by the student's parent/guardian or teacher to develop, review, or revise the IEP

The parent/guardian shall have the right to present information to the IEP team in person or through a representative and the right to participate in meetings that relate to eligibility for special education and related services, recommendations, and program planning. (Education Code 56341.1)

If a participating agency other than the district fails to provide the transition services described in the student's IEP, the team shall reconvene to identify alternative strategies to meet the transition service objectives set out for the student in the IEP. (Education Code 56345.1; 20 USC 1414(d); 34 CFR 300.324)

As a member of the IEP team, the regular education teacher shall, to the extent appropriate, participate in the development, review, and revision of the student's IEP, including assisting in the determination of: (Education Code 56341; 20 USC 1414(d)(3)(C); 34 CFR 300.324)

1. Appropriate positive behavioral interventions and supports and other strategies for

the student

(cf. 6159.4 - Behavioral Interventions for Special Education Students)

2. Supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student, consistent with 34 CFR 300.320

To the extent possible, the district shall encourage the consolidation of reassessment meetings and other IEP team meetings for a student. (20 USC 1414(d)(3)(A); 34 CFR 300.324)

The student shall be allowed to provide confidential input to any representative of his/her IEP team. (Education Code 56341.5)

When a change is necessary to a student's IEP after the annual IEP team meeting for the school year has been held, the parent/guardian and the district may agree not to convene an IEP team meeting for the purpose of making the change and instead may develop a written document to amend or modify the student's current IEP. The IEP team shall be informed of any such changes. Upon request, the district shall provide the parent/guardian with a revised copy of the IEP with the incorporated amendments. (20 USC 1414(d)(3)(D); 34 CFR 300.324)

If a student with disabilities residing in a licensed children's institution or foster family home has been placed by the district in a nonpublic, nonsectarian school, the district shall conduct an annual evaluation as part of the IEP process of whether the placement is the least restrictive environment that is appropriate to meet the student's needs. (Education Code 56157)

(cf. 6159.2 - Nonpublic, Nonsectarian School and Agency Services for Special Education)

(cf. 6173.1 - Education for Foster Youth)

When an IEP calls for a residential placement as a result of a review by an expanded IEP team, the IEP shall include a provision for a review, at least every six months, by the full IEP team of all of the following: (Education Code 56043)

1. The case progress
2. The continuing need for out-of-home placement
3. The extent of compliance with the IEP
4. Progress toward alleviating the need for out-of-home care

Timelines for the IEP and for the Provision of Services

At the beginning of each school year, the district shall have an IEP in effect for each student with a disability within district jurisdiction. (Education Code 56344; 34 CFR 300.323)

The district shall ensure that a meeting to develop an initial IEP is conducted within 30 days of a determination that a student needs special education and related services. The district shall also ensure that, as soon as possible following development of the IEP, special education services and related services are made available to the student in accordance with his/her IEP. (Education Code 56344; 34 CFR 300.323)

An IEP required as a result of an assessment of the student shall be developed within 60 days (not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days) from the date of receipt of the parent/guardian's written consent for assessment, unless the parent/guardian agrees, in writing, to an extension. (Education Code 56344)

However, an IEP required as a result of an assessment of a student shall be developed within 30 days after the commencement of the subsequent regular school year for a student for whom a referral has been made 30 days or less prior to the end of the regular school year. In the case of school vacations, the 60-day time limit shall recommence on the date that the student's school days reconvene. (Education Code 56344)

When a parent/guardian requests an IEP team meeting to review the IEP, the team shall meet within 30 days of receiving the parent/guardian's written request, not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days. If a parent/guardian makes an oral request, the district shall notify the parent/guardian of the need for a written request and the procedure for filing such a request. (Education Code 56043, 56343.5)

A regular education or special education teacher may request a review of the classroom assignment of a student with a disability by submitting a written request to the Superintendent or designee. The Superintendent or designee shall consider the request within 20 days of receiving it, not counting days when school is not in session or, for year-round schools, days when the school is off track. If the review indicates a need for change in the student's placement, instruction, and/or related services, the Superintendent or designee shall convene an IEP team meeting, which shall be held within 30 days of the Superintendent or designee's review, not counting days when school is not in session or days when school is off track, unless the student's parent/guardian consents in writing to an extension of time.

The district shall ensure that the student's IEP is accessible to each regular education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation. The district shall also ensure that such teachers and providers are informed of their specific responsibilities related to implementing the IEP and the specific accommodations, modifications, and supports that must be provided to the student in accordance with the IEP. (34 CFR 300.323)

## **Transfer Students**

To facilitate the transition of a student with a disability who is transferring into the district, the district shall take reasonable steps to promptly obtain the student's records, including his/her IEP and the supporting documents related to the provision of special education services. (Education Code 56325; 34 CFR 300.323)

If the student transfers into the district from another school district within the same SELPA during the school year, the district shall continue to provide services comparable to those described in the student's existing IEP, unless his/her parent/guardian and the district agree to develop, adopt, and implement a new IEP that is consistent with state and federal law. (Education Code 56325; 34 CFR 300.323)

If the student transfers into the district from a school district outside of the district's SELPA during the school year, the district shall provide the student with FAPE, including services comparable to those described in the previous district's IEP. Within 30 days, the district shall, in consultation with the student's parents/guardians, adopt the previous district's IEP or shall develop, adopt, and implement a new IEP that is consistent with state and federal law. (Education Code 56325; 34 CFR 300.323)

If the student transfers into the district from an out-of-state district during the school year, the district shall provide the student with FAPE, including services comparable to the out-of-state district's IEP, in consultation with the parent/guardian, until such time as the district conducts an assessment, if it determines that such an assessment is necessary, and develops, adopts, and implements a new IEP, if appropriate. (Education Code 56325; 34 CFR 300.323)

Regulation      CENTER UNIFIED SCHOOL DISTRICT  
approved: February 16, 2011 Antelope, California

**WORK-BASED LEARNING**

Note: The following optional policy is for use by districts maintaining middle and/or high schools and should be revised to reflect district practice.

Under the state plan for career technical education (CTE), each district receiving funds under the Carl D. Perkins Career and Technical Education Act (20 USC 2301-2414) is required to include specified components in its CTE program, including practical application and experience through actual or simulated work-based learning assignments. Other districts may offer work-based learning opportunities at their discretion. Also see BP/AR 6178 - Career Technical Education.

The Governing Board desires to facilitate the preparation of secondary school students for college and career by providing work-based learning opportunities which link classroom learning with real-world experiences. Work-based learning opportunities offered by the district shall be designed to teach the skills, attitudes, and knowledge necessary for successful employment and to reinforce mastery of both academic and career technical education (CTE) standards.

*(cf. 6000 - Concepts and Roles)*

*(cf. 6011 - Academic Standards)*

*(cf. 6143 - Courses of Study)*

*(cf. 6178 - Career Technical Education)*

*(cf. 6178.2 - Regional Occupational Center/Program)*

Note: The following paragraph may be revised to reflect the program(s) available in the district. Education Code 51760.1 authorizes districts, county offices of education, regional occupational centers/programs, and partnership academies to provide work-based learning opportunities which may include, but are not limited to, work experience education (WEE), community classrooms or cooperative CTE programs, and job shadowing experiences, as described below. See the accompanying administrative regulation for legal requirements pertaining to these programs. In addition, although not delineated in state law, other examples of work-based learning opportunities cited in the California Department of Education's publication Multiple Pathways to Student Success: Envisioning the New California High School include student internships/field study, apprenticeships, service learning, work in social/civic enterprises or school-based enterprises such as student stores, and technology-based or other simulated work experiences.

Work-based learning opportunities offered by the district may include paid and/or unpaid work experiences, including, but not limited to, work experience education as defined in Education Code 51764, cooperative CTE or community classrooms as defined in Education Code 52372.1, job shadowing as defined in Education Code 51769, student internships, apprenticeships, service learning, employment in social/civic or school-based enterprises, and technology-based or other simulated work experiences.

*(cf. 6142.4 - Service Learning/Community Service Classes)*

Note: The following optional paragraph may be revised to reflect district practice. Education Code 51760.1 encourages districts to work with any local workforce investment board youth councils and workforce investment boards established by Education Code 51760.2 to coordinate work-based learning opportunities and facilitate regional planning.



## **WORK-BASED LEARNING (continued)**

The Superintendent or designee shall involve local businesses or business organizations in planning and implementing work-based learning opportunities that support the district's vision and goals for student learning and local workforce development efforts. He/she also may work with postsecondary institutions, community organizations, and others to identify opportunities for work-based learning.

*(cf. 0000 - Vision)*

*(cf. 0200 - Goals for the School District)*

*(cf. 1220 - Citizen Advisory Committees)*

*(cf. 1700 - Relations Between Private Industry and the Schools)*

*(cf. 6020 - Parent Involvement)*

Note: Districts that offer WEE programs are required by 5 CCR 10070-10071, as amended by Register 2011, No. 12, to develop a written training agreement with each employer with specified components and assurances. 5 CCR 10087 and 10108 require the development of a training agreement and individual student training plans for community classrooms and cooperative CTE programs. Districts that do not offer these specific programs may delete or revise the following paragraph.

When required by law, the Superintendent or designee shall develop a written training agreement with the employer that describes the conditions and requirements to be met by all parties and shall develop an individual training plan for each student which outlines the objectives or competencies that the student is expected to accomplish at the work site. (5 CCR 10070-10071, 10087, 10108)

District staff shall coordinate with the workplace supervisor or mentor to ensure appropriate guidance and supervision of participating students and maximum educational benefit from placement in the program.

Note: Education Code 49160 prohibits any person, firm, or corporation from employing a minor under age 18 without a work permit issued by the proper education authority, with specified exceptions. See BP/AR 5113.2 - Work Permits. Work permits are not required for unpaid work-based learning opportunities. Districts that offer only unpaid programs should delete the following paragraph.

A minor student shall be issued a work permit before beginning employment through a paid work-based learning program in accordance with law, Board policy, and administrative regulation. (Education Code 49113, 49160)

*(cf. 5113.2 - Work Permits)*

All laws or rules applicable to minors in employment relationships shall be applicable to students enrolled in work-based learning programs. (Education Code 51763)

## WORK-BASED LEARNING (continued)

Note: The following **optional** paragraph may be revised to reflect district practice. According to the CDE's Work Experience Education Guide, students participating in a paid work-based learning program must be covered by their employer for workers' compensation insurance pursuant to Education Code 51769. Students participating in an unpaid work-based learning program must be covered by the district's insurance, unless the employer elects to provide such coverage.

In addition, Education Code 35208 requires districts to insure against liability. Pursuant to Education Code 51760, the Governing Board may choose to purchase liability insurance for students participating in work-based learning programs off school grounds or may require such students to purchase insurance and pass on all or a portion of the costs to the district, at the discretion of the Board.

The Superintendent or designee shall ensure that any student participating in a work-based learning program off school grounds is covered under the employer's or district's insurance, as applicable, in the event the student is injured.

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

*(cf. 5143 - Insurance)*

Note: 5 CCR 10075 establishes requirements related to the qualifications of WEE teacher-coordinators. As amended by Register 2011, No. 12, 5 CCR 10075 provides that the teacher-coordinator may possess any valid preliminary, professional clear, or life credential or other nonintern teaching credential that authorizes the teacher to teach in California K-12 schools. Pursuant to 5 CCR 10080 and 10100, teachers of community classrooms and cooperative CTE programs must be certificated CTE teachers.

The Superintendent or designee shall ensure that any teacher/coordinator of a work-based learning program possesses the appropriate credential issued by the Commission on Teacher Credentialing. (5 CCR 10075, 10080, 10100)

*(cf. 4112.2 - Certification)*

The Superintendent or designee shall maintain records for each student's participation in the program, including, but not limited to, the student's individualized training plan, his/her employment hours and job site, work permit if applicable, employer's report of student's attendance and job performance, the teacher/coordinator's consultations and observations, and the student's grade and credits earned.

*(cf. 5125 - Student Records)*

Note: The following **optional** paragraph may be revised to reflect indicators agreed upon by the Board and Superintendent for evaluating program effectiveness.

The Superintendent or designee shall periodically report to the Board regarding program implementation and effectiveness, including, but not limited to, rates of student participation in work-based learning programs and assessment results of participating students.

*(cf. 0500 - Accountability)*

*Legal Reference: (see next page)*

## WORK-BASED LEARNING (continued)

### *Legal Reference:*

#### EDUCATION CODE

35208 Liability insurance  
46144 Minimum school day for work experience program  
46147 Exception for minimum day; students in last semester or quarter of grade 12  
46300 Method of computing ADA  
48402 Enrollment in continuation education, minors not regularly employed  
49110-49119 Permits to work  
49160 Permits to work, duties of employer  
51760-51769.5 Work-based learning  
52300-52499.66 Career technical education  
54690-54697 Partnership academies  
56026 Students with exceptional needs  
52372.1 Community classrooms and cooperative career technical education programs

#### LABOR CODE

1285-1312 Employment of minors  
1391-1394 Working hours for minors  
3070-3099.5 Apprenticeship  
3200-6002 Workers' compensation and insurance

#### CODE OF REGULATIONS, TITLE 5

1635 Credit for work experience education  
10070-10075 Work experience education  
10080-10090 Community classrooms  
10100-10111 Cooperative career technical education programs

#### UNITED STATES CODE, TITLE 20

2301-2414 Carl D. Perkins Career and Technical Education Act of 2006

#### CODE OF FEDERAL REGULATIONS, TITLE 29

570.35a Work experience programs

### *Management Resources:*

#### CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Multiple Pathways to Student Success: Envisioning the New California High School, 2010  
2008-2012 California State Plan for Career Technical Education, 2008  
Career Technical Education Framework for California Public Schools: Grades Seven Through Twelve, 2007

#### Work Experience Education Guide

#### CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS PUBLICATIONS

Child Labor Laws, 2000

#### WEST ED PUBLICATIONS

Work-Based Learning in California: Opportunities and Models for Expansion, 2009

#### WEB SITES

CSBA: <http://www.csba.org>  
California Association of Work Experience Educators: <http://www.cawee.org>  
California Department of Education, Work Experience Education: <http://www.cde.ca.gov/ct/ct/we>  
California Department of Industrial Relations: <http://www.dir.ca.gov>  
Linked Learning Alliance: <http://www.linkedlearning.org>  
WestEd: <http://www.wested.org>

# **Board Policy**

## **Work Experience Education**

### **BP 6178.1**

#### **Instruction**

The Governing Board desires to facilitate school-to-career transitions by providing secondary school students with a program of work experience education (WEE) which links the academic curriculum with experiences in actual work settings. The Superintendent or designee shall design a program which provides paid and/or unpaid on-the-job experiences as well as instruction in the skills, attitudes, and knowledge necessary for successful employment.

(cf. 5147 - Dropout Prevention)  
(cf. 6000 - Concepts and Roles)  
(cf. 6143 - Courses of Study)  
(cf. 6178 - Career Technical Education)

Students enrolled in this program shall receive guidance and supervision designed to ensure maximum educational benefit from placement in suitable WEE courses. The program shall integrate the efforts of teachers, counselors, students, parents/guardians, and employers to assist students in selecting a career path and developing a positive work ethic and work habits.

(cf. 6164.2 - Guidance/Counseling Services)

The WEE program shall include the part-time employment of students in jobs which are selected or approved as having educational value for the employed students and which are coordinated by district employees. (Education Code 51764)

(cf. 5113.2 - Work Permits)

#### **Legal Reference:**

##### **EDUCATION CODE**

46144 Minimum school day for work experience program  
46147 Exception for minimum day; students in last semester or quarter of grade 12  
46300 Method of computing ADA  
48402 Enrollment in continuation education, minors not regularly employed  
49110-49119 Permits to work  
49160 Permits to work, duties of employer  
51760-51769.5 Work experience education  
52300-52499.66 Career technical education  
56026 Students with exceptional needs

**LABOR CODE**

1285-1312 Employment of minors

1391-1394 Working hours for minors

3070-3099.5 Apprenticeship

3200-6002 Workers' compensation and insurance

**CODE OF REGULATIONS, TITLE 5**

1635 Credit for work experience education

10070-10075 Work experience education

**UNITED STATES CODE, TITLE 20**

2301-2414 Carl D. Perkins Career and Technical Education Act of 2006

**CODE OF FEDERAL REGULATIONS, TITLE 29**

570.35a Work experience programs

**Management Resources:**

**CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS**

Work Permit Handbook for California Schools: Laws and Regulations Governing the Employment of Minors, 2007

Work Experience Education Guide, 2005

**CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS PUBLICATIONS**

Child Labor Laws, 2000

**WEB SITES**

California Association of Work Experience Educators: <http://www.cawee.org>

California Department of Education, Work Experience Education:

<http://www.cde.ca.gov/ci/ct/we>

California Department of Industrial Relations: <http://www.dir.ca.gov>

**Policy CENTER UNIFIED SCHOOL DISTRICT**

adopted: June 18, 2008      Antelope, California

**WORK-BASED LEARNING**

Note: The following optional administrative regulation is for use by districts maintaining middle and/or high schools that provide any of the work-based learning programs authorized by Education Code 51760.1. Pursuant to Education Code 51760.1, students participating in work-based learning programs must be afforded the same statutory and regulatory safeguards, when applicable, as students participating in work experience education (WEE) programs offered pursuant to Education Code 51764. The district should select the section(s) below that reflect the program(s) available in the district.

**Work Experience Education**

Note: The following optional section is for use by districts that offer a WEE program pursuant to Education Code 51764 and 5 CCR 10070-10075 and may be revised to reflect district practice. Any of the WEE programs described in items #1-3 below may enroll students under age 16, but only students who are age 16 or older may receive credit for general WEE or career technical WEE except under the limited circumstances specified in Education Code 51760.3. For further information about the operation of WEE programs, see the California Department of Education's (CDE) Work Experience Education Guide.

The district's work experience education (WEE) program shall consist of one or more of the following types of unpaid and paid on-the-job experiences: (Education Code 51764; 5 CCR 10071)

1. *Exploratory WEE* which provides students with a combination of classroom instruction in WEE and unpaid opportunities to observe and sample systematically a variety of conditions of work for the purpose of ascertaining their interest and suitability for the occupation they are exploring

The length of exploratory work experience assignments may vary depending on the aptitude of the student, the occupation being explored, the facilities of the work station, and the job classification. A student may not participate in an exploratory work experience assignment if he/she receives pay for like work at the same work station or similar job outside of the WEE program.

2. *General WEE* which has as its purpose the application of basic skills of reading, writing, and computation and which enables students to acquire general and specific occupational skills through a combination of supervised paid employment in any occupational field and related classroom instruction in WEE

Note: 5 CCR 10071, as amended by Register 2011, No. 12, now uses the terminology "career technical work experience education" to refer to the type of program described in item #3 below.

Although 5 CCR 10071 states that career technical WEE provides paid employment opportunities, the CDE's Work Experience Education Guide clarifies that career technical WEE may offer paid or unpaid work experiences.

## **WORK-BASED LEARNING (continued)**

3. *Career technical WEE* which reinforces and extends career learning opportunities for students through a combination of related classroom instruction in WEE and supervised paid or unpaid employment in the occupation for which their career technical course in school prepares them

(cf. 6011 - Academic Standards)

(cf. 6143 - Courses of Study)

(cf. 6178 - Career Technical Education)

Note: The district is required to submit a secondary district plan to the CDE along with its WEE program application. 5 CCR 10070, as amended by Register 2011, No. 12, contains requirements for the content of the district plan, including (1) the course description with the units of instruction per week for each semester offered; (2) assurances by the employer that the employer and each student have entered into a training agreement that includes the components specified in 5 CCR 10070; (3) a detailed explanation of the criteria for granting school credit by the district; and (4) if applicable, a letter of authorization to issue work permits signed by the Superintendent or designee. 5 CCR 10070 also requires that the district submit evidence that the Governing Board has approved the district plan (e.g., meeting minutes).

The Superintendent or designee shall develop and present to the Governing Board for approval a district plan for WEE in accordance with 5 CCR 10070.

Note: Education Code 51768 authorizes the district to pay participating students' wages, but provides that the district may not make payments to or for private employers except for students with disabilities as defined in Education Code 56026.

Employment opportunities may be provided by any public or private employer in areas within or outside the district, either within California or in a contiguous state. (Education Code 51768)

The student-teacher ratio in the WEE program shall not exceed 125 students per full-time equivalent certificated teacher-coordinator. (Education Code 46300)

The minimum day for students enrolled in a WEE program shall be four periods totaling at least 180 minutes in duration, unless the school or student meets one of the conditions specified in Education Code 46144 or 46147. (Education Code 46144, 46147)

(cf. 6112 - School Day)

(cf. 6184 - Continuation Education)

Note: The following optional paragraph reflects guidance in the CDE's *Work Experience Education Guide*.

A WEE program offered during the summer shall be conducted in the same time period as the regular summer school program and shall conform to all appropriate laws and regulations applicable to WEE.

(cf. 6177 - Summer School)

## **WORK-BASED LEARNING (continued)**

The teacher-coordinator shall make at least two on-site contacts per semester with each work supervisor or at least one on-site contact during summer school to evaluate student performance. (5 CCR 10074)

Participating students shall receive at least the equivalent of one instructional period per week of related classroom instruction or counseling by a certificated employee, in sessions scheduled intermittently throughout the semester. (Education Code 51760.3)

A student shall be granted up to 40 semester periods of credit for WEE within the following limits: (Education Code 51760.3; 5 CCR 1635)

1. For exploratory WEE, the student may earn 10 semester periods for each semester, with a maximum of 20 semester periods earned in two semesters.
2. For either general or career technical WEE, the student may earn 10 semester periods for each semester, with a maximum of 40 semester periods.

*(cf. 6146.1 - High School Graduation Requirements)*

*(cf. 6146.11 - Alternative Credits Toward Graduation)*

In order to receive credit for satisfactory completion of a general or career technical WEE program, a student shall be age 16 years or older. However, a student who is under age 16 may be granted credit under any of the following conditions: (Education Code 51760.3)

1. The student is enrolled in grade 11 or higher.
2. The principal certifies that the student needs the program in order to pursue employment opportunities or to encourage the student's continuing enrollment as a full-time student.

*(cf. 5147 - Dropout Prevention)*

3. The student is a student with disabilities who has an individualized education program prescribing the type of training for which participation in a WEE program is deemed appropriate.

*(cf. 6159 - Individualized Education Program)*

## **Cooperative Career Technical Education Program/Community Classrooms**

<p>Note: The following optional section is for use by districts that offer a cooperative career technical education (CTE) program (5 CCR 10100-10111) and/or community classroom program (5 CCR 10080-10090) and should be modified to reflect the program(s) offered by the district. Except where noted, requirements described below apply to either program.</p>
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## **WORK-BASED LEARNING (continued)**

Both the cooperative CTE and community classroom programs require participating students to be concurrently enrolled in a course or program approved by the CDE. Pursuant to 5 CCR 10103, students in the cooperative CTE program are also required to (1) be at least age 16 unless the principal determines that the program is appropriate for a younger student due to his/her financial, motivational, or other exceptional needs; (2) be full-time students as defined; and (3) have parent/guardian consent if under age 18.

To be eligible for program participation, a student shall be concurrently enrolled in a career technical education (CTE) course or program approved by the California Department of Education and shall meet other criteria specified in 5 CCR 10103 as applicable. (5 CCR 10082, 10103)

Teachers assigned to the program shall locate and select training stations to provide participating students with unpaid on-the-job learning experiences in the specific occupation related to the approved course or program. (5 CCR 10086, 10107)

Related classroom instruction shall be provided in at least one instructional period per week, with a minimum equivalency of three instructional periods, of at least 50 minutes each, per week. (5 CCR 10085, 10106)

Note: The district should choose one or both options below reflecting program(s) offered by the district.

### **OPTION 1: (Cooperative CTE Program)**

The cooperative CTE program teacher shall make at least one visitation every four weeks to each employer to ensure that the provisions of the training agreement are being met and that students are acquiring the competencies identified in their individual training plans. One out of every two visits to the training station shall include an observation of the student engaged in on-the-job training experiences. (5 CCR 10109)

### **OPTION 2: (Community Classrooms)**

The community classroom teacher shall make at least one visitation every three weeks to consult with the work supervisor, observe students at the training station, provide instruction, and ensure that students are acquiring the competencies identified in their individual training plans. Each visitation shall include an observation of the student engaged in on-the-job training experiences. (5 CCR 10088)

Note: The following paragraph is for use by districts offering either the cooperative CTE or community classroom program.

Students shall be granted academic credit for satisfactory completion of the program. The teacher shall be responsible for evaluating the student's performance in the CTE course and, with the assistance of the employer, the student's participation at the training station. (5 CCR 10081, 10102)

## **WORK-BASED LEARNING (continued)**

### **Job Shadowing**

Note: The following optional section is for use by districts that offer job shadowing opportunities pursuant to Education Code 51769. The section may be revised to reflect district practice, including specifying the position designated by the Superintendent or designee to coordinate or manage the program. The CDE's Work Experience Education Guide recommends that job shadowing activities be conducted under the supervision of the WEE coordinator.

The program coordinator shall identify job shadowing placements with the goal of providing students with exposure to a broad range of career options and employment settings.

The program coordinator shall supervise job shadowing activities, including the coordination of the student's and employer's schedules and consultation with the student's other teachers when necessary.

Participating students may attend job shadowing opportunities for no less than three hours and no more than 25 hours in one semester, intersession, or summer school session. (Education Code 51769)

# **Administrative Regulation**

## **Work Experience Education**

**AR 6178.1**  
**Instruction**

### **Work Experiences and Related Instruction**

The district's work experience education (WEE) program shall consist of one or more of the following types of unpaid and paid on-the-job experiences: (5 CCR 10071)

1. Exploratory WEE which provides students with a combination of classroom instruction in WEE and unpaid opportunities to observe and sample systematically a variety of conditions of work for the purpose of ascertaining their interest and suitability for the occupation they are exploring

The length of exploratory work experience assignments may vary depending on the aptitude of the student, the occupation being explored, the facilities of the work station, and the job classification. A student may not participate in an exploratory work experience assignment if he/she receives pay for like work at the same work station or similar job outside of the WEE program.

2. General WEE which has as its purpose the application of basic skills of reading, writing, and computation and which enables students to acquire general and specific occupational skills through a combination of supervised paid employment in any occupational field and related classroom instruction in WEE

3. Vocational WEE which reinforces and extends vocational learning opportunities for students through a combination of related classroom instruction in WEE and supervised paid employment in the occupation for which their vocational course in school prepares them

(cf. 6178 - Career Technical Education)

For each student enrolled in WEE, the district shall develop a written training agreement with the employer which identifies the responsibilities of the district, employer, student, and parent/guardian of a minor student and outlines the objectives that the student is to accomplish at the training site. (5 CCR 10071)

Opportunities for part-time employment may be provided by any public or private employer. (Education Code 51768)

The Superintendent or designee may establish and supervise work experience programs and/or provide for part-time employment of students in areas outside the district, either within California or in a contiguous state. (Education Code 51767, 51768)

All laws or rules applicable to minors in employment relationships shall be applicable to students enrolled in WEE courses. (Education Code 51763)

A minor student shall be issued a work permit before beginning employment through a paid WEE program in accordance with law, Board policy, and administrative regulation. (Education Code 49113, 49160)

(cf. 5113.2 - Work Permits)

A WEE program offered during the summer shall be conducted in the same time period as the regular summer school program and shall conform to all appropriate laws and regulations applicable to WEE.

(cf. 6177 - Summer School)

#### Criteria for Credit

A student shall be granted up to 40 semester periods of credit for WEE of one or more of the following types: (Education Code 51760.3; 5 CCR 1635)

1. For exploratory WEE, the student may earn 10 semester periods for each semester, with a maximum of 20 semester periods earned in two semesters.
2. For either general or vocational WEE, the student may earn 10 semester periods for each semester, with a maximum of 40 semester periods.

(cf. 6146.11 - Alternative Credits Toward Graduation)

Credit shall be granted for successful completion of WEE in the amounts specified above provided that all the following conditions are met: (Education Code 51760.3; 5 CCR 10071)

1. At the time of enrollment, the student is at least 16 years of age or, if under the age of 16 years, fulfills one of the following criteria:
  - a. The student is enrolled in grade 11 or higher.
  - b. The principal certifies that the student is in need of immediate WEE in order to pursue employment opportunities.
  - c. The principal certifies that there is a probability that the student will no longer be enrolled as a full-time student without being provided the opportunity to enroll in a WEE program.

(cf. 5147 - Dropout Prevention)

d. For students with disabilities, the student's individualized education program prescribes the type of training for which participation in a WEE program is deemed appropriate.

(cf. 6159 - Individualized Education Program)

e. The student is participating in exploratory WEE.

2. During the course of the student's enrollment in the program, the student receives at least the equivalent of one instructional period per week, in sessions scheduled intermittently throughout the semester, of related classroom instruction or counseling by a certificated employee.

3. The WEE program meets all the requirements of law.

#### **Minimum Day**

The minimum day for students enrolled in a WEE program shall be four periods totaling at least 180 minutes in duration, with the following exceptions: (Education Code 46144, 46147)

1. When a school's regularly scheduled period is greater than 60 minutes, the minimum day shall be one or more periods totaling at least 180 minutes in duration.

2. A different schedule shall be established for students who are enrolled in a continuation school or class pursuant to Education Code 48402.

(cf. 6184 - Continuation Education)

3. Upon written request of the student or his/her parent/legal guardian, the Superintendent or designee may permit the student to attend school for less than a minimum day of 180 minutes if the student is in grade 12, in his/her last semester or quarter before graduation, and would complete all the requirements for graduation, except physical education courses, by attending high school for less than 180 minutes per day.

(cf. 6112 - School Day)

(cf. 6146.1 - High School Graduation Requirements)

#### **Responsibilities of Teacher-Coordinator**

The WEE teacher-coordinator shall possess a valid California secondary-level credential, have two years of occupational experience outside the field of education, and have knowledge of the educational purposes, standards, laws, and rules and regulations applicable to the program. (5 CCR 10075)

(cf. 4112.2 - Certification)

The teacher-coordinator shall:

1. If so designated by the Superintendent, issue work permits in accordance with law (Education Code 49110)
2. Select and approve work assignments for individual students that enable them to accomplish meaningful learning objectives (5 CCR 10072)
3. Conduct the related classroom instruction (5 CCR 10073)
4. Provide for supervision of students by preparing individual training plans, observing and consulting with students, and making at least two on-site contacts per semester with each work supervisor or at least one on-site contact during summer school to evaluate student performance (5 CCR 10074)

The student-teacher ratio in the WEE program shall not exceed 125 students per full-time equivalent certificated teacher-coordinator. (Education Code 46300)

The Superintendent or designee shall provide professional development for new and continuing teacher-coordinators and other support personnel to ensure the quality of the program.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

## Records

The Superintendent or designee shall maintain records for each student's participation in the program, including:

1. The type of WEE program in which the student is enrolled, where the student is employed, the type of job held or observation sites, and hours
2. Work permit issued, if applicable
3. Employer's report of the student's hourly work record and performance on the job
4. Report of each consultation between the teacher-coordinator and the employer
5. Ratings of the student, including his/her grade
6. Formal training agreement for each student that describes the responsibilities of the employer, student, school, and parent/guardian and contains a statement of nondiscrimination

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

7. Individual training plan for the student

(cf. 5125 - Student Records)

Regulation      CENTER UNIFIED SCHOOL DISTRICT  
approved: June 18, 2008      Antelope, California

**FACILITIES MASTER PLAN**

Note: The following **optional** policy may be revised to reflect district practice. Pursuant to the School Facility Program (Education Code 17070.10-17079.30), the State Allocation Board (SAB) and Office of Public School Construction administer state funding programs for new construction, modernization, career technical education facilities, charter school facilities, critically overcrowded school facilities, facility hardships, seismic mitigation, high performance incentives (environmentally efficient schools), joint use programs, labor compliance, overcrowding relief, emergency repairs, and deferred maintenance.

For additional information about the facilities master planning process, see CSBA's fact sheet Facilities Master Planning. In addition, CSBA's Facilities Planning program provides assistance with enrollment projections and/or the development of facilities master plans.

Although not required by law, the California Department of Education's (CDE) publication Educational Specifications: Linking Design of School Facilities to Educational Program recommends that the district's facilities master plan be adopted by formal resolution of the Governing Board.

The Governing Board recognizes the importance of long-range planning for school facilities in order to address changes in student enrollment and in the district's educational program needs. The Superintendent or designee shall develop, for Board approval, a master plan for district facilities which describes the district's anticipated short- and long-term facilities needs and priorities.

*(cf. 7000 - Concepts and Roles)*  
*(cf. 7160 - Charter School Facilities)*  
*(cf. 7210 - Facilities Financing)*

**Plan Development**

The district's facilities master plan shall be based on an assessment of the condition and adequacy of existing facilities, a projection of future enrollments, and alignment of facilities with the district's vision for the instructional program.

*(cf. 7111 - Evaluating Existing Buildings)*

To solicit broad input into the planning process, the Superintendent or designee may establish a facilities advisory committee consisting of staff, parents/guardians, and business, local government, and other community representatives. He/she also shall ensure that the public is informed of the need for construction and modernization of facilities and of the district's plans for facilities.

*(cf. 1220 - Citizen Advisory Committees)*

At least 45 days prior to completion of any facilities plan that relates to the potential expansion of existing school sites or the necessity to acquire additional school sites, the Superintendent or designee shall notify and provide copies of the plan or any relevant and available information to the planning commission or agency of the city or county with land use jurisdiction within the district. (Government Code 65352.2)

*(cf. 7131 - Relations with Local Agencies)*



## **FACILITIES MASTER PLAN (continued)**

If the city or county commission or agency requests a meeting, the Superintendent or designee shall meet with the commission or agency within 15 days following the notification. Items that the parties may discuss at the meeting include, but are not limited to, methods of coordinating planning with proposed revitalization efforts and recreation and park programs, options for new school sites, methods of maximizing the safety of persons traveling to and from the site, and opportunities for financial assistance. (Government Code 65352.2)

Note: The following **optional** paragraph may be revised to reflect district practice. In its Public School Construction Cost Reduction Guidelines, the SAB recommends that facilities master plans be reevaluated whenever a new construction project is initiated or at intervals not exceeding five years.

The master plan shall be regularly reviewed and updated as necessary to reflect changes in the educational program, existing facilities, finances, or demographic data.

### **Plan Components**

Note: The CDE's publication Educational Specifications: Linking Design of School Facilities to Educational Program (Appendix 1) recommends components that should be addressed in the facilities master plan. Items #1-8 below are **optional** and may be revised to reflect district practice.

The facilities master plan shall include:

1. A statement of purpose, including district goals, philosophy, and related policies
2. A description of the planning process
3. Demographics of the community, such as economic trends, migration patterns, employment base, residential base, socioeconomic makeup, historical school enrollments, and inventory of physical resources and needs
4. A description of the educational program, such as grade-level organization, class size, staffing patterns, technology plans, special programs and support services, and other educational specifications
5. Analysis of the safety, adequacy, and equity of existing facilities and potential for expansion, including the adequacy of classrooms, school cafeterias and food preparation areas, physical activity areas, playgrounds, parking areas, and other school grounds

*(cf. 3514 - Environmental Safety)*

*(cf. 3517 - Facilities Inspection)*

*(cf. 3550 - Food Service/Child Nutrition Program)*

*(cf. 5030 - Student Wellness)*

*(cf. 5141.7 - Sun Safety)*

*(cf. 5142 - Safety)*

*(cf. 6142.7 - Physical Education and Activity)*

**FACILITIES MASTER PLAN (continued)**

6. Site selection criteria and process
7. Development of a capital planning budget and identification of potential funding sources
8. Policy for reviewing and updating the plan

Planning shall ensure that school facilities meet the following minimum standards: (5 CCR 14001)

1. Are aligned with the district's educational goals and objectives

*(cf. 0000 - Vision)*

2. Provide for maximum site enrollment at school facilities
3. Are located on a site that meets California Department of Education standards as specified in 5 CCR 14010

*(cf. 7150 - Site Selection and Development)*

4. Are designed for the environmental comfort and work efficiency of the occupants
5. Are designed to require a practical minimum of maintenance
6. Are designed to meet federal, state, and local statutory requirements for structure, fire, and public safety
7. Are designed and engineered with flexibility to accommodate future needs

Note: 5 CCR 14030 delineates detailed standards for developing plans for the design and construction of school facilities. All school districts must comply with these standards, whether a project is state funded or locally funded. Other legal requirements for facilities plans, including Education Code 16011, 16322, and 17251, vary depending on the funding source and type of project.

Pursuant to the Americans with Disabilities Act (ADA) (42 USC 12101-12213) and 28 CFR 35.150 and 35.151, district facilities must be accessible to and usable by individuals with disabilities. In achieving compliance, a district need not make structural changes to existing facilities if other methods are effective and the district can demonstrate that the structural change would result in a fundamental alteration in the nature of the activity or an undue financial or administrative burden. However, starting March 15, 2012, all newly constructed facilities must comply with the 2010 ADA Standards for Accessible Designs pursuant to 28 CFR 35.151, as amended by 75 Fed. Reg. 178. CSBA's ADA Compliance Program offers a variety of accessibility services including, but not limited to, facilities inspections and planning to transition facilities into full ADA compliance.

## **FACILITIES MASTER PLAN (continued)**

24 CCR 101 et seq. ("CalGreen") establishes both mandatory requirements and voluntary standards for "green" building which apply to all new construction and are applicable to K-12 schools. CalGreen addresses five major areas: (1) planning and design, (2) energy efficiency, (3) water efficiency, (4) material conservation and resource efficiency; and (5) indoor environmental quality.

Plans for the design and construction of new school facilities also shall meet the standards described in 5 CCR 14030, green building standards pursuant to 24 CCR 101 et seq., the Americans with Disabilities Act pursuant to 42 USC 12101-12213, and any other requirements applicable to the funding source and type of project.

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

*(cf. 3510 - Green School Operations)*

Note: Subject to the availability of funds, districts may apply pursuant to Education Code 17077.40-17077.45 to fund joint use projects which are part of (1) a qualifying new construction project that will either increase the size and/or create extra costs beyond that necessary for school use of the multipurpose room, gymnasium, child care facility, library, or teacher education facility; or (2) a modernization project or a stand-alone project to provide for a multipurpose room, gymnasium, child care facility, library, or teacher education facility at a school that does not have the type of facility needed or has an inadequate facility.

To facilitate the efficient use of public resources when planning for new construction or modernization of school facilities, the district may consider designs that facilitate joint use of the facility with a local governmental agency, public postsecondary institution, or nonprofit organization.

*(cf. 1330.1 - Joint Use Agreements)*

*Legal Reference: (see next page)*

## **FACILITIES MASTER PLAN (continued)**

### *Legal Reference:*

#### EDUCATION CODE

*16011 Long-range comprehensive master plan*  
*16322 California Department of Education services*  
*17017.5 Approval of applications for projects*  
*17070.10-17079.30 Leroy F. Greene School Facilities Act*  
*17251 Powers and duties of California Department of Education*  
*17260-17268 Plans and specifications for school facilities*  
*17280-17317 Field Act*  
*17365-17374 Fitness for occupancy*  
*17405 Relocatable structures; lease requirements*  
*35275 New school planning; cooperation with recreation and park authorities*

#### GOVERNMENT CODE

*53090-53097.5 Regulation of local agencies by counties and cities*  
*65352.2 Communicating and coordinating of school sites*  
*65995.6 School facilities needs analysis*

#### CODE OF REGULATIONS, TITLE 2

*1859-1859.199 Leroy F. Greene School Facilities Act*

#### CODE OF REGULATIONS, TITLE 5

*14001 Minimum standards*  
*14010 Site selection standards*  
*14030-14036 Standards, planning, and approval of school facilities*

#### CODE OF REGULATIONS, TITLE 24

*101 et seq. Green building standards code*

#### UNITED STATES CODE, TITLE 42

*12101-12213 Americans with Disabilities Act*

#### CODE OF FEDERAL REGULATIONS, TITLE 28

*35.101-35.190 Americans with Disabilities Act*

### *Management Resources:*

#### CSBA PUBLICATIONS

*Maximizing Opportunities for Physical Activity Through Joint Use of Facilities, September 2009*

*Facilities Master Planning, Fact Sheet, November 2007*

#### CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

*Schools of the Future Report, September 2011*

*Educational Specifications: Linking Design of School Facilities to Educational Program, 1997*

*Guide for the Development of a Long-Range Facilities Plan, 1986*

#### OFFICE OF PUBLIC SCHOOL CONSTRUCTION PUBLICATIONS

*An Overview of the State School Facility Programs, rev. October 2011*

*School Facility Program Handbook, 2008*

#### STATE ALLOCATION BOARD PUBLICATIONS

*Public School Construction Cost Reduction Guidelines, 2000*

#### WEB SITES

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

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

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

# **Board Policy**

## **Facilities Master Plan**

**BP 7110**  
**Facilities**

The Superintendent or designee shall develop and maintain a master plan for district facilities. This plan shall describe the district's anticipated school facilities needs and priorities. It shall also identify funding sources and timelines for building. The plan shall be reviewed at regular intervals specified within the plan.

The plan shall be based on an assessment of the district's short- and long-term facility needs, giving consideration to:

1. Current and projected school enrollments for each grade level, based on residential housing growth patterns in accordance with city/county general plans and other demographic factors

2. The district's educational goals

(cf. 0200 - Goals for the School District)

3. Current and projected educational program requirements

4. Student safety and welfare

5. An evaluation of existing buildings and needs for modernization and renovation

(cf. 7111 - Evaluating Existing Buildings)

6. State planning standards and local zoning requirements

7. The community's social, economic and political characteristics

8. Estimated costs associated with meeting the district's facility needs

The Superintendent or designee shall ensure that staff, parents/guardians, students, and business and community representatives are kept informed of the need for facilities construction or modernization. The Superintendent or designee shall also establish a facilities committee that shall meet at regular intervals in order to give community members opportunities to provide input into the planning process.

(cf. 1220 - Citizen Advisory Committees)

To ensure that proposed facilities conform with all state planning standards and local zoning requirements, the Superintendent or designee shall consult architectural and engineering firms, utility companies, local governmental and planning agencies, the county office of education, the California Department of Education, the Division of the State Architect and the Office of Public School Construction. Assistance from colleges and universities, planning laboratories and private consulting firms shall be authorized when necessary to augment district staff resources.

**Legal Reference:**

**EDUCATION CODE**

17017.5 Approval of applications for projects

35275 New school planning; cooperation with recreation and park authorities

17251 CDE standards and advice

17260-17268 Plans of schoolhouses, especially:

17264 Plan requiring accommodation for child care programs

17280-17316 Approval of plans and supervision of construction

17365-17374 Fitness for occupancy

17405 Relocatable structures; lease requirements

**CODE OF REGULATIONS, TITLE 5**

14001 Minimum standards

14030-14036 Standards, planning and approval of school facilities

**UNITED STATES CODE, TITLE 42**

12101 et seq. Americans with Disabilities Act

**Policy CENTER UNIFIED SCHOOL DISTRICT**

**adopted: June 19, 1996      Antelope, California**

**GENERAL OBLIGATION BONDS**

Note: Article 16, Section 18 of the California Constitution permits school districts to issue bonds for school facilities with either a 66.67 percent or 55 percent approval by local voters. To qualify for the lower 55 percent (Proposition 39) threshold, districts must use the bond funds for more limited purposes and fulfill additional accountability requirements, as specified below.

In 88 Ops. Cal. Atty. Gen. 46 (2005), the Attorney General opined that a school district may use district funds to hire a consultant to assess the feasibility of developing a bond measure and to assess the public's support and opposition. However, according to the Attorney General, a district may not use district funds to hire a consultant to develop and implement a strategy to build a coalition to support the bond because such activities would be an impermissible use of public funds for campaign purposes in violation of Education Code 7054. For further discussion regarding use of district funds for political purposes, see BP 1160 - Political Processes.

Education Code 15100 sets forth conditions under which the Governing Board may call for a bond election. Pursuant to Education Code 15266, these conditions must be satisfied if the Board is seeking either the 66.67 percent or 55 percent approval threshold. The following paragraph is consistent with Education Code 15100.

The Governing Board recognizes that school facilities are an essential component of the educational program and that the Board has a responsibility to ensure that the district's facilities needs are met in the most cost-effective manner possible. When the Board determines that it is in the best interest of district students, it may order an election on the question of whether bonds shall be issued for school facilities.

*(cf. 1160 - Political Processes)*

*(cf. 7110 - Facilities Master Plan)*

*(cf. 7210 - Facilities Financing)*

Note: For bonds requiring a 55 percent majority, Education Code 15268 and 15270 set limits as to the maximum amount of the bond and the tax rate that may be levied as a result of the bond. Limitations for bonds requiring a 66.67 percent majority are detailed in Education Code 15102-15109.

The Board shall determine the appropriate amount of the bond in accordance with law.

**Bonds Requiring 55 Percent Approval by Local Voters**

Note: Pursuant to Education Code 15266, upon adoption of the resolution specified below, the district must comply with the accountability provisions required for the 55 percent threshold, even if the bond ultimately passes by a 66.67 percent majority of the voters.

The Board may decide to pursue the authorization and issuance of bonds by approval of 55 percent majority of the voters pursuant to Article 13A, Section 1(b)(3) and Article 16, Section 18(b) of the California Constitution. If two-thirds of the Board agree to such an election, the Board shall vote to adopt a resolution to incur bonded indebtedness if approved by a 55 percent majority of the voters. (Education Code 15266)

**GENERAL OBLIGATION BONDS (continued)**

Note: Education Code 15266 requires that the bond election be held only during a regularly scheduled local election at which all of the electors in the district are entitled to vote. Therefore, those school districts whose boundaries encompass more than one city or county or whose board members are elected by trustee area must ensure that the bond election is on a ballot in which all of the electors in the district are entitled to vote.

The bond election may only be ordered at a primary or general election, a statewide special election, or a regularly scheduled local election at which all of the electors of the school district are entitled to vote. (Education Code 15266)

Bonded indebtedness incurred by the district shall be used only for the following purposes: (California Constitution Article 13A, Section 1(b)(3) and 1(b)(3)(A))

1. The construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities
2. The acquisition or lease of real property for school facilities

The proposition approved by the voters shall include the following accountability requirements: (California Constitution Article 13A, Section 1(b)(3))

1. A requirement that proceeds from the sale of the bonds be used only for the purposes specified in items #1-2 above, and not for any other purposes including teacher and administrative salaries and other school operating expenses
2. A list of specific school facility projects to be funded and certification that the Board has evaluated safety, class size reduction, and information technology needs in developing that list

(cf. 0440 - District Technology Plan)  
 (cf. 0450 - Comprehensive Safety Plan)  
 (cf. 6151 - Class Size)

Note: The question of whether or not bond proceeds may be used to pay the costs of the audits required pursuant to items #3-4 below should be referred to the district's legal counsel. However, an Attorney General opinion (87 Ops.Cal.Atty.Gen. 157 (2004)) supports the use of bond proceeds to pay the salaries of district employees to the extent they perform administrative oversight work on bond projects. According to the opinion, because these audits are expressly required by Proposition 39 and are directly related to the bond projects rather than routine school operations, these project administration costs may be considered as coming within the purposes specified in California Constitution Article 13A, Section 1(b)(3)(A) and therefore are an appropriate expenditure of bond proceeds.

The performance audit described in item #3 may include an evaluation of the planning, financing, and implementation of the overall facilities program. To assist districts with this requirement, CSBA provides a Proposition 39 Bond Performance Audits service; see CSBA's web site for further information.



**GENERAL OBLIGATION BONDS (continued)**

3. A requirement that the Board conduct an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed
4. A requirement that the Board conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the school facilities projects

**Note:** If the district has a general obligation bond approved under the 55 percent threshold, Education Code 15278 requires that the Board appoint a citizens' oversight committee. See the accompanying administrative regulation for requirements related to the composition and duties of the committee.

If a district general obligation bond requiring a 55 percent majority is approved by the voters, the Board shall appoint an independent citizens' advisory oversight committee. This committee shall be appointed within 60 days of the date that the Board enters the election results in its minutes pursuant to Education Code 15274. (Education Code 15278)

*(cf. 1220 - Citizen Advisory Committees)*

*(cf. 9324 - Minutes and Recordings)*

**Note:** SB 423 (Ch. 237, Statutes of 2011) amended Education Code 15286 to require that annual financial and performance audits must be submitted to the citizens' oversight committee by March 31 of each year.

The Superintendent or designee shall ensure that the annual, independent performance and financial audits conducted pursuant to items #3 and #4 above are issued in accordance with the U.S. Comptroller General's Government Auditing Standards. He/she shall submit the audits to the citizens' oversight committee by March 31 of each year. (Education Code 15286)

**Bonds Requiring 66.67 Percent Approval by Local Voters**

Bonds shall be sold to raise money for any of the following purposes: (Education Code 15100)

1. Purchasing school lots
2. Building or purchasing school buildings
3. Making alterations or additions to school building(s) other than as may be necessary for current maintenance, operation, or repairs
4. Repairing, restoring, or rebuilding any school building damaged, injured, or destroyed by fire or other public calamity
5. Supplying school buildings and grounds with furniture, equipment, or necessary apparatus of a permanent nature

## **GENERAL OBLIGATION BONDS (continued)**

6. Permanently improving school grounds
7. Refunding any outstanding valid indebtedness of the district, evidenced by bonds or state school building aid loans
8. Carrying out sewer or drain projects or purposes authorized in Education Code 17577
9. Purchasing school buses with a useful life of at least 20 years
10. Demolishing or razing any school building with the intent to replace it with another school building, whether in the same location or in any other location

Except for refunding any outstanding indebtedness, any of the purposes listed above may be united and voted upon as a single proposition by order of the Board and entered into the minutes. (Education Code 15100)

Note: The following paragraph is **optional**. Districts that have had approval of a bond with 66.67 percent majority vote are not required by law to appoint a citizens' oversight committee but may, at their discretion, form an oversight committee under requirements and guidelines adopted by the Board.

The Board may appoint a citizens' oversight committee to review and report to the Board and the public as to whether the expenditure of bond revenues complies with the intended purposes of the bond.

### **Certificate of Results**

Note: The following section applies to bond elections requiring either a 55 percent or 66.67 percent approval by local voters. Pursuant to Elections Code 15372, following a bond election, the county elections official must submit a certificate of the election results to the Board, which then must provide certification to the county board of supervisors, as specified below.

If the certificate of election results received by the Board shows that the appropriate majority of the voters are in favor of issuing the bonds, the Board shall record that fact in its minutes. The Board shall then certify to the county board of supervisors all proceedings it had in connection with the election results. (Education Code 15124, 15274)

### **Resolution Regarding Sale of Bonds**

Note: The following section applies to bond elections requiring either a 55 percent or 66.67 percent approval by local voters. Pursuant to Education Code 15140, bonds may be offered for sale by either the county board of supervisors or the County Superintendent of Schools. However, the county board of supervisors may adopt a resolution authorizing a district to sell bonds on its own behalf when the district has not received a qualified or negative certification in its most recent interim financial report; see BP/AR 3460 - Financial Reports and Accountability.

**GENERAL OBLIGATION BONDS (continued)**

Prior to bonds being offered for sale, Education Code 15140 requires the Board to adopt a resolution directing the sale of bonds and prescribing the amount of bonds to be sold. Education Code 15146 requires the Board to adopt additional resolutions, prior to and after the sale of the bond, to disclose the cost information and submit a cost summary, as detailed below.

Following passage of the bond measure by the appropriate majority of voters, the Board shall pass a resolution to issue the sale of bonds. The resolution shall prescribe the total amount of bonds to be sold and may also prescribe the maximum acceptable interest rate, not to exceed eight percent, and the time(s) when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds. (Education Code 15140)

Prior to the sale of bonds, the Board shall adopt, as an agenda item at a public meeting, another resolution, which includes all of the following items: (Education Code 15146)

1. Express approval of the method of sale
2. Statement of the reasons for the method of sale selected
3. Disclosure of the identity of the bond counsel, and the identities of the bond underwriter and the financial adviser if either or both are utilized for the sale, unless these individuals have not been selected at the time the resolution is adopted, in which case the Board shall disclose their identities at the public meeting occurring after they have been selected
4. Estimates of the costs associated with the bond issuance

After the sale, the Board shall be presented with the actual cost information and shall disclose that information at the Board's next scheduled meeting. The Board shall ensure that an itemized summary of the costs of the bond sale and all necessary information and reports regarding the sale are submitted to the California Debt and Investment Advisory Commission. (Education Code 15146)

*Legal Reference: (see next page)*

## GENERAL OBLIGATION BONDS (continued)

### *Legal Reference:*

#### EDUCATION CODE

7054 *Use of district property, campaign purposes*

15100-15254 *Bonds for school districts and community college districts*

15264-15288 *Strict Accountability in Local School Construction Bonds Act of 2000*

17577 *Sewers and drains*

17584.1 *Deferred maintenance, reports*

47614 *Charter school facilities*

#### ELECTIONS CODE

324 *General election*

328 *Local election*

341 *Primary election*

348 *Regular election*

356 *Special election*

357 *Statewide election*

1302 *School district election*

15372 *Elections official certificate*

#### GOVERNMENT CODE

1090-1099 *Prohibitions applicable to specified officers*

1125-1129 *Incompatible activities*

8855 *California Debt and Investment Advisory Commission*

53580-53595.5 *Bonds*

54952 *Definition of legislative body, Brown Act*

#### CALIFORNIA CONSTITUTION

Article 13A, Section 1 *Tax limitation*

Article 16, Section 18 *Debt limit*

#### COURT DECISIONS

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

#### ATTORNEY GENERAL OPINIONS

88 *Ops. Cal. Atty. Gen.* 46 (2005)

87 *Ops. Cal. Atty. Gen.* 157 (2004)

### *Management Resources:*

#### CSBA PUBLICATIONS

*Legal Guidelines: Use of Public Resources for Ballot Measures and Candidates*, Fact Sheet, February 2011

#### WEB SITES

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

California Debt and Investment Advisory Commission: <http://www.treasurer.ca.gov/cdiac>

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

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

# **Board Policy**

## **General Obligation Bonds**

**BP 7214**  
**Facilities**

The Governing Board desires to provide adequate facilities in order to enhance student learning and to help the district achieve its vision for educating district students. To that end, the Board may order an election on the question of whether bonds shall be issued for school facilities when, in the Board's judgment, it is advisable and in the best interest of district students.

(cf. 1160 - Political Processes)  
(cf. 7110 - Facilities Master Plan)  
(cf. 7210 - Facilities Financing)

The Board shall determine the appropriate size of the bond in accordance with law.

### **Bonds Requiring 55 Percent Approval by Local Voters**

The Board may decide to pursue the authorization and issuance of bonds by approval of 55 percent majority of the voters pursuant to Article 13A, Section 1(b)(3) and Article 16, Section 18(b) of the California Constitution. If two-thirds of the Board agree to such an election, the Board shall vote to adopt a resolution to incur bonded indebtedness if approved by a 55 percent majority of the voters. (Education Code 15266)

The bond election may only be ordered at a primary or general election, a statewide special election, or a regularly scheduled local election at which all of the electors of the school district are entitled to vote. (Education Code 15266)

Bonded indebtedness incurred by the district shall be used only for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities. (California Constitution Article 13A, Section 1(b)(3) and 1(b)(3)(A))

The proposition approved by the voters shall include the following accountability requirements: (California Constitution Article 13A, Section 1(b)(3))

1. A requirement that proceeds from the sale of the bonds be used only for the purposes specified above, as detailed in California Constitution Article 13A, Section 1(b)(3), and not for any other purposes including teacher and administrative salaries and other school operating expenses
2. A list of specific school facility projects to be funded and certification that the Board

has evaluated safety, class size reduction, and information technology needs in developing that list

(cf. 0440 - District Technology Plan)  
(cf. 0450 - Comprehensive Safety Plan)  
(cf. 6151 - Class Size)

3. A requirement that the Board conduct an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed

4. A requirement that the Board conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the school facilities projects

#### **Bonds Requiring 66.67 Percent Approval by Local Voters**

Bonds shall be sold to raise money for the following purposes: (Education Code 15100)

1. Purchasing school lots
2. Building or purchasing school buildings
3. Making alterations or additions to school building(s) other than as may be necessary for current maintenance, operation, or repairs
4. Repairing, restoring, or rebuilding any school building damaged, injured, or destroyed by fire or other public calamity
5. Supplying school buildings and grounds with furniture, equipment, or necessary apparatus of a permanent nature
6. Permanently improving school grounds
7. Refunding any outstanding valid indebtedness of the district, evidenced by bonds or state school building aid loans
8. Carrying out sewer or drain projects or purposes authorized in Education Code 17577
9. Purchasing school buses with a useful life of at least 20 years
10. Demolishing or razing any school building with the intent to replace it with another school building, whether in the same location or in any other location

Except for refunding any outstanding indebtedness, any of the purposes listed above may be united and voted upon as a single proposition by order of the Board and entered into the minutes. (Education Code 15100)

**Legal Reference:**

**EDUCATION CODE**

7054 Use of district property, campaign purposes

15100-15254 Bonds for school districts and community college districts

15264-15288 Strict Accountability in Local School Construction Bonds Act of 2000

17577 Sewers and drains

47614 Charter school facilities

**ELECTIONS CODE**

324 General election

328 Local election

341 Primary election

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357 Statewide election

1302 School district election

15372 Elections official certificate

**GOVERNMENT CODE**

1090-1099 Prohibitions applicable to specified officers

1125-1129 Incompatible activities

8855 California Debt and Investment Advisory Commission

53580-53595.5 Bonds

54952 Definition of legislative body, Brown Act

**CALIFORNIA CONSTITUTION**

Article 13A, Section 1 Tax limitation

Article 16, Section 18 Debt limit

**COURT DECISIONS**

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

**ATTORNEY GENERAL OPINIONS**

88 Ops.Cal.Atty.Gen. 46 (2005)

87 Ops.Cal.Atty.Gen. 157 (2004)

**Management Resources:**

**WEB SITES**

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

CSBA, District and Financial Services, Proposition 39 Bond Performance Audit Program:

<http://www.csba.org/ds/prop39.cfm>

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

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

**Policy CENTER UNIFIED SCHOOL DISTRICT**

**adopted: May 2, 2007**

**Antelope, California**



**GENERAL OBLIGATION BONDS**

**Cautionary Notice:** As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009), ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), and SB 70 (Ch. 7, Statutes of 2011), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs and provides that districts are deemed in compliance with the program and funding requirements for these programs for the 2008-09 through 2014-15 fiscal years. As a result of this flexibility, the district may choose to temporarily suspend certain provisions of the following policy or administrative regulation that reflect those requirements. However, this flexibility does not affect or alter any existing contract or bargaining agreement that the district may have in place. Thus, districts should examine the terms of those contracts and agreements and consult with district legal counsel for additional guidance. Also see BP 2210 - Administrative Discretion Regarding Board Policy.

**Election Notice**

Note: Notice and ballot requirements for bond elections are specified in Education Code 15120-15126. Additional requirements for bond measures with a 55 percent (Proposition 39) threshold are contained in Education Code 15272.

Whenever the Governing Board orders an election on the question of whether general obligation bonds shall be issued for school facilities, the Superintendent or designee shall ensure that election notice and ballot requirements comply with Education Code 15120-15126 and 15272, as applicable.

**Citizens' Oversight Committee**

Note: The following optional section is for use by districts that have appointed a citizens' oversight committee, as required by Education Code 15278 for districts that have had a general obligation bond approved under the 55 percent threshold. The section may also be adapted for use by districts that have had approval of a bond with 66.67 percent majority vote that choose to appoint an oversight committee at their discretion; see the accompanying Board policy.

In the event that a bond is approved under the 55 percent majority threshold pursuant to Article 13A, Section 1(b)(3) and Article 16, Section 18(b) of the California Constitution, the district's citizens' oversight committee shall consist of at least seven members including, but not limited to: (Education Code 15282)

1. One member active in a business organization representing the business community located within the district
2. One member active in a senior citizens organization
3. One member active in a bona fide taxpayers' organization
4. One member who is a parent/guardian of a child enrolled in the district

**GENERAL OBLIGATION BONDS (continued)**

5. One member who is a parent/guardian of a district student and is active in a parent-teacher organization, such as the Parent Teacher Association or school site council

*(cf. 0420 - School Plans/Site Councils)*

*(cf. 1220 - Citizen Advisory Committees)*

*(cf. 1230 - School-Connected Organizations)*

Members of the citizens' oversight committee shall be subject to prohibitions regarding incompatibility of office pursuant to Government Code 1125-1129 and financial interest in contracts pursuant to Government Code 1090-1099. (Education Code 15282)

*(cf. 9270 - Conflict of Interest)*

No employee, Board member, vendor, contractor, or consultant of the district shall be appointed to the citizens' oversight committee. (Education Code 15282)

Members of the citizens' oversight committee shall serve for a term of two years without compensation and for no more than two consecutive terms. (Education Code 15282)

The purpose of the citizens' oversight committee shall be to inform the public concerning the expenditure of bond revenues. The committee shall actively review and report on the proper expenditure of taxpayers' money for school construction and shall convene to provide oversight for, but not limited to, the following: (Education Code 15278)

1. Ensuring that bond revenues are expended only for the purposes described in Article 13A, Section 1(b)(3) of the California Constitution including the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities
2. Ensuring that, as prohibited by Article 13A, Section 1(b)(3)(A) of the California Constitution, no funds are used for any teacher and administrative salaries or other school operating expenses

In furtherance of its purpose, the committee may engage in any of the following activities: (Education Code 15278)

1. Receiving and reviewing copies of the annual, independent performance and financial audits required by Article 13A, Section 1(b)(3)(C) and (D) of the California Constitution

*(cf. 3460 - Financial Reports and Accountability)*

**GENERAL OBLIGATION BONDS (continued)**

2. Inspecting school facilities and grounds to ensure that bond revenues are expended in compliance with the requirements of Article 13(A), Section 1(b)(3) of the California Constitution
3. Receiving and reviewing copies of any deferred maintenance proposals or plans developed by the district, including any reports required by Education Code 17584.1
4. Reviewing efforts by the district to maximize bond revenues by implementing cost-saving measures including, but not limited to, the following:
  - a. Mechanisms designed to reduce the costs of professional fees
  - b. Mechanisms designed to reduce the costs of site preparation
  - c. Recommendations regarding the joint use of core facilities

*(cf. 1330.1 - Joint Use Agreements)*

- d. Mechanisms designed to reduce costs by incorporating efficiencies in school site design
- e. Recommendations regarding the use of cost-effective and efficient reusable facility plans

*(cf. 7110 - Facilities Master Plan)*

The district shall, without expending bond funds, provide the citizens' oversight committee with any necessary technical assistance and shall provide administrative assistance in furtherance of the committee's purpose and sufficient resources to publicize the committee's conclusions. (Education Code 15280)

Note: Pursuant to Government Code 54952, open meeting laws (the Brown Act) apply to any commission, committee, board, or other body created by formal action of the Governing Board, regardless of whether that body is permanent or temporary, decision-making or advisory.
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All citizens' oversight committee proceedings shall be open to the public and noticed in the same manner as proceedings of the Board. Committee meetings shall be subject to the provisions of the Ralph M. Brown Act. (Education Code 15280; Government Code 54952)

*(cf. 9320 - Meetings and Notices)*

**GENERAL OBLIGATION BONDS (continued)**

The oversight committee shall issue regular reports, at least once a year, on the results of its activities. Minutes of the proceedings and all documents received and reports issued shall be a matter of public record and shall be made available on the district's web site. (Education Code 15280)

*(cf. 1340 - Access to District Records)*

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

The citizens' oversight committee may be disbanded following its review of the final performance and financial audits.

**Reports**

Note: The following section applies to all bond elections.

Within 30 days after the end of each fiscal year, the district shall submit to the County Superintendent of Schools a report concerning any bond election(s) containing the following information: (Education Code 15111)

1. The total amount of the bond issue, bonded indebtedness, or other indebtedness involved
2. The percentage of registered electors who voted at the election
3. The results of the election, with the percentage of votes cast for and against the proposition

# **Administrative Regulation**

## **General Obligation Bonds**

**AR 7214**

### **Facilities**

**Cautionary Notice:** As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009) and ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), Education Code 42605 grants district flexibility in "Tier 3" categorical programs. The Center Unified School District has accepted this flexibility and thus is deemed in compliance with the statutory or regulatory program and funding requirements for these programs for the 2008-2009 through 2012-2013 fiscal years. As a result, the district may temporarily suspend certain provisions of the following policy or regulation that reflect these requirements. For further information, please contact the Superintendent or designee.

### **Election Notice**

The Superintendent or designee shall ensure that election notice and ballot requirements are satisfied in accordance with Education Code 15120-15126 and 15272.

### **Certificate of Results**

If the certificate of election results received by the Governing Board shows that the appropriate majority of the voters are in favor of issuing the bonds, the Board shall record that fact in its minutes. The Board shall then certify to the county board of supervisors all proceedings it had in connection with the election results. (Education Code 15124, 15274)

### **Resolution Regarding Sale of Bonds**

Following passage of the bond measure by the appropriate majority of voters, the Board shall pass a resolution to issue the sale of bonds. The resolution shall prescribe the total amount of bonds to be sold and may also prescribe the maximum acceptable interest rate, not to exceed eight percent, and the time(s) when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds. (Education Code 15140)

Prior to the sale of bonds, the Board shall adopt, as an agenda item at a public meeting, another resolution, which includes all of the following items: (Education Code 15146)

1. Express approval of the method of sale
2. Statement of the reasons for the method of sale selected

3. Disclosure of the identity of the bond counsel, and the identities of the bond underwriter and the financial adviser if either or both are utilized for the sale, unless these individuals have not been selected at the time the resolution is adopted, in which case the Board shall disclose their identities at the public meeting occurring after they have been selected

4. Estimates of the costs associated with the bond issuance

After the sale, the Board shall be presented with the actual cost information and shall disclose that information at the Board's next scheduled meeting. The Board shall ensure that an itemized summary of the costs of the bond sale and all necessary information and reports regarding the sale are submitted to the California Debt and Investment Advisory Commission. (Education Code 15146)

#### **Citizens' Oversight Committee**

If a district general obligation bond requiring a 55 percent majority is approved by the voters, the Board shall appoint an independent citizens' advisory oversight committee. This committee shall be appointed within 60 days of the date that the Board enters the election results in its minutes pursuant to Education Code 15274. (Education Code 15278)

(cf. 1220 - Citizen Advisory Committees)  
(cf. 9324 - Minutes and Recordings)

The citizens' oversight committee shall consist of at least seven members including, but not limited to: (Education Code 15282)

1. One member active in a business organization representing the business community located within the district
2. One member active in a senior citizens organization
3. One member active in a bona fide taxpayers' organization
4. One member who is a parent/guardian of a child enrolled in the district
5. One member who is a parent/guardian of a child enrolled in the district and is active in a parent-teacher organization, such as the Parent Teacher Association or school site council

(cf. 0420 - School Plans/Site Councils)  
(cf. 1230 - School-Connected Organizations)

No employee, official (board member), vendor, contractor, or consultant of the district

shall be appointed to the citizens' oversight committee. (Education Code 15282)

Members of the citizens' oversight committee shall serve for a term of two years without compensation and for no more than two consecutive terms. (Education Code 15282)

The purpose of the citizens' oversight committee shall be to inform the public concerning the expenditure of bond revenues. The committee shall actively review and report on the proper expenditure of taxpayers' money for school construction and shall convene to provide oversight for, but not limited to, the following: (Education Code 15278)

1. Ensuring that bond revenues are expended only for the purposes described in Article 13A, Section 1(b)(3) of the California Constitution including the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities (Education Code 15278)
2. Ensuring that, as prohibited by Article 13A, Section 1(b)(3)(A) of the California Constitution, no funds are used for any teacher and administrative salaries or other school operating expenses (Education Code 15278)
3. Ensuring that the annual, independent performance and financial audits required by Article 13A, Section 1(b)(3)(C) and (D) of the California Constitution are issued in accordance with the U.S. Comptroller General's Government Auditing Standards for performance and financial audits (Education Code 15286)

(cf. 3460 - Financial Reports and Accountability)

In furtherance of its purpose, the committee may engage in any of the following activities: (Education Code 15278)

1. Receiving and reviewing copies of the annual, independent performance and financial audits required by Article 13A, Section 1(b)(3)(C) and (D) of the California Constitution
2. Inspecting school facilities and grounds to ensure that bond revenues are expended in compliance with the requirements of Article 13(A), Section 1(b)(3) of the California Constitution
3. Receiving and reviewing copies of any deferred maintenance proposals or plans developed by the district, including any reports required by Education Code 17584.1
4. Reviewing efforts by the district to maximize bond revenues by implementing cost-saving measures including, but not limited to, the following:
  - a. Mechanisms designed to reduce the costs of professional fees

- b. Mechanisms designed to reduce the costs of site preparation
- c. Recommendations regarding the joint use of core facilities

(cf. 1330.1 - Joint Use Agreements)

- d. Mechanisms designed to reduce costs by incorporating efficiencies in school site design
- e. Recommendations regarding the use of cost-effective and efficient reusable facility plans

(cf. 7110 - Facilities Master Plan)

The Board shall, without expending bond funds, provide the citizens' oversight committee with any necessary technical assistance and shall provide administrative assistance in furtherance of the committee's purpose and sufficient resources to publicize the committee's conclusions. (Education Code 15280)

All oversight committee proceedings shall be open to the public and noticed in the same manner as proceedings of the Board. Committee meetings shall be subject to the provisions of the Ralph M. Brown Act. (Education Code 15280; Government Code 54952)

(cf. 9320 - Meetings and Notices)

The oversight committee shall issue regular reports, at least once a year, on the results of its activities. Minutes of the proceedings and all documents received and reports issued shall be a matter of public record and shall be made available on the district's web site. (Education Code 15280)

(cf. 1340 - Access to District Records)

Members of the oversight committee shall be subject to prohibitions regarding incompatibility of office pursuant to Government Code 1125-1129 and financial interest in contracts pursuant to Government Code 1090-1098. (Education Code 15282)

(cf. 9270 - Conflict of Interest)

## **Reports**

Within 30 days after the end of each fiscal year, the Board shall submit to the County Superintendent of Schools a report concerning any bond election(s) containing the following information: (Education Code 15111)

1. The total amount of the bond issue, bonded indebtedness, or other indebtedness



involved

2. The percentage of registered electors who voted at the election
3. The results of the election, with the percentage of votes cast for and against the proposition

Regulation CENTER UNIFIED SCHOOL DISTRICT  
approved: February 16, 2011 Antelope, California

# Add

## Business and Noninstructional Operations

BP 3511.1(a)

### INTEGRATED WASTE MANAGEMENT

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

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

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

The district's program shall include strategies designed to help the district reduce solid and hazardous waste generation, improve efficiency in its use of natural resources, and minimize the impact of such use on the environment. The program shall address all areas of the district's operations, including, but not limited to, procurement, resource utilization, and facilities management practices.

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

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

*(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)*  
*(cf. 7131 - Relations with Local Agencies)*

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

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

## **INTEGRATED WASTE MANAGEMENT (continued)**

To the extent that funding permits, the Superintendent or designee shall provide appropriate educational and training opportunities to students and staff regarding the benefits and methods of conserving natural resources and protecting the environment.

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

*(cf. 6142.5 - Environmental Education)*

*(cf. 6142.93 - Science Instruction)*

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

### *Legal Reference:*

#### EDUCATION CODE

8700-8707 *Environmental education*

17070.96 *Leroy F. Greene School Facilities Act of 1996, consideration of high performance standards*

17072.35 *New construction grants; use for designs and materials for high performance schools*

32370-32376 *Recycling paper*

33541 *Environmental education*

#### PUBLIC RESOURCES CODE

25410-25421 *Energy conservation assistance*

40050-40063 *Waste management; integrated waste management*

41780 *Waste diversion*

42620-42622 *Source reduction and recycling programs*

42630-42647 *School site source reduction and recycling*

42649-42649.7 *Recycling of commercial solid waste*

#### CODE OF REGULATIONS, TITLE 14

17225.12 *Commercial solid waste*

### *Management Resources:*

#### WEB SITES

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

California Department of Resources Recycling and Recovery:

<http://www.calrecycle.ca.gov/ReduceWaste/Schools>

California Division of State Architect: <http://www.dgs.ca.gov/dsa>

California Energy Commission: <http://www.energy.ca.gov>

California Environmental Protection Agency: <http://www.calepa.ca.gov>

U.S. Environmental Protection Agency: <http://www.epa.gov>

# Add

## Business and Noninstructional Operations

AR 3511.1(a)

### INTEGRATED WASTE MANAGEMENT

Note: The following administrative regulation is **optional** and may be revised to reflect district practice.

For all applicable areas of district operations, the Superintendent or designee shall design an integrated waste management program that minimizes the generation of waste, encourages the recovery and diversion of reusable materials from the waste stream, improves efficiency in the utilization of natural and material resources, and protects the environment. The program shall implement measures and/or practices to:

1. Reduce the consumption of disposable materials, increase the composting of organic materials, and fully utilize all materials prior to disposal

*(cf. 3510 - Green School Operations)*

2. Recycle materials such as paper, glass, plastic, and aluminum

Note: Pursuant to Public Resources Code 42649.2, as added by AB 341 (Ch. 476, Statutes of 2011), any business, including a school, which generates more than four cubic yards of commercial solid waste per week (approximately the size of a 72-inch length, 51-inch width, and 56-inch rear height dumpster) is required to arrange for recycling services, to the extent that such services are available from a local provider, as stated in items a and b below. Commercial solid waste, as defined in 14 CCR 17225.12, means any type of solid waste generated by stores, offices, or other commercial sources.

Any school site or district facility which generates more than four cubic yards of commercial solid waste per week shall take at least one of the following actions:  
(Public Resources Code 42649.2; 14 CCR 17225.12)

- a. Source separate recyclable materials from solid waste and subscribe to a basic level of recycling service that may include collection, self-hauling, or other arrangement for the pickup of the recyclable materials
- b. Subscribe to a recycling service that may include mixed waste processing that yields diversion results comparable to source separation

Note: Pursuant to Public Resources Code 42642, the California Department of Resources Recycling and Recovery maintains on its web site a list of recycled and environmentally preferable products that may be used in the construction and modernization of school facilities.

3. Prefer recycled and other environmentally preferable products when procuring materials for use in district schools and buildings or contracting for the construction or modernization of any district building

*(cf. 3300 - Expenditures and Purchases)*

*(cf. 3311 - Bids)*

**INTEGRATED WASTE MANAGEMENT (continued)**

*(cf. 3312 - Contracts)*

*(cf. 7110 - Facilities Master Plan)*

4. Work with city, county, or other government agencies to locate markets for the district's reusable and recyclable materials

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

*(cf. 7131 - Relations with Local Agencies)*

5. Minimize the use of nonbiodegradable materials and work with vendors and contractors to use packaging and delivery materials that generate less waste

**FOOD SERVICE/CHILD NUTRITION PROGRAM**

Note: The following optional administrative regulation applies to food sales through the district's food service program, including the National School Lunch Program (42 USC 1751-1769j), School Breakfast Program (42 USC 1773), and Special Milk Program (42 USC 1772). The district should select all sections below that apply to programs offered by the district.

See BP/AR 3552 - Summer Meal Program, AR 5148 - Child Care and Development, and AR 5148.2 - Before/After School Programs for nutrition requirements pertaining to those programs. For food sales outside the district's food service program (e.g., by student and adult organizations, through vending machines, or at student stores), see BP/AR 3554 - Other Food Sales.

**Nutrition Standards for School Meals**

Note: Item #1 below is for use by all districts. Education Code 49550 requires all schools to provide at least one nutritionally adequate meal each school day to students who meet federal eligibility criteria for free and reduced-price meals, regardless of whether the school receives reimbursements through the National School Lunch Program (42 USC 1751-1769j), School Breakfast Program (42 USC 1773), and/or State Meal Program (Education Code 49490-49494) or receives no funding support for school meals; see BP/AR 3553 - Free and Reduced Price Meals. Education Code 49553 defines a "nutritionally adequate meal" as one that qualifies for reimbursement under federal child nutrition program regulations. 42 USC 1758 and 1773 require schools participating in the National School Lunch and/or Breakfast Program to extend meal service to all students enrolled in the school.

The Healthy, Hunger-Free Kids Act of 2010 (42 USC 1753) required the U.S. Department of Agriculture (USDA) to develop regulations to align meal patterns and nutrition standards for the National School Lunch and Breakfast Programs with the Dietary Guidelines for Americans. These updated meal requirements are contained in 7 CFR 210.10, 220.8, and 220.23, as amended by 77 Fed. Reg. 17 pages 4088-4167. Requirements for the National School Lunch Program (7 CFR 210.10) are effective July 1, 2012. 7 CFR 220.23 contains requirements for the School Breakfast Program which are applicable through the 2013-14 school year; these will be superseded by the requirements in 7 CFR 220.8 after the 2013-14 school year.

The alternative method of meeting the required nutrition standards in California, the menu planning option of the Shaping Health as Partners in Education (SHAPE) program, has been disallowed by the USDA. Thus, effective July 1, 2012, all schools participating in the National School Lunch program must comply with the food-based menu planning approach and USDA standards.

Meals, food items, and beverages provided through the district's food services program shall: (Education Code 49531, 49553; 42 USC 1758, 1773)

1. Comply with National School Lunch and/or Breakfast Program standards for meal patterns, nutrient levels, and calorie requirements for the ages/grade levels served, as specified in 7 CFR 210.10, 220.8, or 220.23 as applicable

Note: Item #2 below reflects an additional requirement for (1) districts participating in the National School Lunch and/or Breakfast Program which choose to apply for state reimbursements for free and reduced-price meals in addition to their base reimbursement and (2) districts participating in the State Meal Program. Pursuant to Education Code 49430.7, such districts may not provide foods that are deep fried, par fried, or flash fried. Other districts may delete or use this item at their discretion.

## **FOOD SERVICE/CHILD NUTRITION PROGRAM (continued)**

In addition, Education Code 49430.7 requires that foods provided by such districts not contain artificial trans fat. 7 CFR 210.10 and 220.8, as amended by 77 Fed. Reg. 17, added the same requirement to the nutrition standards for the National School Lunch and Breakfast Programs applicable to all districts; thus, the prohibition against trans fat is covered by item #1 above.

2. Not be deep fried, par fried, or flash fried, as defined in Education Code 49430 and 49430.7

*(cf. 3552 - Summer Meal Program)*

*(cf. 3553 - Free and Reduced Price Meals)*

*(cf. 3554 - Other Food Sales)*

*(cf. 5030 - Student Wellness)*

*(cf. 5141.27 - Food Allergies/Special Dietary Needs)*

### **Drinking Water**

Note: The following section is for use by all districts. Pursuant to 42 USC 1758, schools participating in the National School Lunch Program are required to make free drinking water available for consumption at locations where meals are served during meal service. In addition, Education Code 38086 requires all California schools to make free drinking water available during school meal times. Pursuant to Education Code 38086, a district may be exempted from this requirement only if the Governing Board adopts a resolution, publicly noticed on at least two consecutive meeting agendas, demonstrating that the district is unable to comply due to fiscal constraints or health or safety concerns. Any district whose Board has adopted such a resolution should delete this section.

Pursuant to Education Code 38086, schools may satisfy this requirement by, among other means, providing cups and containers of water or soliciting or receiving donated water. Recommendations on the California Department of Education's web site include providing chilled water, ensuring that all water fountains are clean and operational, and encouraging water consumption through marketing and advertising.

The district shall provide access to free, fresh drinking water during meal times in food service areas at all district schools, including, but not limited to, areas where reimbursable meals under the National School Lunch or Breakfast Program are served or consumed. (Education Code 38086; 42 USC 1758)

### **Special Milk Program**

Note: The following section is **optional**. The Special Milk Program (42 USC 1772; 7 CFR 215.1-215.18) is a federally funded program which assists in providing milk at reasonable prices to students in schools that do not participate in the National School Lunch or Breakfast Program. Pursuant to 7 CFR 215.1 and 215.7, districts may choose to provide milk at no charge to students who qualify for free and reduced-price meals; see BP 3553 - Free and Reduced Price Meals.

Any school that does not participate in the National School Lunch or Breakfast Program may participate in the Special Milk Program to provide all enrolled students with reasonably priced milk. (7 CFR 215.1)

## **FOOD SERVICE/CHILD NUTRITION PROGRAM (continued)**

### **Food Safety**

Note: Pursuant to Health and Safety Code 113789, school cafeterias are among food facilities subject to the California Retail Food Code.

The Superintendent or designee shall ensure that the district's food service program meets the applicable sanitation and safety requirements of the California Retail Food Code as set forth in Health and Safety Code 113700-114437.

Note: The remainder of this section is for use by any district participating in the National School Lunch and/or Breakfast Program and may be used or revised by other districts at their discretion. 42 USC 1758 requires such districts to implement a food safety program applicable to any facility or part of a facility in which food is stored, prepared, or served. Pursuant to 42 USC 1758 and 7 CFR 210.13 and 220.7, the food safety program must comply with Hazard Analysis and Critical Control Point (HACCP) principles, which include establishing measures needed to prevent hazards at each stage of food production. Pursuant to 7 CFR 210.13, districts may implement either the "traditional" HACCP system or the simplified "process approach." Under the process approach, foods are grouped together according to preparation process and the same control measure is applied to all menu items within the group, rather than developing an HACCP plan for each item. These principles are described in the USDA's Guidance for School Food Authorities: Developing a School Food Safety Program Based on the Process Approach to HACCP Principles.

For all district schools participating in the National School Lunch and/or School Breakfast Program, the Superintendent or designee shall implement a written food safety program for the storage, preparation, and service of school meals which complies with the national Hazard Analysis and Critical Control Point (HACCP) system. The district's HACCP plan shall include, but is not limited to, a determination of critical control points and critical limits at each stage of food production, monitoring procedures, corrective actions, and recordkeeping procedures. (42 USC 1758; 7 CFR 210.13, 220.7)

Note: The following paragraph is **optional**. The USDA's Guidance for School Food Authorities: Developing a School Food Safety Program Based on the Process Approach to HACCP Principles recommends that proper staff training is a necessary component of an effective food safety program.

The Superintendent or designee shall provide ongoing staff development on food safety to food service managers and employees. Each new employee, including a substitute, or volunteer shall complete initial food safety training prior to handling food. The Superintendent or designee shall document the date, trainer, and subject of each training.

*(cf. 4231 - Staff Development)*



**FOOD SERVICE/CHILD NUTRITION PROGRAM (continued)**

Note: The following paragraph is optional. The USDA's Guidance for School Food Authorities: Developing a School Food Safety Program Based on the Process Approach to HACCP Principles states that districts should maintain the following types of records in order to periodically review the food safety program and, in the event of a foodborne illness, to document that reasonable care was exercised in the operation of the school's food service program.

The Superintendent or designee shall assign staff to maintain records and logs documenting food safety activities, including, but not limited to, records of food deliveries, time and temperature monitoring during food production, equipment temperature (freezer, cooler, thermometer calibration), corrective actions, verification or review of safety efforts, and staff training.

**Inspection of Food Facilities**

Note: Health and Safety Code 113725-113725.3 require all food facilities in California to be inspected by the county environmental health agency in accordance with the timelines and procedures established in county regulations. The inspections cover all food service areas, including cafeterias, vending machines, and mobile food carts. Health and Safety Code 113725 specifies findings that would be considered violations, including (1) improper holding temperatures, improper cooling, or inadequate cooking of potentially hazardous foods (i.e., foods that require temperature control); (2) poor personal hygiene of food service employees; (3) contaminated equipment; and (4) food from unapproved sources.

All food preparation and service areas shall be inspected in accordance with Health and Safety Code 113725-113725.1 and applicable county regulations.

Note: The following paragraph is for use by districts participating in the National School Lunch and/or Breakfast Program. Notwithstanding the requirements of county regulations, districts participating in these programs must obtain at least two safety inspections each school year.

Each school participating in the National School Lunch and/or Breakfast Program shall, during each school year, obtain a minimum of two food safety inspections conducted by the county environmental health agency. (42 USC 1758; 7 CFR 210.13, 220.7)

The Superintendent or designee shall retain records from the most recent food safety inspection. All schools shall post a notice indicating that the most recent inspection report is available to any interested person upon request. (Health and Safety Code 113725.1; 42 USC 1758; 7 CFR 210.13, 210.15, 220.7)

*(cf. 1340 - Access to District Records)*  
*(cf. 3580 - District Records)*

# **Center USD**

## **Administrative Regulation**

### **Food Service/Child Nutrition Program**

**AR 3550**

#### **Business and Noninstructional Operations**

##### **Nutrition Standards for School Meals**

Meals or food items provided through the district's food services program shall:  
(Education Code 49430, 49430.5, 49430.7, 49550, 49553; 42 USC 1758, 1773; 7 CFR 210.10, 220.8)

1. Comply with the National School Lunch and/or Breakfast standards for meal patterns, nutrient levels, and calorie requirements for the ages/grade levels served, as specified in 7 CFR 210.10 or 220.8, or the state's menu planning options of Shaping Health as Partners in Education
2. Not be deep fried, par fried, or flash fried by the district or school or as part of the manufacturing process
3. Not contain artificial trans fat as defined in Education Code 49430.7

(cf. 3552 - Summer Meal Program)  
(cf. 3553 - Free and Reduced Price Meals)  
(cf. 5030 - Student Wellness)  
(cf. 5141.27 - Food Allergies/Special Dietary Needs)  
(cf. 5148 - Child Care and Development)  
(cf. 5148.3 - Preschool/Early Childhood Education)

##### **Nutrition Standards for Foods and Beverages Sold Outside the Reimbursable Meal Programs**

Any foods or beverages that are not sold as part of the National School Lunch or Breakfast Program shall be sold to students only if they meet the nutrition standards specified in Education Code 49430-49431.7 and 5 CCR 15575-15578.

(cf. 3554 - Other Food Sales)

##### **Drinking Water**

The district shall provide access to free, fresh drinking water during meal times in food service areas at all district schools, including, but not limited to, areas where reimbursable meals under the National School Lunch or Breakfast Program are served or

consumed. (Education Code 38086; 42 USC 1758)

### **Special Milk Program**

Any school that does not participate in the National School Lunch or Breakfast Program may participate in the Special Milk Program to provide all enrolled students with reasonably priced milk. (7 CFR 215.1)

### **Food Safety**

The Superintendent or designee shall ensure that the district's food service program meets the applicable sanitation and safety requirements of the California Retail Food Code as set forth in Health and Safety Code 113700-114437.

For all district schools participating in the National School Lunch and/or School Breakfast Program, the Superintendent or designee shall implement a written food safety program for the storage, preparation, and service of school meals which complies with the national Hazard Analysis and Critical Control Point (HACCP) system. The district's HACCP plan shall include, but not be limited to, a determination of critical control points and critical limits at each stage of food production, monitoring procedures, corrective actions, and recordkeeping procedures. (42 USC 1758; 7 CFR 210.13, 220.7)

The Superintendent or designee shall provide ongoing staff development on food safety to food service managers and employees. Any new employee, substitute, or volunteer shall complete initial food safety training prior to handling food. The Superintendent or designee shall document the date, trainer, and subject of each training.

### **(cf. 4231 - Staff Development)**

The Superintendent or designee shall assign staff to maintain records and logs documenting food safety activities, including, but not limited to, records of food deliveries, time and temperature monitoring during food production, equipment temperature (freezer, cooler, thermometer calibration), corrective actions, verification or review of safety efforts, and staff training.

### **Inspection of Food Facilities**

All food preparation and service areas shall be inspected in accordance with Health and Safety Code 113725-113725.1 and applicable county regulations.

Each school participating in the National School Lunch and/or Breakfast Program shall, during each school year, obtain a minimum of two food safety inspections conducted by the county environmental health agency. (42 USC 1758; 7 CFR 210.13, 220.7)

The Superintendent or designee shall retain records from the most recent food safety inspection. All schools shall post a notice indicating that the most recent inspection report

is available to any interested person upon request. (Health and Safety Code 113725.1; 42 USC 1758; 7 CFR 210.13, 210.15, 220.7)

(cf. 1340 - Access to District Records)

(cf. 3580 - District Records)

Regulation      CENTER UNIFIED SCHOOL DISTRICT  
approved: June 15, 2011      Antelope, California

# Add

**All Personnel**

BP 4112.9(a)

4212.9

## **EMPLOYEE NOTIFICATIONS**

4312.9

The Governing Board believes that providing clear communications to staff is essential to establishing a professional, positive work environment and enhancing their job performance. The Superintendent or designee shall provide district employees all notifications required by law and any other notifications he/she believes will promote staff knowledge of the district's policies, programs, activities, and operations.

When required by law, Board policy, or administrative regulation, district employees shall be asked to sign an acknowledgment indicating receipt of the notification. Such acknowledgments shall be retained in each employee's personnel file.

*(cf. 3580 - District Records)*

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

### *Legal Reference:*

#### EDUCATION CODE

231.5 Sexual harassment policy

17612 Notification of pesticide use

22455.5 STRS information to potential members

22461 Postretirement compensation limitation

35031 Nonreelection of superintendent, assistant superintendent, or manager of classified services

35171 Notice of regulations pertaining to certificated employee evaluations

37616 Notice of public hearing on year-round schedule

44031 Personnel file contents, inspection

44663-44664 Evaluation of certificated employees

44842 Reemployment notices, certificated employees

44896 Transfer of administrator or supervisor to teaching position

44916 Written statement of employment status

44929.21 Reelection or nonreelection of probationary employee after second year

44934 Notice of disciplinary action for cause

44938 Notice of unprofessional conduct and opportunity to correct

44940.5-44941 Notification of suspension and intent to dismiss

44948.3-44948.5 Dismissal of probationary employees

44949 Cause, notice and right to hearing

44951 Continuation in position unless notified, administrative or supervisory personnel

44954 Nonreelection of temporary employees

44955 Reduction in number of employees

45113 Notification of charges, classified employees

45117 Notice of layoff, classified employees

45169 Employee salary data, classified employees

45192 Industrial and accident leave

45195 Additional leave

46162 Notice of public hearing on block schedule

*Legal Reference continued: (see next page)*

## EMPLOYEE NOTIFICATIONS (continued)

*Legal Reference: (continued)*

EDUCATION CODE (continued)

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

GOVERNMENT CODE

1126 Incompatible activities of employees

3100-3109 Oath or affirmation of allegiance

8355 Certification of drug-free workplace, including notification

12950 Sexual harassment

54957 Complaints against employees; right to open session

54963 Unauthorized disclosure of confidential information

HEALTH AND SAFETY CODE

104420 Tobacco-free schools

120875 Information on AIDS, AIDS-related conditions, and hepatitis B

120880 Notification to employees re AIDS, AIDS-related conditions, and hepatitis B

LABOR CODE

2800.2 Notification of availability of continuation health coverage

3550-3553 Notifications re: workers' compensation benefits

5401 Workers' compensation; claim form and notice of potential eligibility

PENAL CODE

11165.7 Child Abuse and Neglect Reporting Act; notification requirement

11166.5 Employment; statement of knowledge of duty to report child abuse or neglect

UNEMPLOYMENT INSURANCE CODE

2613 Disability insurance; notice of rights and benefits

CODE OF REGULATIONS, TITLE 2

7288.0 Sexual harassment training, provision of district policy

CODE OF REGULATIONS, TITLE 5

4622 Uniform complaint procedures

80303 Reports of change in employment status, alleged misconduct

CODE OF REGULATIONS, TITLE 8

3204 Employees exposed to bloodborne pathogens, access to exposure and medical records

5193 California bloodborne pathogens standard

UNITED STATES CODE, TITLE 38

4344 Uniformed Services Employment and Reemployment Rights Act, notice requirement

UNITED STATES CODE, TITLE 41

8101-8106 Drug-Free Workplace Act

CODE OF FEDERAL REGULATIONS, TITLE 29

825.300 Family and Medical Leave Act; notice requirement

CODE OF FEDERAL REGULATIONS, TITLE 34

104.8 Nondiscrimination

106.9 Dissemination of policy, nondiscrimination on basis of sex

CODE OF FEDERAL REGULATIONS, TITLE 40

763.84 Asbestos inspections, response actions and post-response actions

763.93 Asbestos management plans

CODE OF FEDERAL REGULATIONS, TITLE 49

382.601 Controlled substance and alcohol use and testing notifications

# Add

## All Personnel

E 4112.9(a)  
4212.9  
4312.9

## EMPLOYEE NOTIFICATIONS

Note: The following exhibit lists notices which the law requires be provided to employees. Unless otherwise indicated, code numbers below refer to Education Code sections.

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
<b>I. To All Employees</b>			
At the beginning of school year or upon employment	231.5, Government Code 12950, 2 CCR 7288.0	AR 4119.11 4219.11 4319.11	The district's policy on sexual harassment, legal remedies, complaints
Annually to all employees	17612	AR 3514.2	Use of pesticide product, active ingredients, Internet address to access information
To all employees, prior to implementing year-round schedule	37616	AR 6112	Public hearing on year-round program
To all employees, prior to implementing block schedule	46162	AR 6112	Public hearing on block schedule
To all employees	Government Code 1126	BP 4136 4236 4336	Prohibition of activities that are inconsistent, incompatible, in conflict with, or inimical to duties; discipline; appeal
Prior to beginning employment	Government Code 3102	AR 4112.3 4212.3 4312.3	Oath or affirmation of allegiance required of public employees
To all employees	Government Code 8355; 41 USC 8102	BP 4020 BP 4159 4259 4359	District's drug- and alcohol- free workplace; actions that will be taken if violated; available employee assistance programs
To all employees, if the district receives Tobacco-Use Prevention Education funds	Health and Safety Code 104420	AR 3513.3	District's tobacco-free schools policy and enforcement procedures
Annually to all employees	Health and Safety 120875, 120880	AR 4119.43 4219.43 4319.43	AIDS and hepatitis B, methods to prevent exposure

E 4112.9(b)  
4212.9  
4312.9

## EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
<b>I. To All Employees (continued)</b>			
To covered employees and former employees	Labor Code 2800.2	AR 4154 4254 4354	Availability of COBRA/ Cal-COBRA continuation and conversion coverage; statement encouraging careful examination of options before declining coverage
Upon employment or by end of first pay period	Labor Code 3551	BP 4157.1 4257.1 4357.1	Workers' compensation benefits, how to obtain medical care, role of primary physician, form for reporting personal physician/chiropractor
Prior to beginning employment	Penal Code 11165.7, 11166.5	AR 5141.4	Status as a mandated reporter of child abuse, reporting obligations, confidentiality rights, copy of law
Upon employment, and when employee goes on leave for specified reasons	Unemployment Insurance Code 2613	AR 4154 4254 4354	Disability insurance rights and benefits
Annually to all employees	5 CCR 4622	AR 1312.3	Uniform complaint procedures, available appeals, civil law remedies, identity of coordinator
To all employees via employee handbook, or to each new employee	29 CFR 825.300	AR 4161.8 4261.8 4361.8	Benefits through Family and Medical Leave Act
To all employees and job applicants	34 CFR 104.8, 106.9	BP 0410 BP 4030	District's policy on nondiscrimination and related complaint procedures
Annually to all employees	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



E 4112.9(c)  
4212.9  
4312.9

## EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
<b>II. To Certificated Employees</b>			
To eligible certificated employees in a timely manner, and to part-time and substitute certificated employees within 30 days of hire	22455.5	AR 4121	Criteria for membership in retirement system; right to elect membership at any time
Upon employment of a retired certificated individual	22461	AR 4117.14 4317.14	Postretirement compensation limitation
To certificated employees	35171	AR 4115 BP 4315	District regulations related to performance evaluations
30 days before last day of school year for instructional staff, or by June 30 for noninstructional certificated staff, in any year in which employee is evaluated	44663	AR 4115	Copy of employee's evaluation
To a certificated employee with unsatisfactory evaluation	44664	AR 4115	Notice and description of the unsatisfactory performance
By May 30, if district elects to issue reemployment notices to certificated employees	44842	AR 4112.1	Request to notify district of intent to remain in service for the following school year; copy of law
To certificated employees upon employment	44916	AR 4112.1 AR 4121	Employment status and salary
To probationary employees in district with ADA of 250 or more, by March 15 of employee's second consecutive year of employment	44929.21	AR 4117.6	Whether or not employee is reelected for next school year
When certificated employee is subject to disciplinary action for cause	44934	AR 4117.4 AR 4118	Notice of charges, procedures, and employee rights; intent to dismiss or suspend 30 days after notice
To certificated employee charged with unprofessional conduct	44938	AR 4118	Notice of deficiency and opportunity to correct

E 4112.9(d)  
4212.9  
4312.9

## EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
<b>II. To Certificated Employees (continued)</b>			
To certificated employee charged with mandatory leave of absence offense, within 10 days of entry of judgment in proceedings	44940.5	AR 4118	Notice of intent to dismiss 30 days from notice
To probationary employees 30 days prior to dismissal, or not later than March 15 for second-year probationary employees	44948.3	AR 4117.4	Reasons for dismissal and opportunity to appeal
To probationary employees in districts with less than 250 ADA, before notice of nonreelection but no later than March 15, with final notice by May 15	44948.5	AR 4117.4	Recommendation of nonreelection notice for reason other than personnel reduction; statement of reasons upon request
By March 15 when necessary to reduce certificated personnel, with final notice by May 15	44949, 44955	BP 4117.3	Reasons for personnel reduction and employees' right to hearing; final notice of Board decision re: termination
On or before June 30, to temporary employee who served 75 percent of school year but will be released	44954	BP 4121	District's decision not to reelect employee for following school year
To teacher, when student engages in or is reasonably suspected of specified acts	49079	AR 4158 4258 4358	Student has committed specified act that constitutes ground for suspension or expulsion
To certificated employee upon change in employment status due to alleged misconduct	5 CCR 80303	AR 4117.7	Contents of state regulation re: report to Commission on Teacher Credentialing
<b>III. To Classified Employees</b>			
To classified employee charged with mandatory leave of absence offense, in merit system district	44940.5	AR 4218	Notice of intent to dismiss in 30 days

E 4112.9(e)  
4212.9  
4312.9

## **EMPLOYEE NOTIFICATIONS (continued)**

<b>When/Whom to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>III. To Classified Employees (continued)</b>			
When classified employee is subject to disciplinary action for cause, in nonmerit district	45113	AR 4218	Notice of charges, procedures, and employee rights
To classified employees, at least 45 days prior to layoff, or by April 29 if specially funded program is expiring	45117	AR 4217.3	Notice of layoff and reemployment rights
To classified employees upon employment and upon each change in classification	45169	AR 4212	Employee's class specification, salary data, assignment or work location, duty hours, prescribed workweek
To classified permanent employee whose leave is exhausted	45192, 45195	AR 4261.1 AR 4261.11	Exhaustion of leave, opportunity to request additional leave
To school bus drivers, prior to district drug testing program and thereafter upon employment	49 CFR 382.601	BP 4112.42 4212.42 4312.42	Explanation of federal requirements for drug testing program and district's policy
<b>IV. To Administrative/Supervisory Personnel</b>			
To deputy, associate, or assistant superintendent or senior manager of classified service, at least 45 days before expiration of contract	35031	BP 4312.1	Decision not to reelect or reemploy upon expiration of contract or term
Upon request by administrative or supervisory employee transferred to teaching position	44896	AR 4313.2	Statement of the reasons for the release or reassignment
By March 15 to employee who may be released/reassigned the following school year	44951	AR 4313.2	Notice that employee may be released or reassigned the following school year
<b>V. To Individual Employees Under Special Circumstances</b>			
Prior to placing derogatory information in personnel file	44031	AR 4112.6 4212.6 4312.6	Notice of derogatory information, opportunity to review and comment

E 4112.9(f)  
4212.9  
4312.9

## EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
<b>V. To Individual Employees Under Special Circumstances (continued)</b>			
24 hours before Board meets in closed session to hear complaints or charges against employee	Government Code 54957	BB 9321	Employee's right to have complaints/charges heard in open session
Notice or training to employee with access to confidential information	Government Code 54963	BP 4119.23 4219.23 4319.23	Law prohibiting disclosure of confidential information obtained in closed session
Within one working day of work-related injury or victimization of crime at workplace	Labor Code 3553, 5401	BP 4157.1 4257.1 4357.1	Potential eligibility for workers' compensation benefits, claim form
To any employee with exposure to bloodborne pathogens, upon initial employment and at least annually thereafter	8 CCR 3204, 5193	AR 4119.42 4219.42 4319.42	The existence, location, and availability of exposure and medical records; person responsible for maintaining and providing access to records; right to access records
To employee eligible for military leave	38 USC 4334	AR 4161.5 4261.5 4361.5	Notice of rights, benefits, and obligations under military leave
Within five days of employee's request for family care and medical leave	29 CFR 825.300	AR 4161.8 4261.8 4361.8	Whether or not employee is eligible for FMLA leave, rights and obligations; consequences of failure to meet obligations

# Delete

## **Center USD**

### **Administrative Regulation**

#### **Employee Notifications**

**AR 4112.9 4212.9, 4312.9**  
**Personnel**

The district shall provide employees with the following notifications and shall obtain signed acknowledgments that the notifications were received when so required by law or by district policy or regulations.

#### **Acknowledgments Required by Law**

1. Legal obligation to report known or suspected instances of child abuse.

(cf. 5141.4 - Child Abuse Reporting Procedures)

2. Oath or affirmation of allegiance required of public employees.

(cf. 4112.3 - Oath or Affirmation)

3. Hepatitis B vaccine declination.

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

4. The district's school bus driver drug and alcohol testing policy, regulations, and related information.

(cf. 4112.42 - Drug and Alcohol Testing for School Bus Drivers)

5. Notice of release from position requiring an administrative or supervisory credential.

(cf. 4313.2 - Promotion/Demotion/Reclassification)

6. The classified employee's class specification, salary data, assignment or work location, duty hours and prescribed workweek.

(cf. 4212 - Appointment and Conditions of Employment)

7. Information about certificated employee membership in the State Teachers' Retirement System.

(cf. 4117.1 - Retirement)

## **Acknowledgments Not Required by Law**

**1. The district's drug- and alcohol-free workplace.**

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

**2. The district's nonsmoking policy.**

**(cf. 3513.3 - Tobacco-Free Schools)**

**3. Prohibition of sexual harassment.**

**(cf. 4119.11 - Sexual Harassment)**

**4. The certificated employee's employment status and salary.**

**(cf. 4112.1 - Contracts)**

**5. State disability insurance rights and benefits.**

**(cf. 4154 - Health and Welfare Benefits)**

**6. Certificated employee evaluations.**

**(cf. 4115 - Evaluation/Supervision)**

**(cf. 4315 - Evaluation/Supervision)**

**7. Classified employee evaluations.**

**8. Requirements and information pertinent to emergency teaching or specialist permit applicants.**

**(cf. 4112.2 - Certification)**

**9. Notice of layoff.**

**(cf. 4117.3 - Personnel Reduction)**

**(cf. 4217.3 - Layoff/Rehire)**

**(cf. 4317.3 - Personnel Reduction)**

**10. Derogatory information to be placed in personnel file.**

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

**11. Exhaustion of classified employee's paid leave.**

(cf. 4261.1 - Personal Illness and Injury Leave)  
(cf. 4261.11 - Industrial Accident/Illness Leave)

12. Notice of charges related to disciplinary action.

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

13. Notice of intention to dismiss.

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

14. Students whose actions could constitute grounds for suspension or expulsion, except for possession or use of tobacco.

(cf. 4158 - Employee Security)

**Legal Reference:**

**EDUCATION CODE**

231.5 Sexual harassment policy  
22455.5 STRS information to potential members  
22515 Irrevocable election to join STRS  
44031 Personnel file contents, inspection  
44663 Evaluation and assessment; copy to certificated employee  
44916 Written statement of employment status  
44940.5-44941 Notification of suspension and intent to dismiss  
44949 Cause, notice and right to hearing  
44951 Continuation in position unless notified  
44955 Reduction in number of employees  
45113 Notification of charges  
45117 Notice of layoff  
45169 Employee salary data  
45192 Industrial and accident leave  
45195 Additional leave  
49079 Notification to teacher

**GOVERNMENT CODE**

3100-3109 Oath or affirmation of allegiance  
8355 Certification of drug-free workplace, including notification

**PENAL CODE**

11166.5 Employment; statement of knowledge of duty to report

**UNEMPLOYMENT INSURANCE CODE**

2613 Notice of rights and benefits

**CODE OF REGULATIONS, TITLE 5**

80026.1 Information to applicants

**CODE OF REGULATIONS, TITLE 8**

5193 California bloodborne pathogens standard  
CODE OF FEDERAL REGULATIONS, TITLE 49  
382.601 Controlled substance and alcohol use and testing notifications

Regulation      CENTER UNIFIED SCHOOL DISTRICT  
approved:      May 23, 1996 Antelope, California



# **Board Policy**

## **Civil And Legal Rights**

BP 4119.1 4219.1,4319.1

### **Personnel**

The Governing Board believes that the personal life of an employee is not an appropriate concern of the district, except as it may directly relate to the employee's performance of his/her duties.

An employee's religious or political activities, or lack thereof, shall not be grounds for any discrimination or disciplinary action by the district, provided that these activities do not violate law, Board policy, or administrative regulation.

(cf. 4030 - Nondiscrimination in Employment)

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

(cf. 4119.25/4219.25/4319.25 - Political Activities of Employees)

A teacher shall have the right to refuse to submit to any evaluation or survey conducted by the district concerning personal values, attitudes, and beliefs; sexual orientation; political affiliations or opinions; critical appraisals of other individuals with whom the teacher has a family relationship; or religious affiliations or beliefs. (Education Code 49091.24)

Employees do not have a reasonable expectation of privacy with regards to district property under an employee's control including, but not limited to, desks, classrooms, offices, file cabinets, computers, or phones. As necessary to protect the health, welfare, or safety of students and staff, school officials may search such items in order to uncover evidence that the employee is violating the law, Board policy, administrative regulation, or other rules of the district or school.

(cf. 3515 - Campus Security)

(cf. 4040 - Employee Use of Technology)

### **Whistleblower Protection**

An employee shall have the right to disclose to a Board member, a school administrator, a member of the County Board of Education, County Superintendent of Schools, or the Superintendent of Public Instruction any improper governmental activity by the district or a district employee that violates state or federal law, is economically wasteful, or involves gross misconduct, incompetency, or inefficiency. When the employee has reasonable cause to believe that the information discloses a violation of state or federal statute or a violation or noncompliance with a state or federal rule or regulation, he/she has the right to disclose such information to a government or law enforcement agency or to refuse to participate in any such activity. (Education Code 44112, 44113; Labor Code 1102.5)

The Superintendent or designee shall prominently display in lettering larger than size 14 point type a list of employees' rights and responsibilities under the whistleblower laws, including the telephone number of the whistleblower hotline maintained by the office of the

California Attorney General. (Labor Code 1102.8)

No employee shall use or attempt to use his/her official authority or influence to intimidate, threaten, coerce, or command another employee for the purpose of interfering with that employee's right to disclose improper governmental activity. (Education Code 44113)

(cf. 4118 - Suspension/Disciplinary Action)

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

An employee who has disclosed improper governmental activity and believes that he/she has subsequently been subjected to acts or attempted acts of reprisal shall file a written complaint in accordance with the district's complaint procedures. After filing a complaint with the district, he/she may also file a copy of the complaint with local law enforcement in accordance with Education Code 44114.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 4144/4244/4344 - Complaints)

#### Protection Against Liability

No employee shall be liable for harm caused by his/her act or omission when acting within the scope of employment or district responsibilities. For the protection against liability to apply, the act or omission must be in conformity with federal, state, and local laws and must be in furtherance of an effort to control, discipline, expel, or suspend a student, or to maintain order or control in the classroom or school. (20 USC 6736)

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

(cf. 9260 - Legal Protection)

The protection against liability shall not apply when: (20 USC 6736)

1. The employee acted with willful or criminal misconduct, gross negligence, recklessness, or a conscious disregard for the safety of others.
2. The employee caused harm by operating a motor vehicle or other vehicle requiring license or insurance.
3. The employee was not properly licensed, if required, by state law for such activities.
4. The employee was found by a court to have violated a federal or state civil rights law.
5. The employee was under the influence of alcohol or any drug at the time of the misconduct.
6. The misconduct constituted a crime of violence pursuant to 18 USC 16 or an act of terrorism for which the employee has been convicted in a court.
7. The misconduct involved a sexual offense for which the employee has been convicted in a court.
8. The misconduct occurred during background investigations, or other actions, involved in the employee's hiring.

**Legal Reference:**

**EDUCATION CODE**

200-262.4 Prohibition of discrimination on the basis of sex

7050-7058 Political activities of school officers and employees

44040 Discrimination based on employee's appearance before certain boards or committees

44110-44114 Reporting by school employees of improper governmental activity

49091.24 Teacher rights to refuse evaluation/survey of personal life

**CIVIL CODE**

51 Unruh Civil Rights Act

**GOVERNMENT CODE**

815.3 Intentional torts

820-823 Tort Claims Act

825.6 Indemnification of public entity

3540.1 Public employment definitions

3543.5 Interference with employee's rights prohibited

12940-12951 Discrimination prohibited; unlawful practices

**LABOR CODE**

1102.5-1106 Whistleblower protections

UNITED STATES CODE, TITLE 18

16 Crime of violence defined

UNITED STATES CODE, TITLE 20

6731-6738 Teacher liability protection

UNITED STATES CODE, TITLE 42

2000d-2000d-7 Title VI, Civil Rights Act

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

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

12101-12213 Americans with Disabilities Act

**COURT DECISIONS**

Garcetti v. Ceballos, (2006) 543 U.S. 1186

O'Conner v. Ortega, (1987) 480 U.S. 709

New Jersey v. T.L.O., (1985) 468 U.S. 325

**Management Resources:**

**WEB SITES**

California Attorney General: <http://caag.state.ca.us>

# **Center USD**

## **Board Policy**

### **Civil And Legal Rights**

**BP 4119.1 4219.1,4319.1**

#### **Personnel**

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(cf. 4030 - Nondiscrimination in Employment)

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

(cf. 4119.25/4219.25/4319.25 - Political Activities of Employees)

A teacher shall have the right to refuse to submit to any evaluation or survey conducted by the district concerning personal values, attitudes, and beliefs; sexual orientation; political affiliations or opinions; critical appraisals of other individuals with whom the teacher has a family relationship; or religious affiliations or beliefs. (Education Code 49091.24)

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(cf. 3515 - Campus Security)

(cf. 4040 - Employee Use of Technology)

#### **Whistleblower Protection**

An employee shall have the right to disclose to a Board member, a school administrator, a member of the County Board of Education, County Superintendent of Schools, or the Superintendent of Public Instruction any improper governmental activity by the district or a district employee that violates state or federal law, is economically wasteful, or involves gross misconduct, incompetency, or inefficiency. When the employee has reasonable cause to believe that the information discloses a violation of state or federal statute or a violation or noncompliance with a state or federal rule or regulation, he/she

has the right to disclose such information to a government or law enforcement agency or to refuse to participate in any such activity. (Education Code 44112, 44113; Labor Code 1102.5)

The Superintendent or designee shall prominently display in lettering larger than size 14 point type a list of employees' rights and responsibilities under the whistleblower laws, including the telephone number of the whistleblower hotline maintained by the office of the California Attorney General. (Labor Code 1102.8)

No employee shall use or attempt to use his/her official authority or influence to intimidate, threaten, coerce, or command another employee for the purpose of interfering with that employee's right to disclose improper governmental activity. (Education Code 44113)

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

An employee who has disclosed improper governmental activity and believes that he/she has subsequently been subjected to acts or attempted acts of reprisal shall file a written complaint in accordance with the district's complaint procedures. After filing a complaint with the district, he/she may also file a copy of the complaint with local law enforcement in accordance with Education Code 44114.

(cf. 1312.1 - Complaints Concerning District Employees)  
(cf. 1312.3 - Uniform Complaint Procedures)  
(cf. 4144/4244/4344 - Complaints)

#### **Protection Against Liability**

No employee shall be liable for harm caused by his/her act or omission when acting within the scope of employment or district responsibilities. For the protection against liability to apply, the act or omission must be in conformity with federal, state, and local laws and must be in furtherance of an effort to control, discipline, expel, or suspend a student, or to maintain order or control in the classroom or school. (20 USC 6736)

(cf. 3320 - Claims and Actions Against the District)  
(cf. 9260 - Legal Protection)

The protection against liability shall not apply when: (20 USC 6736)

1. The employee acted with willful or criminal misconduct, gross negligence, recklessness, or a conscious, flagrant indifference to the harmed person's right to safety.
2. The employee caused harm by operating a motor vehicle or other vehicle requiring license or insurance.

3. The employee was not properly licensed, if required, by state law for such activities.
4. The employee was found by a court to have violated a federal or state civil rights law.
5. The employee was under the influence of alcohol or any drug at the time of the misconduct.
6. The misconduct constituted a crime of violence pursuant to 18 USC 16 or an act of terrorism for which the employee has been convicted in a court.
7. The misconduct involved a sexual offense for which the employee has been convicted in a court.

**Legal Reference:**

**EDUCATION CODE**

200-262.4 Prohibition of discrimination on the basis of sex

7050-7058 Political activities of school officers and employees

44040 Discrimination based on employee's appearance before certain boards or committees

44110-44114 Reporting by school employees of improper governmental activity

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815.3 Intentional torts

820-823 Tort Claims Act

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3540.1 Public employment definitions

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1102.5-1106 Whistleblower protections

**UNITED STATES CODE, TITLE 18**

16 Crime of violence defined

**UNITED STATES CODE, TITLE 20**

6731-6738 Teacher liability protection

**UNITED STATES CODE, TITLE 42**

2000d-2000d-7 Title VI, Civil Rights Act

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

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

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**COURT DECISIONS**

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O'Conner v. Ortega, (1987) 480 U.S. 709  
New Jersey v. T.L.O., (1985) 468 U.S. 325

Management Resources:

WEB SITES

California Attorney General: <http://caag.state.ca.us>

Policy CENTER UNIFIED SCHOOL DISTRICT  
adopted: October 17, 2007 Antelope, California

**All Personnel**

BP 4119.21(a)

4219.21

**PROFESSIONAL STANDARDS**

4319.21

Note: The following **optional** policy should be revised to reflect district practice and/or any related provisions of collective bargaining agreements.

The Governing Board expects district employees to maintain the highest ethical standards, exhibit professional behavior, follow district policies and regulations, abide by state and federal laws, and exercise good judgment when interacting with students and other members of the school community. Employee conduct should enhance the integrity of the district, advance the goals of the district's educational programs, and contribute to a positive school climate.

*(cf. 0200 - Goals for the School District)*

*(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)*

*(cf. 5131 - Conduct)*

*(cf. 5137 - Positive School Climate)*

Note: The following **optional** paragraph encourages district employees to abide by standards developed by their professional associations. These standards are reproduced at E 4119.21 (certificated personnel), E 4219.21 (classified personnel), and E 4319.21 (administrative and supervisory personnel).

The Board encourages district employees to accept as guiding principles the professional standards and codes of ethics adopted by educational or professional associations to which they may belong.

*(cf. 2111 - Superintendent Governance Standards)*

*(cf. 9005 - Governance Standards)*

Each employee should make a commitment to acquire the knowledge and skills necessary to fulfill his/her responsibilities and should focus on his/her contribution to the learning and achievement of district students.

*(cf. 4112.2 - Certification)*

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

Inappropriate employee conduct includes, but is not limited to:

1. Engaging in any conduct that endangers students, staff, or others, including, but not limited to, physical violence, threats of violence, or possession of a firearm or other weapon

*(cf. 0450 - Comprehensive Safety Plan)*

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



**PROFESSIONAL STANDARDS (continued)**

Note: Education Code 234.1, as amended by AB 9 (Ch. 723, Statutes of 2011), requires school personnel who witness acts of discrimination, harassment, intimidation, and bullying based on specified characteristics to take immediate steps to intervene when safe to do so; see BP 5145.3 - Nondiscrimination/Harassment.
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2. Engaging in harassing or discriminatory behavior towards students, parents/guardians, staff, or community members, or failing or refusing to intervene when an act of discrimination, harassment, intimidation, or bullying against a student is observed

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

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

*(cf. 5131.2 - Bullying)*

*(cf. 5145.3 - Nondiscrimination/Harassment)*

*(cf. 5145.7 - Sexual Harassment)*

3. Physically abusing, sexually abusing, neglecting, or otherwise willfully harming or injuring a child
4. Engaging in inappropriate socialization or fraternization with a student or soliciting, encouraging, or maintaining an inappropriate written, verbal, or physical relationship with a student
5. Possessing or viewing any pornography on school grounds, or possessing or viewing child pornography or other imagery portraying children in a sexualized manner at any time
6. Using profane, obscene, or abusive language against students, parents/guardians, staff, or community members
7. Willfully disrupting district or school operations by loud or unreasonable noise or other action
8. Using tobacco, alcohol, or an illegal or unauthorized substance, or possessing or distributing any controlled substance, while in the workplace or at a school-sponsored activity

*(cf. 3513.3 - Tobacco-Free Schools)*

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

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

*(cf. 4112.42/4212.42/4312.42 - Drug and Alcohol Testing for School Bus Drivers)*

**PROFESSIONAL STANDARDS (continued)**

9. Dishonesty with students, parents/guardians, staff, or members of the public, including, but not limited to, falsification of information in employment records or other school records
10. Divulging confidential information about students, district employees, or district operations to persons not authorized to receive the information

*(cf. 3580 - District Records)*

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

*(cf. 5125 - Student Records)*

*(cf. 5125.1 - Release of Directory Information)*

11. Using district equipment or other district resources for the employee's own commercial purposes or for political activities

*(cf. 4119.25/4219.25/4319.25 - Political Activities of Employees)*

12. Using district equipment or communications devices for personal purposes while on duty, except in an emergency, during scheduled work breaks, or for personal necessity

Employees shall be notified that computer files and all electronic communications, including, but not limited to, email and voice mail, are not private. To ensure proper use, the Superintendent or designee may monitor employee usage of district technological resources at any time without the employee's consent.

*(cf. 4040 - Employee Use of Technology)*

13. Causing damage to or engaging in theft of property belonging to students, staff, or the district

14. Wearing inappropriate attire

*(cf. 4119.22/4219.22/4319.22 - Dress and Grooming)*

An employee who observes or has evidence of another employee's inappropriate conduct shall immediately report such conduct to the principal or Superintendent or designee. An employee who has knowledge of or suspects child abuse or neglect shall file a report pursuant to the district's child abuse reporting procedures as detailed in AR 5141.4 - Child Abuse Prevention and Reporting.

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

*(cf. 5141.4 - Child Abuse Prevention and Reporting)*

BP 4119.21(d)  
4219.21  
4319.21

## PROFESSIONAL STANDARDS (continued)

Note: Discipline of employees is a subject of collective bargaining. For information about the range of disciplinary actions that may be taken, see AR 4117.4 - Dismissal, BP 4118 - Suspension/Disciplinary Action, and AR 4218 - Dismissal/Suspension/Disciplinary Action.

Education Code 44242.5 and 5 CCR 80303 require that, when the status of a certificated employee changes as a result of alleged misconduct, the Superintendent is required to notify the Commission on Teacher Credentialing (CTC). Although "alleged misconduct" is not defined in the law, the CTC states that conduct affecting classroom safety, student safety, or the integrity of the school environment is the type of misconduct that must be reported. See AR 4117.7 - Employment Status Reports.

Any reports of employee misconduct shall be promptly investigated. Any employee who is found to have engaged in inappropriate conduct in violation of law or Board policy shall be subject to disciplinary action and, in the case of a certificated employee, may be subject to a report to the Commission on Teacher Credentialing. The Superintendent or designee shall notify local law enforcement as appropriate.

*(cf. 4117.4 - Dismissal)*  
*(cf. 4117.7 - Employment Status Reports)*  
*(cf. 4118 - Suspension/Disciplinary Action)*  
*(cf. 4218 - Dismissal/Suspension/Disciplinary Action)*

An employee who has knowledge of but fails to report inappropriate employee conduct may also be subject to discipline.

The district prohibits retaliation against anyone who files a complaint against an employee or reports an employee's inappropriate conduct. Any employee who retaliates against any such complainant, reporter, or other participant in the district's complaint process shall be subject to discipline.

*Legal Reference: (see next page)*

## PROFESSIONAL STANDARDS (continued)

### *Legal Reference:*

#### EDUCATION CODE

200-262.4 *Prohibition of discrimination*

44242.5 *Reports and review of alleged misconduct*

#### PENAL CODE

11164-11174.4 *Child Abuse and Neglect Reporting Act*

#### CODE OF REGULATIONS, TITLE 5

80303 *Reports of dismissal, resignation and other terminations for alleged misconduct*

80331-80338 *Rules of conduct for professional educators*

### *Management Resources:*

#### COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

*California Standards for the Teaching Profession, 2009*

#### COUNCIL OF CHIEF STATE SCHOOL OFFICERS PUBLICATIONS

*Educational Leadership Policy Standards: ISLLC 2008, 2008*

#### NATIONAL EDUCATION ASSOCIATION PUBLICATIONS

*Code of Ethics of the Education Profession, 1975*

#### WESTED PUBLICATIONS

*Moving Leadership Standards into Everyday Work: Descriptions of Practice, 2003*

#### WESTED AND ASSOCIATION OF CALIFORNIA SCHOOL ADMINISTRATORS PUBLICATIONS

*California Professional Standards for Educational Leaders, 2001*

#### WEB SITES

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

Association of California School Administrators: <http://www.acsa.org>

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

California Federation of Teachers: <http://www.cft.org>

California School Employees Association: <http://www.csea.com>

California Teachers Association: <http://www.cta.org>

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

Council of Chief State School Officers: <http://www.ccsso.org>

WestEd: <http://www.WestEd.org>

# **Center USD**

## **Board Policy**

### **Professional Standards**

**BP 4119.21 4219.21,4319.21**

#### **Personnel**

The Governing Board expects district employees to maintain the highest ethical standards, exhibit professional behavior, follow district policies and regulations, and abide by state and federal laws. Employee conduct should enhance the integrity of the district and advance the goals of the district's educational programs. Each employee should make a commitment to acquire the knowledge and skills necessary to fulfill his/her responsibilities and should focus on his/her contribution to the learning and achievement of district students.

- (cf. 0200 - Goals for the School District)
- (cf. 4112.2 - Certification)
- (cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)
- (cf. 4131 - Staff Development)
- (cf. 4231 - Staff Development)
- (cf. 4331 - Staff Development)

The Board encourages district employees to accept as guiding principles the professional standards and codes of ethics adopted by educational or professional associations to which they may belong.

- (cf. 2111 - Superintendent Governance Standards)
- (cf. 9005 - Governance Standards)

#### **Staff Conduct with Students**

The Board expects all employees to exercise good judgment and maintain professional standards and boundaries when interacting with students both on and off school property. Inappropriate employee conduct shall include, but not be limited to, engaging in harassing or discriminatory behavior; engaging in inappropriate socialization or fraternization with a student; soliciting, encouraging, or establishing an inappropriate written, verbal, or physical relationship with a student; furnishing tobacco, alcohol, or other illegal or unauthorized substances to a student; or engaging in child abuse.

- (cf. 0410 - Nondiscrimination in District Programs and Activities)
- (cf. 4040 - Employee Use of Technology)
- (cf. 5131 - Conduct)
- (cf. 6163.4 - Student Use of Technology)

An employee who observes or has evidence of inappropriate conduct between another employee and a student shall immediately report such conduct to the principal or Superintendent or designee. An employee who has knowledge of or suspects child abuse shall file a report pursuant to the district's child abuse reporting procedures as detailed in AR 5141.4 - Child Abuse Prevention and Reporting.

(cf. 5141.4 - Child Abuse Prevention and Reporting)

Any employee who is found to have engaged in inappropriate conduct with a student in violation of the law or this policy shall be subject to disciplinary action.

(cf. 4118 - Suspension/Disciplinary Action)

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

**Legal Reference:**

**EDUCATION CODE**

200-262.4 Prohibition of discrimination on the basis of sex

**PENAL CODE**

11164-11174.4 Child Abuse and Neglect Reporting Act

**CODE OF REGULATIONS, TITLE 5**

80331-80338 Rules of conduct for professional educators

**Management Resources:**

**COUNCIL OF CHIEF STATE SCHOOL OFFICERS PUBLICATIONS**

Standards for School Leaders, 1996

**NATIONAL EDUCATION ASSOCIATION PUBLICATIONS**

Code of Ethics of the Education Profession, 1975

**WEB SITES**

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

Association of California School Administrators: <http://www.acsa.org>

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

California Federation of Teachers: <http://www.cft.org>

California School Employees Association: <http://www.csea.com>

California Teachers Association: <http://www.cta.org>

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

Council of Chief State School Officers: <http://www.ccsso.org>

**Policy CENTER UNIFIED SCHOOL DISTRICT**

**adopted: November 4, 2009 Antelope, California**

**All Personnel**

BP 4119.41(a)

4219.41

4319.41

**EMPLOYEES WITH INFECTIOUS DISEASE**

Note: The following optional policy may be revised to reflect district practice. Because infectious diseases may be either highly communicable (e.g., influenza, chicken pox) or not casually transmitted (e.g., HIV/AIDs, hepatitis B, hepatitis C), the district's response to an employee with infectious disease should be dependent on any legal protections established for employees and take into consideration the potential risk to students, staff, and others.

The Governing Board desires to promote the health of district students and staff in order to reduce absenteeism and enhance employee and student performance. The Superintendent or designee shall develop strategies to prevent the outbreak or spread of infectious diseases at district schools.

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

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

(cf. 5113 - *Absences and Excuses*)

(cf. 5113.1 - *Chronic Absence and Truancy*)

Note: The following definitions reflect information from the Centers for Disease Control and Prevention (CDC) web site.

An *infectious disease* is one that is caused by a microorganism and is potentially transmittable to another individual, whether through airborne transmission, bloodborne transmission, skin-to-skin contact, foodborne transmission, or other casual or noncasual means. A *communicable infectious disease*, such as influenza or chicken pox, is contagious and can be readily transmitted by infectious bacteria or viral organisms.

Note: Pursuant to Education Code 49406, prior to beginning employment in a classified or certificated position, an applicant must provide evidence that he/she has taken an approved tuberculin test and is free of active tuberculosis. In addition, when the district is filling a certificated position with an applicant who has not previously been employed in a certificated position in California or a retirant who has not previously been employed as a retirant, Education Code 44839 and 44839.5 require the applicant or retirant to provide a medical certification that he/she is free from any disabling disease that renders him/her unfit to instruct children or associate with them. The sample medical certificate provided in 5 CCR 5504 includes an assessment of whether there is evidence of infectious disease in a communicable stage. For further information, see AR 4112.4/4212.4/4312.4 - *Health Examinations*.

In accordance with law, job applicants shall be required to provide evidence that they are free of tuberculosis or any other communicable infectious disease prior to beginning employment.

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

To prevent the outbreak or spread of infectious diseases, the Superintendent or designee may provide infection prevention supplies and information to employees, including information about recommended vaccinations. Employees also shall observe universal precautions to avoid contact with potentially infectious blood or other bodily fluids.

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

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

## **EMPLOYEES WITH INFECTIOUS DISEASE (continued)**

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

Note: CDC recommends that districts develop contingency plans for dealing with an infectious disease outbreak. These contingency plans may be developed with the involvement of local health agencies and/or health care providers and should be incorporated into the district's emergency and disaster preparedness plan. See BP 5141.22 - Infectious Diseases and AR 3516 - Emergencies and Disaster Preparedness Plan as well as CSBA's fact sheets on Pandemic Influenza and H1N1 Influenza (Swine Flu).

Plans for addressing a communicable infectious disease outbreak, including, but not limited to, plans for addressing employee shortages during such an outbreak, shall be included in the district's emergency preparedness plan.

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

*(cf. 5112.2 - Exclusions from Attendance)*

*(cf. 5141.22 - Infectious Diseases)*

*(cf. 5141.31 - Immunizations)*

Note: For the protection of the public health, 17 CCR 2500 and 2508 require specified persons to report communicable diseases to the local health officer, as provided below. The list of reportable diseases is available on the California Department of Public Health's (CDPH) web site. Local health departments may establish additional reporting requirements.

The Superintendent or designee shall immediately report to the local health officer the presence or suspected presence of any communicable infectious disease. In addition, a school nurse or other health care provider who knows of or is in attendance on a case or suspected case of any of the diseases or conditions listed in 17 CCR 2500 shall make a report to the local health officer. If no health care provider is in attendance, any individual having knowledge of a person who is suspected to be suffering from one of the specified diseases or conditions may make a report to the local health officer. (17 CCR 2500, 2508)

*(cf. 5141.6 - School Health Services)*

### **Nondiscrimination/Reasonable Accommodation**

Note: The Americans with Disabilities Act (ADA) (42 USC 12101-12213) and California Fair Employment and Housing Act (FEHA) (Government Code 12900-12996) prohibit discrimination in employment on the basis of disability. Under the ADA and FEHA, an individual is considered to be disabled if he/she has a physical or mental impairment that limits one or more major life activities, has a record of such impairment, or is regarded as having such an impairment. According to the CDPH publication California HIV/AIDS Laws, 2009, individuals with clinical HIV disease or AIDS meet the definition of disabled. Court opinions have conflicted as to whether persons with asymptomatic HIV infection meet this definition and districts should consult legal counsel as necessary.



BP 4119.41(c)  
4219.41  
4319.41

## **EMPLOYEES WITH INFECTIOUS DISEASE (continued)**

In addition, Section 504 of the Federal Rehabilitation Act of 1973 provides that no otherwise qualified person may, solely by reason of his/her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. In School Board of Nassau County, Florida v. Arline, the U.S. Supreme Court extended this law's protection to employees significantly impaired by infectious diseases.

The district shall not discriminate against any employee or job applicant who has an infectious disease that meets the federal or state definition of a disability under the Americans with Disabilities Act, California Fair Employment and Housing Act, or Section 504 of the Federal Rehabilitation Act. (Government Code 12900-12996; 29 USC 794; 42 USC 12101-12213)

*(cf. 4030 - Nondiscrimination in Employment)*

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

Note: Both the ADA (42 USC 12101-12213) and FEHA (Government Code 12900-12996) require employers to reasonably accommodate employees and job applicants with known disabilities; see AR 4032 - Reasonable Accommodation.

Upon request, any qualified person with a disability shall be provided reasonable accommodation to perform the essential duties of his/her position in accordance with the criteria and processes described in AR 4032 - Reasonable Accommodation.

*(cf. 4032 - Reasonable Accommodation)*

*Legal Reference: (see next page)*

## **EMPLOYEES WITH INFECTIOUS DISEASE (continued)**

### *Legal Reference:*

#### EDUCATION CODE

44839 *Medical certificate; periodic medical examination*

44839.5 *Requirements for employment of retirant*

49406 *Examination for tuberculosis (employees)*

#### CIVIL CODE

56-56.37 *Confidentiality of medical information*

#### GOVERNMENT CODE

12900-12996 *Fair Employment and Housing Act*

#### HEALTH AND SAFETY CODE

120975-121020 *Mandated blood testing and confidentiality to protect public health*

#### CODE OF REGULATIONS, TITLE 2

7293.5-7294.2 *Discrimination based on disability*

#### CODE OF REGULATIONS, TITLE 5

5502-5504 *Medical certification*

#### CODE OF REGULATIONS, TITLE 17

2500 *Reportable diseases and conditions*

2508 *Reporting of communicable diseases; duty of schools*

#### UNITED STATES CODE, TITLE 29

794 *Section 504 of the Rehabilitation Act of 1973*

#### UNITED STATES CODE, TITLE 42

12101-12213 *Americans with Disabilities Act*

#### COURT DECISIONS

*Chevron USA v. Echazabal*, (2002) 536 U.S. 73, 122 S.Ct. 2045

*School Board of Nassau County, Florida v. Arline*, (1987) 408 U.S. 273

### *Management Resources:*

#### CSBA PUBLICATIONS

*H1N1 Influenza (Swine Flu)*, Fact Sheet, April 2009

*Pandemic Influenza*, Fact Sheet, September 2007

#### CALIFORNIA DEPARTMENT OF PUBLIC HEALTH PUBLICATIONS

*California HIV/AIDS Laws, 2009*, January 2010

#### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION PUBLICATIONS

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

#### WEB SITES

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

California Department of Public Health: <http://www.cdph.ca.gov>

California School Nurses Organization: <http://www.csno.org>

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

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

U.S. Department of Health and Human Services: <http://www.hhs.gov>

# **Center USD**

## **Board Policy**

### **Employees With Infectious Disease**

BP 4119.41, 4219.41, 4319.41

#### **Personnel**

Employees who report having been diagnosed as having a long-term infectious disease will not be prohibited from continuing in employment because of the disease as long as:

- (1) the employee is able to meet the performance standards established for the job, and
- (2) the best available and current medical evidence indicates that the continued active employment of the employee does not present a health or safety threat to the employee or to others.

Center Unified School District shall observe applicable Federal, State and local health standards and guidelines as they develop concerning employees with long-term infectious diseases.

Management will not discriminate in the hiring procedure or employment process against qualified disabled individuals, including but not limited to individuals with infectious or life-threatening diseases. Necessary reasonable accommodations will be accorded to qualified employees with disabilities as required by law.

Education and training will be used at Center Unified School District facilities in responding to situations involving employees with infectious diseases.

Employees with life-threatening illnesses, including but not limited to AIDS, ARC (AIDS-related condition), heart disease and cancer may wish to continue to engage in as many of their normal pursuits as their conditions allow, including work. As long as these employees are able to meet acceptable performance standards, and medical evidence indicates that their conditions are not a threat to themselves or others, Center Unified School District will strive to be sensitive to their conditions and to treat them consistently with other employees.

Policy  
adopted: May 19, 1993

CENTER UNIFIED SCHOOL DISTRICT  
Antelope, California

# Add

## **Certificated Personnel**

BP 4121(a)

### **TEMPORARY/SUBSTITUTE PERSONNEL**

The Governing Board recognizes that substitute and temporary personnel perform an essential role in promoting student achievement and desires to employ highly qualified, appropriately credentialed employees to fill such positions.

*(cf. 4112.2 - Certification)*

#### **Hiring**

The Superintendent or designee shall recommend candidates for substitute or temporary positions for Board approval, and shall ensure that all substitute and temporary employees are assigned in accordance with law and the authorizations specified in their credential.

*(cf. 4113 - Assignment)*

Substitute personnel may be employed on an on-call, day-to-day basis.

In addition, after September 1 of any school year, the Board may employ substitute personnel for the remainder of the school year for positions for which no regular employee is available. The district shall first demonstrate to the Commission on Teacher Credentialing the inability to acquire the services of a qualified regular employee. (Education Code 44917)

*(cf. 4117.14/4317.14 - Postretirement Employment)*

Note: Education Code 44956 and 44957 require that districts offer employees who are laid off pursuant to Education Code 44955 opportunities for substitute service during the period of preferred right to reemployment. The period of preferred right to reemployment is 39 months for laid-off permanent employees and 24 months for probationary employees; see BP 4117.3 - Personnel Reduction.

Pursuant to Education Code 44956, if a laid-off permanent employee serves as a substitute in any position requiring certification for any 21 days or more within a period of 60 school days, he/she is entitled to compensation not less than the amount the employee would receive if he/she were being reappointed and retroactive to the first day of the substitute service. Education Code 44957 does not contain similar provisions for probationary employees; such employees are paid according to the salary schedule for substitute employees adopted by the Governing Board, regardless of the number of days worked as a substitute.

Permanent or probationary certificated employees who were laid off pursuant to Education Code 44955 and who have a preferred right of reappointment shall be given priority for substitute service in the order of their original employment. (Education Code 44956, 44957)

*(cf. 4117.3 - Personnel Reduction)*

**TEMPORARY/SUBSTITUTE PERSONNEL (continued)****Classification**

Note: A certificated employee's classification as a substitute, temporary, probationary, or permanent employee governs the statutory job protections to which he/she is entitled and the procedures that apply if he/she is not reelected; see section below entitled "Release from Employment/Dismissal." Districts are encouraged to consult legal counsel when questions arise regarding such classification.

At the time of initial employment and each July thereafter, the Board shall classify substitute and temporary employees as such. (Education Code 44915, 44916)

The Board may classify as substitute personnel a teacher hired to fill the position of a regularly employed person who is absent from service. (Education Code 44917)

Note: The following two paragraphs describe circumstances under which the Education Code expressly defines a position as temporary. In both Bakersfield Elementary Teachers Association v. Bakersfield City School District and California Teachers Association v. Vallejo City Unified School District, the courts determined that it was inappropriate to classify employees as temporary on the basis that they did not yet possess a preliminary or clear credential (e.g., those serving under an internship credential, pre-intern certificate, emergency teaching permit, or credential waiver). According to the courts, districts may classify as temporary employees only those persons who are specified to be temporary employees in the Education Code. All other certificated employees who cannot be properly classified as substitute or permanent employees must be classified as probationary employees.

One circumstance under which a teacher may be classified as a temporary employee is when the district needs an additional teacher for a period of one semester to one year because of teacher absence due to leaves or long-term illness, as authorized in Education Code 44920. As provided below, Education Code 44920 requires the Board to determine the number of temporary employees who may be hired under these circumstances. In McIntyre v. Sonoma Valley Unified School District, the court clarified that a district's ability to classify an employee as temporary pursuant to Education Code 44920 is not dependent upon a one-to-one match of temporary employees to employees on leave. Rather, all that is required is that the number of temporary teachers not exceed the total number of employees on leave at any one time.

The Board may classify as a temporary employee a teacher who is employed for at least one semester and up to one complete school year based on the need for additional certificated employees when regular employees are absent due to leaves or long-term illness. Any person whose service begins in the second semester and before March 15 may be classified as a temporary employee even if employed for less than a semester. The Board shall determine the number of persons who shall be so employed, which shall not exceed the identified need based on the absence of regular employees. (Education Code 44920)

The Board also shall classify as temporary employees those certificated persons, other than substitute employees, who are employed to:

1. Serve from day-to-day during the first three months of any school term to teach temporary classes which shall not exist after that time, or perform any other duties which do not last longer than the first three months of any school term (Education Code 44919)

**TEMPORARY/SUBSTITUTE PERSONNEL (continued)**

2. Teach in special day and evening classes for adults or in schools of migratory population for not more than four months of any school term (Education Code 44919)
3. Serve in a limited assignment supervising student athletic activities provided such assignments have first been made available to teachers presently employed in the district (Education Code 44919)

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

4. Serve in a position for a period not to exceed 20 working days in order to prevent the stoppage of district business during an emergency when persons are not immediately available for probationary classification (Education Code 44919)

Note: Item #5 below applies only to high school and unified districts.
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5. Serve only for the first semester because the district expects a reduction in student enrollment during the second semester due to midyear graduations (Education Code 44921)

For purposes of classifying employees pursuant to item #1 or 2 above, the school year shall not be divided into more than two school terms. (Education Code 44919)

Note: Education Code 44909 authorizes districts to employ certificated employees in programs and projects conducted under contract with public or private agencies or through categorically funded projects which are not required by federal or state statutes, and provides that such persons may be employed for periods less than a full school year. Pursuant to Education Code 44909, such persons may be terminated at the expiration of the contract or specially funded project without regard to termination procedures required for probationary or permanent employees. In <u>Stockton Teachers Association v. Stockton Unified School District</u> , the court of appeals clarified that "the expiration of the contract" refers to the contract between the district and the agency providing categorical funds, not a contract between the district and employee. Thus, the district may not hire a person for more or less than the term of the contract or project and treat such a person as a temporary employee. Districts should consult legal counsel as necessary regarding the classification or termination of employees hired pursuant to Education Code 44909. Also, it is recommended that districts use a separate employment agreement tailored to these employees.
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Any employee hired to provide services in a categorically funded program or project may be employed for a period less than a full school year. He/she may be classified as a temporary employee if the period of employment will end at the expiration of that program or project. (Education Code 44909)

## TEMPORARY/SUBSTITUTE PERSONNEL (continued)

### Salary and Benefits

The Board shall adopt and make public a salary schedule setting the daily or pay period rate(s) for substitute employees for all categories or classes of certificated employees of the district. (Education Code 44977, 45030)

Note: Pursuant to Government Code 3540.1, as amended by AB 501 (Ch. 674, Statutes of 2011), exclusive representatives of employees for purposes of negotiations may include representation of all public school employees other than management and confidential employees, as defined. Thus, substitute and temporary personnel may have the right to be represented. In cases where substitute and temporary employees are not represented, the Board may determine whether or not to include such employees in the district's health and welfare plan and other benefits (Options 1 and 2 below). The district should consult legal counsel if it has any questions about the provision of benefits to substitute and temporary employees.

**OPTION 1:** ~~Substitute and t~~Temporary employees shall participate in the health and welfare plans or other fringe benefits of the district.

*(cf. 4140/4240/4340 - Bargaining Units)*

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

**OPTION 2:** ~~Substitute and temporary employees shall not participate in the health and welfare plans or other fringe benefits of the district.~~

### Release from Employment/Dismissal

The Board may dismiss a substitute employee at any time at its discretion. (Education Code 44953)

Note: Pursuant to Education Code 44954, if a district decides not to reelect for the following year a temporary employee who has served at least 75 percent of the days in the school year, the district must so notify that employee by the end of the school year. In Neily v. Manhattan Beach Unified School District, the court held that Education Code 37200, which defines a school year as ending June 30, is applicable for determining the deadline for this notification, not the last day that students and teachers are in their classrooms.

The Board may release a temporary employee at its discretion if the employee has served less than 75 percent of the number of days the regular schools of the district are maintained. After serving 75 percent of the number of days that district schools are maintained during one school year, a temporary employee may be released as long as he/she is notified, before the last day of June, of the district's decision not to reelect him/her for the following school year. (Education Code 37200, 44954)

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

**TEMPORARY/SUBSTITUTE PERSONNEL (continued)****Reemployment as a Probationary Employee**

Note: Education Code 44917, 44918, and 44920 provide that a substitute or temporary employee who performs the duties of a certificated employee for a complete school year, or for at least 75 percent of the days in the school year, shall be given credit for a complete year as a probationary employee if he/she is then employed as a probationary employee the following school year, as provided below. However, in McIntyre v. Sonoma Valley Unified School District, the court clarified that a district is not required to grant probationary status to an employee based solely on the fact that he/she served as a temporary employee for more than one year if the employee is released and reemployed as a temporary employee for the following year to fill the position of a regularly employed person absent from service.

Reemployment provisions contained in Education Code 44918 do not apply to districts with ADA over 400,000; such districts should modify the following section accordingly.

Unless released from employment pursuant to Education Code 44954, any person employed for one complete school year as a temporary employee shall, if reemployed for the following school year in a vacant position requiring certification qualifications, be classified as a probationary employee. With the exception of on-call, day-to-day substitutes, if a temporary or substitute employee performs the duties normally required of certificated employees for at least 75 percent of the number of days the regular schools of the district were maintained in that school year and is then employed as a probationary employee for the following school year, his/her previous employment as a temporary or substitute employee shall be credited as one year's employment as a probationary employee for purposes of acquiring permanent status. (Education Code 44917, 44918, 44920)

(cf. 4116 - Probationary/Permanent Status)

*Vacant position* means a position in which the employee is qualified to serve and which is not filled by a permanent or probationary employee. It shall not include a position which would be filled by a permanent or probationary employee except for the fact that such employee is on leave. (Education Code 44920, 44921)

A temporary employee hired pursuant to item #1 or #2 in the section "Classification" above shall be classified as a probationary employee if the duties continue beyond the time limits of the assignment. (Education Code 44919)

Note: Districts that do not maintain high schools should delete the following paragraph.

A person employed pursuant to item #5 in the section "Classification" above who is then continued in employment beyond the first semester shall be classified as a probationary employee for the entire school year and shall be reemployed to fill any vacant positions in the district for which he/she is certified. Preference for available positions shall be determined by the Board as prescribed by Education Code 44845 and 44846. (Education Code 44921)



**TEMPORARY/SUBSTITUTE PERSONNEL (continued)**

With the exception of on-call, day-to-day substitutes, a temporary or substitute employee who was released pursuant to Education Code 44954 but who has nevertheless served for two consecutive school years, for at least 75 percent of each year, shall receive first priority if the district fills a vacant position for the subsequent school year at the grade level at which the employee served during either year. In the case of a departmentalized program, the employee shall have taught the subject matter in which the vacant position occurs. (Education Code 44918)

*Legal Reference:***EDUCATION CODE**

22455.5 *Provision of retirement plan information to potential members*  
 22515 *Irrevocable election to join retirement plan*  
 37200 *School calendar*  
 44252.5 *State basic skills assessment required for certificated personnel*  
 44300 *Emergency teaching or specialist permits*  
 44830 *Employment of certificated persons; requirements of proficiency in basic skills*  
 44839.5 *Employment of retirant*  
 44845 *Date of employment*  
 44846 *Criteria for reemployment preferences*  
 44909 *Employees providing services through categorically funded programs*  
 44914 *Substitute and probationary employment computation for classification as permanent employee*  
 44915 *Classification of probationary employees*  
 44916 *Time of classification; statement of employment status*  
 44917 *Classification of substitute employees*  
 44918 *Substitute or temporary employee deemed probationary employee; reemployment rights*  
 44919 *Classification of temporary employees*  
 44920 *Employment of certain temporary employees; classifications*  
 44921 *Employment of temporary employees; reemployment rights (unified and high school districts)*  
 44953 *Dismissal of substitute employees*  
 44954 *Release of temporary employees*  
 44955 *Layoff of permanent and probationary employees*  
 44956 *Rights of laid-off permanent employees to substitute positions*  
 44957 *Rights of laid-off probationary employees to substitute positions*  
 44977 *Salary schedule for substitute employees*  
 45030 *Substitutes*  
 45041 *Computation of salary*  
 45042 *Alternative method of computation for less than one school year*  
 45043 *Compensation for employment beginning in the second semester*  
 56060-56063 *Substitute teachers in special education*

*Legal Reference continued: (see next page)*

## TEMPORARY/SUBSTITUTE PERSONNEL (continued)

### *Legal Reference: (continued)*

#### GOVERNMENT CODE

3540.1 *Educational Employment Relations Act, definitions*

#### CODE OF REGULATIONS, TITLE 5

5502 *Filing of notice of physical examination for employment of retired person*

5503 *Physical examination for employment of retired persons*

5590 *Temporary athletic team coach*

80025-80025.5 *Emergency substitute teaching permits*

#### COURT DECISIONS

McIntyre v. Sonoma Valley Unified School District (2012) 206 Cal.App.4th 170

Stockton Teachers Association CTA/NEA v. Stockton Unified School District (2012) 204 Cal.App.4th 446

Neily v. Manhattan Beach Unified School District, (2011) 192 Cal.App.4th 187

California Teachers Association v. Vallejo City Unified School District, (2007) 149 Cal.App.4th 135

Bakersfield Elementary Teachers Assn. v. Bakersfield City School District, (2006) 145 Cal.App.4th 1260, 1277

Kavanaugh v. West Sonoma Union High School District, (2003) 29 Cal.4th 911

### *Management Resources:*

#### WEB SITES

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

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

**TEMPORARY/SUBSTITUTE PERSONNEL**

**Qualifications**

Any candidate recommended by the Superintendent or designee for a substitute or temporary position requiring certification qualifications shall possess the appropriate credential or permit authorizing his/her employment in such position and shall meet all other requirements of law for certificated positions. (Education Code 44830)

*(cf. 4111.2/4211.2/4311.2 - Legal Status Requirement)*

*(cf. 4112.2 - Certification)*

*(cf. 4112.3/4212.3/4312.3 - Oath or Affirmation)*

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

*(cf. 4112.5/4312.5 - Criminal Record Check)*

The district shall not initially hire a certificated person on a substitute or temporary basis in a capacity designated in his/her credential unless he/she has demonstrated basic skills proficiency in reading, writing, and mathematics pursuant to Education Code 44252.5, unless exempted by law. (Education Code 44830)

A noncredentialed person shall not substitute for any special education certificated position. The Superintendent or designee shall recruit and maintain lists of appropriately credentialed substitute teachers for special education positions. He/she shall contact institutes of higher education with approved special education programs for possible recommendations of appropriately credentialed special education personnel. (Education Code 56060, 56063)

**Notifications**

Note: Education Code 44915 and 44916 require the Governing Board to classify substitute and temporary employees at the time of initial employment and each July thereafter; see the accompanying Board policy. In addition, Education Code 44916 requires the district to provide temporary employees written notice of their status at the time of initial employment. In Kavanaugh v. West Sonoma County Union High School District, the California Supreme Court determined that a temporary employee who received such notice three weeks after she started work was probationary rather than temporary. Although the notice was sent immediately after the board approved the employee's appointment at the first available meeting, the court found that an employee must receive notice of temporary classification before starting work.

Temporary athletic team coaches may be an exception to the notice requirement. In Neily v. Manhattan Beach Unified School District, a dismissed employee argued that, because the district did not provide a written statement of classification in accordance with Education Code 44916, it had a mandatory duty to classify him as a probationary employee. However, the court did not accept that the only path to defining a position as temporary is through district notification of that classification, and held that a second path to defining a position as temporary is through a specific section of the Education Code that expressly defines the position as temporary. The court determined that a temporary athletic team coach who holds no other position in the district is deemed a temporary employee pursuant to Education Code 44919.

## TEMPORARY/SUBSTITUTE PERSONNEL (continued)

At the time of initial employment during each school year, each new temporary employee shall receive a written statement indicating his/her employment status and salary. This statement shall clearly indicate the temporary nature of the employment and the length of time for which the person is being employed. (Education Code 44916)

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

*Time of initial employment* means before the employee starts work. (Kavanaugh v. West Sonoma County Union High School District)

The Superintendent or designee shall notify all substitute and part-time certificated employees, within 30 days of their hire, of their right to elect membership in a defined benefit program under a qualified retirement plan. The employee shall sign a form provided by the system to acknowledge receipt of this notice and to indicate whether he/she elects or declines membership. Election of membership shall be irrevocable for all future employment to perform creditable service. (Education Code 22455.5, 22515)

### Assignments

Note: 5 CCR 80025-80025.5 specify restrictions pertaining to the number of days that an emergency substitute permit holder may substitute for any one teacher during the school year; see AR 4112.2 - Certification.

A person who holds an emergency 30-day substitute permit, emergency career substitute permit, emergency substitute permit for prospective teachers, or emergency substitute permit for career technical education shall be restricted in the number of days he/she may substitute for any one teacher in accordance with 5 CCR 80025-80025.5.

In placing substitute teachers in special education classrooms, the district shall give first priority to substitute teachers with the appropriate special education credential(s), second priority to substitute teachers with any other special education credential, and third priority to substitute teachers with a regular teaching credential. An inappropriately credentialed substitute teacher shall not serve as a substitute for a special education teacher for a period of more than 20 cumulative school days for each special education teacher absent during each school year. The district may apply to the Superintendent of Public Instruction for an extension of 20 school days, or for a longer period in extraordinary circumstances. (Education Code 56060-56062)

# **Center USD**

## **Administrative Regulation**

### **Temporary Substitute Personnel**

**AR 4121**  
**Personnel**

#### **Hiring**

Substitute personnel may be employed on an on-call, day-to-day basis.

In addition, after September 1 of any school year, the Governing Board may employ substitute personnel for the remainder of the school year for positions for which no regular employee is available. The district shall first demonstrate to the Commission on Teacher Credentialing the inability to acquire the services of a qualified regular employee. (Education Code 44917)

(cf. 4117.14 - Employment of Retired Teachers)

#### **Classification**

The Board may classify as substitute certificated personnel a teacher hired to fill a position of regularly employed person absent from service. (Education Code 44917)

The Board may classify as a temporary employee a teacher who is employed at least one semester and up to one complete school year. Any person whose service begins in the second semester and before March 15 may be classified as a temporary employee even if employed for less than a semester. The Board shall determine the number of persons who shall be so employed based on the absence of regular employees due to leaves or long-term illness. (Education Code 44920)

The Board also shall classify as temporary employees those certificated persons, other than substitute employees, who are employed to:

1. Serve from day-to-day during the first three months of any term to teach temporary classes which shall not exist after that time, or perform any other duties which do not last longer than the first three months of any term (Education Code 44919)
2. Teach in special day and evening classes for adults or in schools of migratory population for not more than four months of any school term (Education Code 44919)
3. Serve in a limited assignment supervising student athletic activities provided such assignments have first been made available to teachers presently employed in the district (Education Code 44919)

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

4. Serve in a position for a period not to exceed 20 working days in order to prevent the stoppage of district business during an emergency when persons are not immediately available for probationary classification (Education Code 44919)

5. Are employed only for the first semester because the district expects a reduction in student enrollment during the second semester due to midyear graduations (Education Code 44921)

At the time of initial employment and each July thereafter, the Board shall classify substitute and temporary employees as such. (Education Code 44915, 44916)

Before his/her first day of work, each new substitute and temporary employee shall receive a written statement at the time of initial employment during each school year confirming his/her employment status and salary. This statement shall clearly indicate the temporary nature of the employment and the length of time for which the person is being employed. (Education Code 44916)

Time of initial employment means before the employee starts work. (Kavanaugh v. West Sonoma County Union High School District)

The Superintendent or designee shall ensure that substitute and temporary employees are appropriately trained, assigned, oriented and evaluated.

(cf. 4113 - Assignment)

(cf. 4115 - Evaluation/Supervision)

(cf. 4131 - Staff Development)

### **Qualifications**

Any person employed on a substitute or temporary basis in a position requiring certification qualifications shall possess the appropriate credential or permit authorizing his/her employment in such position and shall meet all other requirements of law for certificated positions.

(cf. 4111.2/4211.2/4311.2 - Legal Status Requirement)

(cf. 4112.2 - Certification)

(cf. 4112.3/4212.3/4312.3 - Oath or Affirmation)

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

(cf. 4112.5/4312.5 - Criminal Record Check)

Any person employed on a substitute or temporary basis in a capacity designated in his/her credential shall also be required to demonstrate basic skills proficiency in reading,

writing and mathematics pursuant to Education Code 44252.5, unless exempted by law. (Education Code 44830)

### **Qualifications for Special Education**

A noncredentialed person shall not substitute for any special education certificated position. (Education Code 56060)

A person holding a valid credential authorizing substitute teaching may serve as a substitute for a special education teacher for a period not to exceed 20 cumulative school days for each special education teacher absent during each school year. Upon application by the district, the Superintendent of Public Instruction may approve an extension of 20 school days. In extraordinary circumstances the district may seek an extension beyond the initial 20 school days. (Education Code 56061)

In placing substitute teachers in special education classrooms, the district shall give first priority to substitute teachers with the appropriate special education credential(s), second priority to substitute teachers with any other special education credential, and third priority to substitute teachers with a regular teaching credential. (Education Code 56062)

The Superintendent or designee shall recruit and maintain lists of appropriately credentialed substitute teachers. He/she shall contact institutes of higher education with approved special education programs for possible recommendations of appropriately credentialed special education personnel. (Education Code 56063)

### **Salary/Benefits**

The Board shall adopt and make public a salary schedule setting the daily or pay period rate(s) for substitute employees for all categories or classes of certificated employees of the district. (Education Code 44977, 45030)

Substitute and temporary employees shall participate in the health and welfare plans or other fringe benefits of the district.

### **Granting Probationary Status**

Unless released from employment pursuant to Education Code 44954, and with the exception of on-call, day-to-day substitutes, any substitute or temporary employee who performs the duties normally required of certificated employees for at least 75 percent of the number of days the regular schools of the district were maintained in that school year, shall be deemed to have served a complete school year as a probationary employee if employed as a probationary employee for the following school year. (Education Code 44918)

(cf. 4116 - Probationary/Permanent Status)

A temporary employee hired to teach temporary classes or perform other certificated duties not expected to last more than the first three months of any semester, or to teach special day and evening classes for adults or in schools for migratory populations for the first four months of a semester, shall be classified as a probationary employee if the duties continue beyond the time limits. (Education Code 44919)

A temporary employee hired to teach only the first semester due to anticipated midyear high school graduations shall be classified as a probationary employee for the entire school year if the employment continues beyond the first semester. (Education Code 44921)

#### **Release from Employment/Dismissal**

The Board may dismiss a substitute employee at any time at its discretion. (Education Code 44953)

The Board may release a temporary employee at its discretion if the employee has served less than 75 percent of the number of days the regular schools of the district are maintained. After serving during one school year 75 percent of the number of days the regular schools of the district are maintained, a temporary employee may be released as long as the employee is notified before the end of the school year of the district's decision not to reelect him/her for the following school year. (Education Code 44954)

#### **Reemployment Rights**

With the exception of on-call, day-to-day substitutes, a temporary or substitute employee who served during one school year at least 75 percent of the number of days the regular schools of the district were maintained and who was not released pursuant to Education Code 44954 prior to the end of the school year shall be reemployed for the following school year to fill any vacant positions in the district. (Education Code 44918)

With the exception of on-call, day-to-day substitutes, a temporary or substitute employee who was released pursuant to Education Code 44954 but who has nevertheless served for two consecutive years, for at least 75 percent of each year, shall receive first priority if the district fills a vacant position for the subsequent school year at the grade level at which the employee served during either year. In the case of a departmentalized program, the employee shall have taught the subject matter in which the vacant position occurs. (Education Code 44918)

#### **Legal Reference:**

##### **EDUCATION CODE**

44252.5 State basic skills assessment required for certificated personnel

44300 Emergency teaching or specialist permits

44830 Employment of certificated persons; requirements of proficiency in basic skills

44839.5 Employment of retirant



44846 Criteria for reemployment preferences  
44914 Substitute and probationary employment computation for classification as permanent employee  
44915 Classification of probationary employees  
44916 Time of classification; statement of employment status  
44917 Classification of substitute employees  
44918 Substitute or temporary employee deemed probationary employee; reemployment rights  
44919 Classification of temporary employees  
44920 Employment of certain temporary employees; classifications  
44921 Employment of temporary employees; reemployment rights (unified and high school districts)  
44953 Dismissal of substitute employees  
44954 Release of temporary employees  
44956 Rights of laid-off permanent employees to substitute positions  
44957 Rights of laid-off probationary employees to substitute positions  
44977 Salary schedule for substitute employees  
45030 Substitutes  
45041 Computation of salary  
45042 Alternative method of computation for less than one school year  
45043 Compensation for employment beginning in the second semester  
56060-56063 Substitute teachers in special education  
CODE OF REGULATIONS, TITLE 5  
5502 Filing of notice of physical examination for employment of retired person  
5503 Physical examination for employment of retired persons  
COURT DECISIONS  
Kavanaugh v. West Sonoma Union High School District, (2003) 29 Cal.4th 911

**Management Resources:**

**WEB SITES**

CTC: <http://www.ctc.ca.gov>

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

Regulation      CENTER UNIFIED SCHOOL DISTRICT  
approved: October 1, 2003      Antelope, California

## All Personnel

BP 4154(a)

4254

## HEALTH AND WELFARE BENEFITS

4354

Note: The following **optional** policy should be revised to reflect district practice and collective bargaining agreements. Districts contracting to participate in the Public Employees' Medical and Hospital Care Act (PEMHCA), Government Code 22750-22944, should revise the following policy and accompanying administrative regulation to reflect the requirements of that program.

The district shall provide health and welfare benefits for employees in bargaining units in accordance with state and federal law and subject to negotiated employee agreements.

*(cf. 4140/4240/4340 - Bargaining Units)*

*(cf. 4141/4241 - Collective Bargaining Agreement)*

Note: Districts should select or revise the appropriate option below to reflect district practice regarding employees who are not in bargaining units. Districts selecting Option 2 should expand this policy or accompanying administrative regulation to specify benefits for unrepresented employees. Also see BP 4121 - Temporary/Substitute Personnel.

~~**OPTION 1:** Certificated management, administrative, and supervisory employees who are not in bargaining units shall receive the same health and welfare benefits as those specified in the collective bargaining agreement for certificated employees. Classified management, administrative, and supervisory employees who are not in bargaining units shall receive the same health and welfare benefits as those specified in the collective bargaining agreement for classified employees.~~

~~*(cf. 4300 - Administrative and Supervisory Personnel)*~~

**OPTION 2:** Employees who are not in bargaining units shall receive health and welfare benefits as specified in Board policy and administrative regulation.

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

Note: Pursuant to 26 USC 105 and 26 CFR 1.105-11, self-insured medical expense reimbursement plans are prohibited from discriminating in favor of "highly compensated" individuals as to eligibility to participate or level of benefits provided under the plan. The federal Patient Protection and Affordable Care Act (P.L. 111-148) amended 42 USC 300gg-16 to extend this requirement to non-self-insured group health plans. Implementation of this provision with respect to group health plans was delayed but, according to IRS Notice 2011-1, will take effect for health plan years beginning in 2013 and reported in 2014. As defined in 26 USC 105(h), "highly compensated" individuals are those who are among the highest paid 25 percent of all employees, with specified exceptions.

With respect to eligibility to participate in the health benefits plan or the level of health benefits provided, the district shall not discriminate in favor of employees who are among the highest paid 25 percent of all district employees. (26 USC 105; 42 USC 300gg-16)

## HEALTH AND WELFARE BENEFITS (continued)

Note: Pursuant to Family Code 297.5, registered domestic partners have the same rights, protections, and benefits as spouses under California law. This law was not affected by the passage of Proposition 8 (2008). Therefore, to the extent that the district provides health benefit coverage to spouses of employees pursuant to state law, the same coverage must be provided to registered domestic partners. Pursuant to Health and Safety Code 1374.58, health care service plans and health insurers are required to provide registered domestic partners coverage that is equal to the coverage provided to spouses.

However, the federal Defense of Marriage Act (1 USC 7) defines marriage for purposes of benefits under federal law as a "union between a man and a woman." Thus, in those cases where federal law grants greater benefits than state law, it is questionable whether those greater benefits 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.

For purposes of granting benefits pursuant to state law, a registered domestic partner and his/her child shall have the same rights, protections, and benefits as a spouse and spouse's child. (Family Code 297.5)

Note: The Health Insurance Portability and Accountability Act (HIPAA) (45 CFR 164.500-164.534) specifies actions that a health plan, health care provider, or health care clearinghouse must take to protect the privacy of an individual's health information. Generally, entities covered by HIPAA may release or receive "protected health information" about an individual only if that individual gives permission or the Act expressly permits its release.

Civil Code 56.20-56.245 address an employer's responsibility to maintain the confidentiality of medical information it receives.

The Superintendent or designee shall not use or disclose any medical information the district possesses pertaining to an employee without the employee's authorization obtained in accordance with Civil Code 56.21, except for the purpose of administering and maintaining employee benefit plans and for other purposes specified in law. (Civil Code 56.20)

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

### Continuation of Coverage

Note: Education Code 7000-7005 provide for continued health and dental care benefits for retired certificated employees and their spouses/domestic partners. In addition, for districts with 20 or more employees, continued health and disability benefits for former classified and certificated employees and their qualified beneficiaries are addressed in the federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (26 USC 4980B; 29 USC 1161-1168; 26 CFR 54.4980B-1-54.4980B-10). For districts with 2-19 employees, continued health and disability benefits for former employees and their qualified beneficiaries are addressed in the California Continuation Benefits Replacement Act (Cal-COBRA) (Health and Safety Code 1366.20-1366.29; Insurance Code 10128.50-10128.59). These programs provide continuation coverage for limited time periods and under limited conditions. The following section reflects the general purposes of these programs; see the accompanying administrative regulation for a summary of major program requirements.

## HEALTH AND WELFARE BENEFITS (continued)

Retired certificated employees, other employees who would otherwise lose coverage due to a qualifying event specified in law and administrative regulation, and their qualified beneficiaries may continue to participate in the district's group health and welfare benefits in accordance with state and federal law.

Note: Covered employees and their qualified beneficiaries who elect continuation coverage may be required to pay all costs of the insurance plan as provided in Option 1 below (Education Code 7000; Health and Safety Code 1366.26; Insurance Code 10128.56; 26 USC 4980B). The district contribution to retired employee health costs is a negotiable item.

**OPTION 1:** To receive continuation coverage, covered employees and their qualified beneficiaries shall pay the premiums, dues, and other charges, including any increases in premiums, dues, and costs incurred by the district in administering the program.

~~**OPTION 2:** The district contribution toward continuation health coverage for covered employees and their qualified beneficiaries shall be the same as for current employees participating in the group health plan.~~

Note: Pursuant to Governmental Accounting and Standards Board Statement 45, "other postemployment benefits" (OPEBs) (i.e., medical, dental, vision, hearing, life insurance, long-term care, long-term disability, and other nonpension benefits for retired employees) must be reported by the district as a current expense over the working years of an employee. To the extent that OPEBs are not prefunded in a designated fund or irrevocable trust, they must be reported as a liability on the district's financial statements. See BP 3100 - Budget and AR 3460 - Financial Reports and Accountability.

### *Legal Reference:*

#### EDUCATION CODE

7000-7008 *Health and welfare benefits, retired certificated employees*

17566 *Self-insurance fund*

35208 *Liability insurance*

35214 *Liability insurance (self-insurance)*

44041-44042 *Payroll deductions for collection of premiums*

44986 *Leave of absence, state disability benefits*

45136 *Benefits for classified employees*

#### CIVIL CODE

56.10-56.16 *Disclosure of information by medical providers*

56.20-56.245 *Use and disclosure of medical information by employers*

#### FAMILY CODE

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

#### GOVERNMENT CODE

12940 *Discrimination in employment*

22750-22944 *Public Employees' Medical and Hospital Care Act*

53200-53210 *Group insurance*

*Legal Reference continued: (see next page)*

## HEALTH AND WELFARE BENEFITS (continued)

### *Legal Reference: (continued)*

#### HEALTH AND SAFETY CODE

1366.20-1366.29 Cal-COBRA program, health insurance

1367.08 Disclosure of fees and commissions paid related to health care service plan

1373 Health services plan, coverage for dependent children who are full-time students

1373.621 Continuation coverage, age 60 or older after five years with district

1374.58 Coverage for registered domestic partners, health service plans and health insurers

#### INSURANCE CODE

10116.5 Continuation coverage, age 60 or older after five years with district

10128.50-10128.59 Cal-COBRA program, disability insurance

10277-10278 Group and individual health insurance, coverage for dependent children

10604.5 Annual disclosure of fees and commissions paid

12670-12692.5 Conversion coverage

#### LABOR CODE

2800.2 Notification of conversion and continuation coverage

4856 Health benefits for spouse of peace officer killed in performance of duties

#### UNEMPLOYMENT INSURANCE CODE

2613 Education program; notice of rights and benefits

#### UNITED STATES CODE, TITLE 1

7 Definition of marriage, spouse

#### UNITED STATES CODE, TITLE 26

105 Self-insured medical reimbursement plan; definition of highly compensated individual

4980B COBRA continuation coverage

#### UNITED STATES CODE, TITLE 29

1161-1168 COBRA continuation coverage

#### UNITED STATES CODE, TITLE 42

300gg-16 Group health plan; nondiscrimination in favor of highly compensated individuals

1395-1395g Medicare benefits

#### CODE OF FEDERAL REGULATIONS, TITLE 26

54.4980B-1-54.4980B-10 COBRA continuation coverage

1.105-11 Self-insured medical reimbursement plan

#### CODE OF FEDERAL REGULATIONS, TITLE 45

164.500-164.534 Health Insurance Portability and Accountability Act (HIPAA)

### *Management Resources:*

#### INTERNAL REVENUE SERVICE NOTICES

2011-1 Affordable Care Act Nondiscrimination Provisions Applicable to Insured Group Health Plans

#### WEB SITES

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

California Employment Development Department: <http://www.edd.ca.gov>

Internal Revenue Service: <http://www.irs.gov>

U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services:

<http://www.cms.gov>

U.S. Department of Labor: <http://www.dol.gov>

# **Center USD**

## **Board Policy**

### **Health And Welfare Benefits**

**BP 4154, 4254, 4354**

#### **Personnel**

The district shall provide health and welfare benefits for certificated and classified employees in bargaining units in accordance with state and federal law and subject to negotiated employee agreements.

(cf. 4140/4240 - Bargaining Units)

(cf. 4141/4241 - Collective Bargaining Agreement)

Employees who are not in bargaining units shall receive health and welfare benefits as specified in Board policy and administrative regulation.

For purposes of granting benefits pursuant to state law, a registered domestic partner and his/her child shall have the same rights, protections, and benefits as a spouse and spouse's child. (Family Code 297.5)

The Superintendent or designee shall not use or disclose any medical information the district possesses pertaining to an employee without the employee's authorization obtained in accordance with Civil Code 56.21, except for the purpose of administering and maintaining employee benefit plans and for other purposes specified in law. (Civil Code 56.20)

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

#### **Continuation of Coverage**

Retired certificated employees, other employees who would otherwise lose coverage due to a qualifying event specified in law and administrative regulation, and their qualified beneficiaries may continue to participate in the district's group health and welfare benefits in accordance with state and federal law.

To receive continuation coverage, covered employees and their qualified beneficiaries shall pay the premiums, dues, and other charges, including any increases in premiums, dues, and costs incurred by the district in administering this program.

#### **Legal Reference:**

**EDUCATION CODE**

**7000-7008 Health and welfare benefits, retired certificated employees**

17566 Self-insurance fund  
35208 Liability insurance  
35214 Liability insurance (self-insurance)  
44041-44042 Payroll deductions for collection of premiums  
44986 Leave of absence, state disability benefits  
45136 Benefits for classified employees  
CIVIL CODE  
56.10-56.16 Disclosure of information by medical providers  
56.20-56.245 Use and disclosure of medical information by employers  
FAMILY CODE  
297-297.5 Rights, protections and benefits under law; registered domestic partners  
GOVERNMENT CODE  
22750-22944 Public Employees' Medical and Hospital Care Act  
53200-53210 Group insurance  
HEALTH AND SAFETY CODE  
1366.20-1366.29 Cal-COBRA program, health insurance  
1367.08 Disclosure of fees and commissions paid related to health care service plan  
1373 Health services plan, coverage for dependent children over 18 who are full-time students  
1373.621 Continuation coverage, age 60 or older after five years with district  
HEALTH AND SAFETY CODE (continued)  
1374.58 Coverage for registered domestic partners, health service plans and health insurers  
INSURANCE CODE  
10116.5 Continuation coverage, age 60 or older after five years with district  
10128.50-10128.59 Cal-COBRA program, disability insurance  
10277-10278 Group and individual health insurance, coverage for dependent children  
10604.5 Annual disclosure of fees and commissions paid  
12670-12692.5 Conversion coverage  
LABOR CODE  
2800.2 Notification of conversion and continuation coverage  
4856 Health benefits for spouse of peace officer killed in performance of duties  
UNEMPLOYMENT INSURANCE CODE  
2613 Education program; notice of rights and benefits  
UNITED STATES CODE, TITLE 1  
7 Definition of marriage, spouse  
UNITED STATES CODE, TITLE 26  
139C COBRA premium assistance, elimination of subsidy for high-income individuals  
4980B COBRA continuation coverage  
6432 COBRA premium assistance  
6720C COBRA premium assistance, failure to notify health plan of cessation of eligibility  
UNITED STATES CODE, TITLE 29  
1161-1168 COBRA continuation coverage  
UNITED STATES CODE, TITLE 42  
1395-1395g Medicare benefits

CODE OF FEDERAL REGULATIONS, TITLE 26  
54.4980B-1-54.4980B-10 COBRA continuation coverage  
CODE OF FEDERAL REGULATIONS, TITLE 45  
164.500-164.534 Health Insurance Portability and Accountability Act (HIPAA)

**Management Resources:**

**INTERNAL REVENUE SERVICE GUIDANCE**

**Premium Assistance for COBRA Benefits, Notice 2009-27**

**WEB SITES**

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

**California Department of Industrial Relations:** <http://www.dir.ca.gov>

**California Employment Development Department:** <http://www.edd.ca.gov>

**Internal Revenue Service:** <http://www.irs.gov>

**U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services:** <http://www.cms.hhs.gov>

**U.S. Department of Labor:** <http://www.dol.gov>

**Policy CENTER UNIFIED SCHOOL DISTRICT**  
**adopted: November 4, 2009 Antelope, California**



## **All Personnel**

AR 4154(a)

4254

## **HEALTH AND WELFARE BENEFITS**

4354

Note: The following administrative regulation is **optional**.

Pursuant to Family Code 297.5, registered domestic partners have the same rights, protections, and benefits as spouses under California law. Therefore, to the extent that the district provides health benefit coverage under state law to spouses of employees, the same coverage must be provided to registered domestic partners. However, the federal Defense of Marriage Act (1 USC 7) defines marriage for purposes of benefits under federal law as a "union between a man and a woman." Thus, in those cases where federal law grants greater benefits than state law, or where benefits are only provided under federal law, it is doubtful that those benefits 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. Also see the accompanying Board policy.

## **Retired Certificated Employees**

Note: Education Code 7000 requires that any district which provides health and welfare benefits or dental care benefits for its certificated employees must make those benefits available to retired certificated employees and their spouses or eligible surviving spouses as provided in the following section.

Pursuant to Education Code 7000, any eligible person who elects to enroll in the benefits program may be required to pay all premiums, dues, and other charges, including any increases in the rate of premiums or dues for these persons, and all costs incurred by the district in administering the program; see the accompanying Board policy. Education Code 7000 allows districts, if appropriate, to require persons eligible for these benefits to pay different rates as a class. Education Code 7000 specifies three classes based on age and Medicare benefits for which the plan must provide separate rates. Government Code 12940 provides that, with respect to retiree health benefits and health care reimbursement plans in effect on or after January 1, 2011, it is not discrimination based on age to provide health benefits or health care reimbursement plans to retired persons that are altered, reduced, or eliminated when the retirees become eligible for Medicare health benefits.

The following section does not apply to employees who receive health care coverage under the Public Employees' Medical and Hospital Care Act (PEMHCA), Government Code 22750-22944.

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 under any public retirement system 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. If he/she does not enroll during this initial enrollment period, he/she may be denied further opportunity to do so. (Education Code 7000)

## HEALTH AND WELFARE BENEFITS (continued)

### COBRA/Cal-COBRA Continuation Coverage

Note: The following section reflects requirements for both the federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) program (26 USC 4980B; 29 USC 1161-1168; 26 CFR 54.4980B-1-54.4980B-10) and the California Continuation Benefits Replacement Act (Cal-COBRA) program (Health and Safety Code 1366.20-1366.29; Insurance Code 10128.50-10128.59). These programs contain requirements designed to alleviate lapses in coverage due to employee termination, death, separation or divorce, reduction in hours, eligibility for Medicare, or a dependent child of the covered employee ceasing to be a dependent child. COBRA applies to districts with at least 20 employees. Pursuant to Health and Safety Code 1366.21, Cal-COBRA applies to districts with 2-19 employees which have contracted for health care and/or disability coverage through a group benefit plan. If the district has contracted to provide administrative services for the health care service plan as authorized by Health and Safety Code 1366.25, it may expand the following section to reflect additional requirements of plan administrators.

The following section should be revised by districts that offer a group health insurance plan but not a group disability benefits plan. This section also should be revised by districts with employees who receive health care coverage under PEMHCA, Government Code 22750-22944.

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. The covered employee becoming entitled to Medicare benefits

Note: For purposes of item #5 below, Health and Safety Code 1373 and Insurance Code 10277 require that the age at which a person ceases to be a dependent child, as specified in the health plan, must be at least 26 years, except that certain specified health plans may, beginning before January 1, 2014, exclude adult children younger than age 26 who are eligible to enroll in an employer-sponsored health plan. In addition, Health and Safety Code 1373 and Insurance Code 10277 require a health services plan or insurer to continue coverage for a dependent child who attains the age specified in the plan if he/she is incapable of self-sustaining employment by reason of a physically or mentally disabling injury, illness, or condition and is chiefly dependent on the subscriber or insured for support and maintenance. Health and Safety Code 1373

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

and Insurance Code 10277 also require that, if the plan provides coverage for a dependent child who is over age 26 and enrolled at a secondary or postsecondary educational institution, continued coverage must be provided during any break in the school calendar and during a medical leave of absence as specified.

### **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)

Note: Districts should select the appropriate option below based on the number of district employees.

### **OPTION 1: (Districts with 20 or more employees)**

Note: Pursuant to 26 USC 4980B and 29 USC 1163, the 30-day notification period specified below may be revised if a longer time period is specified in the health plan.

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; 26 CFR 54.4980B-6)

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)

### **OPTION 2: (Districts with 2-19 employees)**

~~Note: If the district contracts to perform the administrative services of a health care service plan as authorized by Health and Safety Code 1366.25, the following two paragraphs should be revised to reflect the plan administrator to whom the notifications should be directed.~~

~~The Superintendent or designee shall provide written notification to the health care service plan administrator of a qualifying event listed in item #2 above, within 30 days of the event.~~

~~A covered employee or qualified beneficiary shall provide written notification to the health care service plan administrator regarding any other qualifying event listed above within 60 days of the event or of the date that the covered employee or qualified beneficiary was notified of the ability to continue coverage, whichever is later. (Health and Safety Code 1366.24, 1366.25; Insurance Code 10128.54, 10128.55)~~

## HEALTH AND WELFARE BENEFITS (continued)

~~Continuation coverage shall be terminated in accordance with the district's insurance plan and state law. (Health and Safety Code 1366.22, 1366.27, 1373.621; Insurance Code 10116.5, 10128.52, 10128.57)~~

Note: The following paragraph applies to all districts.

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)*

### Disability Insurance

Note: The following notice is provided by the California Employment Development Department.

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, 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)*

Note: The following paragraph does not apply to employees of districts that have contracted for health care coverage through PEMHCA, Government Code 22750-22944.

When disabled by an injury sustained from a violent act while performing duties within the scope of employment and performing creditable employment, 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)

# **Center USD**

## **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 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 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 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: June 16, 2010      Antelope, California



# Add

## Administrative and Supervisory Personnel

E 4319.21(a)

### PROFESSIONAL STANDARDS

#### CALIFORNIA PROFESSIONAL STANDARDS FOR EDUCATIONAL LEADERS

Note: The following exhibit reproduces the California Professional Standards for Educational Leaders (2001). These standards were adapted from the Interstate School Leaders Licensure Consortium (ISLLC) Standards for School Leaders (1996) published by the Council of Chief State School Officers. Adaptations were made by representatives of the California School Leadership Academy at WestEd, Association of California School Administrators, Commission on Teacher Credentialing, California Department of Education, and California colleges and universities. In 2008, representatives from those agencies and associations confirmed that the California Professional Standards for Educational Leaders were aligned with updated ISLLC standards in Educational Leadership Policy Standards: ISLLC 2008.

*Inherent in these standards is a strong commitment to cultural diversity and the use of technology as a powerful tool.*

A school administrator is an educational leader who promotes the success of all students by:

**Standard 1:** Facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community

1. Facilitate the development of a shared vision for the achievement of all students based upon data from multiple measures of student learning and relevant qualitative indicators.
2. Communicate the shared vision so the entire school community understands and acts on the school's mission to become a standards-based education system.
3. Use the influence of diversity to improve teaching and learning.
4. Identify and address any barriers to accomplishing the vision.
5. Shape school programs, plans, and activities to ensure that they are integrated, articulated through the grades, and consistent with the vision.
6. Leverage and marshal sufficient resources, including technology, to implement and attain the vision for all students and all subgroups of students.

**Standard 2:** Advocating, nurturing, and sustaining a school culture and instructional program conducive to student learning and staff professional growth

1. Shape a culture in which high expectations are the norm for each student as evident in rigorous academic work.
2. Promote equity, fairness, and respect among all members of the school community.

**PROFESSIONAL STANDARDS (continued)**

3. Facilitate the use of a variety of appropriate content-based learning materials and learning strategies that recognize students as active learners, value reflection and inquiry, emphasize the quality versus the amount of student application and performance, and utilize appropriate and effective technology.
4. Guide and support the long-term professional development of all staff consistent with the ongoing effort to improve the learning of all students relative to the content standards.
5. Provide opportunities for all members of the school community to develop and use skills in collaboration, distributed leadership, and shared responsibility.
6. Create an accountability system grounded in standards-based teaching and learning.
7. Utilize multiple assessments to evaluate student learning in an ongoing process focused on improving the academic performance of each student.

**Standard 3: Ensuring management of the organization, operations, and resources for a safe, efficient and effective learning environment**

1. Sustain a safe, efficient, clean, well-maintained, and productive school environment that nurtures student learning and supports the professional growth of teachers and support staff.
2. Utilize effective and nurturing practices in establishing student behavior management systems.
3. Establish school structures and processes that support student learning.
4. Utilize effective systems management, organizational development, and problem-solving and decision-making techniques.
5. Align fiscal, human, and material resources to support the learning of all subgroups of students.
6. Monitor and evaluate the program and staff.
7. Manage legal and contractual agreements and records in ways that foster a professional work environment and secure privacy and confidentiality for all students and staff.

**PROFESSIONAL STANDARDS (continued)**

**Standard 4:** Collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources

1. Recognize and respect the goals and aspirations of diverse family and community groups.
2. Treat diverse community stakeholder groups with fairness and respect.
3. Incorporate information about family and community expectations into school decision-making and activities.
4. Strengthen the school through the establishment of community, business, institutional, and civic partnerships.
5. Communicate information about the school on a regular and predictable basis through a variety of media.
6. Support the equitable success of all students and all subgroups of students by mobilizing and leveraging community support services.

**Standard 5:** Modeling a personal code of ethics and developing professional leadership capacity

1. Model personal and professional ethics, integrity, justice, and fairness, and expect the same behaviors from others.
2. Protect the rights and confidentiality of students and staff.
3. Use the influence of office to enhance the educational program, not personal gain.
4. Make and communicate decisions based upon relevant data and research about effective teaching and learning, leadership, management practices, and equity.
5. Demonstrate knowledge of the standards-based curriculum and the ability to integrate and articulate programs throughout the grades.
6. Demonstrate skills in decision-making, problem solving, change management, planning, conflict management, and evaluation.
7. Reflect on personal leadership practices and recognize their impact and influence on the performance of others.
8. Engage in professional and personal development.

**PROFESSIONAL STANDARDS (continued)**

9. Encourage and inspire others to higher levels of performance, commitment, and motivation.
10. Sustain personal motivation, commitment, energy, and health by balancing professional and personal responsibilities.

**Standard 6:** Understanding, responding to, and influencing the larger political, social, economic, legal, and cultural context

1. Work with the Governing Board and district and local leaders to influence policies that benefit students and support the improvement of teaching and learning.
2. Influence and support public policies that ensure the equitable distribution of resources and support for all subgroups of students.
3. Ensure that the school operates consistently within the parameters of federal, state, and local laws, policies, regulations, and statutory requirements.
4. Generate support for the school by two-way communications with key decision-makers in the school community.
5. Collect and report accurate records of school performance.
6. View oneself as a leader of a team and also as a member of a larger team.
7. Open the school to the public and welcome and facilitate constructive conversations about how to improve student learning and achievement.

*Source: California Professional Standards for Educational Leaders by California School Leadership Academy at WestEd and the Association of California School Administrators. Reprinted with permission. Intended for use with the descriptions of practice in Moving Standards into Everyday Work, available from WestEd.*

**INTERDISTRICT ATTENDANCE**

Note: The Education Code provides a number of options under which a student may attend school in a district other than the district where he/she resides. Under an "interdistrict attendance permit" or "reciprocal agreement" pursuant to Education Code 46600-46611, a student may attend school in a different district when both the district of residence and the district of proposed attendance agree (Option 1 below). Under the "school district of choice program," pursuant to Education Code 48300-48316, the Governing Board may declare the district to be a "school district of choice" willing to accept a specific number of interdistrict transfers into the district through a random selection process (Option 2 below). In order to maintain the integrity of the random selection process, it is recommended that a school district of choice not also accept transfers under the interdistrict attendance permit option except when extraordinary circumstances exist, as provided in Option 2 below. Districts that wish to use both sources of authority should consult legal counsel.

In addition, Education Code 48204 authorizes a student in a participating district to be deemed a "resident" in order to attend a school in the district where his/her parent/guardian is employed (Allen bill transfer); see AR 5111.12 - Residency Based on Parent/Guardian Employment. A student attending a school identified as low achieving on the state's Open Enrollment List may transfer to a school in any other district in the state, pursuant to Education Code 48350-48361; see BP/AR 5118 - Open Enrollment Act Transfers.

The Governing Board recognizes that parents/guardians of students who reside in one district may, for a variety of reasons, choose to enroll their child in a school in another district.

*(cf. 0520.3 - Title I Program Improvement Districts)*  
*(cf. 5111.12 - Residency Based on Parent/Guardian Employment)*  
*(cf. 5116.1 - Intradistrict Open Enrollment)*  
*(cf. 5118 - Open Enrollment Act Transfers)*

**OPTION 1: Interdistrict Attendance Permits**

Note: The following section is for use by districts that have entered into an agreement with one or more other districts to accept transfers through interdistrict attendance permits pursuant to Education Code 46600-46611. Districts selecting this option should also select Option 1 in the accompanying administrative regulation.

The Board may enter into an agreement with any other school district, for a term not to exceed five school years, for the interdistrict attendance of students who are residents of the districts. (Education Code 46600)

Note: Education Code 46600 requires that the interdistrict attendance agreement specify the terms and conditions under which individual permits may be granted or denied. In addition, pursuant to Education Code 46600, students who have been granted an interdistrict attendance permit must be allowed to continue to attend the school without having to reapply unless the agreement between the two districts contains specific agreed-upon standards for reapplication; see the accompanying administrative regulation. Districts also may include in the agreement their agreed-upon standards for revocation of students' interdistrict attendance. Examples of conditions that may result in revocation include falsification of information stated on the permit application, unsatisfactory attendance, continual disruption, or poor academic achievement.

The agreement shall specify the terms and conditions under which interdistrict attendance shall be permitted or denied. It also may contain standards agreed to by both districts for reapplication and/or revocation of the student's permit. (Education Code 46600)

**INTERDISTRICT ATTENDANCE (continued)**

Note: Pursuant to Education Code 46600, it is the responsibility of the attendance supervisor of the district of residence, subject to Board policies of the district of residence and terms of the agreement, to issue an individual permit verifying the district's approval of an interdistrict transfer out of the district. The permit shall become valid when endorsed by the board's designee in the district of proposed attendance.

Upon receiving a permit for transfer into the district that has been approved by the student's district of residence, or upon receiving a written request from the parent/guardian of a district student who wishes to enroll in another district, the Superintendent or designee shall review the request and may approve or deny the permit subject to the terms and conditions of the interdistrict attendance agreement.

**OPTION 2: School District of Choice Program**

~~Note: The following section is for use by districts that elect to participate in the school district of choice program pursuant to Education Code 48300-48316. Districts selecting this option should also select Option 2 in the accompanying administrative regulation. Pursuant to Education Code 48315, the school district of choice program has been reauthorized until July 1, 2016 and any district may participate in the program. Education Code 48301 authorizes the Board to annually determine the number of student transfers that will be accepted into the district.~~

~~The Board has designated the district as a "school district of choice" and shall accept students who reside in other California districts who wish to attend a district school. Each year, the Superintendent or designee shall recommend to the Board the number of transfer students that the district will be able to accept and shall identify the schools, grade levels, and programs that will be able to accept these students.~~

~~Upon receiving the Superintendent's recommendation, the Board shall determine the number of students that will be accepted into the district through this program. This number shall be reflected in the minutes of the Board's meeting.~~

~~(cf. 9324 - Minutes and Recordings)~~

~~The Superintendent or designee shall establish a selection process which ensures that students are admitted to district schools through a random, unbiased process that prohibits evaluation of whether a student should be enrolled based upon his/her academic or athletic performance. If the number of student applications exceeds the number of transfers the Board has designated for acceptance under the program, the Superintendent or designee shall conduct a random drawing in public at a regularly scheduled Board meeting. (Education Code 48301)~~

Note: Because the school district of choice program requires a random selection process, it is recommended that participating districts not admit students through the interdistrict attendance permit process described in Option 1 above except under extraordinary circumstances. Such circumstances might include approving interdistrict attendance permits for students who are victims of an act of bullying. Such students are given priority for interdistrict attendance permits pursuant to Education Code 46600, as amended by AB 1156 (Ch. 732, Statutes of 2011); see the accompanying administrative regulation.

**INTERDISTRICT ATTENDANCE (continued)**

~~Because the district admits students in accordance with the school district of choice program, the Superintendent or designee shall not admit students based on individual interdistrict attendance permits pursuant to Education Code 46600-46611 except under extraordinary circumstances.~~

~~The Superintendent or designee shall maintain a record of requests for admittance that contains all of the following: (Education Code 48313)~~

- ~~1. The number of requests granted, denied, or withdrawn and, for denied requests, the reason for the denial~~
- ~~2. The number of students transferred out of and transferred into the district pursuant to this program~~
- ~~3. The race, ethnicity, gender, self reported socio-economic status, and the district of residence for each student in item #2 above~~
- ~~4. The number of students in item #2 above who are classified as English learners or students with disabilities~~

~~The Superintendent or designee shall report to the Board, at a regularly scheduled meeting, the information specified in items #1-4 above. By May 15 of each year, the Superintendent or designee shall provide the same information, as well as information regarding the district's status as a school district of choice in the upcoming school year, to each geographically adjacent school district, the county office of education, the California Department of Education, and the Department of Finance. (Education Code 48313)~~

~~Note: Education Code 48301 requires a district of choice, at its expense, to ensure that the annual audit of district funds conducted pursuant to Education Code 41020 include a review of the district's compliance with the requirements in Education Code 48301 regarding a random, unbiased selection process and factually accurate communications to parents/guardians (see the accompanying administrative regulation for details of the communication). A summary of any audit exceptions found by the auditor must be included in the reports to the Board and other agencies. See AR 3460 Financial Reports and Accountability for requirements pertaining to the annual audit.~~

~~The report to the Board and other agencies shall also include a summary of audit exceptions, if any, resulting from the compliance review of components of the district of choice program conducted as part of the annual district audit. (Education Code 48301, 48313)~~

**Transportation**

~~Note: The following optional section is for use by all districts and should be revised to reflect district practice. Districts are not required to provide transportation or transportation assistance to students admitted under an interdistrict attendance permit pursuant to Education Code 46600-46611 or through the school district of choice program pursuant to Education Code 48300-48316.~~

**INTERDISTRICT ATTENDANCE (continued)**

The district shall not provide transportation beyond any school attendance area. ~~Upon~~ However, upon request, the Superintendent or designee may authorize transportation for ~~interdistrict transfer students to and from designated bus stops within the attendance area if~~ space is available students living outside an attendance area to and from designated bus stops within the attendance area if space is available. Priority for such transportation shall be based on demonstrated financial need.

**Limits on Student Transfers Out of the District to a School District of Choice**

Note: The following optional section is for use by all districts. Even if a district has not designated itself as a school district of choice, it has the authority pursuant to Education Code 48307 to limit the number of students transferring out of the district into other districts that have designated themselves as school districts of choice. A district with an average daily attendance (ADA) of more than 50,000 may annually limit the number of such transfers to one percent of its current year estimated ADA. A district with less than 50,000 ADA may limit the number of such transfers to three percent of its current estimated ADA and may limit the maximum number of such transfers for the duration of the program to 10 percent of the ADA for that period. In Walnut Valley Unified School District v. Superior Court of Los Angeles County, the appellate court held that the 10 percent cap on outbound transfers "for the duration of the program" should be based on the district's ADA over the entire life of the district of choice program (i.e., from the program's inception in 1994 until the present day).

The district may revise the following paragraph to reflect the applicable percentage in Education Code 48307 based on its ADA.

The Superintendent or designee may limit the number of student transfers out of the district to a school district of choice based on the percentages of average daily attendance specified in Education Code 48307.

Note: Education Code 48307 authorizes a district of residence that has a negative status on the most recent budget certification made by the County Superintendent of Schools to limit the number of student transfers out of the district during that fiscal year to other districts that have designated themselves as a school district of choice. In addition, when a County Superintendent has determined that the district would not meet the state's standards and criteria for fiscal stability for the subsequent fiscal year exclusively as a result of the impact of student transfers under the school district of choice program, Education Code 48307 allows the district of residence to limit the number of transfers out of the district. The limitation is based on the County Superintendent's determination of the number of additional transfers that would exclusively result in a qualified or negative fiscal certification. However, Education Code 48307 provides that these limitations do not apply to students who, prior to June 30, 2009, had already transferred out and were already attending a school district of choice.

In addition, transfers out of the district may be limited during a fiscal year when the County Superintendent of Schools has given the district a negative budget certification or when the

County Superintendent has determined that the district will not meet the state's standards and criteria for fiscal stability in the subsequent fiscal year exclusively as a result of student transfers from this district to a school district of choice. (Education Code 48307)



## INTERDISTRICT ATTENDANCE (continued)

*(cf. 3100 - Budget)*

*(cf. 3460 - Financial Reports and Accountability)*

Note: Pursuant to Education Code 48301, the district may prohibit a transfer under the school district of choice program if the Board determines that the transfer would negatively impact a court-ordered desegregation plan, a voluntary desegregation plan, or the racial and ethnic balance of the district. In Crawford v. Huntington Beach Union High School District, a California appellate court held that a district's intradistrict open enrollment policy, which contained a racial and ethnic balance component as authorized by Education Code 35160.5, was unconstitutional. The court did not consider whether a policy based on a court-ordered or voluntary desegregation plan would be constitutional. According to the court, the constitutional provisions added by Proposition 209 in 1996 prohibit a district from adopting a policy containing different admission criteria on the basis of race.

Although the provisions in Education Code 48301 relative to racial and ethnic balance remain in law, because of the continuing legal uncertainty, the following paragraph does not reflect those provisions of Education Code 48301. Districts that choose to deny interdistrict transfers on that basis should consult legal counsel.

The following **optional** paragraph is for use by districts with either a court-ordered or voluntary desegregation plan.

The district may deny a transfer of a student out of the district to a school district of choice if the Board determines that the transfer would negatively impact a court-ordered or voluntary desegregation plan of the district. (Education Code 48301)

*Legal Reference: (see next page)*

## INTERDISTRICT ATTENDANCE (continued)

### *Legal Reference:*

#### EDUCATION CODE

41020 Annual district audits  
46600-46611 Interdistrict attendance agreements  
48204 Residency requirements for school attendance  
48300-48316 Student attendance alternatives, school district of choice program  
48350-48361 Open Enrollment Act  
48900 Grounds for suspension or expulsion; definition of bullying  
48915 Expulsion; particular circumstances  
48915.1 Expelled individuals: enrollment in another district  
48918 Rules governing expulsion procedures  
48980 Notice at beginning of term  
52317 Regional occupational center/program, enrollment of students, interdistrict attendance

#### ATTORNEY GENERAL OPINIONS

87 Ops.Cal.Atty.Gen. 132 (2004)  
84 Ops.Cal.Atty.Gen. 198 (2001)

#### COURT DECISIONS

Walnut Valley Unified School District v. the Superior Court of Los Angeles County, (2011) 192 Cal.App.4th 234  
Crawford v. Huntington Beach Union High School District, (2002) 98 Cal.App.4th 1275

### *Management Resources:*

#### CSBA PUBLICATIONS

Transfer Law Comparison, Fact Sheet, March 2011

#### WEB SITES

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

# **Center USD**

## **Board Policy**

### **Interdistrict Attendance**

**BP 5117**

**Students**

The Governing Board recognizes that students who reside in one district may choose to attend school in another district and that such choices are made for a variety of reasons.

(cf. 0520.3 - Title I Program Improvement Districts)

(cf. 5111.12 - Residency Based on Parent/Guardian Employment)

(cf. 5116.1 - Intradistrict Open Enrollment)

(cf. 5118 - Open Enrollment Act Transfers)

#### **Interdistrict Attendance Permits**

Upon request by students' parents/guardians, the Superintendent or designee may approve interdistrict attendance permits with other districts on a case-by-case basis to meet individual student needs.

The Superintendent or designee shall ensure that interdistrict permits specify the terms and conditions agreed to by both districts for the granting, denial, or revocation of the permit as well as the standards for reapplication.

The Superintendent or designee may deny the granting of an interdistrict attendance permit because of overcrowding within district schools or limited district resources.

#### **Transportation**

The district shall not provide transportation outside any school attendance area. However, upon request, the Superintendent or designee may authorize transportation for students living outside an attendance area to and from designated bus stops within the attendance area if space is available. Priority for such transportation shall be based on demonstrated financial need.

#### **Limits on Student Transfers out of the District to a School District of Choice**

The Superintendent or designee may limit the number of student transfers out of the district to a school district of choice based on the percentages of average daily attendance specified in Education Code 48307.

In addition, transfers out of the district may be limited during a fiscal year when the County Superintendent of Schools has given the district a negative budget certification or

when the County Superintendent has determined that the district will not meet the state's standards and criteria for fiscal stability in the subsequent fiscal year exclusively as a result of student transfers from this district to a school district of choice. (Education Code 48307)

(cf. 3100 - Budget)

(cf. 3460 - Financial Reports and Accountability)

The district may deny a transfer of a student out of the district to a school district of choice if the Board determines that the transfer would negatively impact a court-ordered or voluntary desegregation plan of the district. (Education Code 48301)

**Legal Reference:**

**EDUCATION CODE**

41020 Annual district audits

46600-46611 Interdistrict attendance agreements

48204 Residency requirements for school attendance

48300-48316 Student attendance alternatives, school district of choice program

48350-48361 Open Enrollment Act

48915 Expulsion; particular circumstances

48915.1 Expelled individuals: enrollment in another district

48918 Rules governing expulsion procedures

48980 Notice at beginning of term

52317 Regional Occupational Center/Program, enrollment of students, interdistrict attendance

**ATTORNEY GENERAL OPINIONS**

87 Ops.Cal.Atty.Gen. 132 (2004)

84 Ops.Cal.Atty.Gen. 198 (2001)

**COURT DECISIONS**

Crawford v. Huntington Beach Union High School District, (2002) 98 Cal.App.4th 1275

**Management Resources:**

**WEB SITES**

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

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

**Policy CENTER UNIFIED SCHOOL DISTRICT**  
adopted: February 16, 2011 Antelope, California

**INTERDISTRICT ATTENDANCE****OPTION 1: Interdistrict Attendance Permits**

Note: The following option is for use by districts that have entered into an agreement with one or more other school districts to accept transfers through the "interdistrict attendance permit" or "reciprocal agreement" process pursuant to Education Code 46600-46611. (See Option 1 in the accompanying Board policy.) In 87 Ops.Cal.Att'y.Gen. 132 (2004), the Attorney General opined that districts could not charge students a fee for processing applications for interdistrict attendance.

In accordance with an agreement between the Governing Board and the board of another district, a permit authorizing a student's attendance outside his/her district of residence may be issued upon approval of both the district of residence and the district of proposed attendance.

The Superintendent or designee may approve an interdistrict attendance permit for a student for any of the following reasons when stipulated in the agreement:

Note: AB 1156 (Ch. 732, Statutes of 2011) amended Education Code 46600 to require districts to give priority for interdistrict attendance permits to a student who is a victim of an act of bullying, as provided below. For this purpose, Education Code 48900(r) defines bullying to include, but not be limited to, bullying committed by means of an electronic act directed specifically toward the student; see AR 5144.1 - Suspension and Expulsion/Due Process.

1. When the student has been determined by staff of either the district of residence or district of proposed attendance to be a victim of an act of bullying as defined in Education Code 48900(r). Such a student shall be given priority for interdistrict attendance under any existing interdistrict attendance agreement or, in the absence of an agreement, shall be given consideration for the creation of a new permit. (Education Code 46600)

*(cf. 5131.2 - Bullying)*

Note: **Optional** items #2-12 below should be revised and/or deleted to reflect district practice.

2. To meet the child care needs of the student. Such a student may be allowed to continue to attend district schools only as long as he/she continues to use a child care provider within district boundaries.
3. To meet the student's special mental or physical health needs as certified by a physician, school psychologist, or other appropriate school personnel.

*(cf. 6159 - Individualized Education Program)*

**INTERDISTRICT ATTENDANCE (continued)**

4. When the student has a sibling attending school in the receiving district, to avoid splitting the family's attendance.
5. To allow the student to complete a school year when his/her parents/guardians have moved out of the district during that year.
6. To allow the student to remain with a class graduating that year from an elementary, middle, or senior high school.
7. To allow a high school senior to attend the same school he/she attended as a junior, even if his/her family moved out of the district during the junior year.
8. When the parent/guardian provides written evidence that the family will be moving into the district in the immediate future and would like the student to start the year in the district.
9. When the student will be living out of the district for one year or less.
10. When recommended by the school attendance review board or by county child welfare, probation, or social service agency staff in documented cases of serious home or community problems which make it inadvisable for the student to attend the school of residence.

*(cf. 5113.1 - Chronic Absence and Truancy)*

11. When there is valid interest in a particular educational program not offered in the district of residence.
12. To provide a change in school environment for reasons of personal and social adjustment.

<p>Note: In 84 <u>Ops.Cal.Atty.Gen.</u> 198 (2001), the Attorney General opined that a lack of school facilities is a justifiable reason for denial of the interdistrict attendance permit request. However, according to the Attorney General, once the student is admitted, the district may not later deny the student continued attendance at a district school because of overcrowding. Although Attorney General opinions are not binding on the courts, they are generally afforded deference in the court when there is no specific statutory or case law to the contrary. The following paragraph is based on this Attorney General opinion.</p>
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The Superintendent or designee may deny initial requests for interdistrict attendance permits due to limited district resources, overcrowding of school facilities at the relevant grade level, or other considerations that are not arbitrary. However, once a student is admitted, the district may not deny him/her continued attendance because of overcrowded facilities at the relevant grade level.

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

## INTERDISTRICT ATTENDANCE (continued)

Note: Education Code 46601 requires that, within 30 days of a request for an interdistrict permit, parents/guardians whose permit application was denied must be informed about their right to appeal to the County Board of Education. This notice shall be provided by the district denying the request, or, in the absence of an agreement between the districts, by the district of residence.

Pursuant to Education Code 46601, parents/guardians may submit their appeal within 30 calendar days of the failure or refusal to issue the permit. The County Board then has 30 calendar days, unless extended by an additional five school days for good cause, to make its determination as to whether the student should be allowed to attend the district of his/her choice. However, as amended by AB 1085 (Ch. 87, Statutes of 2011), until July 1, 2015, Education Code 46601 allows a larger county (i.e., a county with a 1994-95 average daily attendance of 180,000 or more) 40 days to make its determination.

Pursuant to Education Code 46602, if the County Board determines that the student should be permitted to attend the district of his/her choice, the district shall admit the student without delay.

Within 30 days of a request for an interdistrict permit, the Superintendent or designee shall notify the parents/guardians of a student who is denied interdistrict attendance regarding the process for appeal to the County Board of Education as specified in Education Code 46601. (Education Code 46601)

*(cf. 5145.6 - Parental Notifications)*

Pending a decision by the two districts or an appeal by the County Board, the Superintendent or designee may provisionally admit a student who resides in another district for a period not to exceed two school months. (Education Code 46603)

Students who are under consideration for expulsion or who have been expelled may not appeal interdistrict attendance denials or decisions while expulsion proceedings are pending or during the term of the expulsion. (Education Code 46601)

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

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

Note: Pursuant to Education Code 46600, once an interdistrict permit is granted and the student is enrolled in the new school, the district of enrollment (1) may not require the student to reapply; (2) must allow the student to continue to attend the school, unless the permit contains specific standards for reapplication; and (3) along with the district of residence, may not revoke the student's existing permit if he/she is entering grade 11 or 12. Therefore, even if an interdistrict attendance agreement between the two districts has expired, the student may be allowed to continue attending the school to which he/she has transferred, unless the agreement contains specific language requiring reapplication.

Once a student is admitted to a school on the basis of an interdistrict attendance permit, he/she shall not be required to reapply for an interdistrict transfer and shall be allowed to continue to attend the school in which he/she is enrolled, unless reapplication standards are otherwise specified in the interdistrict attendance agreement. Existing interdistrict attendance permits shall not be rescinded for students entering grade 11 or 12 in the subsequent school year. (Education Code 46600)

## INTERDISTRICT ATTENDANCE (continued)

### **OPTION 2: School District of Choice Program**

Note: The following section is for use by districts that elect to participate in the school district of choice program pursuant to Education Code 48300-48316. (See Option 2 in the accompanying Board policy.) The program has been reauthorized by the Legislature until July 1, 2016 and any district may participate.

~~Applications for interdistrict attendance shall be submitted to the district office by January 1 of the school year preceding the school year for which the student may be transferred. The application deadline may be waived upon agreement between the district and the student's district of residence. (Education Code 48308)~~

~~The application deadline shall not apply to an application requesting a transfer if the parent/guardian with whom the student resides is enlisted in the military and was relocated by the military within 90 days prior to submitting the application. (Education Code 48308)~~

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

~~The Superintendent or designee shall ensure that any communication sent to parents/guardians is factually accurate and does not target particular neighborhoods or individual parents/guardians on the basis of a child's actual or perceived academic or athletic performance or any other personal characteristic. (Education Code 48301)~~

~~The district shall give priority for attendance to siblings of students already in attendance in the district. (Education Code 48306)~~

Note: The following optional paragraph is for use by districts that have chosen to give attendance priority to children of military personnel pursuant to Education Code 48306.

~~The district also may give priority for attendance to children of military personnel. (Education Code 48306)~~

Note: Pursuant to Education Code 48305, if the district chooses to use existing entrance criteria for specialized schools or programs, then the criteria must be uniformly applied. The following optional paragraph is for use by districts that choose to use existing entrance criteria.

~~Any existing entrance criteria for specialized schools or programs shall be uniformly applied to all applicants. (Education Code 48305)~~

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

~~Not later than 90 days after the district receives an application for transfer, the Superintendent or designee shall notify the parent/guardian in writing whether the application has been provisionally accepted or rejected and of the student's position on any waiting list.~~



**INTERDISTRICT ATTENDANCE (continued)**

~~Whenever the number of applicants exceeds the number of interdistrict transfers that may be accepted as determined by the Governing Board, students accepted for transfer shall be selected by a random drawing of the provisionally accepted applications.~~

~~Final acceptance or rejection of applications shall be made by May 15 preceding the school year for which the student may be transferred. (Education Code 48308)~~

~~However, if an application is submitted for a student who is residing with a parent/guardian enlisted in the military and that parent/guardian was relocated by the military 90 days prior to the submission of the application, then the district shall make a final decision to accept or reject the application within 90 days of its receipt. If the student's application has been submitted less than 90 days prior to the beginning of the school year, then the district shall accept or deny the application before the school year begins. Upon his/her acceptance, the student may immediately enroll in a district school. (Education Code 48308)~~

Note: The following paragraph is optional.
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~~The Superintendent or designee shall notify the student's district of residence of the district's decision.~~

~~Students admitted through the school district of choice program are deemed to have fulfilled district residency requirements pursuant to Education Code 48204. (Education Code 48301)~~

~~(cf. 5111.1—District Residency)~~

~~(cf. 5116.1—Intradistrict Open Enrollment)~~

~~Final acceptance of the transfer is applicable for one school year and shall be renewed automatically each year unless the Board, by adoption of a resolution, withdraws from participation in the program and no longer accepts transfer students from other districts. (Education Code 48308)~~

Note: The following paragraph is for use by districts maintaining high schools.
---

~~Even if the district withdraws from participation in the program, admitted high school students may continue attending school in the district until they graduate from high school. (Education Code 48308)~~

~~The district may accept any completed coursework, attendance, and other academic progress credited to an accepted student by any district(s) he/she has previously attended and may grant academic standing to the student based upon the district's evaluation of the student's academic progress. (Education Code 48309)~~

~~(cf. 6146.3—Reciprocity of Academic Credit)~~

**INTERDISTRICT ATTENDANCE (continued)**

~~The district may revoke a student's enrollment if he/she is recommended for expulsion pursuant to Education Code 48918. (Education Code 48309)~~

~~Note: Pursuant to Education Code 48301, the district may prohibit a transfer under the school district of choice program if the Governing Board determines that the transfer would negatively impact a court-ordered desegregation plan, a voluntary desegregation plan, or the racial and ethnic balance of the district. In Crawford v. Huntington Beach Union High School District, the appellate court held that a district's intradistrict open enrollment policy, which contained a racial and ethnic balance component as authorized by Education Code 35160.5, was unconstitutional. The court did not consider whether a policy based on a court-ordered or voluntary desegregation plan would be constitutional. According to the court, the constitutional provisions added by Proposition 209 in 1996 prohibit a district from adopting a policy containing different admission criteria on the basis of race.~~

~~Although the provisions in Education Code 48301 relative to racial and ethnic balance remain in law, because of the legal uncertainty surrounding this issue, item #1 below does not reflect those provisions of Education Code 48301. Districts that choose to deny interdistrict transfers on that basis should consult legal counsel.~~

~~The district may deny a transfer into the district under the district of choice program if:~~

- ~~1. The Board determines that the transfer into or out of the district would negatively impact a court-ordered or voluntary desegregation plan of the district. (Education Code 48301)~~

~~Note: Education Code 48303 provides that a district may not deny a transfer because the additional cost of educating the student would exceed the amount of additional state aid to be received. However, pursuant to Education Code 48303, a transfer may be rejected if it would require the district to create a new program to serve the student, as specified below.~~

- ~~2. The transfer into the district would require the district to create a new program to serve that student, except that the district shall not reject the transfer of a student with disabilities or an English learner. (Education Code 48303)~~

# **Center USD**

## **Administrative Regulation**

### **Interdistrict Attendance**

**AR 5117**  
**Students**

#### **Interdistrict Attendance Permits**

The Superintendent or designee may approve an interdistrict attendance permit for a student for any of the following reasons:

1. To meet the child care needs of the student

Such students may be allowed to continue to attend district schools only as long as they continue to use a child care provider within district boundaries.

2. To meet the student's special mental or physical health needs as certified by a physician, school psychologist, or other appropriate school personnel

(cf. 6159 - Individualized Education Program)

3. When the student has a sibling attending school in the receiving district, to avoid splitting the family's attendance

4. To allow the student to complete a school year when his/her parents/guardians have moved out of the district during that year

5. To allow the student to remain with a class graduating that year from an elementary, junior, or senior high school

6. To allow a high school senior to attend the same school he/she attended as a junior, even if his/her family moved out of the district during the junior year

7. When the parent/guardian provides written evidence that the family will be moving into the district in the immediate future and would like the student to start the year in the district

8. When the student will be living out of the district for one year or less

9. When recommended by the school attendance review board or by county child welfare, probation, or social service agency staff in documented cases of serious home or community problems which make it inadvisable for the student to attend the school of residence

(cf. 5113.1 - Chronic Absence and Truancy)

10. When there is valid interest in a particular educational program not offered in the district of residence

11. To provide a change in school environment for reasons of personal and social adjustment

An interdistrict attendance permit shall not exceed a term of five years. Each permit shall stipulate the terms and conditions established by both districts under which interdistrict attendance shall be permitted, denied, or revoked, and any standards for reapplication. (Education Code 46600)

Once a student is enrolled in a school, he/she shall not be required to reapply for an interdistrict transfer and shall be allowed to continue to attend the school in which he/she is enrolled, unless reapplication standards are otherwise specified in the permit. Existing interdistrict attendance permits shall not be rescinded for students entering grade 11 or 12 in the subsequent school year. (Education Code 46600)

The Superintendent or designee may deny initial requests for interdistrict attendance permits if school facilities are overcrowded at the relevant grade level or based on other considerations that are not arbitrary. However, once a student is admitted, the district may not deny him/her continued attendance because of overcrowded facilities at the relevant grade level.

Within 30 days of a request for an interdistrict permit, the Superintendent or designee shall notify the parents/guardians of a student who is denied interdistrict attendance regarding the process for appeal to the County Board of Education as specified in Education Code 46601. (Education Code 46601)

(cf. 5145.6 - Parental Notifications)

Students who are under consideration for expulsion or who have been expelled may not appeal interdistrict attendance denials or decisions while expulsion proceedings are pending or during the term of the expulsion. (Education Code 46601)

(cf. 5119 - Students Expelled from Other Districts)  
(cf. 5144.1 - Suspension and Expulsion/Due Process)

Regulation      CENTER UNIFIED SCHOOL DISTRICT  
approved: February 16, 2011 Antelope, California

**CERTIFICATE OF PROFICIENCY/HIGH SCHOOL EQUIVALENCY****Certificate of Proficiency**

Note: Pursuant to Education Code 48412, the State Board of Education (SBE) will award a "certificate of proficiency" to persons who pass a high school proficiency examination which assesses standards of competency in basic skills developed by the California Department of Education (CDE). This certificate is equivalent to a high school diploma and the CDE will keep a permanent record of the issuance of all certificates.

5 CCR 11523 requires the principal of each high school to distribute information about the exam to students in grades 11-12. A flyer that may be used for this purpose is available on the CDE web site in both English and Spanish.

The principal of each school maintaining grades 11 and 12 shall distribute to each student in those grades an announcement explaining the California High School Proficiency Examination (CHSPE). When announcements from the California Department of Education (CDE) or its contractor are received, this information shall be distributed early enough to enable interested students to register for the test to be given in the fall of that year. (5 CCR 11523)

*(cf. 5145.6 - Parental Notifications)*

Any student may take the CHSPE if he/she meets one of the following conditions: (Education Code 48412)

1. Is age 16 or older
2. Has been enrolled in the 10th grade for one school year or longer
3. Will complete one school year of enrollment in 10th grade at the end of the semester during which the CHSPE will be administered

If a student receives the proficiency certificate, the district shall indicate the student's accomplishment and the date of the proficiency certificate award on the student's official transcript. (5 CCR 11521)

*(cf. 5125 - Student Records)*

Any student who has received the certificate of proficiency may be exempted from compulsory school attendance upon his/her request with verified parent/guardian consent. (Education Code 48410)

The consent form shall be provided by the Superintendent or designee and shall contain at least the following information: (5 CCR 11522)

**CERTIFICATE OF PROFICIENCY/HIGH SCHOOL EQUIVALENCY (continued)**

1. A general explanation of the student's rights of exemption from compulsory attendance and of re-enrollment in the public schools
2. The date of issuance of the certificate of proficiency
3. The signature of the parent/guardian and the date
4. The signature of the school administrator who has personally confirmed the authenticity of the parent/guardian's signature and the date

*(cf. 5112.1 - Exemptions from Attendance)*

If a student age 16 or 17 terminates his/her enrollment after receiving the high school proficiency certificate, he/she may re-enroll in the district with no adverse consequences. If he/she subsequently terminates enrollment again, he/she may be denied re-enrollment until the beginning of the following semester. (Education Code 48414)

*(cf. 6184 - Continuation Education)*

**High School Equivalency Certificate/GED**

Note: Education Code 51420-51427 provide that eligible persons may take the General Educational Development (GED) test at any official testing center approved by the CDE. To receive a high school equivalency certificate, a person must receive a score on the GED that is at least as high as that determined by the SBE to be equal to the standard of performance expected from high school graduates.

Any person is eligible to take the General Educational Development test leading to a high school equivalency certificate if he/she is a resident of California or a member of the armed forces assigned to duty in California and meets any one of the following criteria: (Education Code 51420; 5 CCR 11532)

1. Is 18 years of age or older, or within 60 days of his/her 18th birthday, regardless of enrollment status
2. Is not currently enrolled in school and is within 60 days of when he/she would have graduated from high school had he/she remained in school and followed the usual course of study
3. Is 17 years of age, has been out of school for at least 60 consecutive days, and provides a letter of request for the test from the military, a postsecondary educational institution, or a prospective employer

**CERTIFICATE OF PROFICIENCY/HIGH SCHOOL EQUIVALENCY (continued)**

Note: Item #4 below is for use by districts or county offices of education that administer programs for incarcerated students, such as a county court school, or students confined to a state or county hospital. Education Code 51420 authorizes a person confined to a state or county hospital to receive an equivalency certificate when he/she satisfies the criteria specified in item #4 below.

4. Is 17 years of age, has accumulated fewer than 100 units of high school credit, is confined to a state or county hospital or to an institution maintained by a state or county correctional facility, and meets other criteria listed in 5 CCR 11532

Note: SB 461 (Ch. 628, Statutes of 2011) amended Education Code 51420 to authorize the issuance of a high school equivalency certificate to any person who satisfies the requirements specified in item #5 below.

5. Is 17 years of age, has accumulated fewer than 100 units of high school credit prior to enrollment in a dropout recovery high school's academic program, and has successfully completed the dropout recovery high school's instructional program which is aligned to state standards, offers the opportunity for a high school diploma, and provides services for at least one year

*Dropout recovery high school* is a high school in which 50 percent or more of its students have been designated as dropouts pursuant to exit/withdrawal codes developed by the CDE. (Education Code 52052)

# **Center USD**

## **Administrative Regulation**

### **Certificate Of Proficiency/High School Equivalency**

**AR 6146.2**  
**Instruction**

#### **Certificate of Proficiency**

The principal of each school maintaining grades 11 and 12 shall distribute to each student in those grades an announcement explaining the California High School Proficiency Examination (CHSPE). When announcements from the California Department of Education (CDE) or its contractor are received, this information shall be distributed early enough to enable interested students to register for the test to be given in the fall of that year. (5 CCR 11523)

(cf. 5145.6 - Parental Notifications)

Any student may take the CHSPE if he/she meets one of the following conditions:  
(Education Code 48412)

1. Is age 16 or older
2. Has been enrolled in the 10th grade for one school year or longer
3. Will complete one school year of enrollment in 10th grade at the end of the semester during which the CHSPE will be administered

If a student receives the proficiency certificate, the district shall indicate the student's accomplishment and the date of the proficiency certificate award on the student's official transcript. (5 CCR 11521)

(cf. 5125 - Student Records)

Upon request, the Superintendent or designee shall provide a form for obtaining parent/guardian consent for exemption from compulsory school attendance by students ages 16 and 17 who have demonstrated proficiency. The form shall contain at least the following information: (5 CCR 11522)

1. A general explanation of the student's rights of exemption from compulsory attendance and of re-enrollment in the public schools
2. The date of issuance of the certificate of proficiency



3. The signature of the parent/guardian and the date
4. The signature of the school administrator who has personally confirmed the authenticity of the parent/guardian's signature and the date

(cf. 5112.1 - Exemptions from Attendance)

If a student age 16 or 17 terminates his/her enrollment after receiving the high school proficiency certificate, he/she may re-enroll in the district with no adverse consequences. If he/she subsequently terminates enrollment again, he/she may be denied re-enrollment until the beginning of the following semester. (Education Code 48414)

#### **High School Equivalency Certificate/GED**

Any person is eligible to take the General Educational Development test leading to a high school equivalency certificate if he/she is a resident of California or a member of the armed forces assigned to duty in California and meets any one of the following criteria: (Education Code 51420; 5 CCR 11532)

1. Is 18 years of age or older, or within 60 days of his/her 18th birthday, regardless of enrollment status
2. Is not currently enrolled in school and is within 60 days of when he/she would have graduated from high school had he/she remained in school and followed the usual course of study
3. Is 17 years of age, has been out of school for at least 60 consecutive days, and provides a letter of request for the test from the military, a postsecondary educational institution, or a prospective employer
4. Is 17 years of age, has accumulated fewer than 100 units of high school credit, is confined to a state or county hospital or to an institution maintained by a state or county correctional facility, and meets other criteria listed in 5 CCR 11532

Regulation      **CENTER UNIFIED SCHOOL DISTRICT**  
approved: February 20, 2008 Antelope, California

# Delete

## **Center USD**

### **Administrative Regulation**

#### **Equipment, Books And Materials**

**AR 6161**  
**Instruction**

#### **Pupil Textbook and Instructional Materials Incentive Program**

Any year during which the district participates in the state Pupil Textbook and Instructional Materials Incentive Program, the Governing Board shall hold one or more public hearings. At these hearings, the Board shall determine whether each student in each school has or will have before the end of the fiscal year sufficient textbooks and instructional materials in each subject consistent with the content and cycles of the state curriculum frameworks. The Board's determination shall be made in the form of a resolution. (Education Code 60119)

The Board shall encourage participation by parents/guardians, teachers, interested community members and bargaining unit leaders at the above hearing(s). Ten days before the hearing(s), the Superintendent or designee shall post a notice in three public places within the district containing the time, place and purpose of the hearing. (Education Code 60119)

If the Board determines that there are insufficient textbooks and/or instructional materials, the Board shall: (Education Code 60119)

1. Provide classroom teachers and the public the reasons for the insufficiency, and
2. Take action to ensure that the insufficiency is corrected within two years, using any of the following:
  - a. Funds available from categorical programs for textbooks and/or instructional materials, including funds appropriated in the annual Budget Act.
  - b. District funds that are in excess of the amount available for each student during the prior fiscal year to purchase textbooks and/or instructional materials.
  - c. Other funds available to the district for textbooks and/or instructional materials.

The Superintendent or designee shall: (Education Code 60252)

1. Assure the Superintendent of Public Instruction of the district's compliance with the above requirements, and

**2. Ensure that funds received through the Pupil Textbook and Instructional Materials Incentive Program:**

- a. Are used in compliance with Education Code 60119, and**
- b. Supplement any other state and local monies expended on textbooks and/or instructional materials.**

**Regulation approved: CENTER UNIFIED SCHOOL DISTRICT  
May 23, 1996 Antelope, 1996**

**CAREER TECHNICAL EDUCATION**

**Cautionary Notice:** As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009), ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), and SB 70 (Ch. 7, Statutes of 2011), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs and provides that districts are deemed in compliance with the program and funding requirements for these programs for the 2008-09 through 2014-15 fiscal years. As a result of this flexibility, the district may choose to temporarily suspend certain provisions of the following policy or administrative regulation that reflect those requirements. However, this flexibility does not affect or alter any existing contract or bargaining agreement that the district may have in place. Thus, districts should examine the terms of those contracts and agreements and consult with district legal counsel for additional guidance. Also see BP 2210 - Administrative Discretion Regarding Board Policy.

Note: The following policy is for use by districts that maintain any of grades 7-12. Education Code 51220 requires that the adopted course of study for grades 7-12 include courses in career technical education (CTE); see BP/AR 6143 - Courses of Study.

The Carl D. Perkins Career and Technical Education Act of 2006 (Perkins IV) (20 USC 2301-2414) provides (1) state basic grants for local programs of CTE for secondary and postsecondary students, and (2) tech prep grants for programs that incorporate at least two years of secondary education with two years of postsecondary education in a sequential course of study. In addition, secondary schools may offer CTE through partnership academies (Education Code 54690-54697), regional occupational centers and programs (ROC/Ps) (Education Code 52300-52335.12), and/or district-funded programs. Education Code 52372.5-52372.7, as amended by AB 790 (Ch. 616, Statutes of 2011), establish a pilot project to implement a limited number of districtwide "linked learning" programs integrating academic and technical study (sometimes called "multiple pathways") and describe components of such programs; see the accompanying administrative regulation.

The following policy should be revised to reflect program(s) offered by the district and grade levels at which such programs shall be offered.

The Governing Board desires to provide a comprehensive career technical education (CTE) program in the secondary grades which integrates core academic instruction with technical and occupational instruction in order to increase student achievement, graduation rates, and readiness for postsecondary education and employment. The district's CTE program shall be designed to help students develop the academic, career, and technical skills needed to succeed in a knowledge- and skills-based economy. The program shall include a rigorous academic component and provide students with a strong experience and understanding of all aspects of an industry.

*(cf. 6143 - Courses of Study)*

*(cf. 6200 - Adult Education)*

The district's CTE program shall focus on preparing students to enter current or emerging high-skill, high-wage, and/or high-demand occupations. CTE opportunities may be offered through linked learning programs, partnership academies, apprenticeship programs or orientation to apprenticeships, regional occupational centers or programs, tech prep programs, charter schools, small learning communities, or other programs that expose students to career options while preparing them for future careers in a given industry or interest area.

## **CAREER TECHNICAL EDUCATION (continued)**

*(cf. 0420.4 - Charter School Authorization)*

*(cf. 6178.2 - Regional Occupational Center/Program)*

Note: Pursuant to 20 USC 2354, districts applying for Perkins IV funding must submit to the California Department of Education (CDE) a district plan which covers the same time period as the state plan required by 20 USC 2342; see the accompanying administrative regulation. In addition, the district must annually submit an application for funding which must be approved by the Governing Board.

The Board shall review and approve all district plans and applications for the use of state and/or federal funds supporting CTE.

Note: State model curriculum standards for CTE for grades 7-12 integrate the state's academic content standards with industry-specific knowledge and skills in 58 career pathways organized into 15 industry sectors: agriculture and natural resources; arts, media, and entertainment; building trades and construction; education, child development, and family services; energy and utilities; engineering and design; fashion and interior design; finance and business; health science and medical technology; hospitality, tourism, and recreation; information technology; manufacturing and product development; marketing, sales, and service; public services; and transportation. The state's curriculum framework for CTE provides guidance in implementing the state content standards. Any district that adopts a course of study that meets or exceeds the state model curriculum standards will be deemed to have satisfied the requirement of Education Code 51228 that the district offer students in grades 7-12 the opportunity to attain entry-level employment skills in business or industry upon high school graduation; see BP 6143 - Courses of Study.

The Board shall adopt district standards for CTE which meet or exceed the state's model content standards and describe the essential knowledge and skills that students enrolled in these courses are expected to master. The course curriculum shall be aligned with district-adopted standards and the state's curriculum framework.

*(cf. 6011 - Academic Standards)*

*(cf. 6141 - Curriculum Development and Evaluation)*

Note: The following two paragraphs are mandated for districts that receive funding through the targeted instructional improvement block grant (Education Code 41541) and choose to use such funds to develop and implement, in consultation with the ROC/P and community college serving the geographic area of the district, a CTE program for high school students in accordance with Education Code 52376. Pursuant to Education Code 52376, districts that receive supplemental funding or other funds for this purpose are mandated to adopt policies and procedures that include (1) comparison of the district's CTE curriculum, course content, and course sequence with the model state curriculum standards, and (2) review of CTE courses to determine the extent to which they may offer an alternative means for completing course requirements for high school graduation.

In addition, beginning in the 2012-13 school year, Education Code 51225.3, as amended by AB 1330 (Ch. 621, Statutes of 2011), authorizes the Board to include a course in CTE as an alternative to the visual or performing arts or foreign language course requirement for high school graduation; see BP 6146.1 - High School Graduation Requirements.

At least every three years, the Board shall compare the district's curriculum, course content, and course sequence of CTE with the model state curriculum standards. (Education Code 52376)

**CAREER TECHNICAL EDUCATION (continued)**

The Superintendent or designee shall systematically review the district's CTE classes to determine the degree to which each class may offer an alternative means for completing and receiving credit for specific portions of the course of study prescribed by the district for high school graduation. The Board shall ensure that these classes are equivalent in content and rigor to the courses prescribed for graduation. (Education Code 52376)

*(cf. 6146.1 - High School Graduation Requirements)*

*(cf. 6146.11 - Alternative Credits Toward Graduation)*

*(cf. 6146.2 - Certificate of Proficiency/High School Equivalency)*

Note: Education Code 51760.1 authorizes districts, county offices of education, ROC/Ps, and partnership academies to provide work-based learning opportunities which may include, but are not limited to, work experience education as defined in Education Code 51764, community classrooms or cooperative CTE programs as defined in Education Code 52372.1, and job shadowing as defined in Education Code 51769; see BP/AR 6178.1 - Work-Based Learning. In addition, although not specified in state law, other examples of work-based learning opportunities cited in the CDE's publication Multiple Pathways to Student Success: Envisioning the New California High School include student internships/field study, apprenticeships, service learning, work in social/civic enterprises or school-based enterprises such as student stores, and technology-based or other simulated work experiences.

The Superintendent or designee shall develop partnerships with local businesses and industries to ensure that course sequences, career technical and integrated curriculum, classroom instruction and projects, and assessments have real-world relevance and reflect labor market needs and priorities. He/she also shall work to develop connections with businesses, postsecondary institutions, community organizations, and/or other employers to provide students with actual or simulated work-based learning opportunities.

*(cf. 1700 - Relations Between Private Industry and the Schools)*

*(cf. 5113.2 - Work Permits)*

*(cf. 6178.1 - Work-Based Learning)*

The Superintendent or designee shall collaborate with postsecondary institutions to ensure that the district's program is articulated with postsecondary programs in order to provide a sequential course of study. Articulation opportunities may include dual or concurrent enrollment in community college courses.

*(cf. 6172.1 - Concurrent Enrollment in College Classes)*

Note: The following optional paragraph may be revised to reflect district practice. Among the criteria for admission to the University of California (UC) or California State University (CSU) system is a requirement that high school students satisfactorily complete 15 units of specified courses ("a-g" courses). These include a growing number of CTE courses that connect knowledge of academic content with practical or work-related applications. Education Code 51229 requires that districts annually provide parents/guardians of students in grades 9-12 with (1) a brief explanation of the a-g course requirements; (2) a list of UC and CSU web sites that provide related information and a list of certified a-g courses; (3) a brief description of what CTE is, as defined by the CDE; (4) the Internet address for the portion of the CDE web site where students

**CAREER TECHNICAL EDUCATION (continued)**

can learn more about CTE; and (5) information about how students may meet with school counselors to help them choose courses that will meet college admission requirements and/or to enroll in CTE courses; see AR 6143 - Courses of Study and E 5145.6 - Parental Notifications.

In addition, districts that include a course in CTE as an alternative to the visual or performing arts or foreign language course requirement for high school graduation, as authorized by Education Code 51225.3, are required by Education Code 48980 to provide a list of CTE courses offered by the district that satisfy the a-g course requirements for college admission and to specify which requirements they satisfy. Districts that do not allow this alternative graduation requirement should modify the paragraph below accordingly.

As a condition of receiving funds under the Supplemental School Counseling Program, Education Code 52378 requires the district's counseling program to provide specified services, including an individualized review of a student's career goals as well as the academic and CTE opportunities and community and workplace experiences available to support those goals; see BP/AR 6164.2 - Guidance/Counseling Services.

The Superintendent or designee shall inform all secondary students and their parents/guardians about the CTE experiences available in the district, CTE courses that satisfy college admission criteria, and, if applicable, CTE courses that satisfy high school graduation requirements. In addition, secondary students shall receive individualized career guidance and academic counseling which provides information about academic and CTE opportunities related to the student's career goals.

*(cf. 5145.6 - Parental Notifications)*

*(cf. 6164.2 - Guidance/Counseling Services)*

**Note:** Teachers of technical, trade, or vocational courses must possess a single subject credential or a designated subjects credential issued by the Commission on Teacher Credentialing (CTC) which authorizes teaching CTE courses. The designated subjects CTE credential is available in 15 subjects which reflect the 15 industry sectors identified in the state's model curriculum standards; see AR 4112.2 - Certification. In order to obtain the preliminary designated subjects credential, teachers must have at least three years of work experience directly related to each industry sector specified on the credential.

Education Code 44257.3, as added by AB 1304 (Ch. 259, Statutes of 2011), authorizes the CTC to develop program standards for the issuance of a "recognition of study in linked learning" demonstrating completion of a CTC-approved program in linked learning teaching methods. The recognition of study must not be considered a type of authorization, used as a condition of employment, replace subject matter competence requirements, or used in making decisions related to reductions in employee positions.

For districts applying for Perkins IV funding, 20 USC 2354 requires the district plan to address ongoing staff development for CTE teachers and administrators; see the accompanying administrative regulation.

The Superintendent or designee shall ensure that teachers of CTE courses possess the qualifications and credentials necessary to teach their assigned courses. He/she also shall provide teachers and administrators with professional development designed to enhance their knowledge of standards-aligned CTE and shall provide opportunities for CTE teachers to collaborate with teachers of academic courses in the development and implementation of integrated curriculum models.

## CAREER TECHNICAL EDUCATION (continued)

*(cf. 4112.2 - Certification)*

*(cf. 4131 - Staff Development)*

*(cf. 4331 - Staff Development)*

The Superintendent or designee shall provide counselors and other guidance personnel with professional development that includes, but is not limited to, information about current workforce needs and trends, requirements of the district's CTE program, work-based learning opportunities, and postsecondary education and employment options following high school.

Note: The following paragraph is for use by districts that receive funding through Perkins IV for either basic CTE programs or tech prep programs pursuant to 20 USC 2301-2414.

Upon written request from a nonprofit private school within the geographical area served by the district, the Superintendent or designee shall consult with private school representatives in a timely and meaningful manner and may provide for the participation of private school secondary students in the district's programs and activities funded under the federal Carl D. Perkins Career and Technical Education Act. To the extent practicable, the Superintendent or designee also shall, upon request, permit participation of CTE teachers, administrators, and other personnel from private schools in the district's inservice and preservice professional development programs funded through the Perkins Act. (20 USC 2397)

Note: The following paragraph is optional. Education Code 17078.72 provides funding for improving and expanding CTE programs through construction of new facilities, remodeling of existing facilities, and/or purchase of equipment.

The Superintendent or designee shall regularly assess district needs for facilities, technologies, and equipment to increase students' access to the district's CTE program.

*(cf. 0440 - District Technology Plan)*

*(cf. 3440 - Inventories)*

*(cf. 3512 - Equipment)*

*(cf. 7110 - Facilities Master Plan)*

## Nondiscrimination

Note: The following paragraph is for use by districts that receive Perkins IV funding but may be adapted for use by other districts. Pursuant to 20 USC 2354, the district plan for Perkins IV funding must describe how individuals who are members of "special populations," as defined in 20 USC 2302, will not be discriminated against. In addition, a district that receives federal aid is required by 34 CFR 100.B (Appendix B-IV), 104.8, and 106.9 to take "continuing steps" to notify students, parents/guardians, employees, employee organizations, and applicants for admission and employment that it does not discriminate in its educational programs or activities. See BP 0410 - Nondiscrimination in District Programs and Activities.

In the Federal Program Monitoring (FPM) process, CDE staff will check to ensure that the district complies with requirements to (1) ensure equitable participation of special population students through outreach,



**CAREER TECHNICAL EDUCATION (continued)**

recruitment, enrollment, and placement activities; (2) identify and adopt strategies to overcome barriers to access or success in the program; (3) ensure that counseling materials and activities, including student program selection and career/employment selection, and promotional and recruitment efforts are nondiscriminatory; and (4) advise students, parents/guardians, employees, and the general public, prior to the beginning of the school year, that all CTE opportunities are offered without regard to race, color, national origin, sex, or disability in accordance with 34 CFR 100.B (Appendix B-IV).

The district's program shall provide equal access to and shall not unlawfully discriminate against students who are members of special populations. *Special populations* include, but are not limited to, students with disabilities; students from economically disadvantaged families, including foster youth; single parents and single pregnant females; displaced homemakers; students with limited English proficiency; and students preparing for nontraditional fields. *Nontraditional fields* include occupations or fields of work, including careers in computer science, technology, and other emerging high-skill occupations, for which individuals from one gender constitute less than 25 percent of the individuals employed in each such occupation or field of work. (20 USC 2302, 2354, 2373)

Note: Pursuant to 34 CFR 100.B (Appendix B-IV), the notice specified below may be made in local newspapers, publications or media reaching target populations, or by other means, and should include a brief summary of program offerings, admission criteria, and the name and contact information of the person designated to coordinate Title IX and Section 504 compliance activity.

Prior to the beginning of each school year, the Superintendent or designee shall advise students, parents/guardians, employees, and the general public that all CTE opportunities are offered without regard to any actual or perceived characteristic protected from discrimination by law. (34 CFR 100.B, 104.8, 106.9)

(cf. 0410 - *Nondiscrimination in District Programs and Activities*)  
(cf. 1312.3 - *Uniform Complaint Procedures*)

Note: 34 CFR 100.B (Appendix B-IV) requires that, when the population within the district contains a community of persons with limited English language skills, the above notification shall be disseminated in the languages of the community. See BP 5145.6 - Parental Notifications for state requirements pertaining to the translation of parental notifications.

The above notification shall be disseminated in languages other than English as needed and shall state that the district will take steps to ensure that the lack of English language skills will not be a barrier to admission and participation in the district's CTE program. (20 USC 2354; 34 CFR 100.B)

**School and Community Involvement**

Note: Education Code 8070 requires the Board to appoint an advisory committee composed of representatives from specified groups, as detailed below. During the FPM process, CDE staff will review whether the district has appointed such a committee.

## CAREER TECHNICAL EDUCATION (continued)

The Board shall appoint a CTE advisory committee to develop recommendations on the district's CTE program and to serve as a liaison between the district and potential employers. The committee shall consist of at least one student, teacher, business representative, industry representative, school administrator, member of the general public knowledgeable about the disadvantaged, and representative of the field office of the California Employment Development Department. (Education Code 8070)

*(cf. 1220 - Citizen Advisory Committees)*

Note: The following paragraph is for use by districts that receive Perkins IV funding but may be adapted for use by other districts. 20 USC 2354 requires that the persons specified below be involved in the development, implementation, and evaluation of CTE programs funded by Perkins IV. One way of accomplishing this is to include representatives of these groups on the CTE advisory committee described above. Pursuant to the 2008-2012 State Plan for Career Technical Education, the district must hold at least one annual business and industry advisory committee meeting.

The district also shall involve parents/guardians; students; academic and CTE teachers; administrators; career guidance and academic counselors; representatives of tech prep consortia if applicable, business and industry, labor organizations, and special populations; and other interested individuals in the development, implementation, and evaluation of CTE programs. (20 USC 2354)

### Program Evaluation

Note: The following section is for use by districts that receive Perkins IV funding but may be adapted for use by other districts. Pursuant to 20 USC 2323, each district receiving Perkins IV funding must be evaluated annually by the state to determine whether the district is making substantial progress in achieving specific performance level targets on core indicators as detailed in the state plan. The following paragraph reflects indicators specified in the 2008-2012 State Plan for Career Technical Education. Districts are required to enter data electronically through the CDE's Perkins Data System.

Pursuant to 20 USC 2343, if the district falls below 90 percent on any of these performance level targets, the district will be required to develop and implement an improvement plan. The state plan further provides that if the district falls below 90 percent on three or more performance levels or below 60 percent on any one performance level, then the district will be required to submit a detailed action plan that describes the strategies to be implemented for bringing the district to the 90 percent performance level within two years. A district scoring in the lowest percentage of overall performance, as determined by a composite ranking of measures, will be subject to Perkins program monitoring. Ultimately, a district that fails to submit the required program improvement plan and/or fails to make the required improvements is subject to sanctions that could result in the loss of a portion or all of its allocated funds.

The Board shall monitor the achievement of students participating in the district's CTE program in order to determine the need for program improvements. The Superintendent or designee shall annually report to the Board and the California Department of Education on

**CAREER TECHNICAL EDUCATION (continued)**

program enrollment and completion rates, including enrollment and completion of programs in nontraditional fields as defined in 20 USC 2302; student academic assessment results; attainment of career and technical skill proficiencies; attainment of a high school diploma or equivalent; graduation rates; and subsequent placement in postsecondary education or advanced training, military service, or employment. Data shall be disaggregated, in accordance with 20 USC 2323, by race, ethnicity, gender, disability status, migrant status, English proficiency, and economic disadvantage status and for each special population as defined in 20 USC 2302 and listed in the section "Nondiscrimination" above.

*(cf. 0500 - Accountability)*

*(cf. 6162.5 - Student Assessment)*

*(cf. 6162.51 - Standardized Testing and Reporting Program)*

*(cf. 6162.52 - High School Exit Examination)*

*(cf. 6190 - Evaluation of the Instructional Program)*

*Legal Reference: (see next page)*

**CAREER TECHNICAL EDUCATION (continued)***Legal Reference:***EDUCATION CODE***1205 Classification of counties**8006-8156 Career technical education**17078.70-17078.72 Career technical education facilities**33430-33432 Health science and medical technology grants**35168 Inventory of equipment**41505-41508 Pupil Retention Block Grant**41540-41544 Targeted instructional improvement block grant**44257.3 CTC recognition of study in linked learning teaching methods**44260-44260.1 Designated subjects career technical education credential**44260.9 Designated subjects career technical education credential**48430 Legislative intent; continuation education schools and classes**48980 Parental notifications**51220-51229 Courses of study, grades 7-12**51760-51769.5 Work experience education**52300-52499.66 Career technical education**52519-52520 Adult education, occupational training**53080-53084 School-to-career initiatives**53086 California Career Resource Network**54690-54699.1 California Partnership Academies**54750-54760 California Partnership Academies, green technology and goods movement occupations**56363 Related services for students with disabilities; specially designed career technical education**66205.5-66205.9 Approval of career technical education courses for admission to California colleges**88500-88551 Community college economic and workforce development program***GOVERNMENT CODE***54950-54963 Brown Act***LABOR CODE***3070-3099.5 Apprenticeships***CODE OF REGULATIONS, TITLE 5***1635 Credit for work experience education**3051.14 Specially designed career technical education for students with disabilities**10070-10075 Work experience education**10080-10092 Community classrooms**10100-10111 Cooperative vocational education**11500-11508 Regional occupational centers and programs**11535-11538 Career technical education contracts with private postsecondary schools**11610-11611 Regional adult and vocational education councils***CODE OF REGULATIONS, TITLE 8***200-240 Apprenticeships***UNITED STATES CODE, TITLE 20***2301-2414 Carl D. Perkins Career and Technical Education Act of 2006**6301-6578 Improving the Academic Achievement of the Disadvantaged**Legal Reference continued: (see next page)*

**CAREER TECHNICAL EDUCATION (continued)***Legal Reference: (continued)*CODE OF FEDERAL REGULATIONS, TITLE 34

76.730-76.731 Records related to federal grant programs

80.32 Equipment acquired with federal funds

80.42 Record retention

100.B Appendix B Guidelines for eliminating discrimination in career technical education programs

104.1-104.39 Section 504 of the Rehabilitation Act of 1973

106.1-106.61 Discrimination on the basis of sex, effectuating Title IX

*Management Resources:*CSBA PUBLICATIONSOrientation to Apprenticeship Overview, Construction Management Task Force Fact Sheet, November 2007CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS2008-2012 State Plan for Career Technical EducationMultiple Pathways to Student Success: Envisioning the New California High School, 2010Regional Occupational Centers and Programs Operations Handbook March 2008Model Programs and Practices: Setting Standards for Regional Occupational Centers and Programs (ROCPs), rev. October 2007Career Technical Education Framework for California Public Schools, Grades Seven Through Twelve, January 2007California Career Technical Education Model Curriculum Standards, Grades Seven Through Twelve, May 2005Management of Vocational Education Equipment, April 2000CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS, DIVISION OF APPRENTICESHIP STANDARDS PUBLICATIONSOrientation to Apprenticeships: A Guide for Educators, January 2001WEB SITESCSBA: <http://www.csba.org>Association for Career and Technical Education: <http://www.actonline.org>California Association of Regional Occupational Centers and Programs: <http://www.carocp.org>California Career Resource Network: <http://www.californiacareers.info>California Department of Education, Career Technical Education: <http://www.cde.ca.gov/ci/ct>California Department of Employment Development: <http://www.edd.ca.gov>California Department of Industrial Relations: <http://www.dir.ca.gov>California Workforce Investment Board: <http://www.calwia.org>Commission on Teacher Credentialing: <http://www.ctc.ca.gov>University of California, a-g Course Submissions: [http://www.ucop.edu/a-gGuide/ag/course\\_submissions](http://www.ucop.edu/a-gGuide/ag/course_submissions)

U.S. Department of Education, Office of Vocational and Adult Education:

<http://www.ed.gov/about/offices/list/ovae/pi/cte/index.html>U.S. Department of Labor, Bureau of Labor Statistics: <http://www.bls.gov>

# **Center USD**

## **Board Policy**

### **Career Technical Education**

**BP 6178**

#### **Instruction**

Cautionary Notice: As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009) and ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs. The Center Unified School District has accepted this flexibility and thus is deemed in compliance with the statutory or regulatory program and funding requirements for these programs for the 2008-09 through 2012-13 fiscal years. As a result, the district may temporarily suspend certain provisions of the following policy or regulation that reflect these requirements. For further information, please contact the Superintendent or designee.

The Governing Board desires to provide a comprehensive career technical education (CTE) program in grades 7-12 which integrates core academic instruction with technical and occupational instruction in order to increase student achievement, graduation rates, and readiness for postsecondary education and employment. The district's CTE program shall be designed to help students develop the academic, career, and technical skills needed to succeed in a knowledge- and skills-based economy. The program shall include a rigorous academic component and provide students with a strong experience and understanding of all aspects of an industry.

(cf. 6143 - Courses of Study)

(cf. 6200 - Adult Education)

The Board shall review and approve all district plans and applications for the use of state and/or federal funds supporting CTE.

The Board shall adopt standards for CTE which meet or exceed the state's model content standards and describe the essential knowledge and skills that students enrolled in these courses are expected to master. The course curriculum shall be aligned with district-adopted standards and the state's curriculum framework.

(cf. 6011 - Academic Standards)

(cf. 6141 - Curriculum Development and Evaluation)

The Superintendent or designee shall develop partnerships with local businesses and industries to ensure that classroom instruction has real-world relevance and reflects labor market needs and priorities. He/she also shall work to develop connections with employers to provide students with work-based learning opportunities.

(cf. 1700 - Relations Between Private Industry and the Schools)  
(cf. 5113.2 - Work Permits)  
(cf. 6178.1 - Work Experience Education)

The Superintendent or designee shall collaborate with postsecondary institutions to ensure that the district's program is articulated with postsecondary programs in order to provide a sequential course of study.

The Superintendent or designee shall ensure that teachers of CTE courses possess the qualifications and credentials necessary to teach their assigned courses. He/she also shall provide teachers and administrators with professional development designed to enhance their knowledge of standards-aligned CTE and ways to integrate technical and occupational instruction with academic instruction.

(cf. 4112.2 - Certification)  
(cf. 4131 - Staff Development)  
(cf. 4331 - Staff Development)

The district shall provide services to support students in the CTE program, including comprehensive career guidance and academic counseling. The Superintendent or designee shall provide counselors with professional development that includes, but is not limited to, information about current workforce needs and trends, requirements of the district's CTE program, work experience opportunities, and postsecondary education and employment options following high school.

(cf. 5145.6 - Parental Notifications)  
(cf. 6164.2 - Guidance/Counseling Services)

The Superintendent or designee shall regularly assess district needs for facilities, technologies, and equipment to increase students' access to the district's CTE program.

(cf. 0440 - District Technology Plan)  
(cf. 3440 - Inventories)  
(cf. 3512 - Equipment)  
(cf. 7110 - Facilities Master Plan)

#### **Nondiscrimination**

The district's program shall provide equal access to and shall not unlawfully discriminate against students who are members of special populations. Special populations include, but are not limited to, students with disabilities; students from economically disadvantaged families, including foster youth; students preparing for nontraditional fields; single parents and single pregnant females; displaced homemakers; and students with limited English proficiency. (20 USC 2302, 2354, 2373)

(cf. 0410 - Nondiscrimination in District Programs and Activities)  
(cf. 1312.3 - Uniform Complaint Procedures)

Prior to the beginning of each school year, the Superintendent or designee shall advise students, parents/guardians, employees, and the general public that all CTE opportunities are offered without regard to race, color, national origin, sex, or disability. (34 CFR 104.8, 106.9)

The above notification shall be disseminated in languages other than English as needed and shall state that the district will take steps to ensure that the lack of English language skills will not be a barrier to admission and participation in the district's CTE program. (20 USC 2354)

#### **Advisory Committee**

The Board shall appoint a CTE advisory committee to develop recommendations on the district's CTE program and to serve as a liaison between the district and potential employers.

The committee shall consist of one or more representatives of the general public knowledgeable about the disadvantaged; students; teachers; business; industry; school administration; and the field office of the California Department of Employment Development. (Education Code 8070)

(cf. 1220 - Citizen Advisory Committees)

This committee may be expanded to include parents/guardians, representatives of labor organizations, representatives of special populations, and other interested individuals in order to involve them in the development, implementation, and evaluation of CTE programs funded through the federal Carl D. Perkins Career and Technical Education Act.

#### **Program Evaluation**

The Board shall monitor and evaluate the achievement of students participating in the district's CTE program. The Superintendent or designee shall annually report to the Board on program enrollment and completion rates, including enrollment and completion of programs

in nontraditional fields as defined in 20 USC 2302; student academic assessment results; attainment of career and technical skill proficiencies; attainment of a high school diploma or equivalent; graduation rates; and subsequent placement in postsecondary education or advanced training, military service, or employment.

(cf. 6146.1 - High School Graduation Requirements)  
(cf. 6146.2 - Certificate of Proficiency/High School Equivalency)



(cf. 6162.5 - Student Assessment)  
(cf. 6162.51 - Standardized Testing and Reporting Program)  
(cf. 6162.52 - High School Exit Examination)

At least every three years, the Board shall compare the district's curriculum, course content, and course sequence of CTE with the model state curriculum standards.  
(Education Code 52376)

The Superintendent or designee shall systematically review the district's CTE classes to determine the degree to which each class may offer an alternative means for completing and receiving credit for specific portions of the course of study prescribed by the district for high school graduation. The Board shall ensure that these classes are equivalent in content and rigor to the courses prescribed for graduation. (Education Code 52376)

(cf. 0500 - Accountability)  
(cf. 6146.11 - Alternative Credits Toward Graduation)  
(cf. 6190 - Evaluation of the Instructional Program)

**Legal Reference:**

**EDUCATION CODE**

8006-8156 Career technical education  
17078.70-17078.72 Career technical education facilities  
33430-33432 Health science and medical technology grants  
41505-41508 Pupil Retention Block Grant  
41540-41544 Targeted instructional improvement block grant  
44260-44260.1 Designated subjects career technical education credential  
44260.9 Designated subjects career technical education credential  
48430 Legislative intent; continuation education schools and classes  
48980 Parental notifications  
51220-51229 Courses of study, grades 7-12  
51760-51769.5 Work experience education  
52300-52499.66 Career technical education  
52519-52520 Adult education, occupational training  
53080-53084 School-to-career initiatives  
53086 California Career Resource Network  
54690-54697 California Partnership Academies  
56363 Related services for students with disabilities; specially designed career technical education  
66205.5-66205.9 Approval of career technical education courses for admission to California colleges  
88500-88551 Community college economic and workforce development program  
**GOVERNMENT CODE**  
54950-54963 Brown Act  
**LABOR CODE**  
3070-3099.5 Apprenticeships

## **CODE OF REGULATIONS, TITLE 5**

1635 Credit for work experience education

3051.14 Specially designed career technical education for students with disabilities

10070-10075 Work experience education

10080-10092 Community classrooms

10100-10111 Cooperative vocational education

11500-11508 Regional occupational centers and programs

11535-11538 Career technical education contracts with private postsecondary schools

11610-11611 Regional adult and vocational education councils

## **CODE OF REGULATIONS, TITLE 8**

200-240 Apprenticeships

## **UNITED STATES CODE, TITLE 20**

2301-2414 Carl D. Perkins Career and Technical Education Act of 2006

6301-6578 Improving the Academic Achievement of the Disadvantaged

## **CODE OF FEDERAL REGULATIONS, TITLE 34**

80.32 Equipment acquired with federal funds

100.B Appendix B Guidelines for eliminating discrimination in career technical education programs

104.1-104.39 Section 504 of the Rehabilitation Act of 1973

106.1-106.61 Discrimination on the basis of sex, effectuating Title IX

## **Management Resources:**

### **CSBA PUBLICATIONS**

Orientation to Apprenticeship Overview, Construction Management Task Force Fact Sheet, November 2007

### **CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS**

2008-2012 State Plan for Career Technical Education

Career Technical Education Framework for California Public Schools, Grades Seven Through Twelve, January 2007

California Career Technical Education Model Curriculum Standards, Grades Seven Through Twelve, May 2005

Management of Vocational Education Equipment, April 2000

### **CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS, DIVISION OF APPRENTICESHIP STANDARDS PUBLICATIONS**

Orientation to Apprenticeships: A Guide for Educators, January 2001

### **WEB SITES**

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

Association for Career and Technical Education: <http://www.acteonline.org>

California Association of Regional Occupational Centers and Programs:  
<http://www.carocp.org>

California Career Resource Network: <http://www.californiacareers.info>

California Department of Education, Career Technical Education:  
<http://www.cde.ca.gov/ci/ct>

California Department of Employment Development: <http://www.edd.ca.gov>

California Department of Industrial Relations: <http://www.dir.ca.gov>

California Workforce Investment Board: <http://www.calwia.org>

Commission on Teacher Credentialing: <http://www.ctc.ca.gov>  
U.S. Department of Education, Office of Vocational and Adult Education:  
<http://www.ed.gov/about/offices/list/ovae/pi/cte/index.html>  
U.S. Department of Labor, Bureau of Labor Statistics: <http://www.bls.gov>

Policy CENTER UNIFIED SCHOOL DISTRICT  
adopted: June 18, 2008      Antelope, California

**CAREER TECHNICAL EDUCATION**

Note: The following optional administrative regulation should be revised to reflect program(s) offered by the district.

**Perkins Basic Grants for Career Technical Education**

Note: The following optional section is for use by districts that receive basic grants pursuant to the reauthorized Carl D. Perkins Career and Technical Education Act of 2006 (Perkins IV) (20 USC 2301-2355) to support programs of career technical education (CTE). During the Federal Program Monitoring (FPM) process, California Department of Education (CDE) staff will review whether the district uses Perkins IV funds to supplement, not supplant, state and local funds for CTE activities, as required by 20 USC 2391, and whether funds are used for appropriate purposes as described in 20 USC 2355 and in the state plan adopted pursuant to 20 USC 2342.

For any district program of career technical education (CTE) funded through a basic grant of the federal Carl D. Perkins Career and Technical Education Act, the district shall submit to the California Department of Education a districtwide plan addressing the components specified in 20 USC 2354 and any additional requirements specified in the state plan developed pursuant to 20 USC 2342. The multi-year district plan shall cover the same time period covered by the state plan. (20 USC 2354)

Note: The district may use Perkins IV, other federal, state, and/or district funds to meet the program requirements listed in items #1-9 below. Additional permissible uses of Perkins IV funds are described in 20 USC 2355. The 2008-2012 State Plan for Career Technical Education allows districts to support CTE courses in grades 7-8 with Perkins funds only if the courses are integral to and aligned with approved sequences of courses conducted by a high school.

The district shall offer at least one CTE program of study which shall: (20 USC 2342, 2354, 2355)

1. Improve the academic and career technical skills of participating students by integrating coherent and rigorous academic content and relevant CTE programs

*(cf. 6011 - Academic Standards)*

*(cf. 6143 - Courses of Study)*

2. Link CTE at the secondary and postsecondary levels through at least one of the strategies specified in 20 USC 2342

*(cf. 6172.1 - Concurrent Enrollment in College Classes)*

3. Provide students with strong experience in and understanding of all aspects of an industry, which may include work-based learning experiences

*(cf. 5113.2 - Work Permits)*

*(cf. 6178.1 - Work-Based Learning)*

## **CAREER TECHNICAL EDUCATION (continued)**

4. Develop, improve, or expand the use of technology in CTE

*(cf. 0440 - District Technology Plan)*

5. Provide professional development to teachers, administrators, and career guidance and academic counselors who are involved with integrated CTE programs

*(cf. 4131 - Staff Development)*

*(cf. 4331 - Staff Development)*

*(cf. 6164.2 - Guidance/Counseling Services)*

6. Develop and implement program evaluations, including an assessment of how the needs of special populations, as defined in 20 USC 2302 and Board policy, are being met

*(cf. 0500 - Accountability)*

*(cf. 6190 - Evaluation of the Instructional Program)*

7. Initiate, improve, expand, and modernize quality CTE programs, including relevant technology
8. Provide services and activities that are of sufficient size, scope, and quality to be effective
9. Provide activities to prepare special populations for high-skill, high-wage, or high-demand occupations that will lead to self-sufficiency

Note: The following <b>optional</b> paragraph reflects CDE policies included in the state plan and may be revised to reflect district practice.
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The district's program shall consist of at least two full-year CTE courses with a combined duration of at least 300 hours, or a single multiple-hour course which provides sequential units of instruction and has a duration of at least 300 hours. At least 50 percent of course curriculum and content shall be directly related to the development of career knowledge and skills.

### **Tech Prep Programs**

Note: The following <b>optional</b> section is for use by districts that offer technical preparation (tech prep) programs pursuant to Perkins IV (20 USC 2371-2376). Tech prep education is a planned sequence of study in a technical field or pathway which includes at least two years of secondary education (sometimes beginning as early as grade 9) and extends through two or more years of postsecondary education or through an apprenticeship program of at least two years following high school. The sequence culminates in an associate's degree, a certificate, and/or a bachelor's degree. Districts apply for program funding as a consortium with a postsecondary institution and may include businesses in the consortium.
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During the FPM process, CDE staff will review whether tech prep programs funded by Perkins IV include the components listed in 20 USC 2373(c).
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**CAREER TECHNICAL EDUCATION (continued)**

The district shall, under an articulation agreement with an institution of postsecondary education and other consortium partners as appropriate, offer a technical preparation (tech prep) program in accordance with 20 USC 2371-2376. The program shall: (20 USC 2373)

1. Consist of a program of study that:
  - a. Combines at least two years of tech prep at the secondary level which is linked to at least two years of either postsecondary education in a sequential, nonduplicative course of study or an apprenticeship program
  - b. Integrates academic and career technical instruction and utilizes work-based and work site learning experiences as appropriate and available
  - c. Provides technical preparation in a career field, including high-skill, high-wage, or high-demand occupations
  - d. Builds student competence in technical skills and in core academic subjects, as appropriate, through applied, contextual, and integrated instruction in a coherent sequence of courses
  - e. Leads to technical skill proficiency, an industry-recognized credential, a certificate, or a degree in a specific career field
  - f. Leads to placement in high-skill or high-wage employment or to further education
  - g. Utilizes CTE programs of study, to the extent practicable
  - h. Meets state academic standards
  - i. Investigates opportunities for tech prep students to enroll concurrently in secondary education and postsecondary education courses
2. Uses educational technology and distance learning, as appropriate, to involve consortium partners more fully in the development and operation of programs
3. Includes inservice professional development for teachers, administrators, and counselors that addresses the goals identified in 20 USC 2373
4. Provides equal access to the full range of tech prep programs to individuals who are members of special populations, as defined in 20 USC 2302 and Board policy, including the development of tech prep program services appropriate to the needs of special populations

**CAREER TECHNICAL EDUCATION (continued)**

5. Provides for preparatory services that assist participating students
6. Coordinates with activities conducted under Title I of the No Child Left Behind Act

*(cf. 6171 - Title I Programs)*

**Linked Learning Programs**

Note: The following optional section is for use by districts that offer "linked learning" programs integrating academic and career technical study (sometimes called "multiple pathways") and may be revised to reflect district practice. Education Code 52372.5-52372.7, as amended by AB 790 (Ch. 616, Statutes of 2011), establish a pilot project to implement a limited number of districtwide linked learning programs and describe components of such programs. Pursuant to Education Code 52372.5, such programs may be delivered through partnership academies, regional occupational centers and programs (ROC/Ps), charter schools, academies, small learning communities, and other career-themed small schools.

The district shall offer one or more comprehensive, multi-year linked learning programs in grades 9-12 that are organized around a broad theme, interest area, or industry sector including, but not limited to, the industry sectors identified in model standards adopted by the State Board of Education pursuant to Education Code 51226. The program shall provide all participating students with curriculum choices that prepare them for career entry and a full range of postsecondary options, including two-year and four-year college, apprenticeship, and formal employment training.

At a minimum, the district's linked learning program shall include:

1. An integrated core curriculum that meets the eligibility requirements for admission to the University of California and the California State University and is delivered through project-based learning and other engaging instructional strategies that bring real-world context and relevance to the curriculum where broad themes, interest areas, and CTE are emphasized
2. An integrated technical core of a sequence of at least four related courses that may reflect CTE standards-based courses and that provide students with career skills, are aligned to academic principles, and fulfill academic core requirements described in item #1 above to the extent possible
3. A series of work-based learning opportunities that begin with mentoring and job shadowing and evolve into intensive internships, school-based enterprises, or virtual apprenticeships
4. Support services, including supplemental instruction in reading and mathematics, that help students master the advanced academic and technical content that is necessary for success in college and career

**CAREER TECHNICAL EDUCATION (continued)****Partnership Academies**

Note: The following optional section is for use by districts that have established a partnership academy pursuant to Education Code 54690-54699.1 and 54750-54760. A partnership academy functions as a school-within-a-school with a career theme and related academic courses primarily directed at students who are at risk of dropping out. Education Code 54698-54699.1, added by SBX1 1 (Ch. 2, Statutes of 2011), establishes a grant program to support the implementation and maintenance of partnership academies that are focused on employment in clean technology and renewable energy businesses and that provide skilled workforces for the products and services for energy and/or water conservation, renewable energy, pollution reduction, or other technologies.

The district shall operate one or more partnership academies as a school-within-a-school focused on a broad career theme. The program shall be available to students in grades 10-12, at least half of whom shall be students who are at risk of dropping out of school as indicated by three or more of the following criteria: (Education Code 54690-54692)

1. Past record of irregular attendance, with absence from school 20 percent or more of the school year

*(cf. 5113.1 - Chronic Absence and Truancy)*

2. Past record of underachievement in which the student is at least one-third of a year behind the coursework for the respective grade level, or as demonstrated by credits achieved
3. Past record of low motivation or disinterest in the regular school program
4. Economic disadvantage
5. Scores below basic or far below basic on the mathematics or English language arts test of the Standardized Testing and Reporting program
6. A grade point average of 2.2 or below or the equivalent of a C minus

The district's program shall provide: (Education Code 54692)

1. During each regular school term, instruction in at least three academic subjects that:
  - a. Prepares students for a regular high school diploma
  - b. Where possible and appropriate, prepares students to meet subject requirements for admission to the California State University and University of California



**CAREER TECHNICAL EDUCATION (continued)**

- c. Contributes to an understanding of the occupational field of the academy
2. CTE courses offered at each grade level at the academy that are part of an occupational course sequence that targets comprehensive skills and meets the criteria specified in Education Code 54692
3. Classes that are block scheduled in a cluster whenever possible to provide flexibility to academy teachers and which may vary in number during grade 12
4. A mentor from the business community for students during grade 11
5. An employer-based internship or work experience that occurs during the summer following grade 11 or during grade 12
6. Additional motivational activities with private sector involvement to encourage academic and occupational preparation

Attendance in academy classes shall be limited to students enrolled in the academy. (Education Code 54692)

The Superintendent or designee shall establish an advisory committee consisting of individuals involved in academy operations, including district and school administrators, lead teachers, and representatives of the private sector. (Education Code 54692)

**Apprenticeship Programs**

Note: The following optional paragraph may be used by districts that provide a program of "orientation to apprenticeships" to students who have not yet applied to an apprenticeship program. Such programs are sometimes referred to as "pre-apprenticeship programs." However, the Department of Industrial Relations (DIR), in its publication Orientation to Apprenticeship: A Guide for Educators, notes that "pre-apprentice" is used by some trades as a classification of worker and therefore prefers the term "orientation to apprenticeship" to refer to a program offered by secondary schools. Items #1-5 below reflect key program components recommended in the DIR publication and may be revised to reflect district practice.

The district shall offer high school and/or adult education students a program of orientation to apprenticeships that acquaints students with a broad range of career options, provides information regarding available apprenticeship programs, and provides classroom instructional job training which guides students to a registered apprenticeable occupation.

*(cf. 6200 - Adult Education)*

The district's program shall:

1. Introduce students to what they need to know in order to apply, test, and interview for acceptance into an apprenticeship program

**CAREER TECHNICAL EDUCATION (continued)**

2. Demonstrate the need for proficiency in reading and comprehension, mathematics, science, and technology
3. Emphasize the necessity to have the ability to communicate in reading, writing, speaking, listening, and numeration skills
4. Identify the knowledge, skills, and attitudes needed to enter and successfully complete an apprenticeship program
5. Provide an orientation to a specific craft or trade or to an industry

Note: The following **optional** paragraph is for use by districts that contract with sponsors of approved apprenticeship programs (e.g., individual employers, labor or management apprenticeship committees, or joint labor-management apprenticeship committees) pursuant to Education Code 8150-8156 and Labor Code 3070-3099.5 to provide classroom related and supplemental instruction. Apprenticeship programs are offered for a period of one to six years (typically four years) and provide specialized on-the-job training that prepares an individual for employment in a craft or trade profession.

The district may enter into an agreement with a local business, labor or management apprenticeship committee, and/or joint labor-management apprenticeship committee that has been approved by the Department of Industrial Relations' Division of Apprenticeship Standards to sponsor an apprenticeship program in order to develop and deliver related and supplemental instruction to students participating in a registered apprenticeship program. (Education Code 8150-8156; Labor Code 3074, 3075, 3078)

**Regional Occupational Center/Program**

Note: The following **optional** section is for use by districts that partner with or offer their own local ROC/P pursuant to Education Code 52300-52335.6, and may be revised to reflect district practice. Education Code 52301 authorizes the establishment of an ROC/P by (1) the County Superintendent of Schools, with the approval of the State Board of Education (SBE); (2) two or more districts maintaining high schools, with the approval of the SBE and the County Superintendent; or (3) a single district with an average daily attendance (ADA) of 50,000 or more located in a class 1 county or a district with an ADA of 100,000 or more located in a class 2 county, as defined in Education Code 1205. ROC/P courses are open to secondary students, with priority enrollment given to students ages 16-18 or in grades 11-12. See BP 6178.2 - Regional Occupation Center/Program for additional program requirements.

The district shall operate and/or partner with a regional occupational center or program (ROC/P), established pursuant to Education Code 52300-52335.6, which offers CTE courses independently or in support of tech prep programs, linked learning programs, partnership academies, and/or pre-apprenticeship and apprenticeship programs as appropriate.

**CAREER TECHNICAL EDUCATION (continued)**

Occupational course sequences offered by the ROC/P shall provide prerequisite courses needed to enter apprenticeship or postsecondary vocational certificate or degree programs, focus on occupations requiring comprehensive skills leading to high entry-level wages and/or the possibility of significant wage increases after a few years on the job, offer as many courses as possible that meet college admission requirements, and lead to attainment of an occupational skill certificate. (Education Code 52302)

**Student Organizations**

Note: The following **optional** section may be used by districts providing any CTE program(s). 20 USC 2355 permits the use of Perkins IV funding to support career technical student organizations and related activities. According to the CDE, state-supported organizations include California DECA: A Marketing Association (formerly Distributive Education Clubs of America), Future Business Leaders of America (FBLA), Future Farmers of America (FFA), Future Homemakers of America-Home Economics Related Occupations (FHA-HERO), Health Occupations Students of America (HOSA), and Skills USA (formerly Vocational Industrial Clubs of America-VICA).

The district may provide support, including supplies, materials, activities, and advisor expenses, to student organizations which engage in activities that are integral to the CTE program and provide for the development of student leadership skills. However, no state or federal funds shall be used to pay students' membership dues, food or lodging expenses, out-of-state travel, or the cost of a social activity or assemblage.

*(cf. 6145 - Extracurricular and Cocurricular Activities)*

*(cf. 6145.5 - Student Organizations and Equal Access)*

# **Center USD**

## **Administrative Regulation**

### **Career Technical Education**

**AR 6178**  
**Instruction**

#### **Perkins Basic Grants for Career Technical Education**

The Superintendent or designee shall submit to the California Department of Education a district plan for the career technical education (CTE) program funded by the federal Carl D. Perkins Career and Technical Education Act. The plan shall: (20 USC 2354)

1. Describe how program funds will be used to provide the CTE program components required by 20 USC 2355(b)
2. Describe how activities will be carried out in order to meet levels of performance established pursuant to 20 USC 2323

(cf. 6146.1 - High School Graduation Requirements)  
(cf. 6146.2 - Certificate of Proficiency/High School Equivalency)  
(cf. 6162.52 - High School Exit Examination)

3. Describe how the district will:
  - a. Offer the appropriate courses of at least one CTE program of study described in 20 USC 2342

(cf. 6143 - Courses of Study)

- b. Improve the academic and technical skills of participating students by strengthening the academic and career technical components of such programs through the integration of coherent and rigorous academic content and relevant CTE programs to ensure learning in the core academic and career technical subjects

- c. Provide students with strong experience in and understanding of all aspects of an industry

- d. Ensure that participating students are taught to the same coherent and rigorous content aligned with challenging academic standards as are taught to all other students

(cf. 6011 - Academic Standards)

- e. Encourage participating students to enroll in rigorous and challenging courses in

core academic subjects

(cf. 6142.91 - Reading/Language Arts Instruction)

(cf. 6142.92 - Mathematics Instruction)

(cf. 6142.93 - Science Instruction)

4. Describe how CTE, academic, guidance, and administrative personnel will be provided comprehensive professional development, including initial teacher preparation, that promotes the integration of coherent and rigorous content aligned with academic standards with relevant CTE, including curriculum development

(cf. 4131 - Staff Development)

(cf. 4331 - Staff Development)

5. Describe how parents/guardians, students, academic and CTE teachers, administrators, career guidance and academic counselors, representatives of tech prep consortia if applicable, representatives of business and industry, labor organizations, representatives of special populations, and other interested individuals will be involved in the development, implementation, and evaluation of CTE programs, and how such individuals and entities will be effectively informed about, and assisted in understanding, the requirements of the federal program

(cf. 1220 - Citizen Advisory Committees)

(cf. 1700 - Relations Between Private Industry and the Schools)

6. Provide assurances that the district's CTE program is of such size, scope, and quality to bring about improvement in the quality of CTE

7. Describe the process that will be used to evaluate and continuously improve the district's performance

(cf. 0500 - Accountability)

(cf. 6190 - Evaluation of the Instructional Program)

8. Describe how the district will:

a. Review CTE programs and identify and adopt strategies to overcome barriers that result in lowering rates of access to or lowering success in the program for special populations, as defined in 20 USC 2302 and Board policy

b. Provide programs that are designed to enable special populations to meet established performance level targets

c. Provide activities to prepare special populations, including single parents and displaced homemakers, for high-skill, high-wage, or high-demand occupations that will lead to self-sufficiency

9. Describe how the district will ensure that individuals will not be discriminated against on the basis of their status as members of special populations

(cf. 0410 - Nondiscrimination in District Programs and Activities)  
(cf. 1312.3 - Uniform Complaint Procedures)

10. Describe how funds will be used to promote preparation for nontraditional fields

Nontraditional fields means occupations or fields of work, including careers in computer science, technology, and other emerging high-skill occupations, for which individuals from one gender constitute less than 25 percent of the individuals employed in each such occupation or field of work. (20 USC 2302)

11. Describe how career guidance and academic counseling will be provided to CTE students, including linkages to future education and training opportunities

(cf. 6164.2 - Guidance/Counseling Services)

12. Describe efforts to improve:

a. The recruitment and retention of CTE teachers and career guidance and academic counselors, including individuals in groups underrepresented in the teaching profession

b. The transition to teaching from business and industry

(cf. 4112.2 - Certification)

#### **Tech Prep Programs**

The district shall, jointly in a consortium with an institution of postsecondary education and other partners as appropriate, offer a technical preparation program in accordance with 20 USC 2371-2376. The program shall: (20 USC 2373)

1. Be carried out under an articulation agreement with the postsecondary institution and any other consortium partners

2. Consist of a program of study that:

a. Combines at least two years of tech prep at the secondary level which is linked to at least two years of either postsecondary education in a sequential, nonduplicative course of study or an apprenticeship program

b. Integrates academic and career technical instruction and utilizes work-based and work site learning experiences as appropriate and available

(cf. 5113.2 - Work Permits)

(cf. 6178.1 - Work Experience Education)

- c. Provides technical preparation in a career field, including high-skill, high-wage, or high-demand occupations
  - d. Builds student competence in technical skills and in core academic subjects, as appropriate, through applied, contextual, and integrated instruction in a coherent sequence of courses
  - e. Leads to technical skill proficiency, an industry-recognized credential, a certificate, or a degree in a specific career field
  - f. Leads to placement in high-skill or high-wage employment or to further education
  - g. Utilizes CTE programs of study, to the extent practicable
  - h. Meets state academic standards
  - i. Investigates opportunities for tech prep students to enroll concurrently in secondary education and postsecondary education courses
- 3. Uses educational technology and distance learning, as appropriate, to involve consortium partners more fully in the development and operation of programs
  - 4. Includes in-service professional development for teachers, administrators, and counselors that addresses the goals identified in 20 USC 2373
  - 5. Provides equal access to the full range of tech prep programs to individuals who are members of special populations, as defined in 20 USC 2302 and Board policy, including the development of tech prep program services appropriate to the needs of special populations
  - 6. Provides for preparatory services that assist participating students
  - 7. Coordinates with activities conducted under Title I of the No Child Left Behind Act

(cf. 6171 - Title I Programs)

#### Participation of Private Schools

Upon written request from representatives of nonprofit private schools within the geographical area served by the district, the Superintendent or designee shall: (20 USC 2397)

1. Consult with the private school representatives in a timely and meaningful manner and, if the district so chooses, provide for the participation of private school secondary students in the district's CTE programs and activities funded under the federal Carl D. Perkins Career and Technical Education Act
2. To the extent practicable, permit participation of CTE teachers, administrators and other personnel from private schools in the district's in-service and preservice CTE professional development programs funded through the Perkins Act

#### **Partnership Academies**

The district shall operate one or more partnership academies as a school-within-a-school focused on a broad career theme. The program shall be available to students in grades 10-12 who are identified as at-risk of dropping out of school or who satisfy other criteria specified in Education Code 54690 and 54691. The district's program shall provide: (Education Code 54692)

1. Instruction in at least three academic subjects each regular school term that prepares students for a regular high school diploma and contributes to an understanding of the occupational field of the academy
2. A "laboratory class" related to the academy's occupational field
3. Classes that are block scheduled in a cluster whenever possible to provide flexibility to academy teachers and which may vary in number during grade 12
4. A mentor from the business community for students during grade 11
5. An internship or paid job related to the academy's occupational field or work experience to improve employment skills, during the summer following grade 11 except when a student must attend summer school for purposes of completing graduation requirements
6. Additional motivational activities with private sector involvement to encourage academic and occupational preparation

Attendance in the classes described in items #1-2 above shall be limited to students in the academy. (Education Code 54692)

The Superintendent or designee shall establish an advisory committee consisting of individuals involved in academy operations, including district and school administrators, lead teachers, and representatives of the private sector. (Education Code 54692)

#### **Pre-Apprenticeship and Apprenticeship Programs**

The district shall offer an orientation program for high school and/or adult education



students that acquaints students with a broad range of career options, provides information regarding available apprenticeship programs, and provides classroom instructional job training which guides students to a registered apprenticeable occupation. The district's program shall:

1. Introduce students to what they need to know in order to apply, test, and interview for acceptance into an apprenticeship program
2. Demonstrate the need for proficiency in reading and comprehension, mathematics, science, and technology
3. Emphasize the necessity to have the ability to communicate in reading, writing, speaking, listening, and numeration skills
4. Identify the knowledge, skills, and attitudes needed to enter and successfully complete an apprenticeship program
5. Provide an orientation to a specific craft or trade or to an industry

(cf. 6200 - Adult Education)

The Superintendent or designee may enter into an agreement with a local business, labor or management apprenticeship committee, and/or joint labor-management apprenticeship committee that has been approved to sponsor an apprenticeship program in order to develop and deliver related and supplemental instruction to students participating in a registered apprenticeship program. (Labor Code 3074, 3075, 3078)

#### **Student Organizations**

The district may support student organizations which engage in activities that are integral to the CTE program. The district may provide funding for supplies, materials, activities, and advisor expenses of such student organizations but shall not use state or federal funding to pay students' membership dues, food or lodging expenses, out-of-state travel, or the cost of a social activity or assemblage.

(cf. 6145 - Extracurricular and Cocurricular Activities)

(cf. 6145.5 - Student Organizations and Equal Access)

**Regulation      CENTER UNIFIED SCHOOL DISTRICT**  
**approved: June 18, 2008      Antelope, California**

**CLOSED SESSION PURPOSES AND AGENDAS**

Note: Pursuant to Government Code 54962, the Governing Board may hold a closed session only for purposes expressly authorized by the Brown Act (Government Code 54950-54963) or by a provision of the Education Code.

The Governing Board is committed to complying with state open meeting laws and modeling transparency in its conduct of district business. The Board shall hold closed sessions only for purposes authorized by law. A closed session may be held during a regular, special, or emergency meeting in accordance with law.

Note: Government Code 54954.5 provides specific agenda descriptions for most closed session items authorized by the Brown Act.

Each agenda shall contain a general description of each closed session item to be discussed at the meeting, as required by law. (Government Code 54954.2)

*(cf. 9320 - Meetings and Notices)*

*(cf. 9322 - Agenda/Meeting Materials)*

Note: Government Code 54957.7 states that before holding any closed session, the Board must disclose in an open meeting the item(s) to be discussed in the closed session. The Board may either state the information on the agenda or refer the public to the item(s) as listed by number or letter on the agenda. These disclosures may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcements. In addition, the Board is required to reconvene in open session upon conclusion of a closed session to report any action taken in the closed session.

The Board shall disclose in open session the items to be discussed in closed session. In the closed session, the Board may consider only those matters covered in its statement. After the closed session, the Board shall reconvene in open session before adjourning the meeting, and when applicable, shall disclose any action taken in the closed session, in the manner prescribed by Government Code 54957.1. (Government Code 54957.7)

*(cf. 9321.1 - Closed Session Actions and Reports)*

The Board shall not disclose any information that is protected by state or federal law. In addition, no victim or alleged victim of tortious sexual conduct or child abuse shall be identified in any Board agenda, notice, announcement, or report required by the Brown Act, unless the identity of the person has previously been publicly disclosed. (Government Code 54957.7, 54961)

*(cf. 1340 - Access to District Records)*

Note: Pursuant to Government Code 54963, a Board member who discloses confidential information received in a closed session may be referred to the local grand jury or may be subject to action in a court of law. For a definition of confidential information and the actions that may be taken against a Board member if such information is disclosed, see BB 9011 - Disclosure of Confidential/Privileged Information.

## CLOSED SESSION PURPOSES AND AGENDAS (continued)

A Board member shall not disclose confidential information received in a closed session unless the Board authorizes the disclosure of that information. (Government Code 54963)

*(cf. 9011 - Disclosure of Confidential/Privileged Information)*

### Personnel Matters

Note: Government Code 54957 authorizes the use of closed sessions for personnel matters described below. For the purpose of these closed sessions, "employee" includes an officer or independent contractor who functions as an officer or employee but excludes Board members. The Attorney General has concluded that it is appropriate to use a closed session to discuss and evaluate Superintendent performance. (59 Ops.Cal.Atty.Gen. 532 (1976))

In Fischer v. Los Angeles Unified School District, the court interpreted Government Code 54957 and found that the right to request an open session applies only when the Board hears specific complaints or charges brought against the employee. Thus, the right to request an open session does not apply when the Board is meeting in closed session to consider the appointment, employment, evaluation of performance, discipline, or dismissal of an employee.

The Board may hold a closed session to consider the appointment, employment, evaluation of performance, discipline, or dismissal of an employee. Such a closed session shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline. (Government Code 54957)

*(cf. 2140 - Evaluation of the Superintendent)*

*(cf. 4115 - Evaluation/Supervision)*

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

*(cf. 4215 - Evaluation/Supervision)*

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

*(cf. 4315 - Evaluation/Supervision)*

Note: Pursuant to Government Code 54957, failure of the Board to give an employee against whom a "specific complaint or charge" has been made the notice described below will render any action taken by the Board in the closed session null and void. Determining whether a "specific complaint or charge" is involved is usually fact-specific and the Board should consult legal counsel as necessary. In Furtado v. Sierra Community College District, the court held that the term "specific complaints or charges" as used in Government Code 54957 does not include negative comments in an employee's performance evaluation. In another decision, Bell v. Vista Unified School District, the court determined that a presentation to the board by a district staff member regarding an employee's violation of a California Interscholastic Federation rule constituted a "complaint or charge" and thus the employee was entitled to 24-hour notice. Yet another ruling, Morrison v. Housing Authority of the City of Los Angeles Board of Commissioners, held that when a board rejects its hearing officer's findings of fact and conducts its own hearing, the employee must be given 24-hour notice.

Furthermore, an Attorney General opinion (78 Ops.Cal.Atty.Gen. 218 (1995)) has clarified that a probationary certificated employee does not have the right to an open session when the Board is discussing whether or not to reemploy him/her for a third consecutive school year. Education Code 44929.21 allows the Board to non-reelect a probationary certificated employee at the end of the first or second school year as long as written notice is given in accordance with law; see AR 4117.6 - Decision Not to Rehire.

## **CLOSED SESSION PURPOSES AND AGENDAS (continued)**

The Board may also hold a closed session to hear complaints or charges brought against an employee by another person or employee, unless the employee requests an open session. Before the Board holds a closed session on specific complaints or charges brought against an employee, the employee shall receive written notice of his/her right to have the complaints or charges heard in open session if desired. This notice shall be delivered personally or by mail at least 24 hours before the time of the session. (Government Code 54957)

*(cf. 1312.1 - Complaints Concerning District Employees)*  
*(cf. 4112.9/4212.9/4312.9 - Employee Notifications)*

The Board may hold a closed session to discuss a district employee's application for early withdrawal of funds in a deferred compensation plan when the application is based on financial hardship arising from an unforeseeable emergency due to illness, accident, casualty, or other extraordinary event, as specified in the deferred compensation plan. (Government Code 54957.10)

Agenda items related to district employee appointments and employment shall describe the position to be filled. Agenda items related to performance evaluations shall specify the title of the employee being reviewed. Agenda items related to employee discipline, dismissal, or release require no additional information. (Government Code 54954.5)

### **Negotiations/Collective Bargaining**

Note: The Educational Employment Relations Act (Government Code 3540-3549.3) makes four specific exemptions from the Brown Act related to negotiations. Government Code 54957.6 provides that for the purpose of closed sessions related to collective bargaining, "employee" includes an officer or independent contractor who functions as an officer or employee but excludes any elected official, Board member, or other independent contractor.

Unless otherwise agreed upon by the parties involved, the following shall not be subject to the Brown Act: (Government Code 3549.1)

1. Any meeting and negotiating discussion between the district and a recognized or certified employee organization
2. Any meeting of a mediator with either party or both parties to the meeting and negotiating process
3. Any hearing, meeting, or investigation conducted by a factfinder or arbitrator
4. Any executive (closed) session of the district or between the district and its designated representative for the purpose of discussing its position regarding any matter within the scope of representation and instructing its designated representatives

## **CLOSED SESSION PURPOSES AND AGENDAS (continued)**

*(cf. 4140/4240/4340 - Bargaining Units)*

*(cf. 4143/4243 - Negotiations/Consultation)*

*(cf. 4143.1/4243.1 - Public Notice - Personnel Negotiations)*

The Board may meet in closed session to review the Board's position and/or instruct its designated representative regarding salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees. Any closed session held for this purpose may include discussions of the district's available funds and funding priorities, but only insofar as they relate to providing instructions to the Board's designated representative. (Government Code 54957.6)

For represented employees, the Board may also meet in closed session regarding any other matter within the statutorily provided scope of representation. (Government Code 54957.6)

Closed sessions may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees. For unrepresented employees, closed sessions held pursuant to Government Code 54957.6 shall not include final action on the proposed compensation of one or more unrepresented employees. (Government Code 54957.6)

The Board also may meet in closed session with a state conciliator or mediator who has intervened in proceedings regarding any of the purposes enumerated in Government Code 54957.6.

Agenda items related to negotiations shall specify the name of the district's designated representative(s) attending the closed session. If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative as long as the name of the agent or designee is announced at an open session held prior to the closed session. The agenda shall also specify the name of the organization representing the employee(s) or the position title of the unrepresented employee who is the subject of the negotiations. (Government Code 54954.5)

### **Matters Related to Students**

The Board shall meet in closed session to consider the expulsion of a student, unless the student submits a written request at least five days before the date of the hearing that the hearing be held in open session. Regardless of whether the expulsion hearing is conducted in open or closed session, the Board may meet in closed session for the purpose of deliberating and determining whether the student should be expelled. (Education Code 48918)

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

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

## **CLOSED SESSION PURPOSES AND AGENDAS (continued)**

The Board shall meet in closed session to address any student matter that may involve disclosure of confidential student information, or to consider a suspension, disciplinary action, or any other action against a student except expulsion. If a written request for open session is received from the parent/guardian or adult student, it will be honored to the extent that it does not violate the privacy rights of any other student. (Education Code 35146, 48912, 49070)

*(cf. 5117 - Interdistrict Attendance)*

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

*(cf. 5125.3 - Challenging Student Records)*

*(cf. 5144 - Discipline)*

Note: Although Government Code 54954.2 requires the agenda to have a brief general description of all closed session items to be discussed, Government Code 54954.5 provides no specific description of agenda items related to closed sessions authorized by the Education Code. Since the purpose of conducting the closed session is to protect student privacy rights, the following optional paragraph provides that student names shall not be included on the agenda.

Agenda items related to student matters shall briefly describe the reason for the closed session, such as "student expulsion hearing" or "grade change appeal," without violating the confidentiality rights of individual students. The student shall not be named on the agenda, but a number may be assigned to the student in order to facilitate record keeping. The agenda shall also state that the Education Code requires closed sessions in these cases in order to prevent the disclosure of confidential student record information.

*(cf. 5125 - Student Records)*

### **Security Matters**

The Board may meet in closed session with the Attorney General, district attorney, sheriff or chief of police, or their respective deputies, or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings; to the security of essential public services, including water, drinking water, wastewater treatment, natural gas service, and electric service; or to the public's right of access to public services or public facilities. (Government Code 54957)

*(cf. 0450 - Comprehensive Safety Plan)*

*(cf. 3515 - Campus Security)*

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

Note: Government Code 54956.5 authorizes an emergency meeting in closed session to meet with the law enforcement officials specified above pursuant to Government Code 54957. Two-thirds of the Board members present at the meeting must agree to the need for the closed session. Those emergency situations that necessitate a need for an emergency meeting are listed in BB 9320 - Meetings and Notices and include a terrorist attack, crippling disaster, or other activity that impairs public health or safety. For a list of actions for which more than a majority vote of the Board is required, see BB 9323.2 - Actions by the Board.

## **CLOSED SESSION PURPOSES AND AGENDAS (continued)**

The Board may meet in closed session during an emergency meeting held pursuant to Government Code 54956.5 to meet with law enforcement officials for the emergency purposes specified in Government Code 54957 if agreed to by a two-thirds vote of the Board members present. If less than two-thirds of the members are present, then the Board must agree by a unanimous vote of the members present. (Government Code 54956.5)

Agenda items related to security matters shall specify the name of the law enforcement agency and the title of the officer, or name of applicable agency representative and title, with whom the Board will consult. (Government Code 54954.5)

### **Conference with Real Property Negotiator**

Note: An Attorney General opinion (94 Ops.Cal.Atty.Gen. 82 (2011)) has concluded that only three subjects related to real property negotiations may be considered in closed session: (1) the amount of consideration the local agency is willing to pay or accept in exchange for the real property rights to be acquired or transferred; (2) the form, manner, and timing of how that consideration will be paid; and (3) items that are essential to arriving at the authorized price and payment terms. Although Attorney General opinions are not binding, they are accorded deference by the courts.

The Board may meet in closed session with its real property negotiator prior to the purchase, sale, exchange, or lease of real property by or for the district in order to grant its negotiator authority regarding the price and terms of payment for the property. (Government Code 54956.8)

Before holding the closed session, the Board shall hold an open and public session to identify its negotiator(s) and the property under negotiation and to specify the person(s) with whom the negotiator may negotiate. (Government Code 54956.8)

For purposes of real property transactions, negotiators may include members of the Board. (Government Code 54956.8)

Agenda items related to real property negotiations shall specify the district negotiator attending the closed session. If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator as long as the name of the agent or designee is announced at an open session held prior to the closed session. The agenda shall also specify the name of the negotiating parties and the street address of the real property under negotiation. If there is no street address, the agenda item shall specify the parcel number or another unique reference of the property. The agenda item shall also specify whether instruction to the negotiator will concern price, terms of payment, or both. (Government Code 54954.5)

### **Pending Litigation**

Based on the advice of its legal counsel, the Board may hold a closed session to confer with or receive advice from its legal counsel regarding a pending litigation when a discussion of

**CLOSED SESSION PURPOSES AND AGENDAS (continued)**

the matter in open session would prejudice the district's position in the litigation. For this purpose, "litigation" means any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator. (Government Code 54956.9)

Note: Pursuant to Government Code 54956.9, the district is considered to be a "party," or to have "significant exposure," to a litigation if any of its officers or employees is a party or has significant exposure to the litigation under circumstances specified in items #1 and #2 below.

Litigation is considered "pending" in any of the following circumstances: (Government Code 54956.9)

1. Litigation to which the district is a "party" has been initiated formally. (Government Code 54956.9(a))
2. A point has been reached where, in the Board's opinion based on the advice of its legal counsel regarding the "existing facts and circumstances," there is a "significant exposure to litigation" against the district, or the Board is meeting solely to determine whether, based on existing facts or circumstances, a closed session is authorized. (Government Code 54956.9(b))

*Existing facts and circumstances* for these purposes are limited to the following: (Government Code 54956.9)

- a. Facts and circumstances that might result in litigation against the district but which the district believes are not yet known to potential plaintiffs and which do not need to be disclosed.
- b. Facts and circumstances including, but not limited to, an accident, disaster, incident, or transactional occurrence which might result in litigation against the district, which are already known to potential plaintiffs and which must be publicly disclosed before the closed session or specified on the agenda.
- c. The receipt of a claim pursuant to the Tort Claims Act or a written threat of litigation from a potential plaintiff. The claim or written communication must be available for public inspection.

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

- d. A threat of litigation made by a person in an open meeting on a specific matter within the responsibility of the Board.



**CLOSED SESSION PURPOSES AND AGENDAS (continued)**

- e. A threat of litigation made by a person outside of an open meeting on a specific matter within the responsibility of the Board, provided that the district official or employee receiving knowledge of the threat made a record of the statement before the meeting and the record is available for public inspection. Such record does not need to identify an alleged victim of tortious sexual conduct or anyone making a threat on his/her behalf or identify an employee who is the alleged perpetrator of any unlawful or tortious conduct, unless the identity of this person has been publicly disclosed.
3. Based on existing facts and circumstances, the Board has decided to initiate or is deciding whether to initiate litigation. (Government Code 54956.9(c))

Before holding a closed session pursuant to the pending litigation exception, the Board shall state on the agenda or publicly announce the subdivision of Government Code 54956.9 under which the closed session is being held. If authority is based on Government Code 54956.9(a), the Board shall either state the title or specifically identify the litigation to be discussed or state that doing so would jeopardize the district's ability to effectuate service of process upon unserved parties or to conclude existing settlement negotiations to its advantage. (Government Code 54956.9)

Agenda items related to pending litigation shall be described as a conference with legal counsel regarding either "existing litigation" or "anticipated litigation." (Government Code 54954.5)

"Existing litigation" items shall identify the name of the case specified by either the claimant's name, names of parties, or case or claim number, unless the Board states that to identify the case would jeopardize service of process or existing settlement negotiations. (Government Code 54954.5)

"Anticipated litigation" items shall state that there is significant exposure to litigation pursuant to Government Code 54956.9(b) and shall specify the potential number of cases. When the district expects to initiate a suit, items related to anticipated litigation shall state that the discussion relates to the initiation of litigation pursuant to Government Code 54956.9(c) and shall specify the potential number of cases. The agenda or an oral statement before the closed session may be required to provide additional information regarding existing facts and circumstances described in item #2 b-e above. (Government Code 54954.5)

**Joint Powers Agency Issues**

Note: The following section applies to districts participating in a joint powers agency (JPA) for insurance pooling or in a self-insurance authority.
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## **CLOSED SESSION PURPOSES AND AGENDAS (continued)**

The Board may meet in closed session to discuss a claim for the payment of tort liability losses, public liability losses, or workers' compensation liability incurred by a joint powers agency (JPA) formed for the purpose of insurance pooling or self-insurance authority of which the district is a member. (Government Code 54956.95)

Closed session agenda items related to liability claims shall specify the claimant's name and the name of the agency against which the claim is made. (Government Code 54954.5)

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

Note: Pursuant to Government Code 54956.96, a JPA may adopt a provision, either through a policy or through the joint powers agreement, authorizing a school district Board member serving on the JPA board to disclose confidential information received during the JPA board's closed session under the circumstances specified below. Government Code 54954.5 provides an agenda description for the purpose of this closed session. The following optional paragraphs are for use by districts that participate in a JPA that has adopted such a provision.

When the board of the JPA has so authorized and upon advice of district legal counsel, the Board may meet in closed session in order to receive, discuss, and take action concerning information obtained in a closed session of the JPA. During the Board's closed session, a Board member serving on the JPA board may disclose confidential information acquired during a closed session of the JPA to fellow Board members. (Government Code 54956.96)

The Board member may also disclose the confidential JPA information to district legal counsel in order to obtain advice on whether the matter has direct financial or liability implications for the district. (Government Code 54956.96)

Closed session agenda items related to conferences involving a JPA shall specify the closed session description used by the JPA and the name of the Board member representing the district on the JPA board. Additional information listing the names of agencies or titles of representatives attending the closed session as consultants or other representatives shall also be included. (Government Code 54954.5)

## **Review of Audit Report from Bureau of State Audits**

Note: Government Code 54956.75 authorizes the Board to meet in closed session to discuss a final draft audit report from the Bureau of State Audits. This authority relates to situations in which a member of the legislature has requested the Bureau of State Audits to audit a school district. This audit is separate from the annual audit that districts must conduct pursuant to Education Code 41020. The law does not authorize the Board to meet in closed session to discuss the district's annual audit.

Upon receipt of a confidential final draft audit report from the Bureau of State Audits, the Board may meet in closed session to discuss its response to that report. After public release

## **CLOSED SESSION PURPOSES AND AGENDAS (continued)**

of the report from the Bureau of State Audits, any Board meeting to discuss the report must be conducted in open session, unless exempted from that requirement by some other provision of law. (Government Code 54956.75)

Closed session agenda items related to an audit by the Bureau of State Audits shall state "Audit by Bureau of State Audits." (Government Code 54954.5)

### **Review of Assessment Instruments**

The Board may meet in closed session to review the contents of any student assessment instrument approved or adopted for the statewide testing system. Before any such meeting, the Board shall agree by resolution to accept any terms or conditions established by the State Board of Education for this review. (Education Code 60617)

*(cf. 6162.5 - Student Assessment)*

Note: The following **optional** paragraph provides for compliance with Government Code 54954.2, which requires the agenda to have a brief general description of all closed session items to be discussed. Government Code 54954.5 provides no specific description of agenda items related to closed sessions authorized by the Education Code.

Agenda items related to the review of student assessment instruments shall state that the Board is reviewing the contents of an assessment instrument approved or adopted for the statewide testing program and that Education Code 60617 authorizes a closed session for this purpose in order to maintain the confidentiality of the assessment under review.

*Legal Reference: (see next page)*

## **CLOSED SESSION PURPOSES AND AGENDAS (continued)**

### *Legal Reference:*

#### EDUCATION CODE

35145 Public meetings  
35146 Closed session (re student suspension)  
44929.21 Districts with ADA of 250 or more  
48912 Governing board suspension  
48918 Rules governing expulsion procedures; hearings and notice  
49070 Challenging content of students records  
60617 Meetings of governing board

#### GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act  
6252-6270 California Public Records Act  
54950-54963 The Ralph M. Brown Act

#### COURT DECISIONS

Morrison v. Housing Authority of the City of Los Angeles Board of Commissioners, (2003) 107 Cal.App.4th 860  
Bell v. Vista Unified School District, (2001) 82 Cal.App. 4th 672  
Fischer v. Los Angeles Unified School District, (1999) 70 Cal.App. 4th 87  
Furtado v. Sierra Community College District (1998) 68 Cal.App. 4th 876  
Roberts v. City of Palmdale, (1993) 5 Cal.App. 4th 363  
Sacramento Newspaper Guild v. Sacramento County Board of Supervisors, (1968) 263 Cal.App. 2d 41

#### ATTORNEY GENERAL OPINIONS

94 Ops.Cal.Atty.Gen. 82 (2011)  
86 Ops.Cal.Atty.Gen. 210 (2003)  
78 Ops.Cal.Atty.Gen. 218 (1995)  
59 Ops.Cal.Atty.Gen. 532 (1976)

### *Management Resources:*

#### CSBA PUBLICATIONS

The Brown Act: School Boards and Open Meeting Laws, 2009

#### ATTORNEY GENERAL PUBLICATIONS

The Brown Act: Open Meetings for Legislative Bodies, 2002

#### LEAGUE OF CALIFORNIA CITIES PUBLICATIONS

Open and Public IV: A Guide to the Ralph M. Brown Act, rev. July 2010

#### WEB SITES

CSBA: <http://www.csba.org>  
California Attorney General's Office: <http://www.oag.ca.gov>  
League of California Cities: <http://www.cacities.org>

# **Center USD**

## **Board Bylaw**

### **Closed Session Purposes And Agendas**

**BB 9321**

#### **Board Bylaws**

The Governing Board may hold closed sessions only for purposes identified in law. The Board may hold a closed session at any time during a regular or special meeting and during emergency meetings in accordance with law. (Government Code 54956.5, 54957.7, 54962)

(cf. 9320 - Meetings and Notices)

(cf. 9322 - Agenda/Meeting Materials)

The agenda shall contain a brief general description of all closed session items to be discussed. (Government Code 54954.2)

The Board shall disclose in open meeting the items to be discussed in closed session. In the closed session, the Board may consider only those matters covered in its statement. (Government Code 54957.7)

No agenda, notice, announcement, or report required by the Brown Act need identify any victim or alleged victim of tortious sexual conduct or child abuse unless the identity of the person has been publicly disclosed. (Government Code 54961)

In accordance with law, a Board member shall not disclose confidential information received in a closed session unless the Board authorizes the disclosure of that information. (Government Code 54963)

(cf. 9011 - Disclosure of Confidential/Privileged Information)

#### **Personnel Matters**

The Board may hold closed sessions to consider the appointment, employment, evaluation of performance, discipline, or dismissal of an employee. These sessions shall not include discussion or action on proposed compensation except for a reduction of compensation that results from the imposition of discipline. (Government Code 54957)

(cf. 2140 - Evaluation of the Superintendent)

(cf. 4115 - Evaluation/Supervision)

(cf. 4118 - Suspension/Disciplinary Action)

(cf. 4215 - Evaluation/Supervision)

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

(cf. 4315 - Evaluation/Supervision)

The Board may also hold closed sessions to hear complaints or charges brought against an employee by another person, unless the employee requests an open session. Before the

Board holds a closed session on specific complaints or charges brought against an employee, the employee shall receive written notice of his/her right to have the complaints or charges heard in open session if desired. This notice shall be delivered personally or by mail at least 24 hours before the time of the session. (Government Code 54957)

(cf. 1312.1 - Complaints Concerning District Employees)

The Board may hold closed sessions to discuss a district employee's application for early withdrawal of funds in a deferred compensation plan when the application is based on financial hardship arising from an unforeseeable emergency due to illness, accident, casualty, or other extraordinary event, as specified in the deferred compensation plan. (Government Code 54957.10)

Agenda items related to public employee appointments and employment shall describe the position to be filled. Agenda items related to performance evaluations shall specify the title of the employee being reviewed. Agenda items related to employee discipline, dismissal or release require no additional information. (Government Code 54954.5)

#### Negotiations/Collective Bargaining

Unless otherwise agreed upon by the parties involved, the following shall not be subject to the Brown Act: (Government Code 3549.1)

1. Any meeting and negotiating discussion between the district and a recognized or certified employee organization
2. Any meeting of a mediator with either party or both parties to the meeting and negotiating process
3. Any hearing, meeting or investigation conducted by a factfinder or arbitrator
4. Any executive (closed) session of the district or between the district and its designated representative for the purpose of discussing its position regarding any matter within the scope of representation and instructing its designated representatives

(cf. 4143/4243 - Negotiations/Consultation)

(cf. 4143.1/4243.1 - Public Notice - Personnel Negotiations)

The Board may meet in closed session with the Board's designated representative

regarding employee salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees. These closed sessions may include discussions of the district's available funds and funding priorities, but only insofar as they relate to providing instructions to the district's designated representative. (Government Code 54957.6)

Closed sessions shall be for the purpose of reviewing the Board's position and instructing the Board's designated representative. Closed sessions may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees. (Government Code 54957.6)

For represented employees, the Board may also meet in closed session to hear any other matter within the statutorily provided scope of representation. (Government Code 54957.6)

For unrepresented employees, closed sessions held pursuant to Government Code 54957.6 shall not include final action on the proposed compensation of one or more unrepresented employees. (Government Code 54957.6)

The Board also may meet in closed session with a state conciliator or a mediator who has intervened in these proceedings. (Government Code 54957.6)

Agenda items related to negotiations shall specify the name of the district's designated representative(s) attending the closed session. If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative as long as the name of the agent or designee is announced at an open session held prior to the closed session. The agenda shall also specify the name of the organization representing the employee(s) or the position title of the unrepresented employee who is the subject of the negotiations. (Government Code 54954.5)

#### **Matters Related to Students**

The Board shall meet in closed session to consider a suspension, disciplinary action, or any other action, except expulsion, against a student when a public hearing on the matter would violate student privacy rights. If a written request for open session is received from the parent/guardian or adult student, it will be honored to the extent that it does not violate the privacy rights of any other student. (Education Code 35146, 48912, 49073-49079)

(cf. 5117 - Interdistrict Attendance)  
(cf. 5119 - Students Expelled from Other Districts)  
(cf. 5125.3 - Challenging Student Records)  
(cf. 5144 - Discipline)

The Board shall meet in closed session to consider the expulsion of a student, unless the student submits a written request at least five days before the date of the hearing that the

hearing be held in open session. Regardless of whether the expulsion hearing is conducted in open or closed session, the Board may meet in closed session for the purpose of deliberating and determining whether the student should be expelled. (Education Code 48918)

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

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

Agenda items related to student matters shall briefly describe the reason for the closed session, such as "student expulsion hearing," "grade change appeal," without violating the confidentiality rights of individual students. The student shall not be named on the agenda, but a number may be assigned to the student in order to facilitate record keeping. The agenda shall also state that the Education Code requires closed sessions in these cases in order to prevent the disclosure of confidential student record information.

(cf. 5125 - Student Records)

### **Security Matters**

The Board may meet in closed session with the Attorney General, district attorney, sheriff or chief of police, or their respective deputies, or a security consultant or a security operations manager, on matters posing a threat to the security of public buildings, to the security of essential public services, including water, drinking water, wastewater treatment, natural gas service, and electric service, or to the public's right of access to public services or public facilities. (Government Code 54957)

(cf. 0450 - Comprehensive Safety Plan

(cf. 3515 - Campus Security)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

The Board may meet in closed session during an emergency meeting held pursuant to Government Code 54956.5 to meet with law enforcement officials for the emergency purposes specified in Government Code 54957 if agreed to by a two-thirds vote of the Board members present. If less than two-thirds of the members are present, then the Board must agree by a unanimous vote of the members present. (Government Code 54956.5)

Agenda items related to security matters shall specify the name of the law enforcement agency and the title of the officer, or name of applicable agency representative and title, with whom the Board will consult. (Government Code 54954.5)

### **Conference with Real Property Negotiator**

The Board may meet in closed session with the Board's real property negotiator prior to the purchase, sale, exchange or lease of real property by or for the district in order to grant its negotiator the authority regarding the price and terms of the property.



(Government Code 54956.8)

Before holding the closed session, the Board shall hold an open and public session to identify its negotiator(s) and the property under negotiation and to specify the person(s) with whom the negotiator may negotiate. (Government Code 54956.8)

For purposes of real property transactions, negotiators may include members of the Board. (Government Code 54956.8)

Agenda items related to real property negotiations shall specify the district negotiator attending the closed session. If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator as long as the name of the agent or designee is announced at an open session held prior to the closed session. The agenda shall also specify the name of the negotiating parties and the street address of the real property under negotiation. If there is no street address, the agenda item shall specify the parcel number or another unique reference of the property. The agenda item shall also specify whether instruction to the negotiator will concern price, terms of payment, or both. (Government Code 54954.5)

#### **Pending Litigation**

Based on the advice of its legal counsel, the Board may hold a closed session to confer with or receive advice from its legal counsel regarding pending litigation when a discussion of the matter in open session would prejudice the Board's position in the case. For this purpose, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator. (Government Code 54956.9)

Litigation is considered "pending" when any of the following circumstances exist:

1. Litigation to which the Board is a party has been initiated formally. (Government Code 54956.9(a))
2. A point has been reached where, in the Board's opinion based on the advice of legal counsel and on the existing facts and circumstances, there is a significant exposure to litigation against the district, or the Board is meeting solely to determine whether, based on existing facts or circumstances, a closed session is authorized. (Government Code 54956.9(b))
3. Based on existing facts and circumstances, the Board has decided to initiate or is deciding whether to initiate litigation. (Government Code 54956.9(c))

"Existing facts and circumstances" authorizing a closed session pursuant to Government Code 54956.9(b) as described in item #2 above are limited to the following:  
(Government Code 54956.9)

1. Facts and circumstances that might result in litigation against the district but which the district believes are not yet known to potential plaintiffs and which do not need to be disclosed.
2. Facts and circumstances including, but not limited to, an accident, disaster, incident or transactional occurrence which might result in litigation against the district, which are already known to potential plaintiffs, and which must be publicly disclosed before the closed session or specified on the agenda.
3. The receipt of a claim pursuant to the Tort Claims Act or a written threat of litigation from a potential plaintiff. The claim or written communication must be available for public inspection.

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

4. A threat of litigation made by a person in an open meeting on a specific matter within the responsibility of the Board.
5. A threat of litigation made by a person outside of an open meeting on a specific matter within the responsibility of the Board, provided that the district official or employee receiving knowledge of the threat made a record of the statement before the meeting and the record is available for public inspection.

The above record does not need to identify an alleged victim of tortious sexual conduct or anyone making a threat on his/her behalf or identify an employee who is the alleged perpetrator of any unlawful or tortious conduct, unless the identity of this person has been publicly disclosed.

Before holding a closed session pursuant to this section, the Board shall state on the agenda or publicly announce the subdivision of Government Code 54956.9 under which the closed session is being held. If authority is based on Government Code 54956.9(a), the Board shall either state the title or specifically identify the litigation to be discussed or state that doing so would jeopardize the district's ability to effectuate service of process upon unserved parties or to conclude existing settlement negotiations to its advantage. (Government Code 54956.9)

Agenda items related to "pending litigation" shall be described as a conference with legal counsel regarding "existing litigation" or "anticipated litigation." (Government Code 54954.5)

"Existing litigation" items shall identify the name of the case specified by either the claimant's name, names of parties and case or claim number, unless the Board states that to identify the case would jeopardize service of process or existing settlement negotiations. (Government Code 54954.5)

"Anticipated litigation" items shall state that there is significant exposure to litigation

pursuant to Government Code 54956.9(b) and shall specify the potential number of cases.

When the district expects to initiate a suit, items related to anticipated litigation shall state that the discussion relates to the initiation of litigation pursuant to Government Code 54956.9(c) and shall specify the potential number of cases. The agenda or an oral statement before the closed session may be required to provide additional information pursuant to items #2-5 above. (Government Code 54954.5, Government Code 54956.9(b)(3)(B-E))

#### **Joint Powers Agency Issues**

The Board may meet in closed session to discuss a claim against a joint powers authority formed for the purpose of insurance pooling or self-insurance authority of which it is a member, for the payment of tort liability losses, public liability losses or workers' compensation liability. (Government Code 54956.95)

Closed session agenda items related to liability claims shall specify the claimant's name and the name of the agency against which the claim is made. (Government Code 54954.5)

(cf. 3320 - Claims and Actions Against the District)  
(cf. 3530 - Risk Management/Insurance)

When the board of the joint powers agency has so authorized and upon advice of district legal counsel, the Board may meet in closed session in order to receive, discuss and take action concerning information obtained in a closed session of the joint powers agency. During the district's closed session, a Board member serving on the JPA board may disclose confidential information acquired during a closed session of the JPA to fellow Board members. (Government Code 54956.96)

The Board member may also disclose the confidential JPA information to district legal counsel in order to obtain advice on whether the matter has direct financial or liability implications for the district. (Government Code 54956.96)

Closed session agenda items related to "Conference Involving a Joint Powers Agency" shall specify the closed session description used by the joint powers agency and the name of the district representative on the joint powers agency board. Additional information listing the names of agencies or titles of representatives attending the closed session as consultants or other representatives shall also be included. (Government Code 54954.5)

#### **Review of Audit Report from Bureau of State Audits**

Upon receipt of a confidential final draft audit report from the Bureau of State Audits, the Board may meet in closed session to discuss its response to that report. After public release of the report from the Bureau of State Audits, any Board meeting to discuss the report must be conducted in open session, unless exempted from that requirement by

some other provision of law. (Government Code 54956.75)

Closed session agenda items related to an audit by the Bureau of State Audits shall state "Audit by Bureau of State Audits." (Government Code 54954.5)

#### **Review of Assessment Instruments**

The Board may meet in closed session to review the contents of any student assessment instrument approved or adopted for the statewide testing system. Before any such meeting, the Board shall agree by resolution to accept any terms or conditions established by the State Board of Education for this review. (Education Code 60617)

(cf. 6162.5 - Student Assessment)

Agenda items related to the review of student assessment instruments shall state that the Board is reviewing the contents of an assessment instrument approved or adopted for the statewide testing program and that Education Code 60617 authorizes a closed session for this purpose in order to maintain the confidentiality of the assessment under review.

#### **Legal Reference:**

##### **EDUCATION CODE**

35145 Public meetings

35146 Closed session (re student suspension)

44929.21 Districts with ADA of 250 or more

48918 Rules governing expulsion procedures; hearings and notice

49073 Release of directory information

49076 Access to records by persons without written parental consent

49079 Notification to teacher re: students whose actions are grounds for suspension or expulsion

60617 Meetings of governing board

##### **GOVERNMENT CODE**

3540-3549.3 Educational Employment Relations Act

6250-6268 California Public Records Act

54950-54963 The Ralph M. Brown Act

##### **COURT DECISIONS**

Morrison v. Housing Authority of the City of Los Angeles Board of Commissioners (2003) 107 Cal.App.4th 860

Bell v. Vista Unified School District (2001) 82 Cal.App. 4th 672

Fischer v. Los Angeles Unified School District (1999) 70 Cal.App. 4th 87

Furtado v. Sierra Community College District (1998) 68 Cal. App. 4th 876

Roberts v. City of Palmdale (1993) 5 Cal.4th 363

Sacramento Newspaper Guild v. Sacramento County Board of Supervisors (1968) 263 Cal.App. 2d 41

##### **ATTORNEY GENERAL OPINIONS**

86 Ops.Cal.Atty.Gen. 210 (2003)

78 Ops.Cal.Atty.Gen. 218 (1995)  
59 Ops.Cal.Atty.Gen. 532 (1976)

**Management Resources:**

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The Brown Act: School Boards and Open Meeting Laws, 2003

**ATTORNEY GENERAL PUBLICATIONS**

The Brown Act: Open Meetings for Legislative Bodies, California Attorney General's Office, 2002

**CALIFORNIA CITY ATTORNEY PUBLICATIONS**

Open and Public III: A User's Guide to the Ralph M. Brown Act, 2000

**WEB SITES**

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

California Attorney General's Office: <http://www.caag.state.ca.us>

**Bylaw CENTER UNIFIED SCHOOL DISTRICT**

**adopted: March 2, 2005      Antelope, California**