

CENTER JOINT UNIFIED SCHOOL DISTRICT

www.centerusd.k12.ca.us

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

BOARD OF TRUSTEES SPECIAL MEETING

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

DATE/TIME: Wednesday, November 6, 2013 @ 5:30 p.m.

AGENDA

I. CALL TO ORDER & ROLL CALL - 5:30 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 (4/13)

Action

BP 1325 - Advertising and Promotion
(BP revised)

Policy updated to clarify its applicability only to advertisements and promotions by nonschool groups, not to student speech. Policy also clarifies the distinction between a nonpublic forum and limited public forum, addresses advertisements on district-sponsored web sites and social media, and prohibits distribution of materials or advertisements that are lewd or proselytize or position the district on any side of a controversial issue.

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)

BP/AR/E 1330 - Use of School Facilities

(BP/AR/E revised)

MANDATED policy reflects **NEW LAW (SB 1404, 2012)** which (1) modifies the definition of "direct costs" that may be charged for community use of school facilities or grounds and (2) includes the YMCA and religious organizations/churches that arrange for and supervise youth sports league activities among the nonprofit organizations, clubs, and associations that may be allowed the use of school facilities or grounds without charge. Policy also adds statements on joint use of school facilities and references BP 1325 - Advertising and Promotion for guidance on advertisements on school facilities. **MANDATED** regulation clarifies responsibilities of groups or organizations using school facilities, including a requirement to provide evidence of insurance against claims arising out the group's own negligence. Material moved from AR to BP re: authority to grant the use of school facilities on those days on which the school is closed. Updated Exhibit provides a sample form for requiring a group or organization to (1) indicate its agreement to expressly undertake to comply with district restrictions on the use of facilities and (2) indicate its recognition of its liability for any damage or injury caused by its negligence.

BP/AR 3460 - Financial Reports and Accountability

(BP/AR revised)

Policy updated to reflect **NEW LAW (AB 2662, 2012)** which gives the County Superintendent of Schools the authority, upon receipt of a district's interim fiscal report, to change the district's qualified certification to a negative certification. Policy also contains material formerly in AR which refers to Board actions regarding the statement of unaudited actual receipts and expenditures, Gann appropriations limit resolution, interim reports, and audit report. Regulation updated to reflect current law regarding restoration of the reserve threshold and to add material regarding submission of audit report pertaining to federal funds to the federal Office of Management and Budget.

BP/AR 3514.1 - Hazardous Substances

(BP/AR revised)

Policy and regulation updated to reflect requirements for a chemical hygiene plan, as required by state regulations for any employer that maintains a workplace where there is laboratory use of hazardous chemicals, such as a district that offers science laboratory classes. Policy also adds Board philosophy statement and reflects the California Department of Education (CDE) *Science Safety Handbook for California Public Schools*. Regulation also adds definition of "hazardous substance," adds material related to the storage and disposal of chemicals, updates material related to the hazard communications program to more directly reflect law and new terminology, and adds information about CSBA's HazMat Communications service.

E 4112.9/4212.9/4312.9 - Employee Notifications

(E revised)

Exhibit updated to (1) reflect **NEW LAW (AB 1575, 2012)** requiring the uniform complaint procedure notice to include information about complaints regarding student fees; (2) add notice regarding automated external defibrillators; (3) reflect **NEW LAW (AB 1908, 2012)** revising the timing of notice of layoff and reemployment rights of classified personnel; (4) add notice of bus drivers regarding vehicle idling limitations; and (5) add notices related to the chemical hygiene plan and hazard communications program.

AR 4117.14/4317.14 - Postretirement Employment

(AR revised)

Regulation revised to reflect **NEW LAW (AB 340, 2012)** which exempts a retired individual who has attained the normal retirement age from the prohibition against returning to postretirement employment for at least six months after retirement, provided that certain conditions are met. Regulation deletes postretirement earning limitation exemptions based on expired law, including those for retirees employed to provide specified instructional services or employed in an emergency situation to fill a vacant administrative position requiring highly specialized skills. Regulation also deletes material describing exemptions for certain state-appointed trustees/administrators and County Superintendent of Schools appointments, since those assignments are not the responsibility of the district.

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

BP 5030 - Student Wellness

(BP revised)

MANDATED policy updated for consistency with CSBA's publications *Monitoring for Success: A Guide for Assessing and Strengthening Student Wellness Policies* and *Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide* (both updated in fall 2012). Policy revises section on "Goals for Nutrition, Physical Activity, and Other Wellness Activities" to add language related to school gardens, summer programs as opportunities for nutrition education and physical activity, professional development, school health services, and bullying prevention. Section on "Nutritional Guidelines for Foods Available at School" adds notes on new nutrition standards for the National School Lunch and Breakfast Programs and the proposed federal rule regarding outside food sales, and includes new language on access to drinking water during mealtimes. Policy also revises suggested indicators for program evaluation and adds optional language establishing the frequency of program evaluation.

BP 5145.3 - Nondiscrimination/Harassment

(BP revised)

MANDATED policy updated to ensure compliance with CDE decision that uniform complaint procedures must be used to receive and investigate student complaints involving discrimination, harassment, intimidation, and bullying based on the characteristics covered within Education Code 234.1.

E 5145.6 - Parental Notifications

(E revised)

Exhibit updated to (1) reflect **NEW LAW (AB 1575, 2012)** which requires the uniform complaint procedure notice to include information about complaints regarding student fees; (2) add notice regarding process for reclassifying English learners as fluent English proficient and the opportunity for parents/guardians to participate in that process; (3) consolidate and clarify notifications related to education of English learners; (4) add notice of failure to achieve annual measurable achievement objectives for English learners; and (5) add notice regarding student's assignment to a supervised suspension classroom.

AR 5148 - Child Care and Development

(AR revised)

MANDATED regulation updated to add new section on "Disenrollment" reflecting **NEW LAW (SB 1016, 2012)** and **NEW CDE MANAGEMENT BULLETIN** which address the order of disenrolling families from subsidized child care and development programs when funding levels are reduced. Regulation also reflects a provision of SB 1016 which encourages "wraparound child care services" in conjunction with part-day preschool programs and specifies that the fees for these services are subject to the same fee schedule adopted by the Superintendent of Public Instruction for general child care services. Section on "Program Components" includes requirement to provide access to drinking water throughout the day and adds optional component promoting physical activity opportunities. Regulation also reflects **NEW LAW (AB 1991, 2012)** which revises the criteria for "public recreation programs" to be exempted from licensure.

BP/AR 6112 - School Day

(BP/AR revised)

Policy updated to reflect option for districts receiving incentive funding to reduce instructional minutes, through the 2014-15 school year, without incurring financial penalties. Policy also adds material regarding the length of the school day for students with disabilities and the minimum amount of recess time in elementary schools, and moves material from AR to BP regarding requirements for board consultations and public hearings prior to establishing a block schedule. Regulation updated to clarify legal requirements pertaining to the minimum and maximum school day at various grade levels and to reflect the minimum number of courses in which high school seniors must be enrolled. Regulation also expands material on exceptions to the 240-minute minimum school day for grades 9-12 to include regional occupational centers, concurrent enrollment in colleges classes, evening high schools, and, as added by **NEW LAW (SB 1316, 2012)**, early and middle college high schools.

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

BP/AR 6159.2 - Nonpublic, Nonsectarian School and Agency Services for Special Education (BP/AR revised)

MANDATED policy and regulation updated to reflect **NEW LAW (SB 121, 2012)** which prohibits the referral of a student with a disability to, or placement in, a nonpublic, nonsectarian school without the student's individualized education program team's agreement. Policy also adds material on out-of-state placements, applications for state waivers of legal requirements, and district verification of the school/agency's certification to provide special education and related services. Regulation also reorganized and updated to clarify requirements for the master contract with a nonpublic, nonsectarian school or agency, including the process of making changes to the master contract.

BP 6163.1 - Library Media Centers (BP revised)

Policy updated to reflect **NEW TITLE 5 REGULATIONS (Register 2013, No. 3)** which revise the authorized duties of credentialed teacher librarians and add a new special class authorization for departmentalized instruction in information literacy, digital literacy, and digital citizenship. Policy also deletes references to the use of Instructional Materials Funding Realignment Program funds for the purchase of classroom library materials, as that program was repealed by **NEW LAW (AB 1246, 2012)**. Policy references a State Board of Education document identifying alignment of library instruction standards with Common Core State Standards and expands material on program evaluation.

BP/AR 6164.6 - Identification and Education Under Section 504 (BP/AR revised)

Policy updated to reflect **NEW GUIDANCE** (January 2013) from the U.S. Department of Education's Office for Civil Rights (OCR) clarifying districts' responsibility to provide opportunities for students with disabilities to participate in extracurricular athletic and other nonacademic programs or activities that constitute the overall educational program. Policy also adds new material re: compliance with procedural safeguards and required notifications and contains paragraph formerly in AR re: maintenance of a list of impartial hearing officers qualified to conduct Section 504 hearings. Regulation updated to reflect OCR guidance (January 2012) which clarifies the extent to which the Americans with Disabilities Act (ADA) affects the definitions of "disability" and "substantially limits" for Section 504 purposes. Regulation also adds the designation of a district employee to serve as the district's Section 504 Coordinator, updates definitions of key terms to ensure consistency with federal law (ADA Amendment Act of 2008), and streamlines the section on "Procedural Safeguards."

BB 9220 - Governing Board Elections (BB revised)

Bylaw updated to reflect **NEW LAW (AB 2410, 2012)** which provides that a person is ineligible to hold public office if he/she has been convicted of a felony involving bribery, offering of a bribe, embezzlement or theft of public funds, extortion, perjury, or conspiracy to commit any of these crimes. Bylaw also adds section which addresses the methods of electing board members (i.e., by trustee area, at-large election, or at-large election but candidate resides in trustee area) and reflects the California Voting Rights Act which prohibits the use of the at-large voting method when its use prevents members of a protected class (voters of a minority race, color, or language group) from being elected to the board.

Governance	B.	<u>First Reading: Board Policies/Regulations/Exhibits (8/13)</u>	Action
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BP/AR 0420 - School Plans/Site Councils (BP Revised)

Policy revised to delete material on school site block grants, which are no longer operational. Policy also adds language, reflecting California Department of Education guide, requiring the Board to communicate specific reasons to the school site council when it disapproves the Single Plan for Student Achievement.

(AR Revised)

Regulation revised to delete section on "School Site Block Grants" since these grants are no longer operational and to delete section on "School Plans for Categorical Block Grants" since requirements for the Pupil Retention Block Grant and School and Library Improvement Block Grant are now flexible under the Local Control Funding Formula pursuant to **NEW LAW (AB 97, 2013)**. Regulation also updated to reflect California Department of Education guide re: (1) selection of school site council members, including clarification of membership requirements in middle schools, and (2) the process of developing the Single Plan for Student Achievement, including data sources, consultation with advisory groups, and new budget planning and evaluation tools.

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

BP 1431 - Waivers

(BP Revised)

Policy updated to add steps for consideration of district waiver request prior to its submission to the State Board of Education (SBE), including public hearing and notice requirements and Board approval. Policy also reflects requirements for renewal of a general waiver and adds information on the California Department of Education's online waiver request system and its guidance to expedite waiver requests.

BP/AR 3311 - Bids

(BP Revised)

Policy updated to reflect NEW LAW (AB 1565, 2012) which requires (1) prequalification of all general contractors and electrical, mechanical, and plumbing subcontractors for public projects of \$1 million or more awarded on or after January 1, 2014, if School Facilities Program funds or other future state school bonds are used, and (2) a uniform system of rating bidders based on completed questionnaires and model guidelines developed by the Department of Industrial Relations. Policy also reflects court decision highlighting the importance of disclosing all material information in bid specifications. (AR Revised)

MANDATED regulation reorganized and updated to reflect NEW LAW (AB 1565, 2012) requiring prequalification of specified contractors, as noted above. Regulation also (1) adds step for notifying the bidder when a bid is disqualified as nonresponsive (i.e., does not conform to specifications) in order to give the bidder an opportunity to respond to the information; (2) reflects law allowing districts to facilitate the participation of women, minorities, disabled veterans and small businesses in contracts; and (3) reflects law allowing purchase of surplus property from the federal government without taking estimates or advertising for bids.

AR 3514 - Environmental Safety

(AR Revised)

Regulation revised to add new sections on "Drinking Water" and "Mercury Exposure," add optional language re: installation of carbon monoxide detectors, expand item requesting staff and students to refrain from bringing or using fragrances and other common irritants, and reflect requirement to install filter in diesel buses to reduce emissions. Material on vehicle idling shortened since the detailed requirements are now addressed in AR 3542 - School Bus Drivers.

AR 3542 - School Bus Drivers

(AR Revised)

MANDATED regulation expands "Qualifications" section to include requirement for bus driver initially applying for or renewing a commercial driver's license or school bus certificate to present evidence of having obtained a medical examination, and requirement for district to notify driver when his/her license, certificate, or medical certification is expiring. Regulation also adds identification of staff development needs, prohibitions against cell phone use and texting except under specified conditions, duty of driver to report on the condition of the bus and on his/her duty status (e.g., hours on duty), section on "Vehicle Idling" formerly in AR 3514 - Environmental Safety, and reports that must be maintained by the district pertaining to each driver.

BP/AR 4112.42/4212.42/4312.42 - Drug and Alcohol Testing of Bus Drivers

(BP Revised)

MANDATED policy revised to more directly reflect prohibitions against drug and alcohol use and clarify that alcohol testing conducted under the federal testing program should follow federal law re: the blood alcohol concentration level that triggers specified consequences. Policy also adds language on confidentiality of test results, reports to the Department of Motor Vehicles, option to impose rehabilitation or return-to-duty program, and option to establish a voluntary self-identification program.

(AR Added)

New **MANDATED** regulation reflects requirements pertaining to pre-employment, post-accident, random, reasonable suspicion, return-to-duty, and follow-up testing. Regulation also adds definitions of key terms and designation of "designated employer representative," and expands material on driver notifications formerly in BP.

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

AR 4161.11/4261.11/4361.11 - Industrial Accident/Illness Leave

(AR Revised)

MANDATED regulation recoded to merge former AR 4161.11/4361.11 - Industrial Accident/Illness Leave for certificated and administrative/supervisory employees and AR 4261.11 - Industrial Accident/Illness Leave for classified employees. Revised regulation clarifies that the district must set the maximum number of days allowed for such leave, which must be at least 60 working days in one fiscal year for the same industrial accident or illness, and provides options for the district re: the process of issuing salary payments that take into account the amount of the employee's workers' compensation check. Regulation also clarifies retention of status and benefits, notification when leave is exhausted, and placement on a reemployment list when the employee is not medically able to resume his/her duties after all available leave is exhausted.

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

(AR Revised)

Regulation updated to reflect provisions related to pregnancy disability leave under state law and regulations, as amended by **NEW STATE REGULATIONS** (Register 2012, No. 48), including clarification of the calculation of the four months to which employees are entitled. Regulation also reflects **NEW COURT DECISION** finding unconstitutional the definition of marriage, for purposes of benefits under federal law, as a "union between a man and a woman." Section on "Military Family Leave Resulting from Qualifying Exigencies" updated to reflect **NEW FEDERAL REGULATIONS** (78 Fed. Reg. 25) which revise the definitions of "military member" and "covered active duty," increase allowable exigency leave for rest and recuperation from five to 15 days, allow use of such leave to care for a military member's parent under specified conditions, and expand the list of information which a district may require an employee to provide. Section on "Military Caregiver Leave" updated to reflect **NEW FEDERAL REGULATIONS** (78 Fed. Reg. 25) amending the conditions that must be present for a veteran's injury or illness to qualify as a "serious injury of illness" for purpose of this leave and expanding the definition of "authorized health care provider" qualified to certify the need for the leave.

AR 5111.2 - Nonresident Foreign Students

(AR Revised)

Regulation updated to add requirements related to obtaining certification and recertification of district eligibility to enroll nonimmigrant foreign students, conditions under which nonresident foreign students may be admitted, and recordkeeping requirements.

BP/AR 5141.27 - Food Allergies/Special Dietary Needs

(BP Revised)

Policy revised to reflect federal law which requires that a determination of disability, for purposes of Section 504 of the federal Rehabilitation Act, be made without regard to the ameliorative effects of mitigating measures, which may result in more students with severe food allergies needing to be evaluated under Section 504 to determine if they need accommodations or services. Policy also prohibits discrimination and bullying based on a food allergy and adds referral to appropriate complaint procedures.

(AR Revised)

Regulation revised to add material on the development of a health plan to manage the needs of a student with a food allergy, which may be a Section 504 accommodation plan if his/her allergy meets the definition of a "disability" without regard to the effects of mitigating measures. Regulation also adds measures to be taken when a student with a known food allergy will be off school grounds, such as on a field trip.

BP/AR 6117 - Year-Round Schedules

(BP Revised)

Policy updated to delete material re: Concept 6 year-round programs since related law has sunsetted. Policy also incorporates material formerly in AR, expands issues that the Board may consider when establishing a year-round program, and adds language on program evaluation, parent/guardian appeals of their child's assignment to a track, and the public's right to request that a year-round schedule not be established by submitting a petition to the County Superintendent of Schools.

(AR Deleted)

Regulation deleted and incorporated into BP.

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

BP/AR 6162.6 - Use of Copyrighted Materials

(BP Revised)

Policy updated to reflect **NEW COURT DECISION** (Cambridge University Press v. Becker) reaffirming that federal criteria for determining "fair use" of copyrighted material must be weighed together on a case-by-case basis and do not exclude consideration of other factors. Policy also adds language defining categories of works that may be copyrighted, stating the need to get permission to use a copyrighted work unless the criteria for fair use or another exception are met, and prohibiting students from copying and distributing copyrighted works. Material re: observing license agreements for software moved to AR.

(AR Revised)

Regulation reorganized and expanded to reflect (1) the need to seek permission of copyright holder before widely distributing a copyrighted work through a web site or other method of communications accessible to the public; (2) the four factors specified in law that must be considered when determining whether an intended use of a copyrighted work meets criteria for "fair use," as clarified by **NEW COURT DECISION** (Cambridge University Press v. Becker); and (3) an exception in federal law pertaining to performance or display of copyrighted works (e.g., motion picture or other audiovisual work) in the course of face-to-face instruction. Regulation also revised to include information about identifying the holder of a copyright and to more directly reflect nonbinding guidelines for copying text, sheet or recorded music, and television programming as stated in U.S. Copyright Office guidance.

BB 9010 - Public Statements

(BB Revised)

Bylaw updated to add concepts related to communicating the district's message in a manner that promotes public confidence in the Board's leadership, refraining from disclosing confidential information, and adhering to the same standards and protocols established for other Board communications when participating on social networking sites, blogs, or other electronic media.

BB/E 9250 - Remuneration, Reimbursement and Other Benefits

(BB Revised)

Bylaw updated to delete material requiring the district to establish a minimum percentage of the Board meeting that must be attended in order for a Board member to receive compensation, add statement clarifying that student Board members do not receive compensation, and reflect legal requirement to announce any additional compensation received whenever a quorum of Board members serves as another legislative body which will meet simultaneously or in serial order to a Board meeting. Section on "Reimbursement of Expenses" revised to give examples of authorized travel and to prohibit use of district credit card for personal expenses even if the Board member intends to reimburse the district. Material on health and welfare benefits updated to (1) reflect current law which provides that the age at which a person ceases to be a dependent child is age 26 years or higher as specified in the health plan and (2) clarify the circumstances under which the district may offer health and welfare benefits to former Board members.

(E Added)

New exhibit added to provide a sample Board resolution, as required by law in order to authorize compensation for a Board member who missed meeting(s) because he/she was performing other designated duties on behalf of the district at the time of the meeting, was ill or on jury duty, or had another hardship deemed acceptable by the Board.

VI. ADVANCE PLANNING

Info

a. Future Meeting Dates:

- i. *Regular Meeting: Wednesday, November 20, 2013 @ 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: November 6, 2013

Attached Pages

From: Scott A. Loehr, Superintendent

Principal/Administrator Initials:

SUBJECT: First Reading: Board Policies/Regulations/Exhibits (4/13)

Revise BP	1325	Advertising and Promotion
Revise BP/AR/E	1330	Use of School Facilities
Revise BP/AR	3460	Financial Reports and Accountability
Revise BP/AR	3514.1	Hazardous Substances
Revise E	4112.9/4212.9/4312.9	Employee Notifications
Revise AR	4117.14/4317.14	Postretirement Employment
Revise BP	5030	Student Wellness
Revise BP	5145.3	Nondiscrimination/Harassment
Revise E 5	145.6	Parental Notifications
Revise AR	5148	Child Care and Development
Revise BP/AR	6112	School Day
Revise BP/AR	6159.2	Nonpublic, Nonsectarian School and Agency Services for Special Education
Revise BP	6163.1	Library Media Centers
Revise BP/AR	6164.6	Identification and Education Under Section 504
Revise BB	9220	Governing Board Elections

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

ADVERTISING AND PROMOTION

Note: The following optional policy addresses the distribution of commercial and noncommercial materials as well as advertising in school-sponsored publications and on school facilities by outside/nonschool groups. Student speech, including the distribution of printed materials by students, is addressed in BP/AR 5145.2 - Freedom of Speech/Expression.

The Governing Board establishes this policy to ensure effective and consistent implementation of its directions related to advertisements and promotions by nonschool groups in school-sponsored publications, web sites, and social media and on school facilities. Student speech shall be regulated in accordance with BP/AR 5145.2 - Freedom of Speech/Expression.

(cf. 1113 - District and School Web Sites)
(cf. 1114 - District-Sponsored Social Media)
(cf. 1330 - Use of School Facilities)
(cf. 5145.2 - Freedom of Speech/Expression)
(cf. 6145.5 - Student Organizations and Equal Access)

Note: School facilities and school-sponsored publications are public property and are subject to freedom of expression rights granted by the First Amendment to the United States Constitution and Article 1, Section 2 of the California State Constitution. However, because school facilities and school-sponsored publications are generally for school purposes, they are regarded as "nonpublic fora" and the Governing Board has extensive authority to regulate them. In exercising this authority, the Board may decide not to accept any form of advertising or distribution of materials (nonpublic forum), as stated in Option 1 below, or to accept some advertising and/or distribution of materials, but only from certain groups or on certain topics (limited public forum), as provided in Option 2. In addition, the Board may maintain a "nonpublic forum" for advertising in school publications or on school facilities while designating a "limited public forum" for distribution of materials at district schools, or a "nonpublic forum" at its elementary schools and a "limited public forum" at its high schools.

Whichever option the district chooses, school officials should ensure that they enforce the policy in a consistent manner, as courts look beyond the district's intent as stated in its policy and look to the actual practice of school officials in determining whether a district facility or publication is a "nonpublic" or "limited public" forum (Board of Education of the Westside Community Schools v. Mergens). Because this area of law is complex, it is strongly recommended that legal counsel be consulted prior to the adoption of policy in this area.

OPTION 1: Nonpublic Forum

~~The Board believes that in order to maintain focus on academic achievement in district schools, students' exposure to the persuasive influence of marketing should be minimized. The Superintendent or designee shall not allow any advertisement from any nonsechool group to be included in any district or school sponsored publication, web site, or social media, or to be posted on any school property such as scoreboards and billboards. In addition, no nonsechool group's announcement, flyer, or other promotional material shall be disseminated by the district or distributed at any school facility or grounds.~~

Note: Districts that have created a "nonpublic forum" must delete the remainder of this policy in order to ensure that their "nonpublic forum" status is maintained.

ADVERTISING AND PROMOTION (continued)

OPTION 2: Limited Public Forum

Note: When the Board chooses Option 2, it may adopt any rules that are reasonable to achieve its intended purpose for the forum, as long as the rules do not discriminate against members of the public based on their viewpoints. In Hills v. Scottsdale Unified School District 48, the Ninth Circuit Court of Appeals held that the district discriminated against the plaintiff on the basis of his religious viewpoint and violated his First Amendment right when the district refused to distribute the plaintiff's brochure for summer camps because it included some religious classes, though it permitted the distribution of similar literature by secular groups.

The Board desires to promote positive relationships between district schools and the community in order to enhance community support and involvement in the schools. The Superintendent or designee may approve:

Note: The Board may select any or all of optional items #1-5 below to reflect the types of materials and/or advertising that it will allow.

1. Distribution of noncommercial materials that publicize services, special events, public meetings, or other gatherings of interest to students or parents/guardians

(cf. 1400 - *Relations Between Other Governmental Agencies and the Schools*)
(cf. 6162.8 - *Research*)

2. Distribution of promotional materials of a commercial nature to students or parents/guardians

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

3. Paid advertisements on school property, including, but not limited to, advertisements on billboards and scoreboards

4. Paid advertisements in school-sponsored publications, yearbooks, announcements, and other school communications, including web sites and social media

5. Products and materials donated by commercial enterprises for educational use, including those that bear the name and/or logo of the donor, as long as they do not unduly promote the donor or any commercial activity or product

(cf. 3290 - *Gifts, Grants and Bequests*)
(cf. 6161.11 - *Supplementary Instructional Materials*)

Note: Generally, courts have upheld procedures that place reasonable "time, place, and manner" restrictions on materials to be distributed, as long as the same restrictions were placed on all materials (Henry v. School Board of Colorado Springs). The district might want to consider developing procedures that limit the "time, place, and manner" of distributions, such as limiting distribution to before or after school hours or creating a central location for the distribution of all materials. Legal counsel should be consulted as appropriate.

ADVERTISING AND PROMOTION (continued)

Prior to the distribution, posting, or publishing of any nonschool group's promotional materials or advertisement, the Superintendent, principal, or designee shall review the materials or advertisement based on the criteria listed below. He/she may not disapprove materials or advertisement in an arbitrary or capricious manner or in a way that discriminates against a particular viewpoint on a subject that is otherwise allowed by Board policy.

All materials to be distributed shall bear the name and contact information of the sponsoring entity.

Note: The district might also consider requiring sponsoring entities to include a disclaimer on all materials to be distributed. For example, a disclaimer might state that "this event is not school-sponsored or approved" or that "opinions are not necessarily those of the school district or school personnel." The district should consult legal counsel as appropriate.

As necessary, the Superintendent, principal, or designee shall require a disclaimer on any nonschool group's promotional materials to be distributed, posted, or published, stating that the distribution, posting, or publishing of the materials does not imply district endorsement of the group's activities, products, or services. District- and school-sponsored publications shall include a disclaimer stating that the district or school does not endorse any advertised products or services.

Criteria for Approval

Note: The following **optional** section is for use by districts that select Option 2 (limited public forum) above and may be revised to reflect criteria established by the Board.

The Superintendent, principal, or designee shall not accept for distribution any materials or advertisements that:

1. Are lewd, obscene, libelous, or slanderous
2. Incite students to commit unlawful acts, violate school rules, or disrupt the orderly operation of the schools

Note: **Optional** item #3 below prohibits the distribution of political materials or political advertising except under certain circumstances. Pursuant to Education Code 7058, the Board may conduct a political forum if it is made available to all sides on an equitable basis.

3. Promote any particular political interest, candidate, party, or ballot measure, unless the candidates or advocates from all sides are provided the opportunity to present their views to the students during school hours or during events scheduled pursuant to the Civic Center Act

(cf. 1160 - Political Processes)

(cf. 4119.25/4219.25/4319.25 - Political Activities of Employees)

ADVERTISING AND PROMOTION (continued)

Note: In DiLoreto v. Downey Unified School District, the Ninth Circuit Court of Appeals held that a district's refusal to post a paid religious advertisement featuring the Ten Commandments on an athletic field fence reserved for commercial advertising was a reasonable way for the district to avoid being placed on one side of a controversial issue. The court concluded that, as a nonpublic forum, the district had the right to regulate content since it did not open the forum (the fence) to all expressive activities but, in fact, had reserved it for commercial speech. Districts wishing to establish policy dealing with the distribution of religious materials should consult legal counsel.

4. Proselytize or position the district on any side of a controversial issue

(cf. 6144 - Controversial Issues)

5. Discriminate against, attack, or denigrate any group on account of any unlawful consideration

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

6. Promote the use or sale of materials or services that are illegal or inconsistent with school objectives, including, but not limited to, materials or advertisements for tobacco, intoxicants, non-nutritious foods and beverages, and movies or products unsuitable for children

(cf. 5030 - Student Wellness)

(cf. 5131.6 - Alcohol and Other Drugs)

(cf. 5131.62 - Tobacco)

7. Solicit funds or services for an organization, with the exception of solicitations authorized in Board policy

(cf. 1321 - Solicitation of Funds from and by Students)

8. Distribute unsolicited merchandise for which an ensuing payment is requested

The Superintendent or designee also may consider the educational value of the materials or advertisements, the age or maturity of the students in the intended audience, and whether the materials or advertisements support the basic educational mission of the district, directly benefit the students, or are of intrinsic value to the students or their parents/guardians.

(cf. 0000 - Vision)

Schools may establish additional criteria pertaining to the content of advertisements in school publications and yearbooks, as deemed appropriate by the Superintendent or designee in accordance with law and Board policy.

Legal Reference: (see next page)

ADVERTISING AND PROMOTION (continued)

Legal Reference:

CALIFORNIA CONSTITUTION

Article 1, Section 2 Free speech rights

EDUCATION CODE

7050-7058 Political activities of school officers and employees

35160 Authority of governing boards

35160.1 Broad authority of school districts

35172 Promotional activities

38130-38138 Civic Center Act

BUSINESS AND PROFESSIONS CODE

25664 Advertisements encouraging minors to drink

U.S. CONSTITUTION

Amendment 1, Freedom of speech and expression

COURT CASES

Hills v. Scottsdale Unified School District 48, (2003) 329 F.3d 1044

DiLoreto v. Downey Unified School District, (1999) 196 F.3d 958

Yeo v. Town of Lexington, (1997) U.S. First Circuit Court of Appeals, No. 96-1623

Hemry v. School Board of Colorado Springs, (D.Col. 1991) 760 F.Supp. 856

Bright v. Los Angeles Unified School District, (1976) 134 Cal. Rptr. 639, 556 P.2d 1090, 18 Cal. 3d 350

Lehman v. Shaker Heights, (1974) 418 U.S. 298

Management Resources:

CSBA PUBLICATIONS

School-Based Marketing of Foods and Beverages: Policy Implications for School Boards, Policy Brief, March 2006

WEB SITES

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

Center USD

Board Policy

Advertising And Promotion

BP 1325
Community Relations

The Governing Board desires to promote positive relationships between schools and the community in order to enhance community support and involvement in district schools. The Superintendent or designee may approve:

1. Distribution of noncommercial materials that publicize services, special events, public meetings or other items of interest to students or parents/guardians

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)
(cf. 5145.2 - Freedom of Speech/Expression)
(cf. 6145.5 - Student Organizations and Equal Access)
(cf. 6162.8 - Research)

2. Paid advertisements on school property, including but not limited to billboard advertisements

3. Paid advertisements in school-sponsored publications, yearbooks, announcements and other school communications

(cf. 1113 - District and School Web Sites)

4. Products and materials donated by commercial enterprises for use in the classroom, as long as they serve an educational purpose and do not unduly promote any commercial activity or products. Such materials may bear the name and/or logo of the donor.

(cf. 3290 - Gifts, Grants and Bequests)
(cf. 6161.11 - Supplementary Instructional Materials)

Prior to distribution or publication, the Superintendent, principal or designee shall review and approve all advertising copy and promotional materials to ensure compliance with Board policy.

The Superintendent, principal or designee may selectively approve or disapprove distribution of materials or publishing of copy based on the criteria listed below, but may not disapprove materials or copy in an arbitrary or capricious manner or in a way that discriminates against a particular viewpoint on a subject that would otherwise be allowed.

All materials to be distributed shall bear the name and contact information of the sponsoring entity.

The use of promotional materials or advertisements does not imply district endorsement of any identified products or services. Schools are encouraged to include a disclaimer in school publications and yearbooks stating that the school does not endorse any advertised products or services.

Criteria for Approval

The Superintendent, principal or designee shall not accept for distribution any materials or advertisements that:

1. Are obscene, libelous or slanderous (Education Code 48907)
2. Incite students to commit unlawful acts, violate school rules or disrupt the orderly operation of the schools (Education Code 48907)
3. Promote any particular political interest, candidate, party or ballot measure, unless such materials are being distributed at a forum in which candidates or advocates from all sides are presenting their views to the students during school hours or during events scheduled pursuant to the Civic Center Act

(cf. 1160 - Political Processes)

(cf. 1330 - Use of School Facilities)

(cf. 4119.25/4219.25/4319.25 - Political Activities of Employees)

4. Discriminate against, attack or denigrate any group on account of any unlawful consideration

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

5. Promote the use or sale of materials or services that are illegal or inconsistent with school objectives, including but not limited to materials or advertisements for tobacco, intoxicants, and movies or products unsuitable for children

6. Solicit funds or services for an organization, with the exception of solicitations authorized in Board policy

(cf. 1321 - Solicitation of Funds from and by Students)

7. Distribute unsolicited merchandise for which an ensuing payment is requested

The Superintendent or designee also may consider the educational value of the materials or advertisements, the age or maturity of students in the intended audience, and whether the materials or advertisements support the basic educational mission of the district, directly benefit the students or are of intrinsic value to the students or their parents/guardians.

(cf. 0000 - Vision)

Schools may establish additional criteria pertaining to the content of advertisements in school publications and yearbooks. Such criteria may limit advertisements to those that contain congratulatory or commemorative messages, curriculum-related content, advertisements for products or services of interest to students, noncontroversial content, and/or other content deemed appropriate by the school publication staff and adviser in accordance with law and Board policy.

Legal Reference:

EDUCATION CODE

7050-7058 Political activities of school officers and employees

35160 Authority of governing boards

35160.1 Broad authority of school districts

35172 Promotional activities

38130-38138 Civic Center Act

48907 Student exercise of free expression

BUSINESS AND PROFESSIONS CODE

25664 Advertisements encouraging minors to drink

U.S. CONSTITUTION

Amendment 1, Freedom of speech and expression

COURT CASES

DiLoreto v. Downey Unified School District, (1999) 196 F.3d 958

Yeo v. Town of Lexington, (1997) U.S. First Circuit Court of Appeals, No. 96-1623

Hemry v. School Board of Colorado Springs, (D.Col. 1991) 760 F.Supp. 856

Bright v. Los Angeles Unified School District, (1976) 134 Cal. Rptr. 639, 556 P.2d 1090, 18 Cal. 3d 350

Lehman v. Shaker Heights, (1974) 418 U.S. 298

Policy CENTER UNIFIED SCHOOL DISTRICT

adopted: April 3, 2002 Antelope, California

USE OF SCHOOL FACILITIES

Note: Education Code 38133 mandates that the Governing Board develop rules and regulations related to the management, direction, and control of school facilities. Pursuant to Education Code 38130-38138 (the Civic Center Act), school facilities are civic centers and, under certain circumstances, members of the school community must be allowed to use them for specified purposes. In granting access for use of school facilities to district residents and community groups, the Board must be careful to avoid discriminating against certain individuals, groups, or viewpoints and thereby violating constitutional requirements, including their free speech rights. In Good News Club v. Milford Central School, the U.S. Supreme Court held that the school district violated the club's free speech rights when it denied the club use of school facilities for after-school meetings because of the religious nature of the meetings.

The Governing Board believes that school facilities and grounds are a vital community resource which should be used to foster community involvement and development. Therefore, the Board authorizes the use of school facilities by district residents and community groups for purposes specified in the Civic Center Act, to the extent that such use does not interfere with school activities or other school-related uses.

(cf. 6145.5 - Student Organizations and Equal Access)

School-related activities shall have priority in the use of school facilities and grounds. Other uses authorized under the Civic Center Act shall be on a first-come, first-served basis.

Note: The following optional paragraph may be modified to reflect district practice. A district may enter into an agreement with another entity for the joint use of school facilities or grounds. For considerations to guide the development of such an agreement, see BP 1330.1 - Joint Use Agreements. Any district interested in entering into any such agreement is also encouraged to review CSBA's policy brief Maximizing Opportunities for Physical Activity Through Joint Use of Facilities and CSBA's publication Building Healthy Communities: A School Leader's Guide to Collaboration and Community Engagement for tips regarding successful collaboration, information about funding sources for joint use, suggested components of joint use agreements, model agreements, and additional resources.

As necessary to ensure efficient use of school facilities, the Superintendent or designee may, with the Board's approval, enter into an agreement for the joint use of any school facilities or grounds. The Board shall approve any such agreement only if it determines that it is in the best interest of the district and the community.

(cf. 1330.1 - Joint Use Agreements)

Note: The following paragraph is optional and may be modified to reflect district practice.

Subject to prior approval by the Board, the Superintendent or designee may grant the use of school facilities on those days on which the school is closed. (Education Code 37220)

(cf. 6115 - Ceremonies and Observances)

Note: Pursuant to Education Code 38133, the Board is mandated to develop rules and regulations which must include the items specified below for the management, direction, and control of school facilities.

USE OF SCHOOL FACILITIES (continued)

For the effective management and control of school facilities and grounds, the Superintendent or designee shall maintain procedures and regulations that: (Education Code 38133)

1. Aid, encourage, and assist groups desiring to use school facilities for approved activities
2. Preserve order in school buildings and on school grounds and protect school facilities, designating a person to supervise this task, if necessary

(cf. 0450 - Comprehensive School Safety Plan)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

3. Ensure that the use of school facilities or grounds is not inconsistent with their use for school purposes and does not interfere with the regular conduct of school work

There shall be no advertising on school facilities and grounds except as allowed by district policy specified in BP 1325 - Advertising and Promotion.

(cf. 1325 - Advertising and Promotion)

Fees

Note: Education Code 38134 authorizes districts to charge an amount "not to exceed" direct costs for the use of school facilities or grounds by community groups and entities and **mandates** each district to adopt a policy specifying the activities and organizations that shall be charged up to direct costs. Pursuant to Education Code 38134, if the district authorizes any group to use the facilities for religious services, the group must be charged "at least" direct costs.

Option 1 below is for use by districts that choose to charge an amount "not exceeding" direct costs to all community groups, except when the use is for religious service, in which case the group must be charged "at least" direct costs.

Option 2 is for use by districts that choose to grant free use to nonprofit groups organized to promote youth and school activities but charge other groups an amount "not to exceed" direct costs.

Option 3 is for use by districts that grant free use to school-related organizations only.

OPTION 1: (Amount not exceeding direct costs to all community groups)

~~The Board believes that the use of school facilities or grounds should not result in costs to the district. The Superintendent or designee shall charge all groups granted the use of school facilities or grounds under the Civic Center Act an amount not exceeding direct costs determined in accordance with Education Code 38134. However, if the use of school facilities or grounds is for religious services, the group shall be charged an amount that equals or exceeds the direct costs.~~

USE OF SCHOOL FACILITIES (continued)**OPTION 2: (No charge to nonprofit youth and school-oriented organizations)**

Note: Education Code 38134 lists nonprofit organizations, clubs, and organizations that promote youth and school activities. As amended by SB 1404 (Ch. 764, Statutes of 2012), Education Code 38134 now includes the YMCA and religious organizations or churches that arrange for and supervise sports league activities for youth among these groups.

Districts that wish to give free use to some groups, but charge other groups, should proceed cautiously and ensure that such free use is granted on a reasonable and nondiscriminatory basis. It is strongly recommended that districts consult legal counsel before deciding which groups will be charged and, based upon legal counsel's advice, discuss whether it would be appropriate to specifically name the community groups that will be charged in the district's policy.

The Board authorizes the use of school facilities or grounds without charge by nonprofit organizations, clubs, or associations organized to promote youth and school activities. In accordance with Education Code 38134(a), these groups include, but are not limited to, Girl Scouts, Boy Scouts, Camp Fire USA, YMCA, parent-teacher associations, and school-community advisory councils. Other groups that request the use of school facilities under the Civic Center Act, including nonprofit groups not organized to promote youth and school activities and for-profit groups, shall be charged an amount not to exceed direct costs. However, if the use of school facilities or grounds is for religious services, the group shall be charged an amount that equals or exceeds direct costs determined in accordance with Education Code 38134.

~~OPTION 3: (No charge to school-related organizations)~~

~~The Board shall grant the use of school facilities or grounds without charge to school-related organizations whose activities are directly related to or for the benefit of district schools. All other groups requesting the use of school facilities under the Civic Center Act shall be charged an amount not to exceed direct costs. However, if the use of school facilities or grounds is for religious services, the group shall be charged an amount that equals or exceeds direct costs determined in accordance with Education Code 38134.~~

Note: The remainder of this section is for use by all districts.

Pursuant to Education Code 38134, as amended by SB 1404 (Ch. 764, Statutes of 2012), until January 1, 2020, the definition of "direct costs" has been modified as specified in the following paragraph. In addition, Education Code 38134, as amended by SB 1404, requires the State Board of Education, not later than December 31, 2013, to adopt regulations for determining "the proportionate share" and the specific allowable costs that a district may include in calculating direct costs of the use of its facilities or grounds.

In determining direct costs to be charged for community use of school facilities or grounds, including, but not limited to, playing or athletic fields, track and field venues, tennis courts, and outdoor basketball courts, the Superintendent or designee shall include a proportionate share of the costs of the following: (Education Code 38134)

USE OF SCHOOL FACILITIES (continued)

1. Supplies, utilities, janitorial services, other services of district employees, and salaries of district employees directly associated with operation and maintenance of the school facilities or grounds involved
2. Maintenance, repair, restoration, and refurbishment of the school facilities or grounds

However, for classroom-based programs that operate after school hours, including, but not limited to, after-school, tutoring, and child care programs, direct costs to be charged shall not include the cost of maintenance, repair, restoration, or refurbishment of the school facilities or grounds. (Education Code 38134)

(cf. 5148 - Child Care and Development)

(cf. 5148.2 - Before/After School Programs)

Note: Education Code 38134 requires the district to charge fair rental value when facilities are used for fundraising activities which are not beneficial to youth, public school activities, or charitable purposes, under the conditions specified below. "Fair rental value" is defined as direct costs plus the amortized costs of the school facilities or grounds used for the duration of the activity.
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Groups shall be charged fair rental value when using school facilities or grounds for entertainment or meetings where admission is charged or contributions solicited and net receipts are not to be expended for charitable purposes or for the welfare of the district's students. (Education Code 38134)

Legal Reference: (see next page)

USE OF SCHOOL FACILITIES (continued)

Legal Reference:

EDUCATION CODE

10900-10914.5 Community recreation programs

32282 School safety plan

37220 School holidays

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

BUSINESS AND PROFESSIONS CODE

25608 Alcoholic beverage on school premises

MILITARY AND VETERANS CODE

1800 Definitions

UNITED STATES CODE, TITLE 20

7905 Equal access to public school facilities

COURT DECISIONS

Good News Club v. Milford Central School, (2001) 533 U.S. 98

Lamb's Chapel v. Center Moriches Union Free School District, (1993) 508 U.S. 384

Cole v. Richardson, (1972) 405 U.S. 676

Connell v. Higgenbotham, (1971) 403 U.S. 207

ACLU v. Board of Education of Los Angeles, (1961) 55 Cal.2d 167

Ellis v. Board of Education, (1945) 27 Cal.2d 322

ATTORNEY GENERAL OPINIONS

82 Ops.Cal.Atty.Gen. 90 (1999)

79 Ops.Cal.Atty.Gen. 248 (1996)

Management Resources:

CSBA PUBLICATIONS

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

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

WEB SITES

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

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

Center USD

Board Policy

Use Of School Facilities

BP 1330

Community Relations

The Governing Board recognizes that district facilities and grounds are a community resource and authorizes their use by community groups for purposes provided for in the Civic Center Act when such use does not interfere with school activities.

(cf. 6145.5 - Student Organizations and Equal Access)

All school-related activities shall be given priority in the use of facilities and grounds under the Civic Center Act. Thereafter, the use shall be on a first-come, first-served basis.

The Superintendent or designee shall maintain procedures and regulations for the use of school facilities and grounds that: (Education Code 38133)

1. Aid, encourage, and assist groups desiring to use school facilities for approved activities
2. Preserve order in school buildings and on school grounds and protect school facilities, designating a person to supervise this task, if necessary

(cf. 0450 - Comprehensive School Safety Plan)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

3. Ensure that the use of school facilities or grounds is not inconsistent with their use for school purposes and does not interfere with the regular conduct of school work

Fees

The Board believes that the use of school facilities or grounds should not result in costs to the district. The Board shall charge at least direct costs to all groups granted facility use under the Civic Center Act.

Fees for the use of school facilities and grounds shall be charged in accordance with the following classifications:

1. **Free Use:** The Board authorizes the use of school facilities without charge by nonprofit organizations, clubs, or associations organized to promote youth and school activities. These groups include, but are not limited to, Girl Scouts, Boy Scouts, and Campfire, Inc.

Other groups requesting the use of school facilities under the Civic Center Act shall be charged

at least direct costs, unless their net receipts are expended for the welfare of the youth of the district.

If an activity is scheduled when a custodian or district employee responsible for the activity is not present at the site, and additional custodial time is required, the user group shall be charged direct costs.

2. Direct-Costs Fee: The Board believes that the use of school facilities should not result in costs to the district. The Board shall charge at least direct costs to all groups granted facility use under the Civic Center Act.

The following activities shall be charged direct costs:

- a. Services conducted by religious groups.
- b. Charitable fund-raising activities which are not beneficial to youth or public school activities of the district.
- c. Events sponsored by religious or community groups, except those which qualify for free use.
- d. Public agencies.

In lieu of direct costs, the district may enter into a written joint-powers agreement with local public agencies.

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

- e. Activities not previously identified which do not fall within the free-use of fair-rental-value classifications.
- f. The district may engage in long-term contracts, six months or more, with religious organizations. Those organizations shall be charged at least direct costs for use of school facilities.

3. Fair-Rental-Value Fee: Groups shall be charged fair rental value when using school facilities or groups for entertainment or meetings where admission is charged or contributions solicited and net receipts are not to be expended for charitable purposes or for the welfare of the district's students. (Education Code 40043)

Legal Reference:

EDUCATION CODE

10900-10914.5 Community recreation programs

32282 School safety plan

37220 School holidays

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

BUSINESS AND PROFESSIONS CODE

25608 Alcoholic beverage on school premises

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ACLU v. Board of Education of Los Angeles, (1961) 55 Cal .2d 167

Ellis v. Board of Education, (1945) 27 Cal.2d 322

ATTORNEY GENERAL OPINIONS

82 Ops.Cal.Atty.Gen. 90 (1999)

79 Ops.Cal.Atty.Gen. 248 (1996)

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES

1101.89 School District Liability and "Hold Harmless" Agreements, LO: 4-89

WEB SITES

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

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

Policy CENTER UNIFIED SCHOOL DISTRICT

adopted: May 2, 2007 Antelope, California

USE OF SCHOOL FACILITIES

Note: The following administrative regulation is **mandated** for the management, direction, and control of school facilities, pursuant to Education Code 38133.

Application for Use of Facilities

Any person applying for the use of any school facilities or grounds on behalf of any society, group, or organization shall present written authorization from the group or organization to make the application.

Note: The California Supreme Court has determined that the requirements of Education Code 38135 and 38136 are unconstitutional (ACLU v. Board of Education of City of Los Angeles). Although these provisions have not been repealed, districts are advised not to require any oath affirming that the group does not intend to take actions leading to the overthrow of the government.

Other types of oaths have been held constitutionally acceptable. The California Supreme Court upheld the use of an oath that the individual or group does not intend to use school premises to commit unlawful acts (ACLU v. Board of Education), and the U.S. Supreme Court has upheld affirmative loyalty oaths for public employees, expressing a promise to support the federal and state constitutions (Connell v. Higgenbotham; Cole v. Richardson). The accompanying Exhibit provides a sample "Facilities Use Statement." The following paragraph is optional.

Persons or organizations applying for the use of school facilities or grounds shall submit a facilities use statement indicating that they uphold the state and federal constitutions and do not intend to use school premises or facilities to commit unlawful acts.

Fee Schedules will be updated annually in the District Facility Use Agreement.

Civic Center Use

Subject to district policies and regulations, school facilities and grounds shall be available to citizens and community groups as a civic center for the following purposes: (Education Code 32282, 38131)

1. Public, literary, scientific, recreational, educational, or public agency meetings
2. The discussion of matters of general or public interest

Note: An Attorney General Opinion (79 Ops.Cal.Atty.Gen. 248 (1996)) found unconstitutional the section of Education Code 38131 which provides that a board may grant the use of school facilities to a religious group to conduct services only when the religious group has no other suitable meeting place. Although Attorney General opinions do not carry the force of law, they are given deference by the courts in the case of legal challenge. Therefore, a district should consult legal counsel before requiring a religious organization to establish that it lacks another suitable meeting place for the conduct of its services in order to rent school facilities. In that same opinion, the Attorney General also determined that Education Code 38131 does not limit the renewability of the temporary use permit for school facilities by a religious organization. Thus,

USE OF SCHOOL FACILITIES (continued)

legal counsel should also be consulted before a district refuses to renew a temporary permit. Item #3 below is consistent with the Attorney General's interpretation of Education Code 38131.

3. The conduct of religious services for temporary periods, on a one-time or renewable basis, by any church or religious organization
4. Child care programs to provide supervision and activities for children of preschool and elementary school age

(cf. 5148 - Child Care and Development)

(cf. 5148.2 - Before/After School Programs)

(cf. 5148.3 - Preschool/Early Childhood Education)

5. The administration of examinations for the selection of personnel or the instruction of precinct board members by public agencies
6. Supervised recreational activities, including, but not limited to, sports league activities that are arranged for and supervised by entities, including religious organizations or churches, and in which youth may participate regardless of religious belief or denomination
7. A community youth center

(cf. 1020 - Youth Services)

Note: Pursuant to Education Code 32282, procedures to allow school facilities to be used by public agencies, such as the Red Cross, for mass care and welfare shelters during an emergency must be included in the comprehensive school safety plan. See AR 0450 - Comprehensive Safety Plan.

8. Mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

9. A ceremony, patriotic celebration, or related educational assembly conducted by a veterans' organization

A *veterans' organization* means the American Legion, Veterans of Foreign Wars, Disabled American Veterans, United Spanish War Veterans, Grand Army of the Republic, or other duly recognized organization of honorably discharged soldiers, sailors, or marines of the United States, or any of their territories. (Military and Veterans Code 1800)

USE OF SCHOOL FACILITIES (continued)

Note: Education Code 38131 allows the district to grant use of school facilities for other purposes as deemed appropriate. The district may add any other purposes approved by the Governing Board.

10. Other purposes deemed appropriate by the Governing Board

Use of school facilities shall be granted in the following preferential order:

1. Regular school educational activities.
2. School extra-curricular activities.
3. School district activities directly connected with the school program such as teachers' meetings and parent/guardian club meetings.
4. Youth activities (Scouts, etc.) focused within the district community.
5. Youth improvement groups, committees, etc., for promoting youth organizations.
6. Groups organized for civic improvement within the district.
7. Groups organized for recreational activities within the district.
8. Fraternal, religious, or social groups organized in the district.
9. Outside groups with special permission.

Restrictions

Note: In adopting rules for the management and control of school facilities, districts must be careful to ensure that they do not impose restrictions that may violate constitutionally protected rights. Generally, court decisions have held that districts may not discriminate on the basis of a group's viewpoint, and thus the use of facilities should be granted on a neutral basis. In Good News Club v. Milford Central School, the U.S. Supreme Court held that a district which prohibited a religious club from using school facilities after school hours for activities for which it allowed other community groups to use the school facilities discriminated against the club on the basis of the club's religious viewpoint in violation of the First Amendment to the United States Constitution.

Because federal and state constitutional free speech issues may be involved when a district denies the use of school facilities to certain groups, it is strongly recommended that a district consult with legal counsel before doing so.

School facilities or grounds shall not be used for any of the following activities:

1. Any use by an individual or group for the commission of any crime or any act prohibited by law

USE OF SCHOOL FACILITIES (continued)

2. Any use which is inconsistent with the use of the school facilities for school purposes or which interferes with the regular conduct of school or school work
3. Any use which involves the possession, consumption, or sale of alcoholic beverages or any restricted substances, including tobacco

(cf. 3513.3 - Tobacco-Free Schools)

Note: Districts may exclude certain facilities from community use for safety or security reasons. Such facilities might include (1) offices or computer rooms containing records and confidential information and (2) science rooms and other rooms containing hazardous chemicals or equipment that cannot be used safely without special knowledge or skills. If desired, those restrictions should be included here. The following paragraph is **optional**.

The district may exclude certain school facilities from nonschool use for safety or security reasons.

Damage and Liability

Note: Pursuant to Education Code 38134, a district is authorized to take the actions specified in the following **optional** paragraph when damage to school facilities or grounds occurs from use by a nonprofit group, organization, club, or association that promotes youth and school activities.

Groups, organizations, or persons using school facilities or grounds shall be liable for any property damage caused by the activity. The district may charge the amount necessary to repair the damages and may deny the group further use of school facilities or grounds. (Education Code 38134)

Note: Education Code 38134 distinguishes the liability and insurance obligations of nonprofit groups, clubs, and associations that promote youth and school activities from those of the district. The district is liable for any injuries resulting from its negligence in the ownership and maintenance of its facilities and grounds and must bear the cost of insuring against these risks and defending itself from related claims.

Any group or organization using school facilities or grounds shall be liable for any injuries resulting from its negligence during the use of district facilities or grounds. The group shall bear the cost of insuring against this risk and defending itself against claims arising from this risk. (Education Code 38134)

Groups or organizations shall provide the district with evidence of insurance against claims arising out of the group's own negligence when using school facilities. (Education Code 38134)

USE OF SCHOOL FACILITIES (continued)

Note: Pursuant to Education Code 38134, groups that promote youth and school activities cannot be required to sign hold harmless and indemnification agreements agreeing to defend and indemnify the district against liability arising during the group's use of school facilities to the extent that the agreement requires the group to assume liability for the district's negligence. The statute is unclear as to whether the district can require "non-youth-related groups" to indemnify the district from any and all injuries resulting from the use of the facilities. Districts wishing to create such an agreement should consult legal counsel. Because hold harmless agreements are only as strong as the groups' credit, districts should generally require proof of insurance in addition to such agreements. When a hold harmless and indemnification agreement appears necessary for any specific school facilities or a specific event, the district's risk manager, insurance carrier, or legal counsel should tailor it to the situation.

As permitted, the Superintendent or designee may require a hold harmless agreement and indemnification when warranted by the type of activity or the specific facilities being used.

Application for Use of Facilities

Reservations for use of school facilities shall be made as follows:

1. No application for use of school facilities shall be approved until the applicant has signed in triplicate the Application for Use of School Facilities Use Agreement, a facsimile of which is made a part of this policy as Exhibit E 1300, and proof of insurance has been received.
2. All applications for facility use should be made at least three weeks in advance.
3. The person signing the application for a reservation shall assume the responsibility for the actions of the group and shall designate by name and phone number the person or persons in charge of each meeting or activity on school premises.
4. No group shall be allowed a monopoly of any facility. When multiple requests for the same facility occurs, and the facility has not already been committed, the requesting parties will be required to negotiate a compromise. If a compromise cannot be reached, the Superintendent or designee shall mandate a solution.
5. For sporting events, no commitment will be made prior to 60 days before the start of the season.
6. School facilities may not be reserved by any single non-school group for regular use more often than once each week except for youth groups such as Little League.
7. No use permit shall extend for more than one school year. The privilege is renewable and revocable at the discretion of the Board at any time.
8. Applicants shall designate on the application form if an admission charge is to be made.

USE OF SCHOOL FACILITIES (continued)

9. A judgment shall be made by the business office at the time a use agreement is approved whether a charge will be made to the applicant for the use of the school facility and the amount of the charge.

10. If the applicant requests use of a school kitchen, an addendum outlining the Kitchen Use Rules and Regulations will be sent to applicant along with the approved Facility Use Request form. A copy of this addendum is attached as exhibit E 1330(c).

Transportation Equipment

The use of district-owned buses and other vehicles is restricted to the following:

1. Transportation of students, chaperones, employees, and other authorized personnel on official school business and sanctioned school activities. Recreational activities organized and incorporated with the school for students of the district.
2. Transportation of groups for recreational activities organized and conducted by organizations under the control of another public agency. These groups will be charged for the use of the bus at the computed cost of operation of said vehicle. The computed cost is that cost of operation of said vehicle. The computed cost is that cost per mile shown on the most recent annual report on Transportation Form J141, plus standby time for drivers.
3. School Districts
 - a. When a bus is loaned to a neighboring school district on an emergency basis, they will provide a driver and gasoline. A nominal charge will be made each year in accordance with the Schedule of Charges.
 - b. When a bus is loaned to another school district, under the California Mutual Aid, on an emergency basis the School District will provide a driver and gasoline. A nominal charge will be made each year in accordance with the Schedule of Charges.
 - c. A fee for the use of all equipment under the control of the transportation department will be set at the beginning of each year.

Right to Refuse Use

The district reserves the right to refuse permission for the use of school facilities and equipment at its own discretion.

Emergency Use

The district will authorize use of buses in emergency situations to any political sub-division

when warranted in accordance with the California Emergency Services Act.

Center USD

Administrative Regulation

Use Of School Facilities

AR 1330

Community Relations

Application for Use of Facilities

Any persons applying for the use of any school facility or grounds on behalf of any society, group, or organization shall present written authorization from the group or organization to make the application.

Persons or organizations applying for the use of school facilities or grounds shall submit a statement of information indicating that the organization upholds the state and federal constitutions and does not intend to use school premises to commit unlawful acts.

Civic Center Use

Subject to district policies and regulations, school facilities and grounds shall be available to citizens and community groups as a civic center for the following purposes: (Education Code 32282, 38131)

- 1. Public, literary, scientific, recreational, educational, or public agency meetings**
- 2. The discussion of matters of general or public interest**
- 3. The conduct of religious services for temporary periods, on a one-time or renewable basis, by any church or religious organization**
- 4. Child care programs to provide supervision and activities for children of preschool and elementary school age**

(cf. 5148 - Child Care and Development)
(cf. 5148.2 - Before/After School Programs)
(cf. 6300 - Preschool/Early Childhood Education)
- 5. The administration of examinations for the selection of personnel or the instruction of precinct board members by public agencies**
- 6. Supervised recreational activities including, but not limited to, sports league activities that are arranged for and supervised by entities, including religious organizations or churches, and in which youths may participate regardless of religious belief or denomination**

7. A community youth center

(cf. 1020 - Youth Services)

8. Mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

9. A ceremony, patriotic celebration, or related educational assembly conducted by a veterans' organization. "Veterans' organizations" means any duly congressionally recognized or chartered organization of honorably discharged members of the Armed Forces of the United States, or any of their auxiliaries, including, but not limited to, the Air Force Sergeants Association, American Ex-Prisoners of War, American Legion, American Veterans, Armed Forces Retirees Association of California, Association of the United States Army, Blinded Veterans Association, California Association of County Veterans Service Officers, California State Commanders Veterans Council, Disabled American Veterans, Fleet Reserve Association, Jewish War Veterans, Legion of Valor, Marine Corps League, Military Officers Association of America, Military Order of the Purple Heart, National Association for Uniformed Services, Paralyzed Veterans of America, Reserve Officers Association, Retired Enlisted Association, Veterans of Foreign Wars, Vietnam Veterans of America, or WAVES National. (Military and Veterans Code 1800)

10. Other purposes deemed appropriate by the Governing Board

Use of school facilities shall be granted in the following preferential order:

1. Regular school educational activities.
2. School extra-curricular activities.
3. School district activities directly connected with the school program such as teachers' meetings and parent/guardian club meetings.
4. Youth activities (Scouts, etc.) focused within the district community.
5. Youth improvement groups, committees, etc., for promoting youth organizations.
6. Groups organized for civic improvement within the district.
7. Groups organized for recreational activities within the district.
8. Fraternal, religious, or social groups organized in the district.
9. Outside groups with special permission.

The district may grant the use of school facilities on those days on which the public school is closed. (Education Code 37220)

(cf. 6115 - Ceremonies and Observances)

Restrictions

School facilities or grounds shall not be used for any of the following activities:

1. Any use by an individual or group for the commission of any crime or any act prohibited by law
2. Any use which is inconsistent with the use of the school facility for school purposes or which interferes with the regular conduct of school or school work
3. Any use which is discriminatory in the legal sense.
4. Any use which involves the possession, consumption, or sale of alcoholic beverages or any restricted substances, including tobacco use

(cf. 3513.3 - Tobacco-Free Schools)

The district may exclude certain school facilities from non-school use for safety or security reasons.

The authorized official of any agency, organization, or group requesting use of school facilities or grounds shall, prior to entering upon such use, execute the Statement of Information, E 1330(f); Affidavit E 1330(g), (h).

Damage and Liability

Groups, organizations, or persons using school facilities or grounds shall be liable for any property damages caused by the activity. The Board may charge the amount necessary to repair the damages and may deny the group further use of school facilities or grounds.

Any group or organization using school facilities or grounds shall be liable for any injuries resulting from its negligence during the use of district facilities or grounds. The group shall bear the cost of insuring against this risk and defending itself against claims arising from this risk. (Education Code 38134)

Groups or organizations shall provide the district with evidence of insurance against claims arising out of the group's own negligence. Groups or organizations shall also be required to include the district as an additional insured on their liability policies for claims arising out of the negligence of the group.

As permitted, the Superintendent or designee may require a hold harmless agreement and

indemnification when warranted by the type of activity or the specific facility being used.

Application for Use of Facilities

Reservations for use of school facilities shall be made as follows:

1. No application for use of school facilities shall be approved until the applicant has signed in triplicate the Application for Use of School Facilities Use Agreement, a facsimile of which is made a part of this policy as Exhibit E 1300, and proof of insurance has been received.
2. All applications for facility use should be made at least three weeks in advance.
3. The person signing the application for a reservation shall assume the responsibility for the actions of the group and shall designate by name and phone number the person or persons in charge of each meeting or activity on school premises.
4. No group shall be allowed a monopoly of any facility. When multiple requests for the same facility occurs, and the facility has not already been committed, the requesting parties will be required to negotiate a compromise. If a compromise cannot be reached, the Superintendent or designee shall mandate a solution.
5. For sporting events, no commitment will be made prior to 60 days before the start of the season.
6. School facilities may not be reserved by any single non-school group for regular use more often than once each week except for youth groups such as Little League.
7. No use permit shall extend for more than one school year. The privilege is renewable and revocable at the discretion of the Board at any time.
8. Applicants shall designate on the application form if an admission charge is to be made.
9. A judgment shall be made by the business office at the time a use agreement is approved whether a charge will be made to the applicant for the use of the school facility and the amount of the charge.
10. If the applicant requests use of a school kitchen, an addendum outlining the Kitchen Use Rules and Regulations will be sent to applicant along with the approved Facility Use Request form. A copy of this addendum is attached as exhibit E 1330(c).

Transportation Equipment

The use of district-owned buses and other vehicles is restricted to the following:

1. Transportation of students, chaperones, employees, and other authorized personnel on official school business and sanctioned school activities. Recreational activities organized and

incorporated with the school for students of the district.

2. Transportation of groups for recreational activities organized and conducted by organizations under the control of another public agency. These groups will be charged for the use of the bus at the computed cost of operation of said vehicle. The computed cost is that cost of operation of said vehicle. The computed cost is that cost per mile shown on the most recent annual report on Transportation Form J141, plus standby time for drivers.

3. School Districts

a. When a bus is loaned to a neighboring school district on an emergency basis, they will provide a driver and gasoline. A nominal charge will be made each year in accordance with the Schedule of Charges.

b. When a bus is loaned to another school district, under the California Mutual Aid, on an emergency basis the School District will provide a driver and gasoline. A nominal charge will be made each year in accordance with the Schedule of Charges.

c. A fee for the use of all equipment under the control of the transportation department will be set at the beginning of each year.

Right to Refuse Use

The district reserves the right to refuse permission for the use of school facilities and equipment at its own discretion.

Emergency Use

The district will authorize use of buses in emergency situations to any political sub-division when warranted in accordance with the California Emergency Services Act.

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

USE OF SCHOOL FACILITIES

Facilities Use Application Rules And Regulations

1. All applications for facility use should be made at least three weeks in advance of event.
2. Facility cannot be used until User(s) receives approved copy of Facility Use Application from the District Office.
3. Facilities and User(s) must be under the supervision of a responsible adult who must be present during the entire period of use. Enforcement of rules is the responsibility of the adult in charge. The undersigned who is to be in charge of the activity must be 21 years of age or over. User(s) agree that they will be responsible to the Governing Board for the use and care of school property. User(s) further agree that the character of entertainment will conform to that stated in the application and in accordance with the Civic Center Act.
4. School/District functions have use priority. Your scheduled event can be pre-empted.
5. SMOKING IS NOT PERMITTED. NO ALCOHOLIC BEVERAGES ALLOWED ON SCHOOL PREMISES.
6. Use is confined to the area(s) named in the approved application, with appropriate corridor and lavatory facilities.
7. Gym shoes are required of all people using the gym floor for active recreation (excluding dances).
8. The serving of food indoors is restricted to the multi-purpose rooms or cafeterias.
9. School equipment/supplies, including kitchens, will not be used unless specifically authorized. Use is confined to the area(s) named in the approved permit. Food Services staff must be present when using kitchen facilities.
10. The using group agrees to assume financial responsibility for all damages and any additional custodial services, if required. Any damages and/or misuse of facility may result in denial of use in the future.
11. Adult in charge will seek out custodian on duty to notify him/her when the activity is completed.
12. The using group will return the facility to its original arrangement and condition before leaving; the school custodian will perform only normal clean up.
13. Any changes to the original approved application will require an additional Facility Use Application.

14. The District Office must be notified of cancellations one week prior to the event or a \$50.00 cancellation fee will be charged.

INSURANCE REQUIREMENTS

User agrees to defend and indemnify and hold harmless the Center Unified School District (CUSD), its board of trustees, officers, agents and employees from and against any and all claims costs, demands, expenses (including attorneys' fees), losses, damages, injuries and liabilities arising from the User's use of facilities as related to the performance of the agreement. It is understood and agreed that such indemnity shall survive the termination of this agreement.

Concurrent with the execution of the Use of Facilities permit, user shall provide an original certificate of insurance naming the Center Unified School District as additional insured and which meets the following minimum insurance requirements: General Commercial Liability in the amount of \$1,000,000, Bodily Injury/Each Occurrence/and Fire Damage plus a copy of the endorsement. The Center Unified School District shall be added as an additional named insured to the user's insurance policy by endorsement. User further agrees to indemnify, defend and hold harmless the Center Unified School District, its officers, agents, and employees against any and all costs and attorney fees arising out of, or resulting from user's use of district facilities. Additionally, user shall provide a written stipulation from the insurers notifying the Center Unified School District at least 10 days prior to cancellation or refusal to renew any policy. If insurance is not kept in force during the entire term of use, District may self-insure or procure the necessary insurance and pay the premium. The premium, or the equivalent value of self insurance, as the case may be, shall be paid by "User" to the District.

USE OF SCHOOL FACILITIES

Facilities Use Application GENERAL PROCEDURES

The Governing Board recognizes that district facilities are a community resource whose primary purpose is to be used for school programs and activities. The Board authorizes the use of school facilities by community groups for purposes provided for in the Civic Center Act when such use does not interfere with school activities. (BP/ARIE 1330)

1. User's may not use school facilities without receiving a final permit from the CUSD Business Office.
2. No group shall be allowed a monopoly of any facility. When multiple requests for the same facility occur, and the facility has not already been committed, the requesting parties will be required to negotiate a compromise. If a compromise cannot be reached, the Superintendent or designee shall mandate a solution.
3. For sporting events, no commitment will be made prior to 60 days before the start of the

season.

4. School facilities may not be reserved by any single non-school group for regular use more often than once each week except for youth groups such as Little League.
5. No use permit shall extend for more than one school year. The privilege is renewable and revocable at the discretion of the Board at any time.
6. Applicants shall declare on the application form if an admission charge is to be made.
7. A judgment shall be made by the business office at the time a use agreement is approved whether a charge will be made to the applicant for the use of the school facility and amount of the charge.
8. If any group activity results in the destruction of school property, the group may be charged for an amount necessary to repay the damages, and further use of facilities may be denied.
9. Any group using school facilities shall be liable for any injuries resulting from its negligence during such use. The group shall bear the cost of insuring against this risk and defending itself against claims arising from this risk.

School facilities shall not be used for any of the following activities:

1. Any use by an individual or group for the commission of any crime or any act prohibited by law.
2. Any use of school facilities or grounds which is inconsistent with their use for school purposes or which interfere with the regular conduct of school or school work.
3. Any use which is discriminatory in the legal sense.
4. Sexual harassment, sexual solicitation, or other sexual misconduct of any officer, employee, agent, or volunteer of or for any agency, organization or group while using school facilities or grounds is prohibited. No officer, employee, agent or volunteer of the agency, organization, or group who has been convicted of a sex offense as defined in Education Code Section 44010, shall participate in the use of school facilities or grounds.

USE OF SCHOOL FACILITIES

Facilities Use Application SITE/USER PROCEDURES

1. User: obtains Facilities Use Application and information packet from CUSD Business Office at 8408 Watt Avenue, Antelope, CA 95843
2. User: Returns completed application and certificate of insurance to the CUSD Business

Office.

2. Business Office: forwards application(s) to the appropriate site personnel. Site personnel will approve/deny and return signed application to Business Office within 48 hours of receipt of application.

3. School Sites: School administrator is responsible for:

a. Keeping the calendar of events for their Use of Facilities rentals

b. Approving/denying the use of the facility

c. Assigning staff and hours (See last line of Facilities Use Application form.)

d. Signing employee time card for hours worked. (NOTE: The time card must include the administrator's signature, appropriate budget code, and the organization's name; otherwise the process will be delayed.)

Note: Site budgets will be charged for any time cards turned in for any activity/function that does not have an approved Facilities Use Application on file at the District Office.

4. MOFT&T Department: Director will approve/deny use application and return application to the Business Office within 48 hours of receipt of application.

5. Nutrition Services Department: if use of kitchen facilities/equipment is requested, User must complete the "Kitchen Use" form. The Nutrition Services Supervisor will approve/deny application, assign a food services employee and return the application to the Business Department within 48 hours of receipt of application.

6. ~~Business Manager/Account Supervisor~~ Director of Fiscal Services: will calculate any applicable fees and sign the application.

7. Business Office: notifies User that their application has been approved and the amount of any charges. Business Office will not release "final" approval until facility fees are paid and a certificate of insurance is received.

8. User: must pay any fees at the time the final approved Facilities Use Application is picked up, which must be prior to the first day of the event.

9. User: must notify the Business Office of cancellations one week prior to the event or a \$50.00 fee will be charged.

10. User: must keep "approved" copy of use agreement with him/her at all times during function for identification purposes.

11. Business Office: will send "yellow copy" of final approved application(s) to site administrator.

12. Assigned Employees: will submit a time card for hours worked, to the site administrator

for his/her approval. The time card must include the complete name of the organization, i.e., Antelope Youth Soccer League, not "soccer."

USE OF SCHOOL FACILITIES

Facilities Use Application FEE CLASSIFICATIONS

All charges are based on an amount sufficient to pay the cost to the district of salaries, supplies and utilities. Flat rate fees may be used for long-term or seasonal use.

Fee Classifications:

Class I: Free - Non-profit organizations, clubs, or associations organized to promote youth and school activities, i.e., school sponsored programs, including student body activities and meetings for P.T.A., Parent Booster Clubs, School Employee organizations, and School Advisory Councils, youth sports groups such as Little Leagues, Youth Soccer, Bobby Sox, Camp Fire, Scout Troops and affiliated organizations, Senior Citizens, YMCA and YWCA, etc..

Other groups requesting the use of school facilities under the Civic Center Act shall be charged at least direct costs, unless their net receipts are expended for the welfare of the youth of the district.

Exceptions:

If the presence of a school employee(s) is required beyond his/her normal work hours or duties, the User will be charged for those hours at the District's direct cost rate. (See Fee Schedules).

Any additional costs for use of facilities and/or staff above and beyond those specified in the Facilities Use Application, will be invoiced by the District within 60 days. Invoices are due and payable at the time of receipt.

Class II: Direct Cost Fees

1. Services conducted by religious groups.
2. Charitable fund-raising activities which are not beneficial to youth or public school activities of the district.
3. Events sponsored by religious or community groups, except those which qualify for free use.
4. Public agencies.

Note: In lieu of direct costs, the district may enter into a written joint-powers agreement with

local public agencies.

5. Activities not previously identified which do not fall within the free-use of fair-rental-value classifications.

6. The district may engage in long-term contracts, six months or more, with religious organizations. Those organizations shall be charged at least direct costs for use of school facilities.

Class III: Fair Market Value Rental Fees - Groups shall be charged fair rental value when using school facilities for entertainment or meetings where admission charged or contributions solicited and net receipts are not to be expended for charitable purposes or for the welfare of the district's students.

USE OF SCHOOL FACILITIES

Facilities Use Application CIVIC CENTER USE

Subject to district policies and regulations (BP/AR 1330), school facilities and groups shall be available to citizens and community groups as a civic center for the following purposes:

1. Public, literary, scientific, recreational, educational, or public agency meetings. (Ed. Code 38131)
2. The discussion of matters of general or public interest. (Ed. Code 38131)
3. The conduct of religious services for temporary periods, on a one-time or renewable basis, by any church or religious organization.
4. Child care programs to provide supervision and activities for children of preschool and elementary school age. (Ed. Code 38131)
5. The administration of examinations for the selection of personnel or the instruction of precinct Board members by public agencies. (Ed. Code 38131)
6. Supervised recreational activities. (Ed. Code 38131)
7. Mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare. (Ed. Code 38131)
8. Other purposes deemed appropriate by the Board. (Ed. Code 38131)

USE OF SCHOOL FACILITIES

**Facilities Use Application
FEE SCHEDULES**

CLASS I: Facilities are available without charge to nonprofit organizations or groups that promote youth and school activities. Custodian charges will be assessed if the group uses the facility when a custodian is not normally on duty.

Fee Schedules will be updated annually in the District Facility Use Agreement.

- Payment for all one-time or single use events must be received prior to the scheduled use. For multiple use groups, fees for the first use must be paid prior to the event and subsequent uses will be invoiced by the district.
- Additional charges for use of facility and/or staff beyond times specified in the Facilities Use Application will be invoiced by the District within 60 days.
- **CANCELLATION POLICY:** The District Office must be notified of cancellations one week prior to the event, or a \$50.00 cancellation fee will be charged.
- **PAYMENT:** Fees shall be paid to the Center Unified School District, Accounting Department, 8408 Watt Ave., Antelope, California 95843.

Center USD

Exhibit

Use Of School Facilities

E 1330

Community Relations

Facilities Use Application Rules And Regulations

1. All applications for facility use should be made at least three weeks in advance of event.
2. Facility cannot be used until User(s) receives approved copy of Facility Use Application from the District Office.
3. Facilities and User(s) must be under the supervision of a responsible adult who must be present during the entire period of use. Enforcement of rules is the responsibility of the adult in charge. The undersigned who is to be in charge of the activity must be 21 years of age or over. User(s) agree that they will be responsible to the Governing Board for the use and care of school property. User(s) further agree that the character of entertainment will conform to that stated in the application and in accordance with the Civic Center Act.
4. School/District functions have use priority. Your scheduled event can be pre-empted.
5. **SMOKING IS NOT PERMITTED. NO ALCOHOLIC BEVERAGES ALLOWED ON SCHOOL PREMISES.**
6. Use is confined to the area(s) named in the approved application, with appropriate corridor and lavatory facilities.
7. Gym shoes are required of all people using the gym floor for active recreation (excluding dances).
8. The serving of food indoors is restricted to the multi-purpose rooms or cafeterias.
9. School equipment/supplies, including kitchens, will not be used unless specifically authorized. Use is confined to the area(s) named in the approved permit. Food Services staff must be present when using kitchen facilities.
10. The using group agrees to assume financial responsibility for all damages and any additional custodial services, if required. Any damages and/or misuse of facility may result in denial of use in the future.
11. Adult in charge will seek out custodian on duty to notify him/her when the activity is completed.

12. The using group will return the facility to its original arrangement and condition before leaving; the school custodian will perform only normal clean up.

13. Any changes to the original approved application will require an additional Facility Use Application.

14. The District Office must be notified of cancellations one week prior to the event or a \$50.00 cancellation fee will be charged.

INSURANCE REQUIREMENTS

User agrees to defend and indemnify and hold harmless the Center Unified School District (CUSD), its board of trustees, officers, agents and employees from and against any and all claims costs, demands, expenses (including attorneys' fees), losses, damages, injuries and liabilities arising from the User's use of facilities as related to the performance of the agreement. It is understood and agreed that such indemnity shall survive the termination of this agreement.

Concurrent with the execution of the Use of Facilities permit, user shall provide an original certificate of insurance naming the Center Unified School District as additional insured and which meets the following minimum insurance requirements: General Commercial Liability in the amount of \$1,000,000, Bodily Injury/Each Occurrence/and Fire Damage plus a copy of the endorsement. The Center Unified School District shall be added as an additional named insured to the user's insurance policy by endorsement. User further agrees to indemnify, defend and hold harmless the Center Unified School District, its officers, agents, and employees against any and all costs and attorney fees arising out of, or resulting from user's use of district facilities. Additionally, user shall provide a written stipulation from the insurers notifying the Center Unified School District at least 10 days prior to cancellation or refusal to renew any policy. If insurance is not kept in force during the entire term of use, District may self-insure or procure the necessary insurance and pay the premium. The premium, or the equivalent value of self insurance, as the case may be, shall be paid by "User" to the District.

USE OF SCHOOL FACILITIES

Facilities Use Application GENERAL PROCEDURES

The Governing Board recognizes that district facilities are a community resource whose primary purpose is to be used for school programs and activities. The Board authorizes the use of school facilities by community groups for purposes provided for in the Civic Center Act when such use does not interfere with school activities. (BP/ARIE 1330)

1. User's may not use school facilities without receiving a final permit from the CUSD

Business Office.

2. No group shall be allowed a monopoly of any facility. When multiple requests for the same facility occur, and the facility has not already been committed, the requesting parties will be required to negotiate a compromise. If a compromise cannot be reached, the Superintendent or designee shall mandate a solution.
3. For sporting events, no commitment will be made prior to 60 days before the start of the season.
4. School facilities may not be reserved by any single non-school group for regular use more often than once each week except for youth groups such as Little League.
5. No use permit shall extend for more than one school year. The privilege is renewable and revocable at the discretion of the Board at any time.
6. Applicants shall declare on the application form if an admission charge is to be made.
7. A judgment shall be made by the business office at the time a use agreement is approved whether a charge will be made to the applicant for the use of the school facility and amount of the charge.
8. If any group activity results in the destruction of school property, the group may be charged for an amount necessary to repay the damages, and further use of facilities may be denied.
9. Any group using school facilities shall be liable for any injuries resulting from its negligence during such use. The group shall bear the cost of insuring against this risk and defending itself against claims arising from this risk.

School facilities shall not be used for any of the following activities:

1. Any use by an individual or group for the commission of any crime or any act prohibited by law.
2. Any use of school facilities or grounds which is inconsistent with their use for school purposes or which interfere with the regular conduct of school or school work.
3. Any use which is discriminatory in the legal sense.
4. Sexual harassment, sexual solicitation, or other sexual misconduct of any officer, employee, agent, or volunteer of or for any agency, organization or group while using school facilities or grounds is prohibited. No officer, employee, agent or volunteer of the agency, organization, or group who has been convicted of a sex offense as defined in Education Code Section 44010, shall participate in the use of school facilities or grounds.

USE OF SCHOOL FACILITIES

Facilities Use Application SITE/USER PROCEDURES

1. User: obtains Facilities Use Application and information packet from CUSD Business Office at 8408 Watt Avenue, Antelope, CA 95843
 2. User: Returns completed application and certificate of insurance to the CUSD Business Office.
 2. Business Office: forwards application(s) to the appropriate site personnel. Site personnel will approve/deny and return signed application to Business Office within 48 hours of receipt of application.
 3. School Sites: School administrator is responsible for:
 - a. Keeping the calendar of events for their Use of Facilities rentals
 - b. Approving/denying the use of the facility
 - c. Assigning staff and hours (See last line of Facilities Use Application form.)
 - d. Signing employee time card for hours worked. (NOTE: The time card must include the administrator's signature, appropriate budget code, and the organization's name; otherwise the process will be delayed.)
- Note: Site budgets will be charged for any time cards turned in for any activity/function that does not have an approved Facilities Use Application on file at the District Office.
4. MOFT&T Department: Director will approve/deny use application and return application to the Business Office within 48 hours of receipt of application.
 5. Nutrition Services Department: if use of kitchen facilities/equipment is requested, User must complete the "Kitchen Use" form. The Nutrition Services Supervisor will approve/deny application, assign a food services employee and return the application to the Business Department within 48 hours of receipt of application.
 6. Business Manager/Account Supervisor: will calculate any applicable fees and sign the application.
 7. Business Office: notifies User that their application has been approved and the amount of any charges. Business Office will not release "final" approval until facility fees are paid and a certificate of insurance is received.

8. User: must pay any fees at the time the final approved Facilities Use Application is picked up, which must be prior to the first day of the event.
9. User: must notify the Business Office of cancellations one week prior to the event or a \$50.00 fee will be charged.
10. User: must keep "approved" copy of use agreement with him/her at all times during function for identification purposes.
11. Business Office: will send "yellow copy" of final approved application(s) to site administrator.
12. Assigned Employees: will submit a time card for hours worked, to the site administrator for his/her approval. The time card must include the complete name of the organization, i.e., Antelope Youth Soccer League, not "soccer."

USE OF SCHOOL FACILITIES

Facilities Use Application FEE CLASSIFICATIONS

All charges are based on an amount sufficient to pay the cost to the district of salaries, supplies and utilities. Flat rate fees may be used for long-term or seasonal use.

Fee Classifications:

Class I: Free - Non-profit organizations, clubs, or associations organized to promote youth and school activities, i.e., school sponsored programs, including student body activities and meetings for P.T.A., Parent Booster Clubs, School Employee organizations, and School Advisory Councils, youth sports groups such as Little Leagues, Youth Soccer, Bobby Sox, Camp Fire, Scout Troops and affiliated organizations, Senior Citizens, YMCA and YWCA, etc..

Other groups requesting the use of school facilities under the Civic Center Act shall be charged at least direct costs, unless their net receipts are expended for the welfare of the youth of the district.

Exceptions:

If the presence of a school employee(s) is required beyond his/her normal work hours or duties, the User will be charged for those hours at the District's direct cost rate. (See Fee Schedules).

Any additional costs for use of facilities and/or staff above and beyond those specified in the Facilities Use Application, will be invoiced by the District within 60 days. Invoices are due and

payable at the time of receipt.

Class II: Direct Cost Fees

1. Services conducted by religious groups.
2. Charitable fund-raising activities which are not beneficial to youth or public school activities of the district.
3. Events sponsored by religious or community groups, except those which qualify for free use.
4. Public agencies.

Note: In lieu of direct costs, the district may enter into a written joint-powers agreement with local public agencies.

5. Activities not previously identified which do not fall within the free-use of fair-rental-value classifications.
6. The district may engage in long-term contracts, six months or more, with religious organizations. Those organizations shall be charged at least direct costs for use of school facilities.

Class III: Fair Market Value Rental Fees - Groups shall be charged fair rental value when using school facilities for entertainment or meetings where admission charged or contributions solicited and net receipts are not to be expended for charitable purposes or for the welfare of the district's students.

USE OF SCHOOL FACILITIES

Facilities Use Application CIVIC CENTER USE

Subject to district policies and regulations (BP/AR 1330), school facilities and groups shall be available to citizens and community groups as a civic center for the following purposes:

1. Public, literary, scientific, recreational, educational, or public agency meetings. (Ed. Code 38131)
2. The discussion of matters of general or public interest. (Ed. Code 38131)

3. The conduct of religious services for temporary periods, on a one-time or renewable basis, by any church or religious organization.
4. Child care programs to provide supervision and activities for children of preschool and elementary school age. (Ed. Code 38131)
5. The administration of examinations for the selection of personnel or the instruction of precinct Board members by public agencies. (Ed. Code 38131)
6. Supervised recreational activities. (Ed. Code 38131)
7. Mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare. (Ed. Code 38131)
8. Other purposes deemed appropriate by the Board. (Ed. Code 38131)

USE OF SCHOOL FACILITIES

Facilities Use Application FEE SCHEDULES

CLASS I: Facilities are available without charge to nonprofit organizations or groups that promote youth and school activities. Custodian charges will be assessed if the group uses the facility when a custodian is not normally on duty.

FACILITY FEES

CLASS II

DIRECT COST

CLASS III

FAIR MARKET VALUE

Gymnasium

\$ 42.00/Hr.

\$ 60.00/Hr.

Shower Room

\$ 20.00/Hr.

\$ 50.00/Hr.

Auditorium Wrestling Room

\$ 28.00/Hr.

\$113.00/Hr.

Multi-purpose Room/Cafeteria

\$ 29.00/Hr.

\$ 54.00/Hr.

Kitchen

\$ 20.00/Hr.
\$ 54.00/Hr.
Library
\$ 18.00/Hr.
\$ 42.00/Hr.
Classroom/Faculty Room
\$ 13.00/Hr.
\$ 35.00/Hr.
Fields/Track/Parking Lot*
\$ 10.00/Hr.
\$ 29.00/Hr.

*Parking lot charges only applicable to events taking place in the parking lot.

STAFF FEES: Custodian \$ 25.00/Hr.
 Food Service Staff \$ 22.50/Hr.

Â• Payment for all one-time or single use events must be received prior to the scheduled use. For multiple use groups, fees for the first use must be paid prior to the event and subsequent uses will be invoiced by the district.

Â• Additional charges for use of facility and/or staff beyond times specified in the Facilities Use Application will be invoiced by the District within 60 days.

Â• CANCELLATION POLICY: The District Office must be notified of cancellations one week prior to the event, or a \$50.00 cancellation fee will be charged.

Â• PAYMENT: Fees shall be paid to the Center Unified School District, Accounting Department, 8408 Watt Ave., Antelope, California 95843.

ExhibitCENTER UNIFIED SCHOOL DISTRICT
version: December 3, 2003 Antelope, California

FINANCIAL REPORTS AND ACCOUNTABILITY

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

The Governing Board is committed to ensuring public accountability and the fiscal health of the district. The Board shall adopt sound fiscal policies, oversee the district's financial condition, and continually evaluate whether the district's budget and financial operations support the district's goals for student achievement.

(cf. 3100 - Budget)

(cf. 3110 - Transfer of Funds)

(cf. 3300 - Expenditures and Purchases)

(cf. 3430 - Investing)

(cf. 4143/4243 - Negotiations/Consultation)

(cf. 9000 - Role of the Board)

Note: The following **optional** paragraph sets the Governing Board's expectation that the district's financial reports will adhere to generally accepted financial and accounting standards. The Governmental Accounting Standards Board (GASB) is a nonprofit agency that establishes financial and accounting standards for state and local government agencies, including school districts. By using the California Department of Education's (CDE) standardized account code structure (SACS) software to develop financial reports, the district will be assured of complying with generally accepted accounting principles prescribed by GASB and meeting other state and federal reporting guidelines.

The Superintendent or designee shall ensure that all financial reports are prepared in accordance with law and in conformity with generally accepted accounting principles and financial reporting standards stipulated by the Governmental Accounting Standards Board and the California Department of Education (CDE). He/she shall establish a system of ongoing internal controls to ensure the reliability of financial reporting.

(cf. 3400 - Management of District Assets/Accounts)

When required by law or the Board, the Superintendent or designee shall submit to the Board reports of the district's financial status, including, but not limited to, any report specified in this Board policy or accompanying administrative regulation. When any such report must be approved by the Board prior to its submission to a local, state, and/or federal agency, the Superintendent or designee shall provide the report to the Board in sufficient time to enable the Board to carefully review the report and meet any applicable submission deadline.

The Board shall regularly communicate the district's financial position to the public and shall use financial reports to determine what actions and budget amendments, if any, are needed to ensure the district's financial stability.

(cf. 1340 - Access to District Records)

FINANCIAL REPORTS AND ACCOUNTABILITY (continued)

Note: The Fiscal Crisis and Management Assistance Team (FCMAT), which advises districts on fiscal management and works with insolvent districts, has identified 15 predictors of fiscal distress common in districts needing state intervention. These conditions include a governance crisis; absence of communication to educational community; lack of interagency cooperation; failure to recognize year-to-year trends (e.g., declining enrollment or deficit spending); flawed projections for average daily attendance; failure to maintain reserves; insufficient consideration of long-term bargaining agreement effects; flawed multi-year projections; inaccurate revenue and expenditure estimations; poor cash flow analysis and reconciliation; bargaining agreements beyond state cost-of-living adjustment; no integration of employee position control with payroll; limited access to timely personnel, payroll, and budget control data and reports; escalating general fund encroachment; and lack of regular monitoring of categorical programs. See FCMAT's Fiscal Oversight Guide for further information.

When the County Superintendent of Schools reviews the district's budget (see AR 3100 - Budget), he/she is required by Education Code 42127 and 42127.6 to consider whether more than three of these predictors are present. If so, or if the district is showing fiscal distress under state criteria and standards for budgets or interim reports, as specified in 5 CCR 15440-15451 and 15453-15464, the County Superintendent must investigate whether the district may be unable to meet its financial obligations for the current or two subsequent fiscal years.

If district conditions predict fiscal distress or indicate that the district might not be able to meet its fiscal obligations, the Board and Superintendent or designee shall act quickly to identify and resolve these conditions. The Board shall work cooperatively with the County Superintendent of Schools to improve the district's fiscal health and may contract with an external individual or organization to advise the district on fiscal matters.

Note: When a district is fiscally insolvent and is considering applying to the state for an emergency apportionment that exceeds 200 percent of the recommended reserve for that district, Education Code 41326 requires the Board to first discuss the need for that apportionment at a regular or special meeting. At that meeting, the Board must receive testimony from parents/guardians, exclusive representatives of employees, and other community members. If the district receives such an apportionment, it is subject to the conditions set forth in Education Code 41326, including assumption of all the Board's legal rights, duties, and powers by a state-appointed administrator.

Unaudited Actual Receipts and Expenditures

On or before September 15, the Board shall approve and file with the County Superintendent a statement of the district's unaudited actual receipts and expenditures for the preceding fiscal year. The Superintendent or designee shall prepare this statement using the state's standardized account code structure (SACS) as prescribed by the Superintendent of Public Instruction (SPI). (Education Code 42100)

Gann Appropriations Limit Resolution

On or before September 15, the Board shall adopt a resolution identifying, pursuant to Government Code 7900-7914, the district's estimated appropriations limit for the current fiscal year and the actual appropriations limit for the preceding fiscal year. Documentation

FINANCIAL REPORTS AND ACCOUNTABILITY (continued)

used to identify these limits shall be made available to the public on the day of the Board meeting. (Education Code 42132; Government Code 7910)

(cf. 9322 - Agenda/Meeting Materials)

Interim Reports/Certification of Ability to Meet Fiscal Obligations

Note: Education Code 42130 requires that the district issue two interim fiscal reports, as described below, based on the criteria and standards adopted by the State Board of Education (SBE) pursuant to Education Code 33127. These criteria and standards are delineated in 5 CCR 15453-15464. See the accompanying administrative regulation for further information about the contents of the interim reports.

The Superintendent or designee shall submit two interim fiscal reports to the Board, the first report covering the district's financial and budgetary status for the period ending October 31 and the second report covering the period ending January 31. The reports and supporting data shall be made available by the district for public review. (Education Code 42130)

Within 45 days after the close of the period reported, the Board shall approve the interim report and certify, on the basis of the interim report and any additional financial information known by the Board, whether the district will be able to meet its fiscal obligations for the remainder of the fiscal year and, based on current forecasts, for the two subsequent fiscal years. The certification shall be classified as one of the following: (Education Code 42130, 42131)

1. "Positive certification" indicating that the district will meet its financial obligations for the current fiscal year and two subsequent fiscal years
2. "Qualified certification" indicating that the district may not meet its financial obligations for the current fiscal year or two subsequent fiscal years
3. "Negative certification" indicating that the district will be unable to meet its financial obligations for the remainder of the fiscal year or the subsequent fiscal year

Note: Education Code 42130 and 42131 require that the interim report and certification be submitted to the County Superintendent in a format or on forms prescribed by the Superintendent of Public Instruction (SPI). The CDE requires that these be reported using the SACS software. Pursuant to Education Code 42131, upon receiving the certification, the County Superintendent is required to send any qualified or negative certification, along with the interim report, to the State Controller and the SPI.

The Superintendent or designee shall submit a copy of each interim report and certification to the County Superintendent using the state's SACS software, as prescribed by the SPI. (Education Code 42130, 42131)

FINANCIAL REPORTS AND ACCOUNTABILITY (continued)

Note: Education Code 42131 gives the County Superintendent 75 days after the close of the reporting period to change the district's positive certification to qualified or negative or, as amended by AB 2662 (Ch. 589, Statutes of 2012), to change the district's qualified certification to negative. Districts may appeal the County Superintendent's determination to the SPI, who will then determine the certification to be given to the district.

If the district's certification is subsequently changed by the County Superintendent from a positive to a qualified or negative certification, or from a qualified to a negative certification, the Board may appeal the decision to the SPI within five days of receiving the notice of change. (Education Code 42131)

Note: Whenever the district receives a qualified or negative certification, Education Code 42131 requires the County Superintendent, within 75 days after the close of the reporting period, to submit his/her comments on the certification to the State Controller and the SPI and report any remedial action proposed or taken under the authority granted to the County Superintendent by Education Code 42127.6. Pursuant to Education Code 42127.6, the County Superintendent is required to take one or more of the following actions: (1) assign a fiscal expert to advise the district on its financial problems; (2) conduct a study of the financial and budgetary conditions of the district including, but not limited to, a review of internal controls; (3) direct the district to submit a financial projection of all fund and cash balances as of June 30 of the current year and subsequent fiscal years; (4) require the district to encumber all contracts and other obligations, prepare appropriate cash flow analyses and monthly or quarterly budget revisions, and appropriately record all receivables and payables; (5) direct the district to submit a proposal for addressing the fiscal conditions that caused the negative or qualified certification; (6) withhold the Board stipend and Superintendent compensation if requested financial information is not provided; and/or (7) assign FCMAT to review and provide recommendations to improve the district's teacher hiring process, teacher retention rate, extent of teacher misassignment, and provision of highly qualified teachers. Education Code 42131 also authorizes the State Controller to conduct an audit or review of the financial condition of any district having a negative or qualified certification.

Pursuant to Education Code 42652, a district that receives a qualified or negative certification also may lose the County Superintendent's or SPI's approval to draw warrants on the county treasury. Furthermore, pursuant to Education Code 42133, a district that receives a qualified or negative certification must have the County Superintendent's approval before issuing any certificates of participation, tax anticipation notes, revenue bonds, or other non-voter-approved debt (see section entitled "Non-Voter-Approved Debt Report" in the accompanying administrative regulation).

Whenever a district with a qualified or negative certification is negotiating a collective bargaining agreement, it must allow the County Superintendent 10 working days to review and comment on the proposed collective bargaining agreement pursuant to Government Code 3540.2; see BP 4143/4243 - Negotiations/Consultation.

Whenever the district receives a qualified or negative certification from the Board or the County Superintendent, the Superintendent or designee shall cooperate in the implementation of any remedial actions taken or prescribed by the County Superintendent under the authority granted to him/her pursuant to Education Code 42131.

Note: Whenever the district's second interim report is accompanied by a qualified or negative certification, the district must submit another financial statement by June 1 as described below; this report is sometimes referred to as the "third interim report."

FINANCIAL REPORTS AND ACCOUNTABILITY (continued)

If the second interim report is accompanied by a qualified or negative certification, the Board shall, no later than June 1, provide to the County Superintendent, the State Controller, and the SPI a financial statement as of April 30 ("third interim report") that projects the district's fund and cash balances through June 30. (Education Code 42131)

Note: Education Code 42637 authorizes the County Superintendent, at any time during the fiscal year if he/she concludes that the district's budget does not comply with criteria and standards adopted by the SBE, to conduct a comprehensive review of the financial and budgetary conditions of the district and report his/her findings to the Board at a public meeting. According to FCMAT's Fiscal Oversight Guide, this provision of the law requires the County Superintendent to exercise this authority when the district receives a negative certification and authorizes him/her to do so when the district receives a qualified certification. After receiving such a report, the Board must respond to the recommendations within 15 days.

At any time during the year when the County Superintendent conducts a comprehensive review of the district's financial and budgetary conditions after he/she has determined that the district's budget does not comply with state criteria and standards for fiscal stability, the Board shall review the County Superintendent's recommendations at a public Board meeting. Within 15 days of receiving the report, the district shall notify the County Superintendent and the SPI of its proposed actions on the recommendation. (Education Code 42637)

Audit Report

Note: Pursuant to Education Code 41020, the Board must, no later than May 1 of each year, arrange for an audit of all the district's funds. However, if the Board has not provided for an audit by April 1, the County Superintendent must do so at the district's cost. Thus, the paragraph below reflects the April 1 deadline.

Pursuant to Education Code 41020, if the district has a disapproved budget, has received a negative certification on any budget or interim fiscal report during the current fiscal year or either of the two preceding fiscal years, or has otherwise been determined by the County Superintendent to have a lack of going concern, any contract the district enters into for auditing services must be approved by the County Superintendent.

By April 1 of each year, the Board shall provide for an annual audit of the district's books and accounts. (Education Code 41020)

Note: Education Code 41020 requires the Board to select an auditor from a directory of certified public accountants and public accountants deemed by the State Controller as qualified to conduct audits of local education agencies. The State Controller is required to publish this directory by December 31 of each year.

In addition, Education Code 41020.5 prohibits the Board from employing any accountant identified by the State Controller as ineligible based on failure of past audits to comply with provisions of the K-12 annual audit guide. The State Controller will annually notify districts of ineligible accountants by March 1.

To conduct the audit, the Board shall select a certified public accountant or public accountant licensed by the State Board of Accountancy from among those deemed qualified by the State Controller. (Education Code 41020, 41020.5)

FINANCIAL REPORTS AND ACCOUNTABILITY (continued)

Note: Education Code 41020 requires that districts rotate auditors as specified below. However, the district may request that the Education Audit Appeals Panel waive this requirement if no otherwise eligible auditor is available to perform the audit.

The Board shall not select any public accounting firm to provide audit services if the lead or coordinating audit partner having primary responsibility for the audit, or the audit partner responsible for reviewing the audit, has performed audit services for the district in each of the six previous fiscal years. (Education Code 41020)

Note: Education Code 41020.3 requires the Board to review the audit report at an open meeting by January 31 of each year. However, Education Code 41020 requires that the audit report be filed with the County Superintendent, CDE, and State Controller no later than December 15. Thus, CSBA's publication Maximizing School Board Governance: Fiscal Accountability recommends that the Board conduct its review of the audit prior to December 15 whenever possible.

No later than December 15, the report of the audit for the preceding fiscal year shall be filed with the County Superintendent, the CDE, and the State Controller. (Education Code 41020)

Prior to December 15 whenever possible, but in no case later than January 31, the Board shall review, at an open meeting, the annual district audit for the prior year, any audit exceptions identified in that audit, the recommendations or findings of any management letter issued by the auditor, and any description of correction or plans to correct any exceptions or any issue raised in a management letter. (Education Code 41020.3)

The Board shall have an opportunity at the meeting to ask questions of the auditor and request further information about the audit findings.

Audit Committee

Note: The following optional section may be revised to reflect district practice. Although it is the responsibility of district staff to prepare financial statements and the responsibility of the independent auditor to assure that the information in the statements is reliable and fairly presented, establishment of an audit committee provides an additional mechanism to ensure fiscal responsibility, as well as providing an opportunity for community participation. Committees established by Board action are subject to the Brown Act; see BP/AR 1220 - Citizen Advisory Committees and BB 9130 - Board Committees.

The Board may appoint an audit committee composed of staff knowledgeable about fiscal matters, other staff, and representatives of the community.

(cf. 1220 - Citizen Advisory Committees)

(cf. 9130 - Board Committees)

(cf. 9140 - Board Representatives)

FINANCIAL REPORTS AND ACCOUNTABILITY (continued)

The committee shall serve in an advisory capacity and may:

1. Make recommendations regarding the selection of the external independent auditor in accordance with Education Code 41020 and 41020.5
2. Review the plan for the audit process with the independent auditor to determine the adequacy of the nature, scope, and timetable of the audit
3. Review the results of the audit and participate with the independent auditor and management in preparing final recommendations and responses
4. Participate with the independent auditor in presenting the audit report to the Board
5. Review Board policies and administrative regulations to recommend any revisions needed to ensure effective financial reporting
6. Provide input on the effectiveness of the independent auditor
7. Periodically report to the Board regarding the status of previous audit recommendations for improving the accounting and internal control systems

Legal Reference: (see next page)

FINANCIAL REPORTS AND ACCOUNTABILITY (continued)

Legal Reference:

EDUCATION CODE

1240 Duties of county superintendent of schools
14500-14508 Financial and compliance audits
17150-17150.1 Public disclosure of non-voter-approved debt
17170-17199.5 California School Finance Authority
33127 Standards and criteria for local budgets and expenditures
33128 Standards and criteria; inclusions
33129 Standards and criteria; use by local agencies
35035 Powers and duties of superintendent
41010-41023 Accounting system
41326 Emergency apportionment
41344 Repayment of apportionment significant audit exceptions
41344.1 Appeals of audit findings
41455 Examination of financial problems of local districts
42100-42105 Requirement to prepare and file annual statement
42120-42129 Budget requirements
42130-42134 Financial reports and certifications
42140-42142 Public disclosure of fiscal obligations
42637 County superintendent review of district's financial and budgetary conditions
42652 Revocation or suspension of warrant authority
48300-48316 Student attendance alternatives

GOVERNMENT CODE

3540.2 School district; qualified or negative certification; proposed agreement review and comment
7900-7914 Appropriations limit
16429.1 Local agency investment fund
53646 Reports of investment policy and compliance

CODE OF REGULATIONS, TITLE 5

15060 Standardized account code structure
15070 Submission of reports using standardized account code structure
15440-15451 Criteria and standards for school district budgets
15453-15464 Criteria and standards for school district interim reports
19810-19816.1 Audits

UNITED STATES CODE, TITLE 31

7501- 7507 Single audits of federal program funds

Management Resources:

CSBA PUBLICATIONS

Maximizing School Board Governance: Fiscal Accountability, 2006

CALIFORNIA DEPARTMENT OF EDUCATION COMMUNICATIONS

New Financial Reporting Requirements for Postemployment Benefits Other than Pensions, February 26, 2007

Audit Resolution Process: Repayment Plans, December 8, 2000

FISCAL CRISIS AND MANAGEMENT ASSISTANCE TEAM PUBLICATIONS

Fiscal Oversight Guide for AB 1200, AB 2756 and Subsequent Related Legislation, September 2006

GOVERNMENTAL ACCOUNTING STANDARDS BOARD STATEMENTS

Statement 54, Fund Balance Reporting and Governmental Fund Type Definitions, March 2009

FINANCIAL REPORTS AND ACCOUNTABILITY (continued)

Management Resources: (continued)

GOVERNMENTAL ACCOUNTING STANDARDS BOARD STATEMENTS (continued)

Statement 45, Accounting and Financial Reporting by Employers for Post-employment Benefits Other Than Pensions, June 2004

Statement 34, Basic Financial Statements and Management's Discussion and Analysis - For State and Local Governments, June 1999

STATE CONTROLLER PUBLICATIONS

Standards and Procedures for Audits of California K-12 Local Educational Agencies (annual publication)

U.S. GOVERNMENT ACCOUNTABILITY OFFICE AND PRESIDENT'S COUNCIL ON INTEGRITY AND EFFICIENCY (PCIE) PUBLICATIONS

Government Auditing Standards, 2011

Financial Audit Manual, revised 2008

U.S. OFFICE OF MANAGEMENT AND BUDGET CIRCULARS

A-133 Audits of States, Local Governments, and Non-Profit Organizations

WEB SITES

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

California Association of School Business Officials: <http://www.casbo.org>

California County Superintendents Educational Services Association: <http://www.ccsesa.org>

California Department of Education, Finance and Grants: <http://www.cde.ca.gov/fg>

Education Audit Appeals Panel: <http://www.eaap.ca.gov>

Fiscal Crisis and Management Assistance Team: <http://www.fcmat.org>

Governmental Accounting Standards Board: <http://www.gasb.org>

School Services of California: <http://www.sscal.com>

State Controller's Office: <http://www.sco.ca.gov>

U.S. Government Accountability Office: <http://www.gao.gov>

U.S. Office of Management and Budget: <http://www.whitehouse.gov/omb>

Center USD

Board Policy

Financial Reports And Accountability

BP 3460

Business and Noninstructional Operations

The Governing Board is committed to ensuring the fiscal health of the district and providing public accountability. The Board shall adopt sound fiscal policies, oversee the district's financial condition, and continually evaluate whether the district's budget and financial operations support the district's goals for student achievement.

(cf. 3100 - Budget)

(cf. 3110 - Transfer of Funds)

(cf. 3300 - Expenditures and Purchases)

(cf. 3430 - Investing)

(cf. 4143/4243 - Negotiations/Consultation)

(cf. 9000 - Role of the Board)

The Superintendent or designee shall provide the Board with financial reports throughout the year in accordance with law and as otherwise requested by the Board.

The Superintendent or designee shall ensure that all financial reports are prepared in accordance with law and in conformity with generally accepted accounting principles and financial reporting standards stipulated by the Governmental Accounting Standards Board and the California Department of Education. He/she shall establish a system of ongoing internal controls to ensure the reliability of financial reporting.

(cf. 3400 - Management of District Assets/Accounts)

Based on financial reports provided by the Superintendent or designee and in accordance with law and administrative regulation, the Board shall:

1. Approve and file an annual statement of the district's receipts and expenditures for the preceding fiscal year (Education Code 42100)
2. Adopt a resolution identifying the district's estimated appropriations limit for the current fiscal year and the actual appropriations limit for the preceding fiscal year (Education Code 42132; Government Code 7910)
3. Approve interim fiscal reports and certify whether the district will be able to meet its fiscal obligations for the remainder of the fiscal year and two subsequent fiscal years (Education Code 42130, 42131)

4. Provide for an annual audit, select an independent auditor, and review the audit report (Education Code 41020, 41020.3)

The independent auditor shall present the audit report to the Board at a public meeting and the Board shall have an opportunity to ask questions of the auditor and request further information about the audit findings.

The Board shall regularly communicate the district's financial position to the public and shall use financial reports to determine what actions and budget amendments, if any, are needed to ensure the district's financial stability.

If district conditions predict fiscal distress or indicate that the district might not be able to meet its fiscal obligations, the Board and Superintendent or designee shall act quickly to identify and resolve these conditions. The Board shall work cooperatively with the County Superintendent of Schools to improve the district's fiscal health and may contract with an external individual or organization to advise the district on fiscal matters.

Audit Committee

The Board may appoint an audit committee composed of staff knowledgeable about fiscal matters, other staff, and representatives of the community.

(cf. 1220 - Citizen Advisory Committees)

(cf. 9130 - Board Committees)

(cf. 9140 - Board Representatives)

The committee shall serve in an advisory capacity and may:

1. Make recommendations regarding the selection of the external independent auditor in accordance with Education Code 41020 and 41020.5
2. Review the plan for the audit process with the independent auditor to determine the adequacy of the nature, scope, and timetable of the audit
3. Review the results of the audit and participate with the independent auditor and management in preparing final recommendations and responses
4. Participate with the independent auditor in presenting the audit report to the Board
5. Review Board policies and administrative regulations to recommend any revisions needed to ensure effective financial reporting
6. Provide input on the effectiveness of the independent auditor
7. Periodically report to the Board regarding the status of previous audit recommendations for improving the accounting and internal control systems

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15453-15464 Criteria and standards for school district interim reports
19810-19816.1 Audits

Management Resources:

CSBA PUBLICATIONS

Maximizing School Board Governance: Fiscal Accountability, 2006

CALIFORNIA DEPARTMENT OF EDUCATION COMMUNICATIONS

New Financial Reporting Requirements for Postemployment Benefits Other than Pensions,
February 26, 2007

1208.00 Audit Resolution Process: Repayment Plans

FISCAL CRISIS AND MANAGEMENT ASSISTANCE TEAM PUBLICATIONS

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U.S. GENERAL ACCOUNTING OFFICE AND PRESIDENT'S COUNCIL ON INTEGRITY AND EFFICIENCY (PCIE) PUBLICATIONS

Financial Audit Manual, revised 2003

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Fiscal Crisis and Management Assistance Team: <http://www.fcmat.org>

Governmental Accounting Standards Board: <http://www.gasb.org>

School Services of California: <http://www.sscal.com>

State Controller's Office: <http://www.sco.ca.gov>

U.S. Government Accounting Office: <http://www.gao.gov>

U.S. Office of Management and Budget: <http://www.whitehouse.gov/omb>

Policy CENTER UNIFIED SCHOOL DISTRICT

adopted: April 1, 2009 Antelope, California

FINANCIAL REPORTS AND ACCOUNTABILITY

Interim Reports

Note: Education Code 42130 requires that the district issue two interim fiscal reports; see the accompanying Board policy. The reports must be based on the criteria and standards adopted by the State Board of Education (SBE) pursuant to Education Code 33127. These criteria and standards are delineated in 5 CCR 15453-15464 and address the areas listed below.

Pursuant to 5 CCR 15455, one of the criteria is the maintenance of a general fund reserve for economic uncertainty; also see BP 3100 - Budget. By the 2013-14 fiscal year, the district is required to comply with the minimum reserve specified in 5 CCR 15455 applicable to its average daily attendance, which had been temporarily reduced to one-third of that amount beginning in the 2009-10 fiscal year pursuant to Education Code 33128.3.

Each interim fiscal report developed pursuant to Education Code 42130 shall include an assessment of the district budget as revised to reflect current information regarding the adopted state budget, district property tax revenues, if any, and ending balances for the preceding fiscal year. The report shall be based on State Board of Education (SBE) criteria and standards which address fund and cash balances, reserves, deficit spending, estimation of average daily attendance (ADA), projected enrollment, ratio of ADA to enrollment, projected revenue limit, salaries and benefits, other revenues and expenditures, and facilities maintenance. (Education Code 33128.3, 42130; 5 CCR 15453-15464)

The report shall also provide supplemental information regarding contingent liabilities, use of one-time revenues for ongoing expenditures, contingent revenues, contributions (i.e., projected contributions from unrestricted general fund resources to restricted general fund resources, projected transfers to or from the general fund to cover operating deficits in the general fund or any other fund, and capital project cost overruns that may impact the general fund budget), long-term commitments, unfunded liabilities, temporary interfund borrowings, the status of labor agreements, and the status of other funds. (Education Code 42130; 5 CCR 15453, 15464)

(cf. 3100 - Budget)

(cf. 3111 - Deferred Maintenance Funds)

(cf. 3220.1 - Lottery Funds)

(cf. 3300 - Expenditures and Purchases)

(cf. 3314 - Payment for Goods and Services)

Audit Report

Note: Pursuant to Education Code 41020, each year the district is required to arrange for an independent audit of all the district's funds. The audit must be approved by the Governing Board and submitted to the County Superintendent of Schools, California Department of Education (CDE), and State Controller within specified timelines. See the accompanying Board policy.

The Superintendent or designee shall establish a timetable for the completion and review of the audit within the deadlines established by law.

FINANCIAL REPORTS AND ACCOUNTABILITY (continued)

Note: The following paragraph is **optional**. The Governmental Accounting Standards Board (GASB) Statement 34 contains requirements for the contents of the district's annual audited financial reports.

The Superintendent or designee shall provide the necessary financial records and cooperate with the auditor selected by the Governing Board to ensure that the audit report contains all information required by law and the Governmental Accounting Standards Board (GASB).

The audit shall include an audit of income and expenditures by source of funds for all funds of the district, including the student body and cafeteria funds and accounts and any other funds under the control or jurisdiction of the district, as well as an audit of student attendance procedures. (Education Code 41020)

(cf. 3430 - Investing)

(cf. 3451 - Petty Cash Funds)

(cf. 3452 - Student Activity Funds)

(cf. 3551 - Food Service Operations/Cafeteria Fund)

Note: The following **optional** paragraph is for use by districts that elect to participate in the school district of choice program (Education Code 48300-48316); see Option 2 in BP/AR 5117 - Interdistrict Attendance. Pursuant to Education Code 48301, any district that elects to participate in the school district of choice program must ensure that its annual financial audit includes a review of the district's compliance with program requirements to establish a random, unbiased process for student admittance and to provide appropriate and factually accurate parent/guardian communications. A summary of any audit exceptions found by the auditor must be included in reports to each geographically adjacent school district, the county office of education, CDE, and Department of Finance as required by Education Code 48313.

If the district participates in the school district of choice program to accept interdistrict transfers, the Superintendent or designee shall notify the auditor, prior to the commencement of the audit, that the audit must include a review of the district's compliance with specified program requirements. (Education Code 48301)

(cf. 5117 - Interdistrict Attendance)

Note: Pursuant to 31 USC 7502, Office of Management and Budget (OMB) Circular A-133, and subsequent compliance supplements, whenever the district expends \$500,000 or more in federal funds during a fiscal year, its audit of federal funds must be submitted to the federal audit clearinghouse designated by the OMB within the timelines specified below. Although submission of the report is often done by the auditor, it is the district's responsibility to ensure that it is submitted on time.

When required by federal law, specified records pertaining to the audit of federal funds received and expended by the district shall be transmitted to the federal clearinghouse designated by the federal Office of Management and Budget and shall be made available for public inspection. Such records shall be transmitted within 30 days after receipt of the auditor's report or within nine months after the end of the fiscal year, whichever is sooner, unless a longer period is agreed to in advance by the federal agency or a different period is specified in a program-specific audit guide. (31 USC 7502)

FINANCIAL REPORTS AND ACCOUNTABILITY (continued)

Note: Pursuant to Education Code 41344 and 41344.1, the district may informally or formally appeal an audit finding to the Education Audit Appeals Panel (EAAP) within the timelines noted below, when the audit finding requires the district to repay an apportionment or pay a penalty. If it finds that there has been substantial compliance with the law, the EAAP may waive or reduce repayments or order other remedial measures to induce future compliance.

If an audit finding results in the district being required to repay an apportionment or pay a penalty, the district may appeal the finding to the Education Audit Appeals Panel by making an informal summary appeal within 30 days of receiving the final audit report or initiating a formal appeal within 60 days of receiving the report. (Education Code 41344, 41344.1)

While a public accounting firm is performing the audit of the district, it shall not provide any nonauditing, management, or other consulting services for the district except as provided in Government Auditing Standards, Amendment #3, published by the U.S. Government Accountability Office. (Education Code 41020)

Fund Balance

Note: The following optional section reflects the provisions of GASB Statement 54, which addresses the manner in which fund balances in the general fund must be reported in external financial reports. Pursuant to GASB 54, the Board has sole authority to specify purposes of committed funds (item #3 below) and also must express, or delegate the authority to express, intended purposes of resources resulting in the assigned fund balance (item #4 below); see BP 3100 - Budget.

In accordance with GASB Statement 54, external financial reports shall report fund balances in the general fund within the following classifications based on the relative strength of constraints placed on the purposes for which resources can be used:

1. Nonspendable fund balance, including amounts that are not expected to be converted to cash, such as resources that are not in a spendable form or are legally or contractually required to be maintained intact
2. Restricted fund balance, including amounts constrained to specific purposes by their providers or by law
3. Committed fund balance, including amounts constrained to specific purposes by the Board
4. Assigned fund balance, including amounts which the Board or its designee intends to use for a specific purpose
5. Unassigned fund balance, including amounts that are available for any purpose

FINANCIAL REPORTS AND ACCOUNTABILITY (continued)

Negative Balance Report

Note: When applicable, Education Code 42127.5 requires districts to report the reasons for a negative unrestricted fund balance or negative cash balance. "Unrestricted funds" are any funds that are not constrained by law to be spent on specific purposes and which therefore may be spent as the Board deems appropriate. Such funds may be reported in the committed fund balance, assigned fund balance, or unassigned fund balance as provided in items #3-5 in the section "Fund Balance" above.

Whenever the district reports a negative unrestricted fund balance or a negative cash balance in its annual budget or annual audit report, it shall include in the budget a statement that identifies the reasons for the negative unrestricted fund balance or negative cash balance and the steps that have been taken to ensure that the negative balance will not occur at the end of the current fiscal year. (Education Code 42127.5)

Non-Voter-Approved Debt Report

Note: The following section addresses notices regarding the issuance of revenue bonds, certificates of participation, and other non-voter-approved debts. Pursuant to Education Code 17150 and 17150.1, the County Superintendent and County Auditor may, within 15 days of receiving these notices from the district, comment publicly to the Board regarding the capability of the district to repay the debt obligation.

Pursuant to Education Code 42133, a district that has a qualified or negative certification in any fiscal year cannot issue non-voter-approved debt in that fiscal year or in the next fiscal year unless the County Superintendent determines that the district's repayment of the debt is probable.

Upon approval by the Board to proceed with the issuance of revenue bonds or any agreement for financing school construction pursuant to Education Code 17170-17199.5, the Superintendent or designee shall notify the County Superintendent of Schools and the county auditor. The Superintendent or designee shall provide the Board, the County Auditor, the County Superintendent, and the public with related repayment schedules and evidence of the district's ability to repay the obligation. (Education Code 17150)

(cf. 7214 - General Obligation Bonds)

When the Board is considering the issuance of certificates of participation and other debt instruments that are secured by real property and do not require the approval of the voters of the district, the Superintendent or designee shall provide notice to the County Superintendent and County Auditor no later than 30 days before the Board's approval to proceed with issuance. The Superintendent or designee shall provide the Board, the County Auditor, the County Superintendent, and the public with information necessary to assess the anticipated effect of the debt issuance, including related repayment schedules, evidence of the district's ability to repay the obligation, and the issuance costs. (Education Code 17150.1)

FINANCIAL REPORTS AND ACCOUNTABILITY (continued)**Other Postemployment Benefits Report (GASB 45)**

Note: GASB Statement 45 contains reporting requirements pertaining to "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). Under GASB 45, the district must report OPEBs as a current expense during the working years of an employee, calculated by an actuary using one of six specified actuarial cost methods. In addition, to the extent that the OPEBs are not prefunded in a designated fund or irrevocable trust, they must be reported as a liability on the district's financial statements. The decision of whether to prefund the benefits, and by how much, is at the Board's discretion; see BP 3100 - Budget.

The SBE's criteria and standards for budget adoption (5 CCR 15440-15451) require districts to estimate unfunded OPEBs as well as the unfunded portion of any self-insured benefits program. Changes to the unfunded liabilities are disclosed at interim reporting periods (5 CCR 15453, 15464). These reports are included in the state's standardized account code structure software used to develop budget and interim reports.

CSBA's GASB 45 Solutions program provides access to qualified actuaries and consultants and a GASB 45-compliant trust to prefund future obligations. See CSBA's web site for further information.

The following optional section may be revised to reflect district practice and should be deleted by districts that do not provide OPEBs.

In accordance with GASB Statement 45, the district's financial statements shall report the annual expense of nonpension other postemployment benefits (OPEBs) on an accrual basis over retirees' active working lifetime, as determined by a qualified actuary procured by the Superintendent or designee. To the extent that these OPEBs are not prefunded, the district shall report a liability on its financial statements.

(cf. 4154/4254/4354 - *Health and Welfare Benefits*)
(cf. 9250 - *Remuneration, Reimbursement and Other Benefits*)

The Superintendent or designee shall annually present the estimated accrued but unfunded cost of OPEBs and the actuarial report upon which those costs are based at a public meeting of the Board. (Education Code 42140)

Note: Pursuant to GASB 45, the district must arrange for an actuary to update the valuation of its OPEB obligations either every two years (for OPEB plans with a total membership of 200 or more) or every three years (for OPEB plans with fewer than 200 members). CDE correspondence dated February 26, 2007 indicates that districts with fewer than 100 plan members may use an alternative method that does not require the services of an actuary. The district may revise the following paragraph to reflect the district's circumstances.

The amount of the district's financial obligation for OPEBs shall be reevaluated every two or three years in accordance with GASB 45 depending on the number of members in the OPEB plan.

FINANCIAL REPORTS AND ACCOUNTABILITY (continued)

Workers' Compensation Claims Report

Note: The following optional section is for use by districts that are self-insured for workers' compensation claims, either individually or as part of a joint powers agency. See BP 3100 - Budget for provisions related to funding the estimated accrued cost of workers' compensation claims.

The Superintendent or designee shall annually provide the Board, at a public meeting, information and related actuarial reports showing the estimated accrued but unfunded cost of workers' compensation claims. The estimate of costs shall be based on an actuarial report completed at least every three years by a qualified actuary. (Education Code 42141)

Center USD

Administrative Regulation

Financial Reports And Accountability

AR 3460

Business and Noninstructional Operations

Unaudited Actual Receipts and Expenditures

The Superintendent or designee shall prepare a statement of all unaudited actual receipts and expenditures of the district for the preceding fiscal year, using the state's standardized account code structure (SACS) as prescribed by the Superintendent of Public Instruction (SPI). On or before September 15, the Governing Board shall approve this statement and file it with the County Superintendent of Schools. (Education Code 42100)

Gann Appropriations Limit Resolution

The Board shall adopt a resolution on or before September 15 of each year to identify, pursuant to Government Code 7900-7914, the estimated appropriations limit for the district for the current fiscal year and the actual appropriations limit of the district during the preceding year. Documentation used to identify these limits shall be made available to the public on the day of the Board meeting. (Education Code 42132; Government Code 7910)

Interim Reports

The Superintendent or designee shall submit two interim fiscal reports to the Board, the first report covering the district's financial and budgetary status for the period ending October 31 and the second report covering the period ending January 31. The reports and supporting data shall be made available by the district for public review. (Education Code 42130)

(cf. 1340 - Access to District Records)

Each interim report shall include an assessment of the district budget as revised to reflect current information regarding the adopted state budget, district property tax revenues, if any, and ending balances for the preceding fiscal year. The report shall be based on criteria and standards adopted by the State Board of Education (SBE) which address fund and cash balances, reserves, deficit spending, estimation of average daily attendance (ADA), projected enrollment, ratio of ADA to enrollment, projected revenue limit, salaries and benefits, other revenues and expenditures, and facilities maintenance. The report shall also provide supplemental information regarding contingent liabilities, use of one-time revenues for ongoing expenditures, contingent revenues, contributions, long-term commitments, unfunded liabilities, temporary interfund borrowings, the status of labor agreements, and the status of other funds. (Education Code 33128.3, 42130, 42131; 5 CCR 15453-15466)

Within 45 days after the close of the period reported, the Board shall approve the interim fiscal report and certify, on the basis of the interim report and any additional financial information known by the Board to exist at the time of certification, whether the district is able to meet its financial obligations for the remainder of the fiscal year and, based on current forecasts, for the subsequent fiscal year. The certification shall be classified as one of the following: (Education Code 42130, 42131)

1. "Positive certification" indicating that the district will meet its financial obligations for the current fiscal year and two subsequent fiscal years
2. "Qualified certification" indicating that the district may not meet its financial obligations for the current fiscal year or two subsequent fiscal years
3. "Negative certification" indicating that the district will be unable to meet its financial obligations for the remainder of the fiscal year or the subsequent fiscal year

The Superintendent or designee shall submit a copy of the interim report and certification to the County Superintendent using the state's SACS software, as prescribed by the SPI. (Education Code 42130, 42131)

If the district submits a positive certification that is subsequently changed by the County Superintendent to a qualified or negative certification, the district may appeal the decision to the SPI within five days of receiving the notice of change. (Education Code 42131)

Whenever the district receives a qualified or negative certification as determined by the Board or the County Superintendent, the Superintendent or designee shall cooperate in the implementation of any remedial actions taken by the County Superintendent under the authority granted to him/her pursuant to Education Code 42131.

Whenever the County Superintendent conducts a comprehensive review of the district's financial and budgetary conditions after determining that the district's budget does not comply with SBE-adopted criteria and standards for fiscal stability, the Board shall review the County Superintendent's recommendations at a public Board meeting. Within 15 days of receiving the report, the district shall notify the County Superintendent and the SPI of its proposed actions on the recommendations. (Education Code 42637)

If the second interim report of the fiscal year is accompanied by a qualified or negative certification as determined by the Board or the County Superintendent, the Superintendent or designee shall, no later than June 1, provide to the County Superintendent, the State Controller, and the SPI a financial statement that reports data for the period ending April 30 and projects the district's fund and cash balances as of June 30. (Education Code 42131)

Audit Report

By April 1 of each year, the Board shall provide for an audit of the district's books and accounts or the County Superintendent shall make arrangements to provide for that audit. (Education Code

41020)

The Superintendent or designee shall establish a timetable for the completion and review of the audit within the deadlines established by law.

To conduct the audit, the Board shall select a certified public accountant or public accountant licensed by the State Board of Accountancy from among those deemed qualified by the State Controller. (Education Code 41020, 41020.5)

The Board shall not select any public accounting firm to provide audit services if the lead or coordinating audit partner having primary responsibility for the audit, or the audit partner responsible for reviewing the audit, has performed audit services for the district in each of the six previous fiscal years. (Education Code 41020)

While a public accounting firm is performing the audit of the district, it shall not provide any nonauditing, management, or other consulting services for the district except as provided in Government Accounting Standards, Amendment #3, published by the U.S. Government Accounting Office. (Education Code 41020)

The audit shall include an audit of income and expenditures by source of funds for all funds of the district, including the student body and cafeteria funds and accounts and any other funds under the control or jurisdiction of the district, as well as an audit of student attendance procedures. (Education Code 41020)

(cf. 3430 - Investing)

(cf. 3451 - Petty Cash Funds)

(cf. 3452 - Student Activity Funds)

(cf. 3551 - Food Service Operations/Cafeteria Fund)

The Superintendent or designee shall cooperate with the auditor to provide the necessary financial records and to ensure that the audit report contains all information required by law and the Governmental Accounting Standards Board (GASB).

By January 31 of each year, the Board shall review, at an open meeting, the annual district audit for the prior year, any audit exceptions identified in that audit, the recommendations or findings of any management letter issued by the auditor, and any description of correction or plans to correct any exceptions or any issue raised in a management letter. (Education Code 41020.3)

(cf. 9322 - Agenda/Meeting Materials)

To the extent possible, the Board's review shall occur prior to December 15 to provide the Board and the community an opportunity to review the audit before it is submitted to local and state agencies.

No later than December 15, the Superintendent or designee shall file the report of the audit for the preceding fiscal year with the County Superintendent, the California Department of

Education, and the State Controller. (Education Code 41020)

If an audit finding results in the district being required to repay an apportionment or pay a penalty, the district may appeal the finding to the Education Audit Appeals Panel by making an informal, summary appeal within 30 days of receiving the final audit report or initiating a formal appeal within 60 days of receiving the report. (Education Code 41344, 41344.1)

Fund Balance

In accordance with GASB Statement 54, external financial reports shall report fund balances in the general fund within the following classifications based on the relative strength of constraints placed on the purposes for which resources can be used:

1. Nonspendable fund balance, including amounts that are not expected to be converted to cash, such as resources that are not in a spendable form or are legally or contractually required to be maintained intact
2. Restricted fund balance, including amounts constrained to specific purposes by their providers or by law
3. Committed fund balance, including amounts constrained to specific purposes by the Board
4. Assigned fund balance, including amounts which the Board or its designee intends to use for a specific purpose
5. Unassigned fund balance, including amounts that are available for any purpose

Negative Balance Report

Whenever the district reports a negative unrestricted fund balance or a negative cash balance in its annual budget or annual audit report, it shall include in the budget a statement that identifies the reasons for the negative unrestricted fund balance or negative cash balance and the steps that have been taken to ensure that the negative balance will not occur at the end of the current fiscal year. (Education Code 42127.5)

Non-Voter-Approved Debt Report

Upon approval by the Board to proceed with the issuance of revenue bonds or any agreement for financing school construction pursuant to Education Code 17170-17199.5, the Superintendent or designee shall notify the County Superintendent and the county auditor. The Superintendent or designee shall provide the Board, the county auditor, the County Superintendent, and the public with related repayment schedules and evidence of the district's ability to repay the obligation. (Education Code 17150)

When the Board is considering the issuance of certificates of participation and other debt

instruments that are secured by real property and do not require the approval of the voters of the district, the Superintendent or designee shall provide notice to the County Superintendent and county auditor no later than 30 days before the Board's approval to proceed with issuance. The Superintendent or designee shall provide the Board, the county auditor, the County Superintendent, and the public with information necessary to assess the anticipated effect of the debt issuance, including related repayment schedules, evidence of the district's ability to repay the obligation, and the issuance costs. (Education Code 17150.1)

Other Postemployment Benefits Report (GASB 45)

In accordance with GASB Statement 45, the district's financial statements shall report the annual expense of nonpension other postemployment benefits (OPEBs) on an accrual basis over retirees' active working lifetime, as determined by a qualified actuary procured by the Superintendent or designee. To the extent that these OPEBs are not prefunded, the district shall report a liability on its financial statements.

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

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

The Superintendent or designee shall annually present the estimated accrued but unfunded cost of OPEBs and the actuarial report upon which those costs are based at a public meeting of the Board. (Education Code 42140)

The amount of the district's financial obligation for OPEBs shall be reevaluated every two or three years in accordance with GASB 45 depending on the number of members in the OPEB plan.

Workers' Compensation Claims Report

The Superintendent or designee shall annually provide the Board, at a public meeting, information and related actuarial reports showing the estimated accrued but unfunded cost of workers' compensation claims. The estimate of costs shall be based on an actuarial report completed at least every three years by a qualified actuary. (Education Code 42141)

Regulation CENTER UNIFIED SCHOOL DISTRICT
approved: October 20, 2010 Antelope, California

HAZARDOUS SUBSTANCES

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

The Governing Board desires to provide a safe school environment that protects students and employees from exposure to potentially hazardous substances that may be used in the district's educational program and in the maintenance and operation of district facilities and equipment.

(cf. 3514 - Environmental Safety)

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

(cf. 4157/4257/4357 - Employee Safety)

(cf. 5141.22 - Infectious Diseases)

(cf. 5142 - Safety)

(cf. 6161.3 - Toxic Art Supplies)

Insofar as reasonably possible, the Superintendent or designee shall minimize the quantities of hazardous substances stored and used on school property. When hazardous substances must be used, the Superintendent or designee shall give preference to materials that cause the least risk to people and the environment.

(cf. 3510 - Green School Operations)

(cf. 3514.2 - Integrated Pest Management)

Note: Pursuant to Education Code 49401.5, districts may request consultation services from the Department of Industrial Relations, Division of Occupational Safety and Health, to ensure that hazardous materials are being used and stored safely in schools. See the accompanying administrative regulation for legal requirements related to storage and disposal of hazardous substances.

The Superintendent or designee shall ensure that all potentially hazardous substances on district properties are inventoried, used, stored, and regularly disposed of in a safe and legal manner.

Note: 8 CCR 5194 requires that employers develop and implement a written hazard communication program to inform and train employees who may be exposed to hazardous substances. See the accompanying administrative regulation for required program components. The following paragraph also requires communication with students and others as necessary and may be revised to reflect district practice.

The Superintendent or designee shall develop, implement, and maintain a written hazard communication program in accordance with 8 CCR 5194 and shall ensure that employees, students, and others as necessary are fully informed about the properties and potential hazards of substances to which they may be exposed.

(cf. 1240 - Volunteer Assistance)

HAZARDOUS SUBSTANCES (continued)

Note: The following paragraph is for use by districts that offer science laboratory classes, at any grade level, that expose employees to hazardous substances. Pursuant to 8 CCR 5191, any employer that maintains a workplace where there is laboratory use of hazardous chemicals (i.e., where relatively small quantities of hazardous chemicals are used but not produced) is required to have a written chemical hygiene plan to protect employees. See the accompanying administrative regulation for required program components.

In addition, Education Code 49340-49341 encourage educational efforts to increase awareness of students and staff dealing with hazardous materials in school laboratories in order to minimize injuries, loss of property, and classroom disruptions. For further information about safe handling of potentially hazardous substances in science laboratory classes, see the California Department of Education's Science Safety Handbook for California Public Schools.

The Superintendent or designee shall develop specific measures to ensure the safety of students and staff in school laboratories where hazardous chemicals are used. Such measures shall include the development and implementation of a chemical hygiene plan in accordance with 8 CCR 5191 and instruction to students about proper handling of hazardous substances.

(cf. 6142.93 - Science Instruction)

Legal Reference: (see next page)

HAZARDOUS SUBSTANCES (continued)

Legal Reference:

EDUCATION CODE

49340-49341 Hazardous substances education

49401.5 Legislative intent; consultation services

49411 Chemical listing; compounds used in school programs; determination of shelf life; disposal

FOOD AND AGRICULTURAL CODE

12981 Regulations re pesticides and worker safety

HEALTH AND SAFETY CODE

25163 Transportation of hazardous wastes; registration; exemptions; inspection

25500-25520 Hazardous materials release response plans; inventory

LABOR CODE

6360-6363 Hazardous Substances Information and Training Act

6380-6386 List of hazardous substances

CODE OF REGULATIONS, TITLE 8

339 List of hazardous substances

3203 Illness and injury prevention program

3204 Records of employee exposure to toxic or harmful substances

5139-5230 Control of hazardous substances, especially

5154.1-5154.2 Ventilation

5161 Definitions

5162 Emergency eyewash and shower equipment

5163 Control of spills

5164 Storage of hazardous substances

5191 Occupational exposure to hazardous chemicals in laboratories; chemical hygiene plan

5194 Hazard communication

CODE OF REGULATIONS, TITLE 22

67450.40-67450.49 School hazardous waste collection, consolidation, and accumulation facilities

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Science Safety Handbook for California Public Schools, 2012

WEB SITES

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

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

Department of Industrial Relations, Cal/OSHA: <http://www.dir.ca.gov/dosh>

Center USD

Board Policy

Hazardous Substances

BP 3514.1

Business and Noninstructional Operations

The Governing Board recognizes that potentially hazardous substances are used in the daily operations of our schools. The Superintendent or designee shall ensure these substances are inventoried, used, stored and regularly disposed of in a safe and legal manner.

Insofar as possible, the Superintendent or designee shall minimize the quantities of hazardous substances stored on school property and shall substitute less dangerous materials for hazardous substances.

Hazard Communication Program

The Superintendent or designee shall develop, implement and monitor a written hazard communication program in accordance with state law. As part of this program, he/she shall ensure that employees are fully informed about the properties and potential hazards of substances to which they may be exposed and that material safety data sheets are readily accessible to them.

Teachers shall instruct students about the importance of proper handling, storage, disposal and protection when using any potentially hazardous substance.

(cf. 3514 - Environmental Safety)
(cf. 4157/4257/4357 - Employee Safety)
(cf. 5141.23 - Infectious Disease Prevention)
(cf. 6161.3 - Toxic Art Supplies)

Legal Reference:

EDUCATION CODE

49341 Legislative findings

49401.5 Legislative intent; consultation services

49411 Chemical listing; compounds used in school programs; determination of shelf life; disposal

FOOD AND AGRICULTURAL CODE

12981 Regulations re pesticides and worker safety

HEALTH AND SAFETY CODE

25163 Transportation of hazardous wastes; registration; exemptions; inspection

25500-25520 Hazardous materials release response plans; inventory

LABOR CODE

6360-6363 Hazardous Substances Information and Training Act

CODE OF REGULATIONS, TITLE 8
5194 Hazard Communication

Policy CENTER UNIFIED SCHOOL DISTRICT
adopted: September 24, 1997 Antelope, California

HAZARDOUS SUBSTANCES

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: Education Code 49411 requires the California Department of Education (CDE), in cooperation with the Department of Industrial Relations (DIR), to develop a list of chemical compounds used in school programs, including the potential hazards and estimated shelf life of each compound. The applicable list is the list prepared by DIR pursuant to Labor Code 6382 and provided in 8 CCR 339.

Hazardous substance means a substance, material, or mixture which is likely to cause illness or injury by reason of being explosive, flammable, poisonous, corrosive, oxidizing, an irritant, or otherwise harmful. Hazardous substances, as identified by the Department of Industrial Relations, are listed in 8 CCR 339. (8 CCR 339, 5161)

Storage and Disposal of Chemicals

The Superintendent or designee shall adopt measures to ensure that hazardous substances on any district property are stored and disposed of properly in accordance with law. Such measures shall include, but are not limited to, the following: (8 CCR 5164)

1. Substances which react violently or evolve toxic vapors or gases when mixed, or which in combination become toxic, flammable, explosive, or otherwise hazardous, shall be separated from each other in storage by distance, partitions, secondary containment, or otherwise so as to preclude accidental contact between them.
2. Hazardous substances shall be stored in containers which are chemically inert to and appropriate for the type and quantity of the hazardous substance.
3. Containers of hazardous substances shall not be stored in such locations or manner as to result in physical damage to or deterioration of the container or where they are exposed to heat sufficient to rupture the container or to cause leakage.
4. Containers used to package a substance which gives off toxic, poisonous, corrosive, asphyxiant, suffocant, or anesthetic fumes, gases, or vapors in hazardous amounts, excluding small quantities of such materials kept in closed containers or materials kept in tank cars or trucks, shall not be stored in locations where it could be reasonably anticipated that persons would be exposed.

(cf. 3514 - Environmental Safety)

Note: Pursuant to Education Code 49411, the County Superintendent of Schools may implement a system for disposing of chemicals from schools within the county or may allow districts to arrange for the disposal of chemicals. The following paragraph may be revised to reflect local practice.

HAZARDOUS SUBSTANCES (continued)

The Superintendent or designee shall regularly remove and dispose of all chemicals whose estimated shelf life has elapsed. (Education Code 49411)

Hazard Communication Program

Note: Districts are required to have a written hazard communication program that addresses the categories specified in items #1-7 below. Optional language provided below within each category may be revised to reflect district practice. For assistance complying with legal requirements, districts may consult CSBA's HazMat Communications Program.

The district's written hazard communication program shall include at least the components listed below and shall be available upon request to all employees and their designated representatives. The program shall apply to any hazardous substance which is known to be present in the workplace in such a manner that employees may be exposed under normal conditions of use or in a reasonably foreseeable emergency resulting from workplace operations. (8 CCR 5194)

1. Container Labeling

No container of hazardous substance, unless exempted by law, shall be accepted by the district or any district school unless labeled, tagged, or marked by the supplier with the identity of the hazardous substance, hazard warning statements, and the name and address of the chemical manufacturer or importer. No label on an incoming container shall be removed or intentionally defaced unless the container is immediately marked with the required information.

Whenever hazardous substances are transferred from their original containers to other containers, the secondary containers shall likewise be labeled with the identity and hazard warning statement, unless the substances are intended only for the immediate use of the employee who performs the transfer.

2. Safety Data Sheets

Note: Pursuant to 8 CCR 5194, districts are required to maintain a safety data sheet (SDS) (formerly called a "material safety data sheet") for each hazardous substance they use. The SDS is generally prepared by the manufacturer or importer and must include the types of information specified in 8 CCR 5194.

Upon receiving a hazardous substance or mixture, the Superintendent or designee shall ensure that the manufacturer or importer has furnished a safety data sheet (SDS) as required by law. If the SDS is missing or obviously incomplete, the Superintendent or designee shall, within seven working days of noting the missing or incomplete information, request a new SDS from the manufacturer or importer. If a response is not received within 25 working days, the Superintendent or designee shall send a copy of the district's written inquiry to the California Occupational Safety and Health Division (Cal/OSHA). (8 CCR 5194)

HAZARDOUS SUBSTANCES (continued)

Note: Pursuant to 8 CCR 5194, districts must ensure that all SDS are readily accessible. Alternatives to paper copies are allowable as long as no barrier to immediate access in each workplace is created by such options. Online and SDS-on-demand programs for this purpose are available through CSBA.

The Superintendent or designee shall maintain the required SDS for each hazardous substance in the workplace and shall ensure that it is readily accessible to employees in their work area during working hours. The SDS may be maintained in paper copy, electronically, or through other means, provided that employees have immediate access and understand how to use the alternative system.

3. Employee Information and Training

Note: The information and training required pursuant to 8 CCR 5194, as described below, must be provided to employees who could be exposed to hazardous substances under normal conditions of use or in a reasonably foreseeable emergency. The district should make an assessment for each employee as to whether he/she is expected to use any chemicals in the performance of his/her job duties or if there is the potential for exposure because of the existence of chemicals in the workplace.

Employees shall receive information and training on hazardous substances in their work area at the time of their initial assignment and whenever a new hazard is introduced into their work area. The information and training shall include, but are not limited to, the following topics: (8 CCR 5194)

- a. The requirements of 8 CCR 5194, including employee rights described therein
- b. The location and availability of the district's written hazard communication program, including the list of hazardous materials and all SDS
- c. Any operations in the work area where hazardous substances are present
- d. The physical and health effects of the hazardous substances in the work area
- e. Methods and observations that may be used to detect the presence or release of hazardous substances in the work area
- f. Measures that employees can take to protect themselves from exposure to hazardous substances, including specific procedures the district has implemented to protect employees, such as appropriate work practices, emergency procedures, and personal protective equipment to be used
- g. How to read and use the labels and SDS

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)
(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

HAZARDOUS SUBSTANCES (continued)

4. List of Hazardous Substances

Note: 8 CCR 5194 requires that a complete list of hazardous substances be provided within the written hazard communication program, preferably with an indication of the work area(s) where the substances are found. This list may also be provided here.

The written hazard communication program shall include a list of the hazardous substances known to be present in the workplace as a whole or for individual work areas. (8 CCR 5194)

5. Hazardous Nonroutine Tasks

Note: Pursuant to 8 CCR 5194, the written hazard communication program must include methods the employer will use to inform employees of the hazards of nonroutine tasks and the hazards associated with substances contained in unlabeled pipes in their work areas. The following paragraph may be revised to reflect district practice.

When employees are required to perform hazardous nonroutine tasks or to work on unlabeled pipes that contain hazards, they shall first receive information about the specific hazards to which they may be exposed during this activity and the protective/safety measures which must be used, such as ventilation, respirators, other personal protective equipment, and/or the presence of another employee. They shall also receive information about emergency procedures to follow if accidentally exposed to the hazardous substance.

6. Information to Contractors

To ensure that outside contractors and their employees work safely in district facilities, the Superintendent or designee shall inform contractors of hazardous substances which are present on the site and precautions that they may take to lessen the possibility of exposure. It shall be the contractor's responsibility to disseminate this information to his/her employees and subcontractors.

Chemical Hygiene Plan

Note: The following section is for use by districts that offer science laboratory classes, at any grade level, that expose employees to hazardous chemicals. Pursuant to 8 CCR 5191, any employer maintaining workplaces where there is laboratory use of hazardous chemicals is required to have a written chemical hygiene plan with the components listed below.

The district's chemical hygiene plan shall address exposure to hazardous chemicals in school laboratories and shall include the following components: (8 CCR 5191)

HAZARDOUS SUBSTANCES (continued)

1. Standard operating procedures relevant to safety and health considerations to be followed when laboratory work involves the use of hazardous chemicals
2. Criteria that the district will use to determine and implement control measures to reduce exposure to hazardous chemicals, including engineering controls, the use of personal protective equipment, and hygiene practices
3. A requirement that protective equipment comply with state regulations and that specific measures be taken to ensure proper and adequate performance of such equipment

Note: 8 CCR 5191 requires that the chemical hygiene plan include the provision of specified information and training to employees working in laboratories, as provided in items #4 and 5 below. Many of these topics are the same as those required to be included in the hazard communication program pursuant to 8 CCR 5194 (see item #3 of the section "Hazard Communication Program" above). The district may combine the training and information required by 8 CCR 5191 and 5194 provided that all required topics are addressed.

4. Provision of specified information at the time of an employee's initial assignment to a work area where hazardous chemicals are present and prior to assignments involving new exposure situations

Note: Pursuant to 8 CCR 5191, the district has discretion to determine the frequency of the employee training described in item #5 below. The following item may be revised to reflect district practice.

5. Provision of specified employee training in accordance with the schedule determined by the Superintendent or designee
6. The circumstances under which a particular laboratory operation, procedure, or activity shall require prior approval of the Superintendent or designee before implementation
7. Provisions for medical consultations and examinations whenever there is evidence, as specified, that the employee may have been exposed to a hazardous chemical
8. Designation of an employee, who is qualified by training or experience, to serve as the district's chemical hygiene officer to provide technical guidance in the development and implementation of the chemical hygiene plan
9. Provisions for additional employee protection for work with particularly hazardous substances, as specified

HAZARDOUS SUBSTANCES (continued)

The plan shall be readily available to employees and employee representatives, and, upon request, to Cal/OSHA. (8 CCR 5191)

The Superintendent or designee shall review and evaluate the effectiveness of the chemical hygiene plan at least annually and shall update it as necessary. (8 CCR 5191)

Center USD

Administrative Regulation

Hazardous Substances

AR 3514.1

Business and Noninstructional Operations

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.

The disposal of chemicals may be accomplished in accordance with removal and disposal systems established by the County Office of Education or by permission of the County Superintendent of Schools. (Education Code 49411)

Hazard Communication Program

The written hazard communication program shall be available upon request to all employees and their designated representatives. (8 CCR 5194)

The following materials are exempted from the hazard communication program and this district regulation: hazardous wastes; tobacco products; wood and wood products; manufactured articles; food, drugs and cosmetics intended for personal consumption by employees while in the workplace; and substances used in compliance with regulations issued by the Department of Pesticide Regulation pursuant to Food and Agricultural Code 12981.

1. Container Labeling

Except for consumer products, pesticides, alcoholic beverages, and food, drug and additive products which are already labeled in compliance with federal law, no container of hazardous substance shall be accepted by schools or the district unless labeled by the supplier with the following information:

- a. Identity of the hazardous substance(s)
- b. Hazard warning statements
- c. Name and address of the chemical manufacturer or importer

Whenever hazardous substances are transferred from their original containers to other containers, the secondary containers shall likewise be labeled with the identity and hazard warning statement.

2. Material Safety Data Sheets

Upon receiving a hazardous substance or mixture, the Superintendent or designee shall ensure that the manufacturer has also furnished a Material Safety Data Sheet (MSDS) as required by law. If the MSDS is missing or obviously incomplete, the Superintendent or designee shall request a new MSDS from the manufacturer and shall notify the California Occupational Safety and Health Division (Cal/OSHA) if a complete MSDS is not received.

The Superintendent or designee shall maintain copies of the MSDS for all hazardous substances and ensure that they are kept up to date and available to all affected employees during working hours. He/she shall review each incoming MSDS for new and significant health or safety information and shall disseminate this information to affected employees.

3. Employee Information and Training

Employees shall receive inservice training on hazardous substances in their work area at the time of their initial assignment and whenever a new hazard is introduced into their work area. This training shall include but is not limited to: (8 CCR 5194)

- a. An overview of the requirements of California's Hazard Communication Regulation (8 CCR 5194), including employee rights described therein
- b. The location, availability and content of the district's written hazard communication program
- c. Information as to any operations in the employees' work area where hazardous substances are present
- d. The physical and health effects of the hazardous substances in the work area
- e. Techniques and methods of observation that may determine the presence or release of hazardous substances in the work area
- f. Methods by which employees can lessen or prevent exposure to these hazardous substances, such as appropriate work practices, use of personal protective equipment and engineering controls
- g. Steps the district has taken to lessen or prevent exposure to these substances
- h. Instruction on how to read labels and review the MSDS for appropriate information
- i. Emergency and first aid procedures to follow if exposed to the hazardous substance(s)

4. List of Hazardous Substances

For specific information about the hazardous substances known to be present in the district and schools, employees may consult the MSDS.

5. Hazardous Nonroutine Tasks

When employees are required to perform hazardous nonroutine tasks, they shall first receive information about the specific hazards to which they may be exposed during this activity and the protective/safety measures which must be used. They shall also receive information about emergency procedures and the measures the district has taken to lessen the hazards, including ventilation, respirators, and the presence of another employee.

6. Hazardous Substances in Unlabeled Pipes

Before starting to work on unlabeled pipes, employees shall contact their supervisors for information as to the hazardous substance(s) contained in the pipes, the potential hazards, and safety precautions which must be taken.

(cf. 3514 - Environmental Safety)

7. Informing Contractors

To ensure that outside contractors and their employees work safely in district buildings and schools, the Superintendent or designee shall inform these contractors of hazardous substances which are present on the site and precautions that employees may take to lessen the possibility of exposure. It shall be the contractor's responsibility to disseminate this information to his/her employees and subcontractors.

Regulation CENTER UNIFIED SCHOOL DISTRICT
approved: September 24, 1997 Antelope, California

All Personnel

E 4112.9(a)

4212.9

EMPLOYEE NOTIFICATIONS

4312.9

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
I. To All Employees			
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
Annually to all employees	49013; 5 CCR 4622	AR 1312.3 BP 3260	Uniform complaint procedures, available appeals, civil law remedies, identity of coordinator, complaints about student fees
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 to be taken if violated; available employee assistance programs
Upon placement of automated external defibrillator (AED) in school, and annually thereafter	Health and Safety Code 1797.196	AR 5141	Proper use of AED; location of all AEDs on campus

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
I. To All Employees (continued)			
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
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
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
II. To Certificated Employees			
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
II. To Certificated Employees (continued)			
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
III. To Classified Employees			
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)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. To Classified Employees (continued)			
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 60 days prior to layoff, or by April 29 if specially funded program is expiring at end of school year	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 and school activity bus drivers upon employment and at least once per year thereafter	13 CCR 2480	AR 3514	Limitations on vehicle idling; consequences of not complying
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
IV. To Administrative/Supervisory Personnel			
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

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
V. To Individual Employees Under Special Circumstances			
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
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 any employee assigned to a work area where hazardous chemicals are present, upon initial assignment and upon new exposure situation	8 CCR 5191	AR 3514.1	Location and availability of chemical hygiene plan, exposure limits, signs and symptoms of exposure, location of reference material
To any employee who may be exposed to hazardous substances in the work area, upon initial assignment and when new hazard is introduced into work area	8 CCR 5194	AR 3514.1	Any presence of hazardous substances in the work area, location and availability of hazard communication program, new safety data sheet, employee rights
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

E 4112.9(g)
4212.9
4312.9

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
V. To Individual Employees Under Special Circumstances (continued)			
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

Center USD

Exhibit

Employee Notifications

E 4112.9, 4212.9, 4312.9

Personnel

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. To All Employees			
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

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. To All Employees (continued)			
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

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
II. To Certificated Employees			
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

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
II. To Certificated Employees (continued)			
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
III. To Classified Employees			
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

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. To Classified Employees (continued)			
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
IV. To Administrative/Supervisory Personnel			
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
V. To Individual Employees Under Special Circumstances			
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

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
V. To Individual Employees Under Special Circumstances (continued)			
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

POSTRETIREMENT EMPLOYMENT

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 **optional** administrative regulation addresses the legal requirements related to the rights and benefits provided by law to retired members of the State Teachers' Retirement System (STRS) when they are hired by the district after their retirement.

When necessary, the district may, subject to specific legal requirements, hire a qualified retired certificated individual who possesses the knowledge and experience needed to perform specialized work or service for the district, as an employee, the employee of a third party, or an independent contractor/consultant.

(cf. 3600 - Consultants)

(cf. 4111/4211/4311 - Recruitment and Selection)

(cf. 4112 - Appointment and Conditions of Employment)

Note: Pursuant to Education Code 24214, retired members of STRS may be hired to perform work that would normally accrue service credit in STRS (creditable service). Such retired individuals are allowed to receive compensation for rendered services without reduction in their retirement allowance, as long as the compensation does not exceed the compensation limit computed and adjusted annually by STRS.

Any retired certificated individual who is a member of the defined benefit program of the State Teachers' Retirement System (STRS) and who is hired by the district to perform any service pursuant to Education Code 22119.5 or 26113 shall be paid at a rate commensurate with that of other district employees performing comparable duties. However, such a retired individual shall not make contributions to the retirement fund or accrue service credits based on compensation earned from that service. (Education Code 24214)

Note: Education Code 24214.5 prohibits retired STRS members from performing creditable service by returning to postretirement employment for at least six months after their retirement. A return to creditable service during the six-month period may result in a dollar for dollar loss on a retiree's retirement allowance. Pursuant to Education Code 24214.5, as amended by AB 340 (Ch. 296, Statutes of 2012), a retired individual may be exempted from this prohibition if he/she has attained the normal retirement age and certain conditions are met, including not receiving any financial inducement to retire. Such a retired individual shall nevertheless be subject to the postretirement compensation limitation specified in Education Code 24214.

POSTRETIREMENT EMPLOYMENT (continued)

No retired certificated individual who is a member of STRS shall be hired by the district for at least six calendar months after his/her retirement from service unless he/she has attained the normal retirement age. Such hiring shall only be made with Governing Board approval in a public meeting, as reflected in a resolution that shall include information about the nature of the appointment and the following findings: (Education Code 24214.5)

1. The appointment is necessary to fill a critically needed position before 180 days have passed.
2. The retired individual is eligible for this exemption because he/she did not receive additional service credit pursuant to Education Code 22714 or 22715 or a financial inducement to retire.
3. The retired individual's termination of employment with the district is not the basis for the need to acquire the services of the retired individual.

(cf. 9320 - Meetings and Notices)

Note: Special rules apply to the hiring of an individual receiving a STRS disability allowance and the district should consult STRS and legal counsel prior to employing any such disability allowance recipient.

Postretirement Compensation Limitation

Note: Education Code 22461 requires the district to notify retired individuals of the postretirement compensation limitation, but expressly immunizes the district against liability for any amount paid in excess of the limitation or for failing to inform the retired individual that continuation of service would exceed the limitation.
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Whenever the district retains the services of a retired individual as a district employee, employee of a third party, or an independent contractor, the Superintendent or designee shall: (Education Code 22461, 24214)

1. Advise the retired individual of the postretirement compensation limitation set forth in Education Code 24214 or 24214.5 or any other applicable law
2. Maintain accurate records of the retired individual's compensation and report it monthly to STRS and the individual, regardless of the method of payment or the fund from which the payments are made

POSTRETIREMENT EMPLOYMENT (continued)

When employing a retired individual who is eligible for any exemption from the postretirement compensation limitation, the Superintendent or designee shall submit to STRS all required documentation to substantiate eligibility for the exemption. (Education Code 24214, 24214.5)

Legal Reference:

EDUCATION CODE

22119.5 *Creditable service, definition*
22461 *Notice of earnings limitation*
22714 *Encouragement of retirement*
22715 *Additional service credit*
22716 *Unpaid services*
24116 *Service at California State University*
24214 *Creditable service by retiree*
24214.5 *Postretirement compensation limit; members below normal retirement age*
24215 *Service at California State University*
26113 *Creditable service, definition*
35046 *Consultancy contracts*
41320.1 *Appointment of trustee*
42120-42129 *Budget completion*
44830 *Employment of certificated employees*
44830.3 *Employment of district interns*
44929 *Service credit under STRS; additional two years*
44929.1 *2+2 service and year credit option under STRS*
52055.57-52055.60 *Local Educational Agency Intervention program*

Management Resources:

WEB SITES

California State Teachers' Retirement System: <http://www.calstrs.com>

Center USD

Administrative Regulation

Postretirement Employment

AR 4117.14 4217.14
Personnel

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.

The Governing Board may hire retired certificated individuals who possess unique knowledge and experience to perform specialized work of a limited duration.

Any retired certificated individual who is a member of the defined benefit program of the State Teachers' Retirement System (STRS) and who is hired by the district to perform services pursuant to this administrative regulation shall not make contributions to the retirement fund or accrue service credit based on compensation earned from that service. (Education Code 24214)

Any retired individual hired under this administrative regulation shall be paid at a rate commensurate with that of other district employees performing comparable duties. (Education Code 24214)

Beginning July 1, 2010, any certificated individual who is a member of STRS and who retires from service below normal retirement age shall not be hired for service pursuant to this administrative regulation for at least six calendar months after his/her retirement from service. (Education Code 24214.5)

Postretirement Compensation Limitation

Upon retaining the services of a retired individual as a district employee, employee of a third party, or an independent contractor, the Superintendent or designee shall: (Education Code 22461, 24214)

- 1. Advise the retired individual of the postretirement compensation limitation set forth in Education Code 24116, 24214, and 24215**
- 2. Maintain accurate records of the retired individual's compensation and report it monthly to STRS and the individual regardless of the method of payment or the fund from which the**

payments are made

When employing a retired individual eligible for any of the exemptions from the postretirement compensation limitation stated below, the Superintendent or designee shall submit to STRS, no later than June 30 of the school year for which the exemption is to apply, all required documentation to substantiate eligibility for the exemption. (Education Code 24216, 24216.5, 24216.6)

Exemption for Providing Specified Instructional Services

Until June 30, 2012, any retired certificated individual employed by the district shall be exempt from the compensation limitation for members of STRS provided that he/she retired from service with an effective date on or before January 1, 2009, and is employed to provide any of the following services: (Education Code 24216.5, 24216.6)

1. Direct classroom instruction to students in grades K-12
2. Support and assessment for new teachers through the Beginning Teacher Support and Assessment program pursuant to Education Code 44279.1-44279.7

(cf. 4131.1 - Beginning Teacher Support/Induction)

3. Support to individuals completing student teaching assignments
4. Support to individuals participating in an alternative certification program pursuant to Education Code 44380-44386 or a school paraprofessional teacher training program pursuant to Education Code 44390-44393

(cf. 4112.21 - Interns)

(cf. 4222 - Teacher Aides/Paraprofessionals)

5. Instruction and student services to students enrolled in special education programs pursuant to Education Code 56000-56885

(cf. 4112.23 - Special Education Staff)

6. Instruction to students enrolled in English language learner programs pursuant to Education Code 300-340, 400-410, and 430-446

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

7. Direct remedial instruction to students in grades 2-12 for the programs specified in Education Code 37252 and 37252.2

(cf. 5123 - Promotion/Acceleration/Retention)

(cf. 6179 - Supplemental Instruction)

Retired individuals who are exempt from the limitation on compensation shall be treated as part of a distinct class of temporary employees within the existing bargaining unit whose service may not be included in computing the service required as a prerequisite to attainment of or eligibility for classification as a permanent employee of the district. (Education Code 24216.5, 24216.6)

The compensation for the class of retired individuals shall be agreed to in the collective bargaining agreement between the district and the exclusive representative for the bargaining unit. (Education Code 24216.5, 24216.6)

Exemption for Appointment as Trustee/Administrator or for Emergency Situations

Until June 30, 2012, a retired certificated individual shall be exempt from the postretirement compensation limitation for a maximum period of 24 consecutive months if he/she is appointed by the Superintendent of Public Instruction as a trustee or administrator pursuant to Education Code 41320.1, appointed as a trustee by the State Board of Education pursuant to Education Code 52055.57-52055.60 (the Local Educational Agency Intervention program), or assigned to a position by the County Superintendent of Schools pursuant to Education Code 42122-42129. (Education Code 24216)

Until June 30, 2012, a retired individual shall be exempt from the postretirement compensation limitation up to an additional one-half of the full-time position when employed in an emergency situation to fill a vacant administrative position requiring highly specialized skills, provided that all of the following conditions are met: (Education Code 24216)

1. The vacancy occurred due to circumstances beyond the district's control.
2. The recruitment process to fill the vacancy on a permanent basis is expected to extend over several months.
3. The employment is reported in a public meeting of the Board.

(cf. 9320 - Meetings and Notices)

4. The retired individual's termination of employment with the district is not the basis for the vacant administrative position.

The above exemptions shall not apply to any individual who has received additional retirement service credit pursuant to Education Code 22715 or 22716. A retiree who has received an additional service credit pursuant to Education Code 22714 or 22714.5 shall be ineligible for the above exemptions for one year from his/her effective date of retirement for service performed in any California district, community college district, or county office of education. (Education Code 24216)

(cf. 4117.13/4317.13 - Early Retirement Option)

Consultancy Contracts

A retired certificated employee serving as a consultant shall be retained as an employee and his/her service shall be limited in accordance with retirement system rules and regulations. (Education Code 35046)

To be eligible for consideration for a consultancy contract, a retired certificated employee must have served the district or the County Superintendent for at least 10 years and be at least 55 years of age. (Education Code 35046)

Retirement consultancy contracts are renewable annually for up to five years or until the employee reaches age 65, whichever comes first. (Education Code 35046)

Legal Reference:

EDUCATION CODE

**300-340 English language education
400-410 English language acquisition program
430-446 English Learner and Immigrant Student Federal Conformity Act
22119.5 Creditable service, definition
22461 Notice of earnings limitation
22714 Encouragement of retirement
22714.5 2+2 service and year credit option under STRS
22715 Additional service credit
22716 Unpaid services
24116 Service at California State University
24214 Creditable service by retiree
24214.5 Postretirement compensation limit; members below normal retirement age
24215 Service at California State University
24216 Payments to retirants in excess of limitation
24216.5 Exemption from earnings limitation
24216.6 Exemption from earnings limitation
35046 Consultancy contracts
37252-37254.1 Supplemental instruction
41320.1 Appointment of trustee
42120-42129 Budget completion
44279.1-44279.7 Beginning Teacher Support and Assessment Program
44380-44386 Alternative certification program
44390-44393 School paraprofessional teacher training program
44830 Employment of certificated employees
44830.3 Employment of district interns
44929 Service credit under STRS; additional two years
44929.1 2+2 service and year credit option under STRS
52055.57-52055.60 Local Educational Agency Intervention program
56000-56885 Special education**

Management Resources:

WEB SITES

California State Teachers' Retirement System: <http://www.calstrs.com>

Regulation CENTER UNIFIED SCHOOL DISTRICT

approved: February 16, 2011 Antelope, California

STUDENT WELLNESS

Note: The Healthy, Hunger-Free Kids Act of 2010 (42 USC 1758b) mandates each district participating in the National School Lunch Program (42 USC 1751-1769) or any program in the Child Nutrition Act of 1966 (42 USC 1771-1791), including the School Breakfast Program, to adopt a districtwide school wellness policy. The following policy fulfills this mandate and should be revised to reflect district practice. Other policies in the district's policy manual will likely contain additional provisions supporting this wellness policy, such as BP 3312 - Contracts, BP/AR 3550 - Food Service/Child Nutrition Program, BP/AR 3552 - Summer Meal Program, BP/AR 3553 - Free and Reduced Price Meals, BP/AR 3554 - Other Food Sales, BP/AR 6142.7 - Physical Education and Activity, and BP/AR 6142.8 - Comprehensive Health Education.

Although the Governing Board has discretion under 42 USC 1758b to determine specific policies appropriate for its schools, the U.S. Department of Agriculture (USDA) is required to develop regulations that provide a framework and guidelines to assist districts in establishing their student wellness policies and to provide technical assistance through the Centers for Disease Control and Prevention (CDC). Currently the USDA and CDC provide resources and implementation tools on their web sites. In addition, CSBA's Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide summarizes research on the relationship between nutrition and physical activity and student achievement, provides worksheets for policy development, and contains other resources that may be useful in the development of the wellness policy.

The following paragraph links student wellness with the components of a coordinated school health approach recommended in the California Department of Education's (CDE) Health Framework for California Public Schools and may be revised to reflect district practice.

The Governing Board recognizes the link between student health and learning and desires to provide a comprehensive program promoting healthy eating and physical activity for district students. The Superintendent or designee shall coordinate and align district efforts to support student wellness through health education, physical education and activity, health services, nutrition services, psychological and counseling services, and a safe and healthy school environment. In addition, the Superintendent or designee shall develop strategies for promoting staff wellness and for involving parents/guardians and the community in reinforcing students' understanding and appreciation of the importance of a healthy lifestyle.

(cf. 1020 - Youth Services)
(cf. 3513.3 - Tobacco-Free Schools)
(cf. 3514 - Environmental Safety)
(cf. 5131.6 - Alcohol and Other Drugs)
(cf. 5131.61 - Drug Testing)
(cf. 5131.62 - Tobacco)
(cf. 5131.63 - Steroids)
(cf. 5141 - Health Care and Emergencies)
(cf. 5141.22 - Infectious Diseases)
(cf. 5141.3 - Health Examinations)
(cf. 5141.31 - Immunizations)
(cf. 5141.32 - Health Screening for School Entry)
(cf. 5141.6 - School Health Services)
(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Education)
(cf. 6164.2 - Guidance/Counseling Services)

STUDENT WELLNESS (continued)**School Health Council/Committee**

Note: 42 USC 1758b requires that specified stakeholders be permitted to participate in the development, implementation, and periodic review and update of the district's wellness policy. One method to achieve continuing involvement of those groups and other key stakeholders could be through the creation of a school health council, as recommended in the CDE's Health Framework for California Public Schools. Pursuant to Government Code 54952, committees created by formal action of the Board are subject to open meeting laws (the Brown Act); see AR 1220 - Citizen Advisory Committees.

The Superintendent or designee shall encourage parents/guardians, students, food service employees, physical education teachers, school health professionals, Board members, school administrators, and members of the public to participate in the development, implementation, and periodic review and update of the district's student wellness policy. (42 USC 1758b)

Note: The remainder of this section is **optional** and may be revised to reflect district practice.

To fulfill this requirement, the Superintendent or designee may appoint a school health council or other district committee whose membership shall include representatives of these groups. He/she also may invite participation of other groups or individuals, such as health educators, curriculum directors, counselors, before- and after-school program staff, health practitioners, and/or others interested in school health issues.

(cf. 1220 - Citizen Advisory Committees)

(cf. 9140 - Board Representatives)

The school health council/committee shall advise the district on health-related issues, activities, policies, and programs. At the discretion of the Superintendent or designee, the duties of the council/committee may also include the planning, implementation, and evaluation of activities to promote health within the school or community.

Goals for Nutrition, Physical Activity, and Other Wellness Activities

Note: 42 USC 1758b **mandates** that the district's wellness policy include goals for the activities specified below.

The Board shall adopt goals for nutrition promotion and education, physical activity, and other school-based activities that promote student wellness. (42 USC 1758b)

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

Note: The remainder of this section provides policy language to address this mandated topic and should be revised to reflect district practice.

STUDENT WELLNESS (continued)

The district's nutrition education and physical education programs shall be based on research, shall be consistent with the expectations established in the state's curriculum frameworks and content standards, and shall be designed to build the skills and knowledge that all students need to maintain a healthy lifestyle.

(cf. 6011 - Academic Standards)
(cf. 6142.7 - Physical Education and Activity)
(cf. 6142.8 - Comprehensive Health Education)
(cf. 6143 - Courses of Study)

The nutrition education program shall include, but is not limited to, information about the benefits of healthy eating for learning, disease prevention, weight management, and oral health. Nutrition education shall be provided as part of the health education program and, as appropriate, shall be integrated into other academic subjects in the regular educational program, before- and after-school programs, summer learning programs, and school garden programs.

(cf. 5148.2 - Before/After School Programs)
(cf. 6177 - Summer Learning Programs)

To reinforce the district's nutrition education program, the Board prohibits the marketing and advertising of non-nutritious foods and beverages through signage, vending machine fronts, logos, scoreboards, school supplies, advertisements in school publications, coupon or incentive programs, free give-aways, or other means.

(cf. 1325 - Advertising and Promotion)

All students shall be provided opportunities to be physically active on a regular basis. Opportunities for moderate to vigorous physical activity shall be provided through physical education and recess and may also be provided through school athletic programs, extracurricular programs, before- and after-school programs, summer learning programs, programs encouraging students to walk or bicycle to and from school, in-class physical activity breaks, and other structured and unstructured activities.

(cf. 5142.2 - Safe Routes to School Program)
(cf. 6145 - Extracurricular and Cocurricular Activities)
(cf. 6145.2 - Athletic Competition)

The Board may enter into a joint use agreement or memorandum of understanding to make district facilities or grounds available for recreational or sports activities outside the school day and/or to use community facilities to expand students' access to opportunity for physical activity.

(cf. 1330.1 - Joint Use Agreements)

STUDENT WELLNESS (continued)

Professional development shall be regularly offered to health education and physical education teachers, coaches, activity supervisors, food services staff, and other staff as appropriate to enhance their health knowledge and skills.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

The Superintendent or designee may disseminate health information and/or the district's student wellness policy to parents/guardians through district or school newsletters, handouts, parent/guardian meetings, district and school web sites, and other communications. Outreach to parents/guardians shall emphasize the relationship between student health and academic performance.

(cf. 1100 - Communication with the Public)

(cf. 1112 - Media Relations)

(cf. 1113 - District and School Web Sites)

(cf. 1114 - District-Sponsored Social Media)

(cf. 6020 - Parent Involvement)

In order to ensure that students have access to comprehensive health services, the district may provide access to health services at or near district schools and/or may provide referrals to community resources.

The Board recognizes that a safe, positive school environment is also conducive to students' physical and mental health and thus prohibits bullying and harassment of all students, including bullying on the basis of weight or health condition.

(cf. 5131.2 - Bullying)

(cf. 5145.3 - Nondiscrimination/Harassment)

The Superintendent or designee shall encourage staff to serve as positive role models for healthy eating and physical fitness. He/she shall promote work-site wellness programs and may provide opportunities for regular physical activity among employees.

Nutritional Guidelines for Foods Available at School

Note: 42 USC 1758b mandates that the district's wellness policy include nutritional guidelines that are consistent with federal nutrition standards, as specified below. Federal nutrition standards for the National School Lunch and Breakfast Programs, as amended by 77 Fed. Reg. 17, are aligned with the Dietary Guidelines for Americans. Requirements for the National School Lunch Program (7 CFR 210.10) are effective July 1, 2012. Requirements for the School Breakfast Program (7 CFR 220.23) are applicable through the 2013-14 school year and then will be replaced by the requirements in 7 CFR 220.8. See AR 3550 - Food Service/Child Nutrition Program.

STUDENT WELLNESS (continued)

For all foods available on each campus during the school day, the district shall adopt nutritional guidelines which are consistent with 42 USC 1773 and 1779 and federal regulations and which support the objectives of promoting student health and reducing childhood obesity. (42 USC 1758b)

Note: The remainder of this section provides policy language to address this mandated topic and should be revised to reflect district practice.

In order to maximize the district's ability to provide nutritious meals and snacks, all district schools shall participate in available federal school nutrition programs, including the National School Lunch and School Breakfast Programs and after-school snack programs, to the extent possible. When approved by the California Department of Education, the district may sponsor a summer meal program.

(cf. 3550 - Food Service/Child Nutrition Program)

(cf. 3552 - Summer Meal Program)

(cf. 3553 - Free and Reduced Price Meals)

(cf. 5141.27 - Food Allergies/Special Dietary Needs)

(cf. 5148 - Child Care and Development)

(cf. 5148.3 - Preschool/Early Childhood Education)

Note: 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, unless the Board adopts a resolution demonstrating that the district is unable to comply due to fiscal constraints or health or safety concerns. See AR 3550 - Food Service/Child Nutrition Program for policy language related to these requirements. Also see CSBA's policy brief [Increasing Access to Drinking Water in Schools](#) for further information and sample strategies for providing water and encouraging consumption.

The Superintendent or designee shall provide access to free, potable water during meal times in the food service area in accordance with Education Code 38086 and 42 USC 1758, and shall encourage students' consumption of water by educating them about the health benefits of water and serving water in an appealing manner.

Note: Nutrition standards pertaining to food sales outside the food services program (e.g., sales through vending machines, student stores, and fundraisers) are addressed in AR 3554 - Other Food Sales. Pursuant to 42 USC 1758b, the USDA is required to establish nutrition standards for all foods sold and served in school at any time during the school day, although exemptions may be allowed for school-sponsored fundraisers if the fundraisers are approved by the school and are infrequent. Districts will be required to implement the standards beginning one school year following the approval of the federal rule.

The Board believes that all foods and beverages sold to students at district schools, including those available outside the district's food services program, should support the health curriculum and promote optimal health. Nutritional standards adopted by the district for

STUDENT WELLNESS (continued)

foods and beverages provided through student stores, vending machines, or other venues shall meet or exceed state and federal nutritional standards.

(cf. 3312 - Contracts)

(cf. 3554 - Other Food Sales)

The Superintendent or designee shall encourage school organizations to use healthy food items or non-food items for fundraising purposes. He/she also shall encourage school staff to avoid the use of non-nutritious foods as a reward for students' academic performance, accomplishments, or classroom behavior.

(cf. 1230 - School-Connected Organizations)

School staff shall encourage parents/guardians or other volunteers to support the district's nutrition education program by considering nutritional quality when selecting any snacks which they may donate for occasional class parties. Class parties or celebrations shall be held after the lunch period when possible.

Program Implementation and Evaluation

The Superintendent shall designate one or more district or school employees, as appropriate, to ensure that each school site complies with this policy. (42 USC 1758b)

(cf. 0500 - Accountability)

(cf. 3555 - Nutrition Program Compliance)

Note: 42 USC 1758b requires periodic assessment of the implementation of the wellness policy, but does not define any specific timeline. CSBA's publication Monitoring for Success: A Guide for Assessing and Strengthening Student Wellness Policies recommends that a report on the implementation of the wellness policy be provided to the Board at least once every two years. The following optional paragraph may be revised to reflect district practice.

The Superintendent or designee shall assess the implementation and effectiveness of this policy at least once every two years.

Note: 42 USC 1758b requires that the district assessment include a comparison of the district's policy with model wellness policies. See the USDA's web site for model policies and best practices recommended by federal and state agencies and nongovernmental organizations.

The assessment shall include the extent to which district schools are in compliance with this policy, the extent to which this policy compares to model wellness policies available from the U.S. Department of Agriculture, and a description of the progress made in attaining the goals of the wellness policy. (42 USC 1758b)

STUDENT WELLNESS (continued)

Note: Items #1-8 below are **optional** and may be revised to reflect district practice. For further information about the following indicators and a list of other possible indicators, see CSBA's [Monitoring for Success: A Guide for Assessing and Strengthening Student Wellness Policies](#). The guide also describes possible data sources that may be used for each indicator and includes a sample report format. Indicators selected by the district may include a mix of process measures (e.g., level of student participation, number of classes, staffing, and costs) as well as outcome measures that assess the policy's impact on students (e.g., physical fitness test results, Body Mass Index, and food choices).

The Board and the Superintendent or designee shall establish indicators that will be used to measure the implementation and effectiveness of the district activities related to student wellness. Such indicators may include, but are not limited to:

1. Descriptions of the district's nutrition education, physical education, and health education curricula and the extent to which they align with state academic content standards and legal requirements
2. An analysis of the nutritional content of school meals and snacks served in all district programs, based on a sample of menus and production records
3. Student participation rates in all school meal and/or snack programs, including the number of students enrolled in the free and reduced-price meals program compared to the number of students eligible for that program
4. Extent to which foods sold on campus outside the food services program, such as through vending machines, student stores, or fundraisers, comply with nutritional standards
5. Results of the state's physical fitness test at applicable grade levels
6. Number of minutes of physical education offered at each grade span, and the estimated percentage of class time spent in moderate to vigorous physical activity
7. A description of district efforts to provide additional opportunities for physical activity outside of the physical education program
8. A description of other districtwide or school-based wellness activities offered, including the number of sites and/or students participating, as appropriate

The Superintendent or designee shall invite feedback on district and school wellness activities from food service personnel, school administrators, the school health council, parents/guardians, students, teachers, before- and after-school program staff, and/or other appropriate persons.

STUDENT WELLNESS (continued)

As feasible, the assessment report may include a comparison of results across multiple years, a comparison of district data with county, statewide, or national data, and/or a comparison of wellness data with other student outcomes such as academic indicators or student discipline rates.

The Superintendent or designee shall inform and update the public, including parents/guardians, students, and others in the community, about the content and implementation of this policy and assessment results. (42 USC 1758b)

In addition, the assessment results shall be submitted to the Board for the purposes of evaluating policy and practice, recognizing accomplishments, and making policy adjustments as needed to focus district resources and efforts on actions that are most likely to make a positive impact on student health and achievement.

Posting Requirements

Each school shall post the district's policies and regulations on nutrition and physical activity in public view within all school cafeterias or in other central eating areas. (Education Code 49432)

Note: Education Code 49432 authorizes, but does not require, schools to post a summary of nutrition and physical activity laws and regulations. The following paragraph is **optional**.

Each school shall also post a summary of nutrition and physical activity laws and regulations prepared by the California Department of Education.

*Legal Reference:***EDUCATION CODE**

33350-33354 CDE responsibilities re: physical education
 49430-49436 Pupil Nutrition, Health, and Achievement Act of 2001
 49490-49494 School breakfast and lunch programs
 49500-49505 School meals
 49510-49520 Nutrition
 49530-49536 Child Nutrition Act
 49540-49546 Child care food program
 49547-49548.3 Comprehensive nutrition services
 49550-49561 Meals for needy students
 49565-49565.8 California Fresh Start pilot program
 49570 National School Lunch Act

Legal Reference continued: (see next page)

STUDENT WELLNESS (continued)

Legal Reference: (continued)

EDUCATION CODE (continued)

51210 Course of study, grades 1-6

51220 Course of study, grades 7-12

51222 Physical education

51223 Physical education, elementary schools

51795-51796.5 School instructional gardens

51880-51921 Comprehensive health education

CODE OF REGULATIONS, TITLE 5

15500-15501 Food sales by student organizations

15510 Mandatory meals for needy students

15530-15535 Nutrition education

15550-15565 School lunch and breakfast programs

UNITED STATES CODE, TITLE 42

1751-1769 National School Lunch Program, especially:

1758b Local wellness policy

1771-1791 Child Nutrition Act, especially:

1773 School Breakfast Program

1779 Rules and regulations, Child Nutrition Act

CODE OF FEDERAL REGULATIONS, TITLE 7

210.1-210.31 National School Lunch Program

220.1-220.23 National School Breakfast Program

COURT DECISIONS

Frazer v. Dixon Unified School District, (1993) 18 Cal.App.4th 781

Management Resources:

CSBA PUBLICATIONS

Increasing Access to Drinking Water in Schools, Policy Brief, March 2013

Monitoring for Success: A Guide for Assessing and Strengthening Student Wellness Policies, rev. 2012

Nutrition Standards for Schools: Implications for Student Wellness, Policy Brief, rev. April 2012

Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide, rev. 2012

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

Safe Routes to School: Program and Policy Strategies for School Districts, Policy Brief, 2009

Physical Education and California Schools, Policy Brief, rev. October 2007

School-Based Marketing of Foods and Beverages: Policy Implications for School Boards, Policy Brief, March 2006

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Physical Education Framework for California Public Schools, Kindergarten Through Grade Twelve, 2009

Health Framework for California Public Schools, Kindergarten Through Grade Twelve, 2003

Management Resources continued: (see next page)

STUDENT WELLNESS (continued)

Management Resources: (continued)

CALIFORNIA PROJECT LEAN PUBLICATIONS

Policy in Action: A Guide to Implementing Your Local School Wellness Policy, October 2006

CENTER FOR COLLABORATIVE SOLUTIONS

Changing Lives, Saving Lives: A Step-by-Step Guide to Developing Exemplary Practices in Healthy Eating, Physical Activity and Food Security in Afterschool Programs, March 2010

CENTERS FOR DISEASE CONTROL AND PREVENTION PUBLICATIONS

School Health Index for Physical Activity and Healthy Eating: A Self-Assessment and Planning Guide, 2005

FEDERAL REGISTER

Rules and Regulations, January 26, 2012, Vol. 77, Number 17, pages 4088-4167

NATIONAL ASSOCIATION OF STATE BOARDS OF EDUCATION PUBLICATIONS

Fit, Healthy and Ready to Learn, 2000

U.S. DEPARTMENT OF AGRICULTURE PUBLICATIONS

Dietary Guidelines for Americans, 2005

Changing the Scene. Improving the School Nutrition Environment: A Guide to Local Action, 2000

WEB SITES

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

Action for Healthy Kids: <http://www.actionforhealthykids.org>

California Department of Education, Nutrition Services Division: <http://www.cde.ca.gov/ls/nu>

California Department of Public Health: <http://www.cdph.ca.gov>

California Healthy Kids Resource Center: <http://www.californiahealthykids.org>

California Project LEAN (Leaders Encouraging Activity and Nutrition):

<http://www.californiaprojectlean.org>

California School Nutrition Association: <http://www.calsna.org>

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

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

Dairy Council of California: <http://www.dairycouncilofca.org>

National Alliance for Nutrition and Activity: <http://www.cspinet.org/nutritionpolicy/nana.html>

National Association of State Boards of Education: <http://www.nasbe.org>

School Nutrition Association: <http://www.schoolnutrition.org>

Society for Nutrition Education: <http://www.sne.org>

U.S. Department of Agriculture, Food Nutrition Service, wellness policy:

<http://www.fns.usda.gov/tn/Healthy/wellnesspolicy.html>

Center USD

Board Policy

Student Wellness

BP 5030

Students

The Governing Board recognizes the link between student health and learning and desires to provide a comprehensive program promoting healthy eating and physical activity for district students. The Superintendent or designee shall build a coordinated school health system that supports and reinforces health literacy through health education, physical education and activity, health services, nutrition services, psychological and counseling services, health promotion for staff, a safe and healthy school environment, and parent/guardian and community involvement.

- (cf. 3513.3 - Tobacco-Free Schools)
- (cf. 3514 - Environmental Safety)
- (cf. 3555 - Nutrition Program Compliance)
- (cf. 5131.6 - Alcohol and Other Drugs)
- (cf. 5131.61 - Drug Testing)
- (cf. 5131.62 - Tobacco)
- (cf. 5131.63 - Steroids)
- (cf. 5141 - Health Care and Emergencies)
- (cf. 5141.22 - Infectious Diseases)
- (cf. 5141.3 - Health Examinations)
- (cf. 5141.31 - Immunizations)
- (cf. 5141.32 - Health Screening for School Entry)
- (cf. 5141.6 - School Health Services)
- (cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Education)
- (cf. 6164.2 - Guidance/Counseling Services)

To encourage consistent health messages between the home and school environment, the Superintendent or designee may disseminate health information and/or the district's student wellness policy to parents/guardians through district or school newsletters, handouts, parent/guardian meetings, district and school web sites, and other communications. Outreach to parents/guardians shall emphasize the relationship between student health and academic performance.

- (cf. 1100 - Communication with the Public)
- (cf. 1112 - Media Relations)
- (cf. 1113 - District and School Web Sites)
- (cf. 1114 - District-Sponsored Social Media)
- (cf. 6020 - Parent Involvement)

School Health Council/Committee

The Superintendent or designee shall permit parents/guardians, students, food service employees, physical education teachers, school health professionals, Board members, school administrators, and members of the public to participate in the development, implementation, and periodic review and update of the district's student wellness policy. (42 USC 1758b)

To fulfill this requirement, the Superintendent or designee may appoint a school health council or other district committee whose membership shall include representatives of these groups. He/she also may invite participation of other groups or individuals, such as health educators, curriculum directors, counselors, before- and after-school program staff, health practitioners, and/or others interested in school health issues.

(cf. 1220 - Citizen Advisory Committees)
(cf. 9140 - Board Representatives)

The school health council/committee shall advise the district on health-related issues, activities, policies, and programs. At the discretion of the Superintendent or designee, the duties of the council/committee may also include the planning, implementation, and evaluation of activities to promote health within the school or community.

Nutrition and Physical Activity Goals

The Board shall adopt goals for nutrition promotion and education, physical activity, and other school-based activities that promote student wellness. (42 USC 1758b)

(cf. 0000 - Vision)
(cf. 0200 - Goals for the School District)

The district's nutrition education and physical education programs shall be based on research, consistent with the expectations established in the state's curriculum frameworks and content standards, and designed to build the skills and knowledge that all students need to maintain a healthy lifestyle.

(cf. 6011 - Academic Standards)
(cf. 6143 - Courses of Study)

Nutrition education shall be provided as part of the health education program and, as appropriate, shall be integrated into other academic subjects in the regular educational program. Nutrition education also may be offered through before- and after-school programs.

(cf. 5148.2 - Before/After School Programs)
(cf. 6142.8 - Comprehensive Health Education)

The Board prohibits the marketing and advertising of non-nutritious foods and beverages through signage, vending machine fronts, logos, scoreboards, school supplies, advertisements in school publications, coupon or incentive programs, free give-aways, or other means.

(cf. 1325 - Advertising and Promotion)

All students shall be provided opportunities to be physically active on a regular basis. Opportunities for moderate to vigorous physical activity shall be provided through physical education and recess and may also be provided through school athletic programs, extracurricular programs, before- and after-school programs, programs encouraging students to walk or bicycle to and from school, in-class physical activity breaks, and other structured and unstructured activities.

(cf. 5142.2 - Safe Routes to School Program)

(cf. 6142.7 - Physical Education and Activity)

(cf. 6145 - Extracurricular and Cocurricular Activities)

(cf. 6145.2 - Athletic Competition)

The Board may enter into a joint use agreement to make district facilities or grounds available for recreational or sports activities outside the school day and/or to use community facilities to expand students' access to opportunity for physical activity.

(cf. 1330.1 - Joint Use Agreements)

The Superintendent or designee shall encourage staff to serve as positive role models for healthy eating and physical fitness. He/she shall promote work-site wellness and may provide opportunities for regular physical activity among employees. Professional development may include instructional strategies that assess health knowledge and skills and promote healthy behaviors.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Nutritional Guidelines for Foods Available at School

For all foods available on each campus during the school day, the district shall adopt nutritional guidelines which are consistent with 42 USC 1773 and 1779 and support the objectives of promoting student health and reducing childhood obesity. (42 USC 1758b)

The Board believes that foods and beverages available to students at district schools should support the health curriculum and promote optimal health, taking into consideration the needs of students with special dietary needs. Nutritional standards adopted by the district for all foods and beverages sold to students, including foods and beverages provided through the district's food service program, student stores, vending machines, or other venues, shall meet or exceed state and federal nutritional standards.

(cf. 3312 - Contracts)

(cf. 3550 - Food Service/Child Nutrition Program)
(cf. 3554 - Other Food Sales)
(cf. 5141.27 - Food Allergies/Special Dietary Needs)
(cf. 5148 - Child Care and Development)
(cf. 5148.3 - Preschool/Early Childhood Education)

In order to maximize the district's ability to provide nutritious meals and snacks, all district schools shall participate in available federal school nutrition programs, including the National School Lunch and School Breakfast Programs and after-school snack programs, to the extent possible. When approved by the California Department of Education, the district may sponsor a summer meal program.

(cf. 3552 - Summer Meal Program)
(cf. 3553 - Free and Reduced Price Meals)

The Superintendent or designee shall encourage school organizations to use healthy food items or non-food items for fundraising purposes. He/she also shall encourage school staff to avoid the use of non-nutritious foods as a reward for students' academic performance, accomplishments, or classroom behavior.

(cf. 1230 - School-Connected Organizations)

School staff shall encourage parents/guardians or other volunteers to support the district's nutrition education program by considering nutritional quality when selecting any snacks which they may donate for occasional class parties. Class parties or celebrations shall be held after the lunch period when possible.

Program Implementation and Evaluation

The Superintendent shall designate one or more district or school employees, as appropriate, to ensure that each school site complies with this policy. (42 USC 1758b)

(cf. 0500 - Accountability)
(cf. 3555 - Nutrition Program Compliance)

The Superintendent or designee shall inform and update the public, including parents/guardians, students, and others in the community, about the contents and implementation of this policy. He/she shall periodically measure and make available to the public an assessment of the extent to which district schools are in compliance with this policy, the extent to which this policy compares to model wellness policies available from the U.S. Department of Agriculture, and a description of the progress made in attaining the goals of the wellness policy. (42 USC 1758b)

To determine whether the policy is being effectively implemented districtwide and at each district school, the following indicators shall be used:

1. Descriptions of the district's nutrition education, physical education, and health education

curricula by grade level

2. Number of minutes of physical education instruction offered at each grade span
3. Number and type of exemptions granted from physical education
4. Results of the state's physical fitness test
5. An analysis of the nutritional content of meals served based on a sample of menus
6. Student participation rates in school meal programs, compared to percentage of students eligible for free and reduced-price meals
7. Number of sales of non-nutritious foods and beverages in fundraisers or other venues outside of the district's meal programs
8. Feedback from food service personnel, school administrators, the school health council, parents/guardians, students, teachers, before- and after-school program staff, and/or other appropriate persons
9. Any other indicators recommended by the Superintendent and approved by the Board

Posting Requirements

Each school shall post the district's policies and regulations on nutrition and physical activity in public view within all school cafeterias or in other central eating areas. (Education Code 49432)

Each school shall also post a summary of nutrition and physical activity laws and regulations prepared by the California Department of Education.

Legal Reference:

EDUCATION CODE

33350-33354 CDE responsibilities re: physical education
49430-49436 Pupil Nutrition, Health, and Achievement Act of 2001
49490-49494 School breakfast and lunch programs
49500-49505 School meals
49510-49520 Nutrition
49530-49536 Child Nutrition Act
49540-49546 Child care food program
49547-49548.3 Comprehensive nutrition services
49550-49561 Meals for needy students
49565-49565.8 California Fresh Start pilot program
49570 National School Lunch Act
51210 Course of study, grades 1-6

51220 Course of study, grades 7-12
51222 Physical education
51223 Physical education, elementary schools
51795-51796.5 School instructional gardens
51880-51921 Comprehensive health education
CODE OF REGULATIONS, TITLE 5
15500-15501 Food sales by student organizations
15510 Mandatory meals for needy students
15530-15535 Nutrition education
15550-15565 School lunch and breakfast programs
UNITED STATES CODE, TITLE 42
1751-1769 National School Lunch Program, especially:
1758b Local wellness policy
1771-1791 Child Nutrition Act, including:
1773 School Breakfast Program
1779 Rules and regulations, Child Nutrition Act
CODE OF FEDERAL REGULATIONS, TITLE 7
210.1-210.31 National School Lunch Program
220.1-220.21 National School Breakfast Program
COURT DECISIONS
Frazer v. Dixon Unified School District, (1993) 18 Cal.App.4th 781

Management Resources:

CSBA PUBLICATIONS

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

Safe Routes to School: Program and Policy Strategies for School Districts, Policy Brief, 2009

Monitoring for Success: Student Wellness Policy Implementation Monitoring Report and Guide, 2007

Nutrition Standards for Schools: Implications for Student Wellness, Policy Brief, rev. October 2007

Physical Education and California Schools, Policy Brief, rev. October 2007

Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide, rev. April 2006

School-Based Marketing of Foods and Beverages: Policy Implications for School Boards, Policy Brief, March 2006

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Physical Education Framework for California Public Schools, Kindergarten Through Grade Twelve, 2009

Healthy Children Ready to Learn: A White Paper on Health, Nutrition, and Physical Education, January 2005

Health Framework for California Public Schools, Kindergarten Through Grade Twelve, 2003

CALIFORNIA PROJECT LEAN PUBLICATIONS

Policy in Action: A Guide to Implementing Your Local School Wellness Policy, October 2006

CENTER FOR COLLABORATIVE SOLUTIONS

Changing Lives, Saving Lives: A Step-by-Step Guide to Developing Exemplary Practices in Healthy Eating, Physical Activity and Food Security in Afterschool Programs, March 2010

CENTERS FOR DISEASE CONTROL AND PREVENTION PUBLICATIONS

School Health Index for Physical Activity and Healthy Eating: A Self-Assessment and Planning Guide, 2005

NATIONAL ASSOCIATION OF STATE BOARDS OF EDUCATION PUBLICATIONS

Fit, Healthy and Ready to Learn, 2000

U.S. DEPARTMENT OF AGRICULTURE PUBLICATIONS

Dietary Guidelines for Americans, 2005

Changing the Scene, Improving the School Nutrition Environment: A Guide to Local Action, 2000

WEB SITES

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

Action for Healthy Kids: <http://www.actionforhealthykids.org>

California Department of Education, Nutrition Services Division: <http://www.cde.ca.gov/ls/nu>

California Department of Public Health: <http://www.cdph.ca.gov>

California Healthy Kids Resource Center: <http://www.californiahealthykids.org>

California Project LEAN (Leaders Encouraging Activity and Nutrition):

<http://www.californiaprojectlean.org>

California School Nutrition Association: <http://www.calsna.org>

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

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

Dairy Council of California: <http://www.dairycouncilofca.org>

National Alliance for Nutrition and Activity: <http://www.cspinet.org/nutritionpolicy/nana.html>

National Association of State Boards of Education: <http://www.nasbe.org>

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

School Nutrition Association: <http://www.schoolnutrition.org>

Society for Nutrition Education: <http://www.sne.org>

U.S. Department of Agriculture, Food Nutrition Service, wellness policy:

<http://www.fns.usda.gov/tn/Healthy/wellnesspolicy.html>

Policy CENTER UNIFIED SCHOOL DISTRICT

adopted: October 19, 2011 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 or in any school activity related to school attendance or under the authority of the district. The California Department of Education (CDE), through its compliance monitoring program, reviews districts' uniform complaint procedures and other related policies and practices to ensure compliance with these requirements.

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 or 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 need 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 access to appropriate facilities, such as restrooms. However, each situation will need to be analyzed to determine the most appropriate course of action to meet the safety needs of the student, based on the circumstances involved. 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. The district should consult legal counsel as necessary.

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. 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, which is required to be consistent with the uniform complaint procedures specified in 5 CCR 4600-4687, 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.

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 and Student Services
8408 Watt Avenue, Antelope, CA 95843
(916) 338-6413

(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 or to whom such an incident is reported 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)

Upon receiving a complaint of discrimination, harassment, intimidation, or bullying, the Coordinator shall immediately investigate the complaint in accordance with the district's uniform complaint procedures specified in AR 1312.3 - Uniform Complaint Procedures.

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)

When required pursuant to Education Code 48985, complaint forms shall be translated into the student's primary language.

Legal Reference: (see next page)

NONDISCRIMINATION/HARASSMENT (continued)

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

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.firstamendmentcenter.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>

Center USD

Board Policy

Nondiscrimination/Harassment

BP 5145.3

Students

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, or gender; 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.

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)

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, 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

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)

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)

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.

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)

When required pursuant to Education Code 48985, complaint forms shall be translated into the student's primary language.

Legal Reference: (see next page)

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)

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>

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.

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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
<u>I. Annually</u>			
Beginning of each school year	17612, 48980.3	AR 3514.2	Use of pesticide product, active ingredients, Internet address to access information
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)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. <u>Annually</u> (continued)			
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 allows such absence	48980, 46014	BP 5113 AR 5113	Absence for religious exercises or 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	49013; 5 CCR 4622	AR 1312.3	Uniform complaint procedures, available appeals, civil law remedies
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

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. <u>Annually</u> (continued)			
Beginning of each school year	49063, 49073; 20 USC 1232g; 34 CFR 99.37	AR 5125.1	Release of directory information
Beginning of each school year	49520, 48980; 42 USC 1758; 7 CFR 245.5	AR 3553	Free and reduced price meals
Beginning of each school year	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
Beginning of each school year	Health and Safety Code 104855	AR 5141.6	Availability of dental fluoride treatment; opportunity to accept or deny treatment
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
Beginning of each school year, if any district school has 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)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. <u>Annually</u> (continued)			
Beginning of each school year 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
II. <u>At Specific Times During the Student's Academic Career</u>			
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)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
II. <u>At Specific Times During the Student's Academic Career</u> (continued)			
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 and 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
III. <u>When Special Circumstances Occur</u>			
Upon receipt of a complaint alleging discrimination	262.3	AR 1312.3	Civil law remedies available to complainants

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. When Special Circumstances Occur (continued)			
When student has been placed in structured English immersion program	310-311; 5 CCR 11309	AR 6174	Student's placement in program, opportunity to apply for parental exception waiver, other rights of student relative to such placements
When determining whether an English learner should be reclassified as fluent English proficient	313; 5 CCR 11303	AR 6174	Description of reclassification process, opportunity for parent/guardian to participate
When student is identified as English learner and district receives Title III funds, not later than 30 days after beginning of school year or within two weeks of placement if identified during school year	440; 20 USC 7012	AR 6174	Reason for classification, level of English proficiency, description of program(s), option to decline program or choose alternate, exit requirements of program
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

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. When Special Circumstances Occur (continued)			
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
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 already admitted student is excluded for lack of immunization	48216; 17 CCR 6040	AR 5141.31	Need to submit evidence of immunization or exemption within 10 school days; 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

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. When Special Circumstances Occur (continued)			
Prior to withholding grades, diplomas, or transcripts	48904	AR 5125.2	Damaged school property
When withholding grades, diplomas or transcripts from transferring student	48904.3	AR 5125.2	Next school will continue withholding grades, diplomas, or transcripts
When student is released to peace officer	48906	BP 5145.11	Release of student to peace officer
At time of suspension	48911	BP 5144.1 AR 5144.1	Notice of suspension
When original period of suspension is extended	48911	AR 5144.1	Extension of suspension
At the time a student is assigned to a supervised suspension classroom	48911.1	AR 5144.1	The student's assignment to a supervised suspension classroom
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

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. When Special Circumstances Occur (continued)			
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
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

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. When Special Circumstances Occur (continued)			
Within 30 calendar days of receipt of results of assessment or reassessment of English proficiency	52164.1, 52164.3; 5 CCR 11511.5	AR 6174	Results of state test of English proficiency
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 and Safety Code 1596.857	AR 5148	Parent right to enter facility
When sharing student immunization information with an immunization system	Health and 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
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

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. When Special Circumstances Occur (continued)			
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
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
For districts receiving Title III funds, within 30 days of the release of state Title III accountability report	20 USC 7012	AR 6174	Notification of any failure to make progress on state's annual measurable achievement objectives for English learners
When household is selected for verification of eligibility for free or reduced-price meals	42 USC 1758; 7 CFR 245.6a	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

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
IV. Special Education Notices			
Prior to conducting initial evaluation	56301, 56321, 56321.5, 56321.6, 56329; 34 CFR 300.502	AR 6164.4	Proposed evaluation plan, related parental rights, prior written notice
24 hours before IEP when district intending to record	56341.1	AR 6159	Intention to audio-record IEP meeting
Early enough to ensure opportunity for parent to attend IEP meeting	56341.5; 34 CFR 300.322	AR 6159	Time, purpose, location, who 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
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	Notification and consent
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

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
IV. Special Education Notices (continued)			
Registration of complaint	20 USC 1415(d); 34 CFR 300.504	AR 6159.1	Procedural safeguards notice
Disciplinary action taken for dangerous behavior	20 USC 1415(k); 34 CFR 300.530	AR 5144.2	Decision and procedural safeguards notice
Suspension or change of placement for more than 10 days	20 USC 1415(k); 34 CFR 300.530	AR 5144.2	Decision and procedural safeguards notice
Upon requesting a due process hearing	20 USC 1415(k); 34 CFR 300.508	AR 6159.1	Child's name, address, school, description of problem, proposed resolution
Eligibility for services under Section 504	34 CFR 104.32, 104.36	AR 6164.6	District responsibilities, district actions, procedural safeguards
V. Classroom Notices			
In each classroom in each school	35186	AR/E 1312.4	Complaints re: sufficiency of instructional materials, teacher vacancy or misassignment, maintenance of facilities, right of students who did not pass exit exam to receive intensive instruction after grade 12

Center USD

Exhibit

Parental Notifications

E 5145.6

Students

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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

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. <u>Annually</u> (continued)			
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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
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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

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. <u>Annually</u> (continued)			
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 collection	20 USC 1232h	AR 5022 BP 6162.8	Notice of privacy policy and dates of activities re: survey, health examination, or 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

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. <u>Annually</u> (continued)			
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
II. <u>At Specific Times During the Student's Academic Career</u>			
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

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
II. <u>At Specific Times During the Student's Academic Career</u> (continued)			
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

III. When Special Circumstances Occur

Upon receipt of a complaint alleging discrimination	262.3	AR 1312.3	Civil law remedies available to complainants
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When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. When Special Circumstances Occur (continued)			
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

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. When Special Circumstances Occur (continued)			
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

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. When Special Circumstances Occur (continued)			
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

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. When Special Circumstances Occur (continued)			
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

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. When Special Circumstances Occur (continued)			
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

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. When Special Circumstances Occur (continued)			
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
IV. Special Education Notices			
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

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
IV. Special Education Notices (continued)			
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

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
IV. Special Education Notices (continued)			
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

V. Classroom Notices

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
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CHILD CARE AND DEVELOPMENT

Note: The following administrative regulation is for use by districts that operate child care and development services through a contract with the California Department of Education (CDE) and reflects provisions generally applicable to programs under the Child Care and Development Services Act (Education Code 8200-8499.7). The district may revise this regulation to reflect specific requirements for the program(s) it offers. Also see AR 5148.1 - Child Care Services for Parenting Students for child care requirements pertaining to the California School Age Families Education (Cal-SAFE) program for pregnant and parenting students (Education Code 54740-54749); BP/AR 5148.2 - Before/After School Programs for requirements pertaining to the After-School Education and Safety program (Education Code 8482-8484.6) and 21st Century Community Learning Centers (Education Code 8484.7-8484.8); and BP/AR 5148.3 - Preschool/Early Childhood Education for requirements pertaining to the California State Preschool Program (Education Code 8235-8239).

The following administrative regulation does not reflect all policy language mandated for each specific program. The district should be careful to reflect the mandates, if any, applicable to the program(s) it offers. For example, 5 CCR 18221 mandates a written policy statement for the alternative payment program that includes specified components, including, but not limited to, program purpose, enrollment priorities, reimbursement of providers, and parent fee collection. For resource and referral programs, 5 CCR 18244 mandates written referral policies and written complaint procedures.

In addition to the program requirements described below, child care and development programs may be subject to other policies in the district's policy manual. For example, see AR 3514.2 - Integrated Pest Management, BP/AR 1240 - Volunteer Assistance, and food safety standards and nutrition requirements in BP/AR 3550 - Food Service/Child Nutrition Program. Districts should consult legal counsel if they have questions regarding the applicability of other laws to the district's programs.

Licensing

Note: Pursuant to 22 CCR 101156, all child care centers must be licensed by the California Department of Social Services unless exempted by law. Health and Safety Code 1596.792 and 22 CCR 101158 list exemptions from the licensure requirements including, but not limited to, any program that (1) is a "public recreation program" that meets the criteria specified in Health and Safety Code 1596.792, as amended by AB 1991 (Ch. 122, Statutes of 2012); (2) is operated before and/or after school by qualified teachers employed by the district; (3) is a school parenting program or adult education child care program; (4) operates only one day per week for no more than four hours on that day; (5) offers temporary child care services to parents/guardians who are on the same premises as the child care site; or (6) provides activities that are of an instructional nature in a classroom-like setting when K-12 students are normally not in session and the sessions do not exceed a total of 30 days when only school-age children are enrolled or 15 days when younger children are enrolled. If the district offers only programs that are exempted from licensure, it should modify the following regulation accordingly.

All district child care and development services shall be licensed by the California Department of Social Services, unless exempted pursuant to Health and Safety Code 1596.792 or 22 CCR 101158.

The license shall be posted in a prominent, publicly accessible location in the facility. (Health and Safety Code 1596.8555)

Licensed child care centers shall be subject to the requirements of Health and Safety Code 1596.70-1597.21, 22 CCR 101151-101239.2, and, when applicable, 22 CCR 101451-101539.

CHILD CARE AND DEVELOPMENT (continued)

Program Components

Note: Items #1-8 below list components of child care and development programs required for all providers pursuant to 5 CCR 18272-18281. The Governing Board is required pursuant to 5 CCR 18271 to approve goals and objectives addressing each of these program components; see the accompanying Board policy. The district may add specific components of other programs offered by the district.

The district's child care and development program shall include the following components:

1. A developmental profile recording each child's physical, cognitive, social, and emotional development which shall be used to plan and conduct developmentally and age-appropriate activities (Education Code 8203.5; 5 CCR 18272)

Note: In completing the developmental profile, program staff is required to use the CDE's "Desired Results Developmental Profile" form that is appropriate to the age of the children being served.

Program staff shall complete the "Desired Results Developmental Profile," available from the California Department of Education (CDE), for each child who is enrolled in the program for at least 10 hours per week and for any child with disabilities regardless of the number of hours enrolled. The profile shall be completed within 60 days of enrollment and at least once every six months thereafter for children of all ages. (Education Code 8203.5; 5 CCR 18270.5, 18272)

2. An educational program which complies with 5 CCR 18273, including the provision of services that are developmentally, linguistically, and culturally appropriate and inclusive of children with special needs

(cf. 5148.2 - Before/After School Programs)
(cf. 5148.3 - Preschool/Early Childhood Education)
(cf. 6159 - Individualized Education Program)
(cf. 6164.4 - Identification of Individuals for Special Education)
(cf. 6164.6 - Identification and Education Under Section 504)
(cf. 6174 - Education for English Language Learners)

3. A staff development program which complies with 5 CCR 18274

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

4. Parent/guardian involvement and education which comply with 5 CCR 18275 and involve parents/guardians through an orientation, at least two individual conferences per year, meetings with program staff, an advisory committee, participation in daily activities, and information regarding their child's progress

(cf. 6020 - Parent Involvement)

CHILD CARE AND DEVELOPMENT (continued)

5. A health and social services component which complies with 5 CCR 18276 and includes referrals to appropriate community agencies as needed

(cf. 1020 - Youth Services)

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

(cf. 5141 - Health Care and Emergencies)

(cf. 5141.23 - Asthma Management)

(cf. 5141.6 - School Health Services)

6. A community involvement component which complies with 5 CCR 18277

Note: Health and Safety Code 1596.808 establishes beverage standards for licensed child care centers. These standards require that children age 2 or older, with specified exceptions, be served only low-fat or nonfat milk, no more than one serving per day of 100 percent juice, and no beverage with added sweetener and that clean and safe drinking water be readily available and accessible throughout the day. In addition, centers that receive funding through the Child and Adult Care Food Program (42 USC 1766) must meet federal guidelines for meals, snacks, fluid milk or nutritionally equivalent milk substitutes, and drinking water.

7. A nutrition component which ensures that children in the program are provided nutritious meals, beverages, and snacks that meet state and federal standards and have access to drinking water throughout the day, including at meal times (Health and Safety Code 1596.808; 42 USC 1766; 5 CCR 18278)

(cf. 3550 - Food Service/Child Nutrition Program)

(cf. 5030 - Student Wellness)

(cf. 5141.27 - Food Allergies/Special Dietary Needs)

Note: 5 CCR 18279-18281 require an annual evaluation using the standardized "Desired Results for Children and Families" system developed by the CDE. The system requires a program self-evaluation that includes, but is not limited to, a staff assessment, a parent survey, and an environment rating scale using forms selected by the CDE. Each contractor is required to submit a summary of the self-evaluation findings to the CDE by June 1 of each year. In addition, every three years, the CDE conducts a Federal Program Monitoring/Contract Monitoring Review (FPM/CMR) process with each contract agency which reviews compliance with program requirements. The FPM/CMR instrument is available on the CDE's web site.

8. An annual plan for program evaluation which conforms with the state's "Desired Results for Children and Families" system and includes, but is not limited to, a self-evaluation, parent survey, and environment rating scale using forms provided by the CDE (5 CCR 18270.5, 18279, 18280)

(cf. 0500 - Accountability)

Note: Item #9 below is optional and may be revised to reflect district practice. 42 USC 1766 encourages child care centers to provide opportunities for physical activity and to limit the amount of time spent in sedentary activities, such as time spent using electronic media.

CHILD CARE AND DEVELOPMENT (continued)

9. Programs that promote age-appropriate structured and unstructured opportunities for physical activity and that limit the amount of time spent in sedentary activities to an appropriate level

Staffing Ratios

The district's child care and development program shall maintain at least the minimum adult-child and teacher-child ratios specified in 5 CCR 18290-18292 based on the ages of the children served.

Enrollment

Note: CDE contracts provide funding only for services to families who meet the criteria for subsidized services as specified in Education Code 8250 and 8263 (i.e., families with a need for services who are current aid recipients, are income eligible as defined in Education Code 8263.1, are homeless, or have children who have been identified as being, or at risk of being, abused, neglected, or exploited). The district may also provide services to nonsubsidized families provided the district uses other funding sources or the families pay the full cost of services.

5 CCR 18105 mandates that the district develop written admissions policies and procedures that conform to requirements of 22 CCR 101218, including criteria designating those children whose needs can be met by the child care center's program and services and the ages of children who will be accepted.

The following section may be revised to reflect the district's contract(s) with the CDE.

The district's child care and development services shall be available to infants and children through age 12 years. Individuals with disabilities may be served through age 21 years in accordance with their individualized education program and Education Code 8208. (Education Code 8208, 8263.4)

Children who meet the criteria specified in Education Code 8250 and 8263 shall be eligible for subsidized child care and development services.

Children ages 11-12 years, except for children with disabilities, shall be eligible for subsidized child care and development services only for the portion of care needed that is not available in a before- or after-school program. Subsidized child care and development services may be provided to a child age 11 or 12 years when the parent/guardian certifies, on a form provided by the CDE, that a before- or after-school program is not available. A program may be considered unavailable if: (Education Code 8263.4)

1. The program does not provide services during the hours or days that the child needs services, such as in the early morning, evening, or weekend hours or during summer, school breaks, or intersession.

CHILD CARE AND DEVELOPMENT (continued)

2. The program is too geographically distant from the child's school or the parent/guardian's residence.
3. Use of the program would create substantial transportation obstacles for the family.
4. Use of the program is otherwise inappropriate for the child or burdensome on the family.

First priority for enrollment shall be given to neglected or abused children who are recipients of child protective services, or children who are at risk of being neglected or abused, upon written referral from a legal, medical, or social services agency. If unable to enroll a child in this category, the district shall refer the child's parent/guardian to local resource and referral services so that services for the child can be located. (Education Code 8263)

Second priority for enrollment shall be given equally to families who are income eligible, as defined in Education Code 8263.1. Families with the lowest gross monthly income in relation to family size shall be admitted first. If two or more families are in the same priority in relation to income, the family that has a child with disabilities shall be admitted first or, if there is no child with disabilities, the family that has been on the waiting list for the longest time shall be admitted first. (Education Code 8263, 8263.1)

The district's decision to approve or deny services shall be communicated to the family through a written notice mailed or delivered within 30 days from the date the application is signed by the parent/guardian. If services are approved, the notice shall contain the basis of eligibility, daily/hourly fee, if applicable, duration of the eligibility, names of children approved to receive services, and the hours of service approved for each day. If services are denied, the notice shall contain the basis of denial and instructions on how the parents/guardians may request a hearing in accordance with the procedures specified in 5 CCR 18120 and 18121 if they do not agree with the district's decision. (5 CCR 18094, 18118)

Note: The following optional paragraph may be revised to reflect additional enrollment priorities or criteria established by the district, such as priority for district students or children of district employees; see the accompanying Board policy.

After all children eligible for subsidized services have been enrolled, the district may enroll children in accordance with any other priorities established by the Governing Board.

Note: Unless state funding is allocated to support the "centralized eligibility list" established in each county pursuant to Education Code 8499.5, such lists will be maintained only if locally funded. In situations where there is no locally funded centralized eligibility list or the district elects not to participate in the local list, the district must establish its own waiting list in accordance with admission priorities pursuant to 5 CCR 18106.

CHILD CARE AND DEVELOPMENT (continued)

The Superintendent or designee shall maintain a waiting list in accordance with admission priorities and shall contact applicants in order of their priority on the waiting list as vacancies occur. (5 CCR 18106)

The Superintendent or designee shall establish and maintain a basic data file for each family receiving child care and development services containing the completed and signed application for services and records used to determine the child's eligibility and need. (5 CCR 18081)

Disenrollment

Note: Education Code 8263.3, as added by SB 1016 (Ch. 38, Statutes of 2012), specifies the order by which families must be disenrolled from child care and development services when funding levels are reduced. CDE Management Bulletin 12-07 clarifies this order for all child care and development programs except CalWORKS Stage 2 programs and California State Preschool Programs (see AR 5148.3 - Preschool/Early Childhood Education for information about disenrollment from preschool programs).

When necessary due to a reduction in state reimbursements, families shall be disenrolled from subsidized child care and development services in the following order: (Education Code 8263.3)

1. Families with the highest income in relation to family size shall be disenrolled first.
2. If two or more families have the same income ranking, children without disabilities who have been enrolled in child care services the longest shall be disenrolled first. After all children without disabilities have been disenrolled, children with disabilities shall be disenrolled, with those who have been enrolled in child care services the longest being disenrolled first.
3. Families whose children are receiving child protective services or are at risk of neglect, abuse, or exploitation, regardless of family income, shall be disenrolled last.

Note: The following **optional** paragraph reflects the appeal process described in CDE Management Bulletin 12-07. The district's decision is final and there is no further opportunity for appeal to the CDE.

Whenever the district issues a notice to the families who will be disenrolled due to funding reduction, a parent/guardian may appeal the decision only on the grounds that the factors used to determine the family's disenrollment are incorrect. He/she shall submit the appeal within 14 calendar days of receipt of the notice, or within 19 calendar days if the notice was mailed. The Superintendent or designee shall review the appeal and notify the parent/guardian, in writing, of the district's final decision within 10 calendar days of receiving the appeal request. Services shall continue to be provided pending the appeal decision.

CHILD CARE AND DEVELOPMENT (continued)**Fees**

Note: Education Code 8250 and 5 CCR 18110 prohibit districts from assessing fees for children enrolled in a program for severely disabled children or a federally based migrant program. Districts may revise the following paragraph to reflect any such program(s) offered by the district. Districts that offer only programs prohibited from charging fees may delete the following section. In addition, Education Code 8447 prohibits charging a fee to a family receiving CalWORKs cash aid.

SB 1016 (Ch. 38, Statutes of 2012) amended Education Code 8235 to eliminate full-day preschool programs under the California State Preschool Program and to amend Education Code 8239 to encourage the provision of "wraparound child care services" which combine part-day preschool and general child care services to provide a full day of services for qualifying families; see BP/AR 5148.3 - Preschool/Early Childhood Education. Fees for wraparound child care services are assessed in the same manner as other general child care services in accordance with the fee schedule established by the Superintendent of Public Instruction pursuant to Education Code 8263.

Except when prohibited by law, the Superintendent or designee may charge fees for services according to the fee schedule established by the Superintendent of Public Instruction, the actual cost of services, or the maximum daily/hourly rate specified in the contract, whichever is least. (Education Code 8239, 8250, 8263, 8447; 5 CCR 18108, 18109, 18110)

Note: Families who are eligible for subsidized child care and development services may still be required to pay a portion of the costs as determined by income eligibility in the CDE's fee schedule, except as noted below.

Families receiving services on the basis of having a child who is at risk of abuse, neglect, or exploitation may be exempt from these fees for up to three months. Families receiving services on the basis of having a child receiving child protective services, or having a certification by a county child welfare agency that child care services continue to be necessary, may be exempt from these fees for up to 12 months. The cumulative period of exemption from these fees for these families shall not exceed 12 months. (Education Code 8263)

Note: 5 CCR 18114 mandates that child care providers adopt a policy for the collection of fees in advance of providing services, as provided below. 5 CCR 18114 contains an alternative definition of delinquency for alternative payment programs offered pursuant to Education Code 8220-8224.

Fees shall be collected prior to providing services and shall be considered delinquent after seven days from the date that fees are due. Parents/guardians shall be notified in the event that fees are delinquent. If a reasonable plan for payment of the delinquent fees has not been provided by the parents/guardians, services shall be terminated if all delinquent fees are not paid within two weeks of such notification. Parents/guardians shall receive a copy of the district's regulations regarding fee collection at the time of initial enrollment into the program. (5 CCR 18114, 18115)

CHILD CARE AND DEVELOPMENT (continued)

Note: The following paragraph is for use by districts that wish to require parents/guardians to provide diapers and/or to pay the costs of field trips (unless the program is exempt from fees) and may be modified to delete diapers as appropriate for the age of the children served. Education Code 8263 mandates that such districts have a written policy which includes parents/guardians in the decision-making process.

The Superintendent or designee shall establish a process which includes parents/guardians in determining whether and how much to charge parents/guardians for field trip expenses. This process also shall be used to determine whether to require parents/guardians to provide diapers. (Education Code 8263)

Health Examination

A physical examination and evaluation, including age-appropriate immunization, shall be required prior to or within six weeks of enrollment, unless the parent/guardian submits a letter stating that such examination is contrary to his/her religious beliefs. (Education Code 8263)

(cf. 5141.22 - Infectious Diseases)
(cf. 5141.3 - Health Examinations)
(cf. 5141.31 - Immunizations)

Attendance

Sign-in and sign-out sheets shall be used daily for all children for attendance accounting purposes. Attendance records shall include verification of excused absences, including the child's name, date(s) of absence, specific reason for absence, and signature of parent/guardian or district representative. (5 CCR 18065, 18066)

Absences shall be excused for the following reasons:

1. Illness or quarantine of the child or of the parent/guardian (Education Code 8208)
2. Family emergency (Education Code 8208)

Note: 5 CCR 18066 mandates that providers adopt policies delineating circumstances constituting an excused absence for a family emergency. The following paragraph may be revised to reflect district practice.

A family emergency shall be considered to exist when unforeseen circumstances cause the need for immediate action, such as may occur in the event of a natural disaster or when a member of the child's immediate family dies, has an accident, or is required to appear in court.

3. Time spent with a parent/guardian or other relative as required by a court of law (Education Code 8208)

CHILD CARE AND DEVELOPMENT (continued)

4. Time spent with a parent/guardian or other relative which is clearly in the best interest of the child (Education Code 8208)

Note: 5 CCR 18066 mandates a policy that delineates circumstances constituting an excused absence "in the best interest of the child." The following paragraph may be revised to reflect district practice.

An absence shall be considered to be in the best interest of the child when the time is spent with the child's parent/guardian or other relative for reasons deemed justifiable by the program coordinator or site supervisor.

Except for children who are recipients of child protective services or at risk of abuse or neglect, excused absences in the best interest of the child shall be limited to 10 days during the contract period. (5 CCR 18066)

Note: 5 CCR 18066 mandates that providers adopt a policy governing unexcused absences which may include reasonable limitations, if any. The following paragraph may be revised to reflect district practice.

Any absence due to a reason other than any of those stated above, or without the required verification, shall be considered an unexcused absence. After three unexcused absences during the year, the program coordinator or site supervisor shall notify the parents/guardians. Children who continue to have excessive unexcused absences may be removed from the program at the discretion of the program coordinator in order to accommodate other families on the waiting list for admission.

Parents/guardians shall be notified of the policies and procedures related to excused and unexcused absences for child care and development services. (5 CCR 18066)

(cf. 5145.6 - Parent Notifications)

Rights of Parents/Guardians

Note: The following section is for use by districts that operate one or more licensed child care centers (see "Licensing" section above), but may be used by license-exempt providers.

At the time a child is accepted into a licensed child care and development center, the child's parent/guardian or authorized representative shall be notified of his/her rights as specified in 22 CCR 101218.1, including, but not limited to, the right to enter and inspect the child care facility and the right to be informed, upon request, of the name and type of association to the center of any adult who has been granted a criminal record exemption. (Health and Safety Code 1596.857; 22 CCR 101218.1)

CHILD CARE AND DEVELOPMENT (continued)

The written notice of parent/guardian rights also shall be permanently posted within the facility in a location accessible to parents/guardians. Notwithstanding these rights, access to the facility may be denied to an adult whose behavior presents a risk to children present in the facility or to noncustodial parents/guardians when so requested by the responsible parent/guardian. (Health and Safety Code 1596.857)

Records

Note: CDE contracts require the district to submit data on both subsidized and nonsubsidized families served by child care and development centers, as provided below. In addition, the district is required to provide monthly reports, through the CDE's online Child Development Management Information System, on any families receiving subsidized services during that month.

The Superintendent or designee shall maintain records of enrollment, attendance, types of families served, income received from all families participating in the district's child care and development program, and any other records required by the CDE.

Center USD

Administrative Regulation

Child Care And Development

AR 5148
Students

Licensing

All district child care and development services shall be licensed by the California Department of Social Services, unless exempted pursuant to Health and Safety Code 1596.792 or 22 CCR 101158.

The license shall be posted in a prominent, publicly accessible location in the facility. (Health and Safety Code 1596.8555)

Program Components

The district's child care and development program shall include the following components:

1. A developmental profile recording each child's physical, cognitive, social, and emotional development which shall be used to plan and conduct developmentally and age-appropriate activities (Education Code 8203.5; 5 CCR 18272)

Program staff shall complete the "Desired Results Developmental Profile," available from the California Department of Education (CDE), for each child who is enrolled in the program for at least 10 hours per week and for any child with disabilities regardless of the number of hours enrolled. The profile shall be completed within 60 days of enrollment and at least once every six months thereafter for children of all ages. (Education Code 8203.5; 5 CCR 18270.5, 18272)

2. An educational program which complies with 5 CCR 18273, including the provision of services that are developmentally, linguistically, and culturally appropriate and inclusive of children with special needs

(cf. 5148.2 - Before/After School Programs)
(cf. 5148.3 - Preschool/Early Childhood Education)
(cf. 6159 - Individualized Education Program)
(cf. 6164.4 - Identification of Individuals for Special Education)
(cf. 6164.6 - Identification and Education Under Section 504)
(cf. 6174 - Education for English Language Learners)

3. A staff development program which complies with 5 CCR 18274

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

4. Parent/guardian involvement and education which comply with 5 CCR 18275 and involve parents/guardians through an orientation, at least two individual conferences

per year, meetings with program staff, an advisory committee, participation in daily activities, and information regarding their child's progress

(cf. 6020 - Parent Involvement)

5. A health and social services component which complies with 5 CCR 18276 and includes referrals to appropriate community agencies as needed

(cf. 1020 - Youth Services)

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

(cf. 5141 - Health Care and Emergencies)

(cf. 5141.23 - Asthma Management)

(cf. 5141.6 - School Health Services)

6. A community involvement component which complies with 5 CCR 18277

7. A nutrition component which ensures that children in the program have nutritious meals, beverages, and snacks that meet state and federal standards (Health and Safety Code 1596.808; 42 USC 1766; 5 CCR 18278)

(cf. 3550 - Food Service/Child Nutrition Program)

(cf. 5030 - Student Wellness)

8. An annual plan for program evaluation which conforms with the state's "Desired Results for Children and Families" system and includes, but is not limited to, a self-evaluation, parent survey, and environment rating scale using forms provided by the CDE (5 CCR 18270.5, 18279, 18280)

(cf. 0500 - Accountability)

Staffing Ratios

The district's child care and development program shall maintain at least the minimum adult-child and teacher-child ratios specified in 5 CCR 18290-18292 based on the ages of the children served.

Enrollment

The district's child care and development services shall be available to infants and children through age 12 years. Individuals with disabilities may be served through age 21 years in

accordance with their individualized education program and Education Code 8208. (Education Code 8208, 8263.4)

Children who meet the criteria specified in Education Code 8250 and 8263 shall be eligible for subsidized child care and development services.

Children ages 11-12, except for children with disabilities, shall be eligible for subsidized child care and development services only for the portion of care needed that is not available in a before- or after-school program. Subsidized child care and development services may be provided to a child age 11 or 12 when the parent/guardian certifies, on a form provided by the CDE, that a before- or after-school program is not available. A program may be considered unavailable if: (Education Code 8263.4)

1. The program does not provide services during the hours or days that the child needs services.
2. The program is too geographically distant from the child's school or the parent/guardian's residence.
3. Use of the program would create substantial transportation obstacles for the family.
4. Use of the program is otherwise inappropriate for the child or burdensome on the family.

First priority for enrollment shall be given to neglected or abused children who are recipients of child protective services, or children who are at risk of being neglected or abused, upon written referral from a legal, medical, or social services agency. If unable to enroll a child in this category, the district shall refer the child's parent/guardian to local resource and referral services so that services for the child can be located. (Education Code 8263)

Second priority for enrollment shall be given equally to families who are income eligible, as defined in Education Code 8263.1. Families with the lowest gross monthly income in relation to family size shall be admitted first. If two or more families are in the same priority in relation to income, the family that has a child with disabilities shall be admitted first or, if there is no child with disabilities, the family that has been on the waiting list for the longest time shall be admitted first. (Education Code 8263, 8263.1)

The district's decision to approve or deny services shall be communicated to the family through a written notice mailed or delivered within 30 days from the date the application is signed by the parent/guardian. If services are approved, the notice shall contain the basis of eligibility, daily/hourly fee, if applicable, duration of the eligibility, names of children approved to receive services, and the hours of service approved for each day. If services are denied, the notice shall contain the basis of denial and instructions on how the parents/guardians may request a hearing in accordance with the procedures specified in 5 CCR 18120 and 18121 if they do not agree with the district's decision. (5 CCR 18094, 18118)

After all children eligible for subsidized services have been enrolled, the district may enroll

children in accordance with any other priorities established by the Governing Board.

The Superintendent or designee shall maintain a waiting list in accordance with admission priorities and shall contact applicants in order of priority from the waiting list as vacancies occur. (5 CCR 18106)

The Superintendent or designee shall establish and maintain a basic data file for each family receiving child care and development services containing the completed and signed application for services and records used to determine the child's eligibility and need. (5 CCR 18081)

Fees

Except when prohibited by law, the Superintendent or designee may charge fees for services according to the fee schedule established by the Superintendent of Public Instruction, the actual cost of services, or the maximum daily/hourly rate specified in the contract, whichever is least. (Education Code 8250, 8263, 8447; 5 CCR 18108, 18109, 18110)

Families receiving services on the basis of having a child at risk of abuse, neglect, or exploitation may be exempt from these fees for up to three months. Families receiving services on the basis of having a child receiving child protective services, or having a certification by a county child welfare agency that child care services continue to be necessary, may be exempt from these fees for up to 12 months. The cumulative period of exemption from these fees for these families shall not exceed 12 months. (Education Code 8263)

Fees shall be collected prior to providing services and shall be considered delinquent after seven days from the date that fees are due. Parents/guardians shall be notified in the event that fees are delinquent. If a reasonable plan for payment of the delinquent fees has not been provided by the parents/guardians, services shall be terminated if all delinquent fees are not paid within two weeks of such notification. Parents/guardians shall receive a copy of the district's regulations regarding fee collection at the time of initial enrollment into the program. (5 CCR 18114, 18115)

The Superintendent or designee shall establish a process which includes parents/guardians in determining whether and how much to charge parents/guardians for field trip expenses. This process also shall be used to determine whether to require parents/guardians to provide diapers. (Education Code 8263)

Health Examination

A physical examination and evaluation, including age-appropriate immunization, shall be required prior to or within six weeks of enrollment, unless the parent/guardian submits a letter stating that such examination is contrary to his/her religious beliefs. (Education Code 8263)

(cf. 5141.22 - Infectious Diseases)

(cf. 5141.3 - Health Examinations)

(cf. 5141.31 - Immunizations)

Attendance

Sign-in and sign-out sheets shall be used daily for all children for attendance accounting purposes. Attendance records shall include verification of excused absences, including the child's name, date(s) of absence, specific reason for absence and signature of parent/guardian or district representative. (5 CCR 18065, 18066)

Absences shall be excused for the following reasons:

1. Illness or quarantine of the child or of the parent/guardian (Education Code 8208)
2. Family emergency (Education Code 8208)

A family emergency shall be considered to exist when unforeseen circumstances cause the need for immediate action, such as may occur in the event of a natural disaster or when a member of the child's immediate family dies, has an accident, or is required to appear in court.

3. Time spent with a parent/guardian or other relative as required by a court of law (Education Code 8208)
4. Time spent with a parent/guardian or other relative which is clearly in the best interest of the child (Education Code 8208)

An absence shall be considered to be in the best interest of the child when the time is spent with the child's parent/guardian or other relative for reasons deemed justifiable by the program coordinator or site supervisor.

Except for children who are recipients of child protective services or at risk of abuse or neglect, excused absences in the best interest of the child shall be limited to 10 days during the contract period. (5 CCR 18066)

Any absence due to a reason other than the above, or without the required verification, shall be considered an unexcused absence. After three unexcused absences during the year, the program coordinator or site supervisor shall notify the parents/guardians. Children who continue to have excessive unexcused absences may be removed from the program at the discretion of the program coordinator in order to accommodate other families on the waiting list for admission.

Parents/guardians shall be notified of the policies and procedures related to excused and unexcused absences for child care and development services. (5 CCR 18066)

(cf. 5145.6 - Parent Notifications)

Rights of Parents/Guardians

At the time a child is accepted into a licensed child care and development center, the child's parent/guardian or authorized representative shall be notified of his/her rights as specified in 22

CCR 101218.1, including, but not limited to, the right to enter and inspect the child care facility and the right to be informed, upon request, of the name and type of association to the center of any adult who has been granted a criminal record exemption. (Health and Safety Code 1596.857; 22 CCR 101218.1)

The written notice of parent/guardian rights also shall be permanently posted within the facility in a location accessible to parents/guardians. Notwithstanding these rights, access to the facility may be denied to an adult whose behavior presents a risk to children present in the facility or to noncustodial parents/guardians when so requested by the responsible parent/guardian. (Health and Safety Code 1596.857)

Records

The Superintendent or designee shall maintain records of enrollment, attendance, types of families served, income received from all families participating in the district's child care and development program, and any other records required by the CDE.

Regulation CENTER UNIFIED SCHOOL DISTRICT
approved: October 19, 2011 Antelope, California

SCHOOL DAY

Note: The following **optional** policy may be revised to reflect district practice. California law specifies the minimum length of the school day for elementary and secondary schools; see the accompanying administrative regulation.

The Governing Board may extend the school day under the incentive funding offered pursuant to Education Code 46200-46205 and in accordance with collective bargaining agreements. Education Code 46201.2 provides that, between the 2009-10 and 2014-15 school years, any district receiving this incentive funding may reduce the school year by up to five instructional days or the equivalent number of instructional minutes without incurring financial penalties; also see BP 6111 - School Calendar.

The Governing Board shall fix the length of the school day subject to the provisions of law. (Education Code 46100)

(cf. 6111 - School Calendar)

The length of the school day shall apply equally to students with disabilities unless otherwise specified in the student's individualized education program or Section 504 plan.

(cf. 6159 - Individualized Education Program)

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

Note: The following **optional** paragraph is for use by districts that maintain elementary schools and may be modified to reflect district practice. Pursuant to Education Code 33350, the California Department of Education encourages districts to provide daily recess periods for elementary students, featuring time for unstructured but supervised play. The Superintendent of Public Instruction's Task Force on Obesity, Type 2 Diabetes, and Cardiovascular Disease recommends that students in grades K-6 be provided with recess or other physical activity breaks at least once per 120 minutes of instruction. The National Association for Sport and Physical Education recommends daily recess breaks of at least 20 minutes each day.

The schedule for elementary schools shall include at least one daily period of recess of at least 20 minutes in length in order to provide students with unstructured but supervised opportunities for physical activity.

(cf. 5030 - Student Wellness)

(cf. 6142.7 - Physical Education and Activity)

Note: The remainder of this policy applies to districts that maintain secondary schools and may be modified to reflect district practice.

In establishing the daily instructional schedule for each secondary school, the Superintendent or designee shall give consideration to course requirements and curricular demands, availability of school facilities, and applicable legal requirements.

The Board encourages flexibility in scheduling so as to provide longer time blocks or class periods when appropriate and desirable to support student learning, provide more intensive study of core academic subjects or extended exploration of complex topics, and reduce transition time between classes.

SCHOOL DAY (continued)

Prior to implementing a block schedule program in which secondary students attend class for fewer school days, the Board shall consult with the certificated and classified employees of the school in a good faith effort to reach agreement and shall also consult with parents/guardians of the students who would be affected by the change and the community at large. Such consultation shall include at least one public hearing for which the Board has given adequate notice to the employees and to the parents/guardians of affected students. (Education Code 46162)

(cf. 9320 - Meetings and Notices)

Legal Reference: (see next page)

SCHOOL DAY (continued)

Legal Reference:

EDUCATION CODE

8970-8974 Early primary program, including extended-day kindergarten
37202 Equal time in all schools
37670 Year-round schools
46010 Total days of attendance
46100 Length of school day
46110-46119 Kindergarten and elementary schools, day of attendance
46140-46147 Junior high school and high school, day of attendance
46160-46162 Alternative schedule - junior high and high school
46170 Continuation schools, minimum day
46180 Opportunity schools, minimum day
46190-46192 Adult education classes, day of attendance
46200-46206 Incentives for longer instructional day and year
48200 Compulsory attendance for minimum school day
48663 Community day school, minimum school day
48800-48802 Concurrent enrollment in community college
51222 Physical education, instructional minutes
51760-51769.5 Work experience education
52325 Regional occupational center, minimum day

Management Resources:

NATIONAL ASSOCIATION FOR SPORT AND PHYSICAL EDUCATION POSITION STATEMENTS

Recess for Elementary School Students, 2006

STATE BOARD OF EDUCATION POLICY STATEMENTS

99-03 Physical Education (PE) Requirements for Block Schedules, July 2006

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Extending Learning Time for Disadvantaged Students, August 1995

WEST ED PUBLICATIONS

Full-Day Kindergarten: Expanding Learning Opportunities, Policy Brief, April 2005

WEB SITES

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

National Association for Sport and Physical Education: <http://www.aahperd.org/naspe>

State Board of Education: <http://www.cde.ca.gov/re/lr/wr/waiverpolicies.asp>

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

WestEd: <http://www.wested.org>

Center USD

Board Policy

School Day

BP 6112

Instruction

The Governing Board shall fix the length of the school day subject to the provisions of law.
(Education Code 46100)

(cf. 6111 - School Calendar)

The Superintendent or designee shall schedule class periods giving consideration to course requirements and curricular demands, availability of school facilities, the age and attention span of students, and legal requirements.

Legal Reference:

EDUCATION CODE

8970-8974 Early primary program, including extended-day kindergarten

37202 Equal time in all schools

37670 Year-round schools

46010 Total days of attendance

46100 Length of schoolday

46110-46119 Kindergarten and elementary schools (day of attendance)

46140-46147 Junior high school and high school (day of attendance)

46160-46162 Alternative schedule - junior high and high school

46170 Minimum day - continuation schools

46180 Opportunity schools (minimum day)

46190-46192 Adult school (day of attendance)

46200-46206 Incentives for longer instructional day and year

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION CORRESPONDENCE

Kindergarten Information, June 7, 2002

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

The Uses of Time for Teaching and Learning, October 1996

Extending Learning Time for Disadvantaged Students, August 1995

NATIONAL EDUCATION COMMISSION ON TIME AND LEARNING PUBLICATIONS

Prisoners of Time, April 1994

WEB SITES

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

Policy CENTER UNIFIED SCHOOL DISTRICT
adopted: April 23, 2003 Antelope, California

SCHOOL DAY

Note: The following **optional** administrative regulation specifies minimum and maximum school days for each grade level as provided by law. The district may revise this regulation to reflect district practice.

Pursuant to Education Code 46114, the minimum school day in grades K-8 may be computed by determining the average number of minutes over 10 consecutive school days (i.e., the number of minutes of attendance in any 10 consecutive school days, divided by 10). Education Code 46142 authorizes the minimum school day in junior high and high schools to be computed by averaging the number of minutes over two consecutive school days. The district will be in compliance if the average is at least the minimum day required by law, even if the number of minutes in any one school day is less than the minimum required school day specified below. However, Education Code 46114 and 46142 provide that no single school day may be less than 60 minutes for kindergarten, 170 minutes for grades 1-3, or 180 minutes for grades 4-12.

Kindergarten

Note: The following section is for use by districts that maintain kindergarten classes. Education Code 46117 establishes a minimum school day of three hours (180 minutes) for kindergarten students as provided below. However, pursuant to Education Code 46119, if a district has less than a total of 40 kindergarten students, the Governing Board may apply to the Superintendent of Public Instruction to maintain two kindergarten classes of 150 minutes each, including recesses, taught on the same day by the same teacher.

Except as otherwise provided by law, the average school day established for kindergarten students shall be at least three hours, including recesses but excluding noon intermissions, but no longer than four hours, excluding recesses. (Education Code 46111, 46114, 46115, 46117)

Note: The following paragraph is **optional**. Although Education Code 46111 provides that recess shall be excluded from determining the maximum school day, it is the interpretation of the California Department of Education that recess time may be counted as instructional minutes, at the district's discretion, if teacher supervision occurs.

Recess may be counted as instructional minutes for purposes of determining the maximum school day if teacher supervision occurs.

Note: The following **optional** paragraph is for use by districts that maintain multitrack year-round schools pursuant to Education Code 37670(a).

In any multitrack year-round school operating pursuant to Education Code 37670(a), the kindergarten school day may be up to 265 minutes, excluding recesses. (Education Code 46111)

(cf. 6117 - Year-Round Schedules)

Note: The following **optional** paragraph is for use by districts that have established an early primary program pursuant to Education Code 8970-8974 in order to provide an integrated, experiential, and developmentally appropriate educational program with specified components for students in prekindergarten through grade 3. Education Code 8973 provides that the kindergarten school day in such programs may exceed four hours under the conditions described below, although districts do not receive additional apportionment funds.

SCHOOL DAY (continued)

In any district school operating an early primary program pursuant to Education Code 8970-8974, the kindergarten school day may exceed four hours, excluding recess, if both of the following conditions are met: (Education Code 8973)

1. The Governing Board has declared that the extended-day kindergarten program does not exceed the length of the primary school day.
2. The extended-day kindergarten program includes ample opportunity for both active and quiet activities within an integrated, experiential, and developmentally appropriate educational program.

Grades 1-8

Note: The following section is for use by districts that maintain any of grades 1-8 and should be modified to reflect the grade levels offered by the district.

Except as otherwise provided by law, the school day for elementary and middle school students shall be:

1. At least 230 minutes for students in grades 1-3, unless the Board has prescribed a shorter school day because of lack of school facilities requiring double sessions, in which case the minimum school day shall be 200 minutes. (Education Code 46112, 46142)
2. At least 240 minutes for students in grades 4-8 (Education Code 46113, 46142)

In determining the number of minutes for purposes of compliance with the minimum school day for students in grades 1-8, both noon intermissions and recesses shall be excluded. (Education Code 46115)

Grades 9-12

Note: The following section is for use by districts that maintain any of grades 9-12 and may be modified to reflect the grade levels offered by the district.

The school day for students in grades 9-12 shall be at least 240 minutes. (Education Code 46141, 46142)

Note: The following list should be revised to reflect programs offered by the district.

However, the school day may be less than 240 minutes when authorized by law. Programs that have a minimum school day of 180 minutes include, but are not necessarily limited to:

SCHOOL DAY (continued)

1. Continuation high school or classes (Education Code 46141, 46170)

(cf. 6184 - Continuation Education)

2. Opportunity school or classes (Education Code 46141, 46180)

3. Regional occupational center (Education Code 46141, 52325)

(cf. 6178.2 - Regional Occupational Center/Program)

4. Work experience education program approved pursuant to Education Code 51760-51769.5 (Education Code 46141, 46144)

A student in grade 12 who is enrolled in work experience education and is in his/her last semester or quarter before graduation may be permitted to attend school for less than 180 minutes per school day if he/she would complete all requirements for graduation, except physical education courses, in less than 180 minutes each day. (Education Code 46147)

(cf. 6178.1 - Work-Based Learning)

5. Concurrent enrollment in a community college pursuant to Education Code 48800-48802 or, for students in grades 11-12, part-time enrollment in classes of the California State University or University of California, provided academic credit will be awarded upon satisfactory completion of enrolled courses (Education Code 46146)

(cf. 6172.1 - Concurrent Enrollment in College Classes)

Note: SB 1316 (Ch. 67, 2012) amended Education Code 46141 and added Education Code 46146.5 to exempt early college high schools and middle college high schools from the 240-minute minimum school day requirement under the circumstances described in item #6 below.
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6. An early college high school or middle college high school, provided the students are enrolled in community college or college classes in accordance with item #5 above (Education Code 46141, 46146.5)
7. Special day or Saturday vocational training program conducted under a federally approved plan for career technical education (Education Code 46141, 46144)

(cf. 6178 - Career Technical Education)

8. Adult education classes (Education Code 46190)

(cf. 6200 - Adult Education)

SCHOOL DAY (continued)

Note: The following **optional** paragraph is for use by districts that operate an evening high school pursuant to Education Code 51720-51724.

~~For an evening high school operated pursuant to Education Code 51720-51724, the number of days, specific days of the week, and number of hours during which the program shall be in session shall be determined by the Board. (Education Code 46141, 51721)~~

~~Students in grade 12 shall be enrolled in at least five courses each semester or the equivalent number of courses each quarter. This requirement shall not apply to students enrolled in regional occupational centers or programs, courses at accredited postsecondary institutions, independent study, special education programs in which the student's individualized education program establishes a different number of courses, continuation education classes, work experience education programs, or any other course of study authorized by the Board that is equivalent to the approved high school course of study. (Education Code 46145)~~

(cf. 6158 - Independent Study)

(cf. 6159 - Individualized Education Program)

Alternative Block Schedule for Secondary Schools

Note: The following **optional** section is for use by districts that choose to create a block schedule pursuant to Education Code 46160-46162; see the accompanying Board policy. In establishing a block schedule, the district should be aware of state law (Education Code 51222) that requires secondary students to attend physical education courses for at least 400 minutes each 10 school days; see AR 6142.7 - Physical Education and Activity. Although the daily alternating block schedule, often referred to as the A/B block schedule, does fulfill the requirement for physical education minutes, other block schedules do not and thus require a waiver from the State Board of Education (SBE). See SBE Waiver Policy #99-03 for waiver criteria.

In order to establish a block or other alternative schedule or to accommodate career technical education and regional occupational center/program courses, the district may authorize students to attend fewer than the total number of days in which school is in session provided that students attend classes for at least 1,200 minutes during any five school day period or 2,400 minutes during any 10 school day period. (Education Code 46160)

Center USD

Administrative Regulation

School Day

AR 6112 Instruction

Kindergarten

The minimum school day for kindergarten students shall be 180 minutes, including recesses but excluding noon intermissions. (Education Code 46115, 46117)

The maximum school day for kindergarten students shall be four hours (240 minutes), excluding recesses. (Education Code 46111)

The maximum school day for kindergarten students may be longer than four hours under the following circumstances:

The maximum school day for multitrack year-round schools operating pursuant to Education Code 37670(a) shall be 265 minutes excluding recesses. (Education Code 46111)

Elementary Schools

The minimum school day for students in elementary schools shall be:

1. 230 minutes for students in grades 1-3 (Education Code 46112)
2. 240 minutes for students in grades 4-8 (Education Code 46113)

For students in grades 1-8, the minimum school day excludes both noon intermissions and recesses. (Education Code 46115)

The above minimum days do not apply to situations in grades 1-3 in which the Board has prescribed a shorter school day because of lack of school facilities requiring double sessions. (Education Code 46112, 46113)

Secondary Schools

The minimum school day for junior high and high school students shall be 240 minutes unless otherwise provided by law. (Education Code 46141-46147)

The minimum school day shall be 180 minutes for students enrolled in a continuation high school, continuation education classes, opportunity school or classes, adult education classes, special day or Saturday vocational training program, or specified work experience program.

(Education Code 46144, 46170, 46180, 46190)

(cf. 6178.1 - Work Experience Education)

(cf. 6184 - Continuation Education)

(cf. 6200 - Adult Education)

Alternative Block Schedule for Junior High and High Schools

The Board may authorize any student to attend fewer school days in any district junior high or high school as long as the student attends classes for at least 1,200 minutes during any five school day period or 2,400 minutes during any 10 school day period to accommodate career technical education, regional occupational center and program courses, or block or other alternative school class schedules. (Education Code 46160)

(cf. 6178 - Vocational Education)

(cf. 6181- Alternative Schools)

Prior to implementing the block schedule program in which students attend class for fewer school days, the Board shall consult in good faith in an effort to reach agreement with the certificated and classified employees of the school, with the parents/guardians of the students who would be affected by the change, and with the community at large. Such consultation shall include at least one public hearing for which the Board has given adequate notice to the employees and to the parents/guardians of affected students. (Education Code 46162)

(cf. 9320 - Meetings and Notices)

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

NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION

Note: Education Code 56195.8 mandates any entity providing special education to adopt a policy related to its authority to enter into a contract with a nonpublic, nonsectarian school or agency for the provision of education and/or special services to students with disabilities when no appropriate public education program is available to meet the students' special education needs.

The following policy and accompanying regulation should be revised to comply with the policies and regulations of the Special Education Local Plan Area in which the district operates.

The Governing Board recognizes its responsibility to provide all district students, including students with disabilities, a free appropriate public education in accordance with law. When the district is unable to provide direct special education and/or related services to students with disabilities, the Board may enter into a contract with a nonpublic, nonsectarian school or agency to meet the students' needs.

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

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 3541.2 - Transportation for Students with Disabilities)

(cf. 4112.23 - Special Education Staff)

(cf. 6146.4 - Differential Graduation and Competency Standards for Students with Disabilities)

In selecting nonpublic, nonsectarian schools or agencies with which the district may contract for the placement of any district student with disabilities, the Superintendent or designee shall follow the procedures specified in law and accompanying administrative regulation.

Prior to entering into a contract to place any student in a nonpublic, nonsectarian school or agency, the Superintendent or designee shall verify that the school or agency is certified to provide special education and related services to individuals with disabilities in accordance with Education Code 56366. In addition, the Superintendent or designee shall monitor, on an ongoing basis, the certification of any nonpublic, nonsectarian school with which the district has a contract to ensure that the school or agency's certification has not expired.

Note: Education Code 56195.8 mandates that the policy adopted by the entity providing special education include the following paragraph. Education Code 56342.1, as amended by SB 121 (Ch. 571, Statutes of 2012), prohibits a student's referral to, or placement in, a nonpublic, nonsectarian school unless the student's individualized education program team specifies that the placement is appropriate.

No district student shall be placed in a nonpublic, nonsectarian school or agency unless the student's individualized education program (IEP) team has determined that an appropriate public education alternative does not exist and that the nonpublic, nonsectarian school or agency placement is appropriate for the student. In accordance with law, any student with disabilities placed in a nonpublic, nonsectarian school or agency shall have all the rights and protections to which students with disabilities are generally entitled, including, but not limited to, the procedural safeguards, due process rights, and periodic review of his/her IEP. (Education Code 56195.8, 56342.1)

**NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR
SPECIAL EDUCATION (continued)**

(cf. 6159 - Individualized Education Program)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

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

During the period when any student with disabilities is placed in a nonpublic, nonsectarian school or agency, the student's IEP team shall retain responsibility for monitoring the student's progress towards meeting the goals identified in his/her IEP.

Note: The following optional paragraph may be modified to reflect district practice.
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The Superintendent or designee shall notify the Board prior to approving an out-of-state placement for any district student.

In accordance with Education Code 56366.2, the Superintendent or designee may apply to the Superintendent of Public Instruction to waive any of the requirements of Education Code 56365, 56366, 56366.3, and 56366.6.

(cf. 1431 - Waivers)

Legal Reference: (see next page)

NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION (continued)

Legal Reference:

EDUCATION CODE

56034-56035 Definitions of nonpublic, nonsectarian school and agency
56042 Placement not to be recommended by attorney with conflict of interest
56101 Waivers
56163 Certification
56168 Responsibility for education of student in hospital or health facility school
56195.8 Adoption of policies
56342.1 Individualized education program; placement
56360-56369 Implementation of special education
56711 Computation of state aid
56740-56743 Apportionments and reports
56760 Annual budget plan; service proportions
56775.5 Reimbursement of assessment and identification costs

FAMILY CODE

7911-7912 Interstate compact on placement of children

GOVERNMENT CODE

7570-7588 Interagency responsibilities for providing services to children with disabilities, especially:
7572.55 Seriously emotionally disturbed child; out-of-state placement

WELFARE AND INSTITUTIONS CODE

362.2 Out-of-home placement for IEP
727.1 Out-of-state placement of wards of court

CODE OF REGULATIONS, TITLE 5

3001 Definitions
3060-3070 Nonpublic, nonsectarian school and agency services

UNITED STATES CODE, TITLE 20

1400-1487 Individuals with Disabilities Education Act

CODE OF FEDERAL REGULATIONS, TITLE 34

300.129-300.148 Children with disabilities in private schools

COURT DECISIONS

Agostini v. Felton, (1997) 521 U.S. 203, 117 S.Ct. 1997

Management Resources:

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

WEB SITES

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

U.S. Department of Education, Office of Special Education and Rehabilitative
Services: <http://www.ed.gov/about/offices/list/osers>

Center USD

Board Policy

Nonpublic, Nonsectarian School And Agency Services For Special Education

BP 6159.2

Instruction

The Governing Board may contract with state-certified nonpublic, nonsectarian schools or agencies to provide special education services or facilities when an appropriate public education program is not available.

(cf. 0430 - Comprehensive Local Plan for Special Education)
(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 3541.2 - Transportation for Students with Disabilities)
(cf. 4112.23 - Special Education Staff)
(cf. 6146.4 - Differential Graduation and Competency Standards for Individuals with Exceptional Needs)
(cf. 6159 - Individualized Education Program)
(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)
(cf. 6164.4 - Identification of Individuals for Special Education)

When entering into agreements with nonpublic, nonsectarian schools or agencies, the Board shall consider the needs of the individual student and the recommendations of the individualized education program (IEP) team. The IEP team shall remain accountable for monitoring the progress of students placed in nonpublic, nonsectarian programs towards the goals identified in each student's IEP.

Legal References:

EDUCATION CODE

56034-56035 Definitions of nonpublic, nonsectarian school and agency
56042 Placement not to be recommended by attorney with conflict of interest
56101 Waivers
56163 Certification
56168 Responsibility for education of student in hospital or health facility school
56195.8 Adoption of policies
56360-56369 Implementation of special education
56711 Computation of state aid
56740-56743 Apportionments and reports
56760 Annual budget plan; service proportions
56775.5 Reimbursement of assessment and identification costs

GOVERNMENT CODE

7570-7588 Interagency responsibilities for providing services to children with disabilities, especially:

7572.55 Seriously emotionally disturbed child; out-of-state placement

FAMILY CODE

7911-7912 Interstate compact on placement of children

WELFARE AND INSTITUTIONS CODE

362.2 Out-of-home placement for IEP

727.1 Out-of-state placement of wards of court

CODE OF REGULATIONS, TITLE 5

3001 Definitions

3061-3069 Nonpublic, nonsectarian school and agency services

UNITED STATES CODE, TITLE 20

1400-1487 Individuals with Disabilities Education Act

CODE OF FEDERAL REGULATIONS, TITLE 34

300.129-300.148 Children with disabilities in private schools

COURT DECISIONS

Agostini v. Felton, (1997) 521 U.S. 203, 117 S.Ct. 1997

Management Resources:

CDE LEGAL ADVISORIES

0317.99 Nonpublic School/Agency Waivers and Reimbursement to Parents

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, page 46539-46845

WEB SITES

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

US Department of Education, Office of Special Education and Rehabilitative Services:

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

Policy CENTER UNIFIED SCHOOL DISTRICT

adopted: December 15, 1999 Antelope, California

NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION

Note: The following administrative regulation is **optional** and may be revised to reflect district practice. It contains procedures for implementing policy mandated for entities that contract with nonpublic, nonsectarian schools or agencies for the provision of special education services to students with disabilities when no appropriate public education program is available to meet those students' special education needs.

Master Contract

Note: Education Code 56366 and 56366.3 detail the provisions that must be included in a master contract with nonpublic, nonsectarian schools or agencies for the purpose of special education services.

Every master contract with a nonpublic, nonsectarian school or agency shall be made on forms provided by the California Department of Education and shall include an individual services agreement negotiated for each student.

Each master contract shall specify the general administrative and financial agreements for providing the special education and designated instruction and services, including student-teacher ratios, as well as transportation if specified in a student's individualized education program (IEP). The administrative provisions of the contract shall include procedures for recordkeeping and documentation, and the maintenance of school records by the district to ensure that appropriate high school graduation credit is received by any participating student. The contract may allow for partial or full-time attendance at the nonpublic, nonsectarian school. (Education Code 56366)

(cf. 3541.2 - Transportation for Students with Disabilities)

(cf. 3580 - District Records)

(cf. 5125 - Student Records)

(cf. 6146.1 - High School Graduation Requirements)

Note: The nonpublic school or agency must be certified as meeting state standards pursuant to Education Code 56366. Contracts may be terminated for cause with 20 days' notice; however, the availability of a public education program initiated during the period of the contract cannot give cause for termination unless the parent/guardian agrees to transfer the student to the program.

The master contract shall include a description of the process to be utilized by the district to oversee and evaluate placements in nonpublic, nonsectarian schools. This description shall include a method for evaluating whether each student is making appropriate educational progress. (Education Code 56366)

With mutual agreement of the district and a nonpublic, nonsectarian school or agency, changes may be made to the administrative and financial agreements in the master contract at any time, provided the change does not alter a student's educational instruction, services, or placement as outlined in his/her individual services agreement. (Education Code 56366)

NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION (continued)

Placement and Services

Note: In addition to the master contract with a nonpublic, nonsectarian school or agency, Education Code 56366 requires that an individual services agreement as specified in the following section be in place for any student with a disability to be served by any such nonpublic school or agency. Education Code 56342.1, as amended by SB 121 (Ch. 571, Statutes of 2012), prohibits a student's referral to, or placement in, a nonpublic, nonsectarian school unless the student's individualized education program team specifies that the placement is appropriate.

The Superintendent or designee shall develop an individual services agreement for each student to be placed in a nonpublic, nonsectarian school or agency based on the student's IEP. Each individual services agreement shall specify the length of time authorized in the student's IEP for the nonpublic, nonsectarian school services, not to exceed one year. Changes in a student's educational instruction, services, or placement shall be made only on the basis of revisions to the student's IEP. (Education Code 56366)

(cf. 6159 - Individualized Education Program)

The IEP team of a student placed in a nonpublic, nonsectarian school or agency shall annually review the student's IEP. The student's IEP and individual services agreement shall specify the review schedules. (5 CCR 3069)

Note: The following paragraph is for use by elementary school districts.

Prior to the annual review of a student's IEP, the Superintendent or designee shall notify any high school district to which the student may transfer of the student's enrollment in a nonpublic, nonsectarian school or agency. (5 CCR 3069)

When a special education student meets the district requirements for completion of prescribed course of study as designated in the student's IEP, the district shall award the student a diploma of graduation. (5 CCR 3070)

(cf. 6146.4 - Differential Graduation and Competency Standards for Individuals with Exceptional Needs)

Out-of-State Placements

Note: Government Code 7572.55 and Welfare and Institutions Code 362.2 and 727.1 address the out-of-state placement of children who are seriously emotionally disturbed and/or wards of the court. Such placements may be made only after in-state alternatives have been considered and found not to meet the child's needs.

**NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR
SPECIAL EDUCATION (continued)**

Before contracting with a nonpublic, nonsectarian school or agency outside California, the Superintendent or designee shall document the district's efforts to find an appropriate program offered by a nonpublic, nonsectarian school or agency within California. (Education Code 56365)

Within 15 days of any decision for an out-of-state placement, the student's IEP team shall submit to the Superintendent of Public Instruction a report with information about the services provided by the out-of-state program, the related costs, and the district's efforts to locate an appropriate public school or nonpublic, nonsectarian school or agency within California. (Education Code 56365)

If the district decides to place a student with a nonpublic, nonsectarian school or agency outside the state, the district shall indicate the anticipated date of the student's return to a placement within California and shall document efforts during the previous year to return the student to California. (Education Code 56365)

Center USD

Administrative Regulation

Nonpublic Nonsectarian School And Agency Services For Special Education

AR 6159.2

Instruction

Placement and Services

Procedures specified in law shall govern the selection of appropriate nonpublic school or agency services.

Contracts with a nonpublic school or agency shall be made on forms provided by the California Department of Education and shall include an individual services agreement negotiated for each student. Individual services agreements shall be for the length of time for which nonpublic, nonsectarian school services are specified in the student's individualized education program (IEP), not to exceed one year. Changes in educational instruction, services or placement shall be made only on the basis of revisions to the student's IEP. (Education Code 56366)

(cf. 6159 - Individualized Education Program)

The master contract shall specify the general administrative and financial agreements between the nonpublic, nonsectarian school or agency and the district to provide the special education and designated instruction and services, as well as transportation specified in the student's IEP. The administrative provisions of the contract shall also include procedures for recordkeeping and documentation, and the maintenance of school records by the contracting district to ensure that appropriate high school graduation credit is received by the student. The contract may allow for partial or full-time attendance at the nonpublic, nonsectarian school. (Education Code 56366)

(cf. 3541.2 - Transportation for Students with Disabilities)

The master contract shall include a description of the process being utilized by the district to oversee and evaluate placements in nonpublic, nonsectarian schools. This description shall include a method for evaluating whether the student is making appropriate educational progress. (Education Code 56366)

The district IEP team shall annually review the IEP of a student placed in a nonpublic, nonsectarian school or agency. The student's IEP and contract shall specify the review schedules. (5 CCR 3068)

The Superintendent or designee of an elementary school district shall notify a high school district of all students placed in nonpublic school or agency programs prior to the annual review of the IEP for each student who may transfer to the high school district. (5 CCR 3068)

When a special education student meets the district requirements for completion of prescribed course of study and adopted differential proficiency standards as designated in the student's IEP, the district which developed the IEP shall award the diploma. (5 CCR 3069)

(cf. 6146.4 - Differential Graduation and Competency Standards for Individuals with Exceptional Needs)

Out-of-State Placements

Before contracting with a nonpublic, nonsectarian school or agency outside California, the Superintendent or designee shall document the district's efforts to find an appropriate program offered by a nonpublic, nonsectarian school or agency within California. (Education Code 56365)

Within 15 days of any decision for an out-of-state placement, the student's IEP team shall submit to the Superintendent of Public Instruction a report with information about the services provided by the out-of-state program, the related costs, and the district's efforts to locate an appropriate public school or nonpublic, nonsectarian school or agency within California. (Education Code 56365)

If the district decides to place a student with a nonpublic, nonsectarian school or agency outside the state, the district shall indicate the anticipated date of the student's return to a placement within California and shall document efforts during the previous year to return the student to California. (Education Code 56365)

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

LIBRARY MEDIA CENTERS

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: Education Code 18100 requires the Governing Board to provide library services for students and teachers by maintaining school libraries or contracting with another public agency. The following optional policy is intended for use by districts that maintain their own school libraries, but may be modified to meet the needs of districts that enter into an arrangement to receive services from either a county or city library pursuant to Education Code 18130 or 18134; also see BP 1330.1 - Joint Use Agreements.

The State Board of Education (SBE) has adopted model program standards for school libraries which describe staffing, resources, and infrastructure recommended for effective school library programs. The following policy may be modified to reflect state program standards that the district chooses to implement.

The Governing Board recognizes that school libraries support the educational program by providing access to a variety of informational and supplemental resources that can help raise the academic achievement of all students. To the extent that funding is available, school libraries shall be stocked with up-to-date books, reference materials, and electronic resources that promote literacy, support academic standards, and prepare students to become lifelong learners.

(cf. 0440 - District Technology Plan)
(cf. 6011 - Academic Standards)
(cf. 6163.4 - Student Use of Technology)
(cf. 7110 - Facilities Master Plan)

School libraries shall be open for use by students and teachers during the school day. (Education Code 18103)

Note: The following paragraph is optional.

With the approval of the Board, a school library may be open at other hours outside the school day, including evenings and Saturdays. Any library open to serve students during evening and Saturday hours shall be under the supervision of a certificated employee who consents to the assignment. (Education Code 18103)

LIBRARY MEDIA CENTERS (continued)**Staffing**

Note: The following optional section may be revised to reflect district practice. Pursuant to Education Code 18120, the Board may appoint one or more librarians to staff school libraries, provided they possess an appropriate credential issued by the Commission on Teacher Credentialing (CTC) as required by Education Code 44868 and 5 CCR 80053. This may include a teacher librarian services credential issued since January 1, 2008 or a library media teacher services credential issued prior to that date. In addition, 5 CCR 80024.6 establishes requirements for an emergency teacher librarian services permit that may be issued when there is an insufficient number of qualified certificated persons to fill available positions.

The state's program standards recommend a ratio of one full-time teacher librarian per 785 students plus assignment of a classified paraprofessional (e.g., library technician, library aide) at least 34 hours per week.

If the district does not employ any teacher librarians, it should modify the remainder of this policy to reflect the position(s) that are assigned to fulfill the related duties.

To staff school libraries, the district may employ one or more teacher librarians who possess appropriate credentials issued by the Commission on Teacher Credentialing. (Education Code 18120, 44868; 5 CCR 80024.6, 80053)

(cf. 4112.2 - Certification)

(cf. 4113 - Assignment)

Note: 5 CCR 80053, as amended by Register 2013, No. 3, specifies the duties that any teacher librarian who possesses an appropriate credential or emergency permit from the CTC is authorized to perform. 5 CCR 80053.1, as added by Register 2013, No. 3, establishes a special class authorization which authorizes the holder to provide departmentalized instruction in information literacy, digital literacy, and digital citizenship. The district may revise items #1-8 below to reflect the duties of teacher librarians included in district job descriptions.

The Superintendent or designee may assign teacher librarians to perform the following duties in accordance with the authorizations of their credential: (5 CCR 80053, 80053.1)

1. Instruct students in accessing, evaluating, using, and integrating information and resources in the library program and/or provide departmentalized instruction in information literacy, digital literacy, and digital citizenship
2. Plan and coordinate school library programs with the district's instructional programs through collaboration with teachers
3. Select materials for school and district libraries
4. Develop and deliver staff development programs for school library services
5. Coordinate or supervise library programs at the school or district level

LIBRARY MEDIA CENTERS (continued)

6. Plan and conduct a course of instruction for students who assist in the operation of school libraries
7. Supervise classified personnel assigned school library duties
8. Develop procedures for and management of the school and district libraries

Note: The following **optional** paragraph may be revised to reflect district practice. Pursuant to Education Code 35021, the district may not utilize volunteer aides in lieu of classified employees whose positions were abolished.

The Board also may appoint classified paraprofessionals to serve as library aides or library technicians. Volunteers may assist with school library services in accordance with law, Board policy, and administrative regulation.

(cf. 1240 - Volunteer Assistance)

(cf. 4222 - Teachers Aides/Paraprofessionals)

District Plan

Note: The following section is for use by districts that receive funding under the School and Library Improvement Block Grant (Education Code 41570-41573). Block grant funds may be expended for any purpose authorized under the California Public School Library Act (Education Code 18180-18184) as those repealed statutes read on January 1, 2004, such as for school library resources and equipment. As a condition of receiving this funding, Education Code 41572 requires districts to have a single plan for student achievement; see BP/AR 0420 - School Plans/Site Councils. The single plan must incorporate the requirements of Education Code 18181 pertaining to a districtwide library plan, as that repealed provision read on January 1, 2004.

Whenever a school receives state funding for school and library improvement pursuant to Education Code 41570-41573, the school site council shall develop a single plan for student achievement which incorporates a districtwide plan for school libraries. (Education Code 41572)

(cf. 0420 - School Plans/Site Councils)

Note: The remainder of this section is **optional** and may be revised to reflect district practice.

In developing the districtwide plan, the Superintendent or designee is encouraged to consult with teacher librarians, classroom teachers, administrators, parents/guardians, and students as appropriate.

LIBRARY MEDIA CENTERS (continued)

The districtwide library plan shall describe the district's vision and goals for district libraries and how funds will be distributed to school sites to support libraries. As appropriate, the plan may also address staffing, facilities, selection and evaluation of materials, prioritization of needs, and other related matters.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

The districtwide library plan shall be regularly reviewed and updated.

Classroom Libraries for Grades K-4

Note: Pursuant to Education Code 60242, funds received through the State Instructional Materials Fund may be used for the purpose of purchasing classroom library materials for grades K-4, within the percentage of the allowance authorized by the SBE. As a condition of receiving funding for this purpose, the district must have developed a districtwide plan for classroom libraries as provided below. An existing plan, such as the districtwide plan described in the section "Library Plan" above, may be used if it meets the criteria of Education Code 60242.

An additional source of potential funding for classroom library materials, the Instructional Materials Funding Realignment Program (Education Code 60420-60424), was repealed by AB 1246 (Ch. 668, Statutes of 2012).

When state funding is available for classroom library materials in grades K-4, the Superintendent or designee shall develop, for certification by the Board, a districtwide classroom library plan for grades K-4. The plan shall include a means of preventing loss, damage, or destruction of the materials. (Education Code 60242)

(cf. 5125.2 - Withholding Grades, Diploma or Transcripts)

(cf. 6161.2 - Damaged or Lost Instructional Materials)

The districtwide library plan developed pursuant to Education Code 41572 may fulfill this requirement provided the plan meets the criteria specified in Education Code 60242.

Note: In developing the plan for classroom libraries in grades K-4, districts may consult CDE's online list of recommended materials (Recommended Literature: Pre-Kindergarten Through Grade Twelve). In addition, Education Code 60242 encourages consultation with primary grade teachers and teacher librarians employed by the district. If the district does not employ teacher librarians, then the district is encouraged to consult with a teacher librarian employed by the county office of education. The following optional paragraph may be revised to reflect district practice.

The Superintendent or designee is encouraged to consult with primary grade teachers and teacher librarians employed by the district and/or county office of education in the development of the K-4 classroom library plan and to consider selections from the list of books recommended by the California Department of Education (CDE).

LIBRARY MEDIA CENTERS (continued)

Selection and Evaluation of School Library Materials

Note: The following **optional** section may be revised to reflect district practice. At its discretion, the Board may establish selection criteria that exclude all materials of a sectarian, partisan, or denominational character as authorized by Education Code 18111.

Library materials shall include print and electronic resources that align with the curriculum and are accessible to students with varying cognitive or language needs.

Library materials shall be evaluated and selected in accordance with law, Board policy, and administrative regulation through a selection process that invites recommendations from administrators, teachers, other staff, parents/guardians, and students as appropriate.

(cf. 6144 - Controversial Issues)

(cf. 6161.1 - Selection and Evaluation of Instructional Materials)

(cf. 6161.11 - Supplementary Instructional Materials)

Library materials should be continually evaluated in relation to evolving curricula, new formats of materials, new instructional methods, and the needs of students and teachers. Materials that contain outdated subject matter or are no longer appropriate shall be removed, and lost or worn materials may be replaced.

(cf. 3270 - Sale and Disposal of Books, Equipment and Supplies)

All gifts and donations of school library materials shall be subject to the same criteria as materials selected for purchase by the district.

(cf. 1260 - Educational Foundation)

(cf. 3290 - Gifts, Grants and Bequests)

Complaints regarding the appropriateness of library materials shall be addressed using the district's procedures for complaints regarding instructional materials.

(cf. 1312.2 - Complaints Concerning Instructional Materials)

Fees

Students shall be allowed to borrow school library materials at no charge for use in the library and classrooms as well as out of school. (5 CCR 16042)

(cf. 3260 - Fees and Charges)

Note: Pursuant to 5 CCR 16042, the Board may determine whether or not to charge for the late return of library materials. The district should select the option below that reflects district practice. Option 2 may be modified to include the amount that will be charged.

LIBRARY MEDIA CENTERS (continued)

OPTION 1: No charge shall be assessed for the late return of materials.

~~**OPTION 2:** To encourage students to return materials in a timely manner, a nominal fee shall be charged for the late return of materials.~~

Library Instruction

Note: In September 2010, the SBE adopted model academic standards for library instruction which address what students should know and be able to do at each grade level or grade span in terms of information literacy skills. The introduction to the standards expresses the intent that the standards be taught collaboratively by the classroom teacher and the teacher librarian within the context of the curriculum. The following optional section reflects the four major categories addressed in the state standards and may be revised to reflect district practice.

The SBE has also developed a document identifying examples of where the library instruction standards are aligned with Common Core State Standards. See the California Department of Education's (CDE) web site.

Teacher librarians and/or classroom teachers shall provide library instruction to develop students' information literacy skills. Such instruction shall be aligned with state academic standards for library instruction and shall prepare students to:

1. Access information by applying knowledge of the organization of libraries, print materials, digital media, and other sources
2. Evaluate and analyze information to determine appropriateness in addressing the scope of inquiry
3. Organize, synthesize, create, and communicate information
4. Integrate information literacy skills into all areas of learning and pursue information independently to become life-long learners

Teacher librarians also may provide support to teachers, administrators, and other staff by identifying instructional materials that will aid in the development of curriculum and instructional activities and by providing information about effective and ethical uses of school library services and equipment.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

(cf. 6141 - Curriculum Development and Evaluation)

LIBRARY MEDIA CENTERS (continued)

~~Program Evaluation~~

Note: The following optional section may be revised to reflect district practice. The district may use an assessment tool such as the CDE's Looking at the School Library: An Evaluation Tool or may develop its own program evaluation indicators or checklist.

~~The Superintendent or designee shall annually assess and report to the Board regarding the condition and use of school libraries. The assessment shall evaluate, at a minimum:~~

- ~~1. Access of students and staff to school libraries during school hours and, as appropriate, access outside the school day~~
- ~~2. The process and frequency by which students are allowed to check out library materials~~
- ~~3. Staffing levels, qualifications, and number of hours worked~~
- ~~4. The quality of the collection at each library, including, but not limited to, the total number of books in the collection, number of books per student, amount expended during the year for the purchase of new resources, and the number of resources discarded and added during the year~~
- ~~5. Any special programs offered at the school to encourage reading and/or library use~~
- ~~6. The adequacy of the facility space and equipment designated for the school library~~
- ~~7. Source(s) and adequacy of funding for school libraries~~

Note: Education Code 18122 requires districts to annually report to the CDE on the condition of their school libraries. This survey is conducted online via the CDE's web site.

The district shall, on or before August 31 each year, report to the CDE on the condition of its school libraries for the preceding year ending June 30. (Education Code 18122)

Legal Reference: (see next page)

LIBRARY MEDIA CENTERS (continued)

Legal Reference:

EDUCATION CODE

1703 Coordination of district library services by county superintendent

1770-1775 Provision of library services by county superintendent

18100-18203 School libraries

18300-18571 Union high school district/unified school district library district

19335-19336 Reading Initiative Program; recommended books

35021 Volunteer aides

41570-41573 School and Library Improvement Block Grant

42605 Tier 3 categorical flexibility

44868-44869 Qualifications and employment of library media teachers

45340-45349 Instructional aides

60240-60251.5 State Instructional Materials Fund, purchase of classroom library materials

REPEALED EDUCATION CODE FOR CATEGORICAL PROGRAMS

18181 Districtwide library plan

52012 Establishment of school site council

52014-52015 School plans

CODE OF REGULATIONS, TITLE 5

16040-16043 School libraries

80023-80023.2 Emergency permits, general requirements

80024.6 Emergency teacher librarian services permit

80026-80026.6 Emergency permits

80053-80053.1 Teacher librarian services credential

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Examples of Model School Library Standards for California Public Schools Supporting Common Core State Standards (CCSS) for English Language Arts and Literacy in History/Social Studies, Science, and Technical Subjects, rev. February 2012

Model School Library Standards for California Public Schools: Kindergarten Through Grade Twelve, 2010 (includes standards for student instruction as well as program standards)

Looking at the School Library: An Evaluation Tool, 2003

Recommended Literature: Kindergarten Through Grade Twelve

CALIFORNIA SCHOOL LIBRARY ASSOCIATION PUBLICATIONS

Standards and Guidelines for Strong School Libraries, 2004

WEB SITES

American Association of School Libraries: <http://www.ala.org/aasl>

California Department of Education, School Libraries: <http://www.cde.ca.gov/ci/cr/lb>

California School Library Association: <http://www.csla.net>

Center USD

Board Policy

Library Media Centers

BP 6163.1

Instruction

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.

The Governing Board recognizes that school library media centers support the educational program by providing access to a variety of informational resources. The Board desires to provide school libraries with up-to-date books, reference materials, and electronic information resources necessary to promote literacy, support students in achieving academic standards, and prepare students to become lifelong learners.

(cf. 0440 - District Technology Plan)
(cf. 6011 - Academic Standards)
(cf. 6161 - Equipment, Books and Materials)
(cf. 6163.4 - Student Use of Technology)
(cf. 7110 - Facilities Master Plan)

School libraries shall be open for use by students and teachers during the school day. (Education Code 18103)

With the approval of the Board, a school library may be open at other hours outside the school day, including evenings and weekends. Any library open to serve students during evening and Saturday hours shall be under the supervision of a certificated employee who consents to the assignment. (Education Code 18103)

Staffing

To staff school libraries, the Board may appoint one or more teacher librarians who possess an appropriate credential issued by the Commission on Teacher Credentialing. (Education Code 18120, 44868)

(cf. 4112.2 - Certification)
(cf. 4113 - Assignment)

Any teacher librarian employed by the district shall be authorized to perform the following duties:

1. Instruct students in the choice and use of library materials and technology
2. Plan and coordinate school library programs with the district's instructional programs
3. Select materials for school and district libraries
4. Coordinate or supervise library programs at the district level
5. Plan and conduct a course of instruction for students who assist in the operation of school libraries
6. Supervise classified personnel assigned school library duties
7. Develop procedures for and management of the school and district libraries

The Board also may appoint classified paraprofessionals to serve as library aides or library technicians. Volunteers may assist with school library services in accordance with law, Board policy, and administrative regulation.

(cf. 1240 - Volunteer Assistance)

(cf. 4222 - Teachers Aides/Paraprofessionals)

Library Plan

Whenever a school receives state funding for school and library improvement pursuant to Education Code 41570-41573, the school site council shall develop a single plan for student achievement which incorporates a districtwide plan for school libraries. (Education Code 41572)

(cf. 0420 - School Plans/Site Councils)

In developing the districtwide plan, the Superintendent or designee is encouraged to consult with teacher librarians, classroom teachers, administrators, parents/guardians, and students as appropriate.

The districtwide library plan shall describe the district's vision and goals for district libraries and how funds will be distributed to school sites to support libraries. As appropriate, the plan may also address staffing, facilities, selection and evaluation of materials, prioritization of needs, and other related matters.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

Classroom Libraries for Grades K-4

When state funding is available for classroom library materials in grades K-4, the Superintendent or designee shall develop, for certification by the Board, a districtwide classroom library plan for grades K-4. The plan shall include a means of preventing loss, damage, or destruction of the materials. (Education Code 60242, 60422)

(cf. 6161.2 - Damaged or Lost Instructional Materials)

The districtwide library plan developed pursuant to Education Code 41572 may fulfill this requirement provided the plan meets the criteria of Education Code 60242.

The Superintendent or designee is encouraged to consult with primary grade teachers and teacher librarians employed by the district and/or county office of education in the development of the K-4 classroom library plan and to consider selections from the list of books recommended by the State Librarian pursuant to Education Code 19336.

Selection and Evaluation of School Library Materials

Library materials shall include print and electronic resources that align with the curriculum and are accessible to students with varying cognitive or language needs.

Teacher librarians shall evaluate and select materials in accordance with law, Board policy, and administrative regulation and shall use professional selection aids and standards. The selection process shall invite recommendations from administrators, teachers, other staff, parents/guardians, and students as appropriate.

(cf. 6144 - Controversial Issues)

(cf. 6161.1 - Selection and Evaluation of Instructional Materials)

(cf. 6161.11 - Supplementary Instructional Materials)

Library materials should be continually evaluated in relation to evolving curricula, new formats of materials, new instructional methods, and the needs of students and teachers. Materials that contain outdated subject matter or are no longer appropriate shall be removed, and lost or worn materials may be replaced.

(cf. 3270 - Sale and Disposal of Books, Equipment and Supplies)

All gifts and donations of school library materials shall be subject to the same criteria as materials selected for purchase by the district.

(cf. 3290 - Gifts, Grants and Bequests)

Complaints regarding the appropriateness of library materials shall be addressed using the district's procedures for complaints regarding instructional materials.

(cf. 1312.2 - Complaints Concerning Instructional Materials)

Fees

Students shall be allowed to borrow school library materials at no charge for use in the library and classrooms as well as out of school. (5 CCR 16042)

(cf. 3260 - Fees and Charges)

No charge shall be assessed for the late return of materials.

(cf. 5125.2 - Withholding Grades, Diploma or Transcripts)

Library Instruction

Teacher librarians and/or classroom teachers shall provide library instruction to develop students' information literacy skills. Such instruction shall be aligned with state academic standards for library instruction and shall prepare students to:

- 1. Access information by applying knowledge of the organization of libraries, print materials, digital media, and other sources**
- 2. Evaluate and analyze information to determine appropriateness in addressing the scope of inquiry**
- 3. Organize, synthesize, create, and communicate information**
- 4. Integrate information literacy skills into all areas of learning and pursue information independently to become life-long learners**

Teacher librarians also may provide support to teachers, administrators, and other staff by identifying instructional materials that will aid in the development of curriculum and instructional activities and by providing information about effective and ethical uses of school library services and equipment.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

(cf. 6141 - Curriculum Development and Evaluation)

Reports

The district shall, on or before August 31 each year, report to the California Department of Education on the condition of its school libraries for the preceding year ending June 30. (Education Code 18122)

Legal Reference:

EDUCATION CODE

1703 Coordination of district library services by county superintendent
1770-1775 Provision of library services by county superintendent
18100-18203 School libraries
18300-18571 Union high school district/unified school district library district
19335-19336 Reading Initiative Program; recommended books
41570-41573 School and Library Improvement Block Grant
42605 Tier 3 categorical flexibility
44868-44869 Qualifications and employment of library media teachers
45340-45349 Instructional aides
60119 Sufficiency of textbooks and instructional materials; public hearing
60240-60251.5 State Instructional Materials Fund, purchase of classroom library materials
60420-60424 Instructional Materials Funding Realignment Program
REPEALED EDUCATION CODE FOR CATEGORICAL PROGRAMS
18181 Districtwide library plan
52012 Establishment of school site council
52014-52015 School plans
CODE OF REGULATIONS, TITLE 5
16040-16043 School libraries
80053 Library media service teaching credential
UNITED STATES CODE, TITLE 20
6383 Improving Literacy Through School Libraries grant program

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

School Library Program Standards, September 2010

School Library Standards for Students, September 2010

Check It Out! Assessing School Library Media Programs, 1998

Recommended Literature: Kindergarten Through Grade Twelve

CALIFORNIA SCHOOL LIBRARY ASSOCIATION PUBLICATIONS

Standards and Guidelines for Strong School Libraries, 2004

WEB SITES

American Library Association: <http://www.ala.org>

California Department of Education, School Libraries: <http://www.cde.ca.gov/ci/cr/lb>

California Library Association: <http://www.cla-net.org>

California School Library Association: <http://www.csla.net>

Policy CENTER UNIFIED SCHOOL DISTRICT

adopted: June 15, 2011 Antelope, California

IDENTIFICATION AND EDUCATION UNDER SECTION 504

Note: The following policy and accompanying administrative regulation address the identification and education of students who may be eligible for services under the provisions of Section 504 of the federal Rehabilitation Act of 1973 (29 USC 794). Pursuant to 34 CFR 104.33, eligible students are entitled to a free appropriate public education (FAPE) which is designed to meet the student's individual educational needs as adequately as the needs of nondisabled students are met. Enforcement of Section 504 requirements is the responsibility of the U.S. Department of Education's Office for Civil Rights (OCR), which monitors districts' policies, processes, and practices to ensure legal compliance.

Students may be identified as disabled under Section 504 even though they do not require services pursuant to the federal Individuals with Disabilities Education Act (IDEA) (20 USC 1400-1482). The identification of students eligible for services under IDEA is addressed at BP/AR 6164.4 - Identification and Evaluation of Individuals for Special Education.

The Governing Board believes that all children, including children with disabilities, should have an opportunity to learn in a safe and nurturing environment. The district shall work to identify children with disabilities who reside within its jurisdiction in order to ensure that they receive educational and related services required by law.

Note: Section 504 of the Rehabilitation Act of 1973 and its implementing regulations (34 CFR 104.1-104.39) prohibit discrimination on the basis of disability in district programs and activities. see BP 0410 - Nondiscrimination in District Programs and Activities.

The Superintendent or designee shall provide identified students with disabilities with a free appropriate public education, as defined under Section 504 of the federal Rehabilitation Act of 1973. Such students shall receive regular or special education and related aids and services designed to meet their individual educational needs as adequately as the needs of nondisabled students are met. (34 CFR 104.33)

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 0430 - Comprehensive Local Plan for Special Education)
(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)
(cf. 5141.22 - Infectious Diseases)
(cf. 5141.23 - Asthma Management)
(cf. 5141.24 - Specialized Health Care Services)
(cf. 5141.27 - Food Allergies/Special Dietary Needs)
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))
(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

Note: Pursuant to 34 CFR 104.33, as interpreted by OCR in its January 2013 Dear Colleague Letter, a district's responsibility under Section 504 requirements extends to providing students with disabilities equal opportunity to participate in extracurricular athletics and other nonacademic programs or activities that constitute the overall educational program.

In addition, qualified students with disabilities shall be provided an equal opportunity to participate in programs and activities that are integral components of the district's basic education program, including, but not limited to, extracurricular athletics, interscholastic sports, and/or other nonacademic activities. (34 CFR 104.37)

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

(cf. 6145 - Extracurricular and Cocurricular Activities)

(cf. 6145.2 - Athletic Competition)

(cf. 6145.5 - Student Organizations and Equal Access)

In providing services to students with disabilities under Section 504, the Superintendent or designee shall ensure district compliance with law, including providing the students and their parents/guardians with applicable procedural safeguards and required notifications. Any dispute as to the identification, evaluation, or placement of any student with a disability shall be resolved in accordance with the processes specified in the "Procedural Safeguards" section of the accompanying administrative regulation.

Note: The following optional paragraph ensures the availability of hearing officers to conduct impartial hearings to resolve disagreements about the provision of FAPE, pursuant to 34 CFR 104.36.

~~The Superintendent or designee shall maintain a list of impartial hearing officers who are qualified and willing to conduct Section 504 hearings. To ensure impartiality, such officers shall not be employed by or under contract with the district in any other capacity except as hearing officer and shall not have any professional or personal involvement that would affect their impartiality or objectivity in the matter.~~

Legal Reference: (see next page)

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

Legal Reference:

EDUCATION CODE

49423.5 *Specialized physical health care services*

CODE OF REGULATIONS, TITLE 5

3051.12 *Health and Nursing Services*

UNITED STATES CODE, TITLE 20

1232g *Family Educational Rights and Privacy Act of 1974*

1400-1482 *Individuals with Disabilities Education Act*

UNITED STATES CODE, TITLE 29

705 *Definitions; Vocational Rehabilitation Act*

794 *Rehabilitation Act of 1973, Section 504*

UNITED STATES CODE, TITLE 42

12101-12213 *Americans with Disabilities Act*

CODE OF FEDERAL REGULATIONS, TITLE 34

104.1-104.61 *Nondiscrimination on the basis of handicap, especially:*

104.1 *Purpose to effectuate Section 504 of the Rehabilitation Act of 1973*

104.3 *Definitions*

104.32 *Location and notification*

104.33 *Free appropriate public education*

104.34 *Educational setting*

104.35 *Evaluation and placement*

104.36 *Procedural safeguards*

COURT DECISIONS

Christopher S. v. Stanislaus County Office of Education, (2004) 384 F.3d 1205

Management Resources:

CSBA PUBLICATIONS

Rights of Students with Diabetes Under IDEA and Section 504, Policy Brief, November 2007

CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES

Legal Advisory on Rights of Students with Diabetes in California's K-12 Public Schools, August 2007

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

Dear Colleague Letter; January 2013

Dear Colleague Letter and Questions and Answers on ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools; January 2012

Free Appropriate Public Education for Students with Disabilities: Requirements under Section 504 of the Rehabilitation Act of 1973, September 2007

WEB SITES

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

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

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

Center USD

Board Policy

Identification And Education Under Section 504

BP 6164.6

Instruction

The Governing Board recognizes the need to identify and evaluate children with disabilities in order to provide them with the services required by law.

The district shall provide a free appropriate public education to students who reside within the district and who are classified as disabled under Section 504 of the federal Rehabilitation Act of 1973. Such students shall receive regular or special education and related aids and services designed to meet their individual educational needs as adequately as the needs of nondisabled students are met. (34 CFR 104.33)

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

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

(cf. 5141.24 - Administering Medication and Monitoring Health Conditions)

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

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

Legal Reference:

EDUCATION CODE

49423.5 Specialized physical health care services

CODE OF REGULATIONS, TITLE 5

3051.12 Health and Nursing Services

UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act of 1974

1400-1482 Individuals with Disabilities Education Act

UNITED STATES CODE, TITLE 29

794 Rehabilitation Act of 1973, Section 504

CODE OF FEDERAL REGULATIONS, TITLE 34

104.1-104.61 Nondiscrimination on the basis of handicap, especially:

104.1 Purpose to effectuate Section 504 of the Rehabilitation Act of 1973

104.3 Definitions

104.33 Free appropriate public education

104.35 Evaluation and placement

104.36 Procedural safeguards

COURT DECISIONS

Christopher S. v. Stanislaus County Office of Education, (2004) 384 F.3d 1205

Management Resources:

CSBA PUBLICATIONS

Rights of Students with Diabetes Under IDEA and Section 504, Policy Brief, November 2007

CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES

Legal Advisory on Rights of Students with Diabetes in California's K-12 Public Schools, August 2007

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

Free Appropriate Public Education for Students with Disabilities: Requirements under Section 504 of the Rehabilitation Act of 1973, September 2007

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?src=mr>

Policy CENTER UNIFIED SCHOOL DISTRICT

adopted: February 20, 2008 Antelope, California

IDENTIFICATION AND EDUCATION UNDER SECTION 504

Note: Section 504 of the federal Rehabilitation Act of 1973 (29 USC 794) prohibits discrimination on the basis of disability. Pursuant to 34 CFR 104.7, the district is required to designate the person(s) responsible for the overall implementation of the requirements of Section 504, as specified below.

The U.S. Department of Education Office for Civil Rights (OCR), which is responsible for enforcing the provisions of Section 504 and also for receiving and handling complaints from parents/guardians, students, and advocates has issued guidance on Section 504 requirements. In its Dear Colleague Letter issued in January 2012, and the attached Questions and Answers on ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools, OCR clarifies the extent to which 29 USC 705, which was amended by the Americans with Disabilities Amendments Act (ADA) of 2008, affects the definition of "disability" and "substantially limits" for Section 504 purposes. In addition, in January 2013, OCR issued another Dear Colleague Letter to clarify districts' obligations under Section 504, particularly as they relate to providing students with disabilities an opportunity to participate in extracurricular athletics and other nonacademic activities that are a part of the overall education program.

The following optional administrative regulation focuses on district procedures for identifying and evaluating students who are eligible to receive FAPE and is consistent with OCR guidance.

The Superintendent designates the following position as the district's 504 Coordinator to implement the requirements of Section 504 of the federal Rehabilitation Act of 1973: (34 CFR 104.7)

Director of Personnel and Student Services
8408 Watt Avenue, Antelope, CA 95843
(916) 338-6413

Definitions

Note: The following definitions are consistent with 42 USC 12101-12213, the Americans with Disabilities Act Amendment Act of 2008.

~~For the purpose of implementing Section 504 of the Rehabilitation Act of 1973, the following terms and phrases shall have only the meanings specified below:~~

~~Free appropriate public education (FAPE) means the provision of regular or special education and related aids and services designed to meet the individual educational needs of a student with disabilities as adequately as the needs of nondisabled students are met, without cost to the student or his/her parent/guardian, except when a fee is imposed on nondisabled students. (34 CFR 104.33)~~

~~(cf. 3260 Fees and Charges)~~

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

Note: Pursuant to 34 CFR 104.3, a student is considered disabled when he/she has a physical or mental impairment that substantially limits a major life activity, has a record of such impairment, or is regarded as having such impairment. According to OCR, a district is required to provide FAPE only to those students whose impairment currently limits a major life activity. However, Section 504 requires districts to protect a student who has a record of, or is regarded as having, such an impairment from discriminatory treatment. For example, it would be discriminatory and thus illegal to prohibit a student who has a record of bone cancer, but is currently in remission, from trying out for the basketball team based on his/her history of cancer.

~~*Student with a disability means a student who has a physical or mental impairment which substantially limits one or more major life activities. (34 CFR 104.3)*~~

Note: Examples of physical or mental impairments that may constitute disabling conditions under Section 504 if they substantially limit a major life activity may include, but are not limited to, diabetes; communicable diseases such as HIV/AIDS; tuberculosis; attention deficit disorder (ADD) or attention deficit hyperactivity disorder (ADHD); chronic asthma and severe allergies; physical disabilities such as spina bifida or hemophilia; and temporary disabilities depending on the anticipated length of disability, the seriousness of the illness/injury, and the needs of the student (e.g., students injured in accidents or suffering short-term illnesses). In the event that these conditions fall within the disabilities categories specified in the Individuals with Disabilities Education Act (IDEA), then the student may need to be considered for services under that law; see BP/AR 6164.4 - Identification and Evaluation of Individuals for Special Education.

~~*Physical impairment means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal, special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine. (34 CFR 104.3)*~~

~~*Mental impairment means any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. (34 CFR 104.3)*~~

~~*Substantially limits major life activities means limiting a person's ability to perform functions such as caring for himself/herself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working. Major life activities also includes major bodily functions such as functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. Substantially limits shall be determined without regard to the ameliorative effects of mitigating measures other than ordinary eyeglasses or contact lenses. Mitigating measures include, but are not limited to, medications, prosthetic devices, assistive devices, learned behavioral, or adaptive neurological modifications which an individual may use to eliminate or reduce the effects of an impairment. (42 USC 12102; 34 CFR 104.3)*~~

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

Definitions

Free appropriate public education (FAPE) under Section 504 of the Rehabilitation Act of 1973 means the provision of either regular or special education and related aids and services, designed to meet the student's individual educational needs as adequately as the needs of nondisabled students are met. (34 CFR 104.33)

Eligibility to receive FAPE under Section 504 means a student has a physical or mental impairment which substantially limits one or more major life activities. (34 CFR 104.33)

Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. (34 CFR 104.3)

Physical or mental impairment means any of the following: (34 CFR 104.3)

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal, special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine
2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities

Referral, Identification, and Evaluation

Note: 34 CFR 104.35 requires the district to conduct an evaluation of any student who needs or is believed to need special education or related services under Section 504. However, the law does not require a specific procedure for referral of a student for the evaluation. Items #1-2 below provide such a procedure and should be modified to reflect district practice.

Any action or decision to be taken by the district involving the referral, identification, or evaluation of a student with disabilities shall be in accordance with the following procedures:

1. A parent/guardian, teacher, other school employee, student success team, or community agency may refer a student to the principal or 504 Coordinator for identification as a student with a disability under Section 504.

(cf. 6164.5 - Student Success Teams)

2. Upon receipt of any such referral, the principal, 504 Coordinator, or other qualified individual with expertise in the area of the student's suspected disability shall consider the referral and determine whether an evaluation is appropriate. This determination shall be based on a review of the student's school records, including those in academic and nonacademic areas of the school program; consultation with

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

the student's teacher(s), other professionals, and the parent/guardian, as appropriate; and analysis of the student's needs.

If it is determined that an evaluation is unnecessary, the principal or 504 Coordinator shall inform the parents/guardians in writing of this decision and of the procedural safeguards available, as described in the "Procedural Safeguards" section below.

3. If it is determined that the student needs or is believed to need special education or related services under Section 504, the district shall conduct an evaluation of the student prior to his/her initial placement. (34 CFR 104.35)

Note: OCR has interpreted Section 504 to require districts to obtain parental permission for initial evaluations. Although the law is silent on the form of parental consent, it is recommended that the district obtain such consent in writing. The following paragraph should be modified to reflect district practice.

Prior to conducting an initial evaluation of a student for eligibility under Section 504, the district shall obtain written parent/guardian consent.

Note: 34 CFR 104.35 requires that the district's evaluation and placement procedures include the elements specified in items #a-c below.

The district's evaluation procedures shall ensure that the tests and other evaluation materials: (34 CFR 104.35)

- a. Have been validated and are administered by trained personnel in conformance with the instruction provided by the test publishers
- b. Are tailored to assess specific areas of educational need and are not merely designed to provide a single general intelligence quotient
- c. Reflect the student's aptitude or achievement or whatever else the tests purport to measure rather than his/her impaired sensory, manual, or speaking skills, except where those skills are the factors that the tests purport to measure

Section 504 Services Plan and Placement

Services and placement decisions for students with disabilities shall be determined as follows:

1. A multi-disciplinary 504 team shall be convened to review the evaluation data in order to make placement decisions.

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

The 504 team shall consist of a group of persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. (34 CFR 104.35)

In interpreting evaluation data and making placement decisions, the team shall draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. The team shall also ensure that information obtained from all such sources is documented and carefully considered and that the placement decision is made in conformity with 34 CFR 104.34. (34 CFR 104.35)

Note: While there is no specific requirement that a Section 504 services plan (sometimes called an accommodation plan) be in writing, it is strongly recommended that the district develop a written plan for each student detailing the regular and/or special education and related services that the student will be provided in order to ensure that the student is receiving FAPE in accordance with 34 CFR 104.33.

2. If, upon evaluation, a student is determined to be eligible for services under Section 504, the team shall meet to develop a written 504 services plan which shall specify the types of regular or special education services, accommodations, and supplementary aids and services necessary to ensure that the student receives FAPE.

The parents/guardians shall be invited to participate in the meeting and shall be given an opportunity to examine all relevant records.

(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)

(cf. 5141.22 - Infectious Diseases)

(cf. 5141.23 - Asthma Management)

(cf. 5141.24 - Specialized Health Care Services)

(cf. 5141.26 - Tuberculosis Testing)

(cf. 5141.27 - Food Allergies/Special Dietary Needs)

3. If the 504 team determines that no services are necessary for the student, the record of the team's meeting shall reflect whether or not the student has been identified as a disabled person under Section 504 and shall state the basis for the determination that no special services are presently needed. The student's parent/guardian shall be informed in writing of his/her rights and procedural safeguards, as described in the "Procedural Safeguards" section below.
4. The student shall be placed in the regular educational environment, unless the district can demonstrate that the education of the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. The student shall be educated with those who are not disabled to the maximum extent appropriate to his/her individual needs. (34 CFR 104.34)

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

Note: The law does not specify a time frame for completion of the evaluation and placement process, but OCR requires completion within "a reasonable amount of time." Generally, compliance with the timelines in IDEA will be considered "reasonable" and thus in compliance with Section 504. However, Section 504 does not provide for an automatic suspension of the timelines during extended breaks or when schools are not in session. For timelines under IDEA, see AR 6164.4 - Identification and Evaluation of Individuals for Special Education.

5. The district shall complete the identification, evaluation, and placement process within a reasonable time frame.
6. A copy of the student's Section 504 services plan shall be kept in his/her student record. The student's teacher(s) and any other staff who provide services to the student shall be informed of the plan's requirements.

If a student transfers to another school within the district, the principal or designee at the school from which the student is transferring shall ensure that the principal or designee at the new school receives a copy of the plan prior to the student's enrollment in the new school.

(cf. 5125 - Student Records)

Review and Reevaluation

Note: 34 CFR 104.35 requires a district to establish procedures for the periodic reevaluation of a student who has been identified as needing services under Section 504. A reevaluation procedure consistent with the IDEA is one means of meeting this requirement. The following section should be modified to reflect district practice.

The 504 team shall monitor the progress of the student and, at least annually, shall review the effectiveness of the student's Section 504 services plan to determine whether the services are appropriate and necessary and whether the student's needs are being met as adequately as the needs of nondisabled students. In addition, each student with a disability under Section 504 shall be reevaluated at least once every three years.

Note: As part of its responsibilities pursuant to 34 CFR 104.35, the district is required to reevaluate a student's needs before a significant change in his/her placement. Examples of actions that might constitute a "significant change in placement" triggering a reevaluation include, but are not limited to, expulsions, suspensions that exceed 10 school days within a school year, or removal from a fully integrated curriculum to a resource room, home instruction, independent study, or continuation school.

A reevaluation of the student's needs shall be conducted before any subsequent significant change in placement. (34 CFR 104.35)

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

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

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

Procedural Safeguards

Note: 34 CFR 104.36 requires districts to adopt a system of procedural safeguards which must include the rights of parents/guardians to receive notice, examine relevant records, have an impartial hearing in which they would have an opportunity to participate and be represented by legal counsel, and a process for review of the hearing and decision as detailed in the following section.

Timelines suggested in this section should be revised to reflect district practice; however, OCR requires that the due process hearing procedures be completed within a "reasonably prompt time frame."

The Superintendent or designee shall notify the parents/guardians of students with disabilities of all actions and decisions by the district regarding the identification, evaluation, or educational placement of their children. He/she also shall notify the parents/guardians of all the procedural safeguards available to them if they disagree with the district's action or decision, including an opportunity to examine all relevant records and an impartial hearing in which they shall have the right to participate. (34 CFR 104.36)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

Note: 34 CFR 104.36 requires that the district's procedural safeguards for Section 504 include an impartial hearing to resolve disagreements about the provision of FAPE. This Section 504 due process hearing is separate from the due process hearing procedures under IDEA and from the district's uniform complaint procedures, which are used to resolve complaints regarding discriminatory treatment (e.g., harassment or accessibility issues). See BP/AR 1312.3 - Uniform Complaint Procedures.

If a parent/guardian disagrees with any district action or decision regarding the identification, evaluation, or educational placement of his/her child under Section 504, he/she may request a Section 504 due process hearing within 30 days of that action or decision.

Note: According to OCR, the parent/guardian cannot be required to participate in an administrative review prior to exercising his/her right to a Section 504 due process hearing. Districts with questions should consult legal counsel, as appropriate.

Prior to requesting a Section 504 due process hearing, the parent/guardian may, at his/her discretion, but within 30 days of the district's action or decision, request an administrative review of the action or decision. The Coordinator shall designate an appropriate administrator to meet with the parent/guardian to attempt to resolve the issue and the administrative review shall be held within 14 days of receiving the parent/guardian's request. If the parent/guardian is not satisfied with the resolution of the issue, he/she may request a Section 504 due process hearing.

Section 504 due process hearing shall be conducted in accordance with the following procedures:

IDENTIFICATION AND EDUCATION UNDER SECTION 504 (continued)

1. The parent/guardian shall submit a written request to the Coordinator within 30 days of receiving the district's decision or, if an administrative review is held, within 14 days of the completion of the review. The request for the due process hearing shall include:
 - a. The specific nature of the decision with which he/she disagrees
 - b. The specific relief he/she seeks
 - c. Any other information he/she believes is pertinent to resolving the disagreement
2. Within 30 days of receiving the parent/guardian's request, the Superintendent or designee and 504 Coordinator shall select an impartial hearing officer. This 30-day deadline may be extended for good cause or by mutual agreement of the parties.
3. Within 45 days of the selection of the hearing officer, the Section 504 due process hearing shall be conducted and a written decision mailed to all parties. This 45-day deadline may be extended for good cause or by mutual agreement of the parties.
4. The parties to the hearing shall be afforded the right to:
 - a. Be accompanied and advised by counsel and by individuals with special knowledge or training related to the problems of students with disabilities under Section 504
 - b. Present written and oral evidence
 - c. Question and cross-examine witnesses
 - d. Receive written findings by the hearing officer stating the decision and explaining the reasons for the decision

If desired, either party may seek a review of the hearing officer's decision by a federal court of competent jurisdiction.

Notifications

The Superintendent or designee shall ensure that the district has taken appropriate steps to notify students and parents/guardians of the district's duty under Section 504. (34 CFR 104.32)

(cf. 5145.6 - Parental Notifications)

**Regulation
approved:**

**CSBA MANUAL MAINTENANCE SERVICE
April 2013**

Center USD

Administrative Regulation

Identification And Education Under Section 504

AR 6164.6
Instruction

Definitions

Free appropriate public education (FAPE) under Section 504 of the Rehabilitation Act of 1973 means the provision of either regular or special education and related aids and services, designed to meet the student's individual educational needs as adequately as the needs of nondisabled students are met. (34 CFR 104.33)

Eligibility to receive FAPE under Section 504 means a student has a physical or mental impairment which substantially limits one or more major life activities. (34 CFR 104.33)

Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. (34 CFR 104.3)

Physical or mental impairment means any of the following: (34 CFR 104.3)

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal, special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genitourinary; hemic and lymphatic; skin; and endocrine
2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities

Referral, Identification, and Evaluation

1. Any student may be referred by a parent/guardian, teacher, other school employee, student success team, or community agency for consideration of eligibility as a disabled student under Section 504. This referral may be made to the principal or 504 Coordinator.

(cf. 6164.5 - Student Success Teams)

2. Upon receipt of a referral for eligibility, the principal or 504 Coordinator shall consider the referral and determine whether an evaluation is appropriate. This determination shall be based on a review of the student's school records, including academic and nonacademic areas of the school program; consultation with the student's teacher(s), other professionals, and the parent/guardian, as appropriate; and analysis of the student's needs.

If it is determined that an evaluation is unnecessary, the principal or 504 Coordinator shall inform the parents/guardians in writing of this decision and of the procedural safeguards, as described in the "Procedural Safeguards" section below.

3. If it is determined that a student needs or is believed to need special education or related services under Section 504, the district shall conduct an evaluation of the student prior to initial placement and before any significant change in placement. (34 CFR 104.35)

Prior to conducting an initial evaluation of a student for eligibility under Section 504, the district shall obtain written parent/guardian consent.

The district's evaluation procedures shall ensure that tests and other evaluation materials: (34 CFR 104.35)

- a. Have been validated and are administered by trained personnel in conformance with the instruction provided by the test publishers
- b. Are tailored to assess specific areas of educational need and are not based solely on a single IQ score
- c. Reflect aptitude or achievement or whatever else the tests purport to measure and do not reflect the student's impaired sensory, manual, or speaking skills unless the test is designed to measure these particular deficits

Section 504 Services Plan and Placement

1. A multi-disciplinary 504 team shall be convened to review the evaluation data in order to make placement decisions.

The 504 team shall consist of a group of persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. (34 CFR 104.35)

In interpreting evaluation data and making placement decisions, the team shall draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, and adaptive behavior. The team shall also ensure that information obtained from all such sources is documented and carefully considered and that the placement decision is made in conformity with 34 CFR 104.34. (34 CFR 104.35)

2. If, upon evaluation, a student is determined to be eligible for services under Section 504, the team shall meet to develop a written 504 services plan which shall specify the types of regular or special education services, accommodations, and supplementary aids and services necessary to ensure that the student receives FAPE.

The parents/guardians shall be invited to participate in the meeting and shall be given an opportunity to examine all relevant records.

(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)

3. If the 504 team determines that no services are necessary for the student, the record of the team's meeting shall reflect whether or not the student has been identified as a disabled person under Section 504 and shall state the basis for the decision that no special services are presently needed. The student's parent/guardian shall be informed in writing of his/her rights and procedural safeguards, as described in the "Procedural Safeguards" section below.

4. The student shall be placed in the regular educational environment, unless the district can demonstrate that the education of the student in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily. The student shall be educated with those who are not disabled to the maximum extent appropriate to his/her individual needs. (34 CFR 104.34)

5. The district shall complete the identification, evaluation, and placement process within a reasonable time frame.

6. A copy of the student's Section 504 services plan shall be kept in his/her student record. The student's teacher(s) and any other staff who provide services to the student shall be informed of the plan's requirements.

If a student transfers to another school within the district, the principal or designee at the school from which the student is transferring shall ensure that the principal or designee at the new school receives a copy of the plan prior to the student's enrollment in the new school.

(cf. 5125 - Student Records)

Review and Reevaluation

1. The 504 team shall monitor the progress of the student and the effectiveness of the student's Section 504 services plan to determine whether the services are appropriate and necessary and whether the student's needs are being met as adequately as the needs of nondisabled students. The team shall review the student's plan annually. In addition, the student's eligibility under Section 504 shall be reevaluated at least once every three years.

2. A reevaluation of the student's needs shall be conducted before any subsequent significant change in placement. (34 CFR 104.35)

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

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

Procedural Safeguards

Parents/guardians shall be notified in writing of all district decisions regarding the identification, evaluation, or educational placement of students with disabilities or suspected disabilities.

Notifications shall include a statement of their right to: (34 CFR 104.36)

1. Examine relevant records
2. Have an impartial hearing with an opportunity for participation by the parents/guardians and their counsel
3. Have a review procedure

Notifications shall also detail the parent/guardian's right to file a grievance with the district over an alleged violation of Section 504; have an evaluation that draws on information from a variety of sources; be informed of any proposed actions related to eligibility and plan for services; receive all information in the parent/guardian's native language and primary mode of communication; periodic reevaluations and an evaluation before any significant change in program/service modifications; an impartial hearing if there is a disagreement with the district's proposed action; be represented by counsel in the impartial hearing process; and appeal the impartial hearing officer's decision.

If a parent/guardian disagrees with decisions regarding the identification, evaluation, or educational placement of his/her child under Section 504, he/she may request a Section 504 due process hearing in accordance with the following procedures:

1. Within 30 days after receipt of the district's decision with which the parent/guardian disagrees, the parent/guardian may request an administrative review of the decision.

The 504 Coordinator shall designate an appropriate administrator to meet with the parent/guardian to attempt to resolve the issue. This review shall be held within 14 days of receiving the parent/guardian's request.

2. If the parent/guardian chooses not to request an administrative review or if the review does not resolve the issue, the parent/guardian may request in writing a Section 504 due process hearing. The parent/guardian's request for a hearing shall be made within 30 days of receiving the district's decision or within 14 days of completion of the administrative review. The request shall include:

- a. The specific nature of the decision with which the parent/guardian disagrees
- b. The specific relief the parent/guardian seeks
- c. Any other information the parent/guardian believes pertinent

Within 30 days of receiving the parent/guardian's request, the Superintendent or designee and 504 Coordinator shall select an impartial hearing officer. This 30-day deadline may be extended for good cause or by mutual agreement of the parties.

The 504 Coordinator shall maintain a list of impartial hearing officers who are qualified and

willing to conduct Section 504 hearings. To ensure impartiality, such officers shall not be employed by or under contract with the district in any capacity other than that of hearing officer and shall not have any professional or personal involvement that would affect their impartiality or objectivity in the matter.

Within 45 days of the selection of the hearing officer, the Section 504 due process hearing shall be conducted and a written decision mailed to all parties. This 45-day deadline may be extended for good cause or by mutual agreement of the parties.

Any party to the hearing shall be afforded the right to:

1. Be accompanied and advised by counsel and by individuals with special knowledge or training related to the problems of students who are qualified as disabled under Section 504
2. Present written and oral evidence
3. Question and cross-examine witnesses
4. Receive written findings by the hearing officer

If desired, either party may seek a review of the hearing officer's decision by a federal court of competent jurisdiction.

Notifications

The Superintendent or designee shall ensure that the district has taken appropriate steps to notify students and parents/guardians of the district's duty under Section 504. (34 CFR 104.32)

(cf. 5145.6 - Parental Notifications)

Regulation CENTER UNIFIED SCHOOL DISTRICT
approved: June 3, 2009 Antelope, California

GOVERNING BOARD ELECTIONS

Note: Education Code 35107 details eligibility for Governing Board membership as specified below. In 81 Ops.Cal.Atty.Gen. 98 (1998), the Attorney General opined that the residency requirement in Education Code 35107 is a continuing requirement for holding the office during the entire term of the Board member.

Pursuant to Elections Code 20, as added by AB 2410 (Ch. 160, Statutes of 2012), any person who has been convicted of a felony involving bribery, offering of a bribe, embezzlement or theft of public funds, extortion, perjury, or of conspiracy to commit any of these crimes, under California law or the law of any other state, the federal government, or a foreign government or country, is ineligible to be elected or to hold state or local public office unless he/she has received a pardon from the Governor or other authority as specified.

In addition, a person is ineligible to hold public office if he/she is not registered to vote. Elections Code 2201 lists the causes for cancelling an individual's voter registration and making him/her ineligible to hold public office as including legally established mental incompetency, proof that the person is presently imprisoned or on parole for conviction of a felony, or official notification that the voter is registered in another country or state.

Any person is eligible to be a member of the Governing Board, without further qualifications, if he/she is 18 years of age or older, a citizen of California, a resident of the school district, a registered voter, and not legally disqualified from holding civil office. Any person who has been convicted of a felony involving the giving, accepting, or offering of a bribe, embezzlement or theft of public funds, extortion, perjury, or conspiracy to commit any such crime, under California law or the law of another state, the United States of America, or another country, is not eligible to be a candidate for office or be a Board member except when he/she has been granted a pardon in accordance with law. (Education Code 35107; Elections Code 20)

Note: Pursuant to Education Code 35107, a district employee elected to serve on the district Board must resign his/her employment before being sworn into office as a Board member.

Pursuant to Education Code 1006, as added by AB 1662 (Ch. 499, Statutes of 2012), employees of a school district may now be eligible to run for the county board of education seat as long as their school district employer is not within the jurisdiction of the county board.

A district employee elected to the Board shall resign his/her employment before being sworn in or shall have his/her employment automatically terminated upon being sworn into office. (Education Code 35107)

(cf. 9224 - Oath of Affirmation)

(cf. 9270 - Conflict of Interest)

Note: Pursuant to Elections Code 1302 and 10404.5, districts are authorized to request consolidation of their Board elections with the local municipal or state primary or general elections. Whenever a change is made to a district's election cycle, the terms of office of incumbent Board members must be extended accordingly. In addition, before making any rule changes that may affect voting in their elections, districts within Kings, Monterey, and Yuba counties must obtain prior approval of the U.S. Department of Justice (preclearance), pursuant to 42 USC 1973-1973aa-6 (the federal Voting Rights Act). For these reasons, districts should explore the full ramifications of proposed changes to their election rules and should consult legal counsel when necessary.

GOVERNING BOARD ELECTIONS (continued)

To reduce costs associated with conducting elections, the Board may consolidate Board elections with the local municipal or statewide primary or general election. Board election procedures shall be conducted in accordance with state and federal law.

(cf. 9110 - Terms of Office)

Electing Board Members

Note: Pursuant to Education Code 5019, except in a school district governed by a board of education subject to a city or city and county charter, each County Committee on School District Organization is authorized, for the districts within its jurisdiction, to establish trustee areas, rearrange boundaries of trustee areas, increase, decrease, or abolish trustee areas, and recommend any of three alternate methods of electing Board members as specified below and in Education Code 5030. A proposal for any of the purposes described above may be initiated by the County Committee, by a petition filed by voters, or by the governing board of the school district. Option 1 below is for districts that use the "by trustee area" method to elect Board members (i.e., voters in each trustee area elect the candidate to represent their area), Option 2 is for districts that use the "at-large" method (i.e., all voters cast ballots for all candidates within the district), and Option 3 is for districts that use the "from trustee area" or "hybrid" method (i.e., Board members must reside within designated trustee areas but are elected by voters throughout the district "at-large").

Pursuant to Education Code 1000-1001, elections to fill county boards of education are required to be conducted based on the "by trustee area" voting method.

OPTION 1: ~~(Election by trustee area)~~

~~The district is divided into trustee areas and each trustee area shall be represented by a Board member who resides in and is elected by voters residing within that trustee area. Trustee areas shall be balanced by population as required by state and federal law.~~

Note: To ensure equitable representation, Education Code 5019.5 requires any district using Option 1 to adjust its trustee area boundaries following each decennial federal census.

~~Prior to March 1 following the year in which the results of each decennial federal census are released, the Board shall adjust the boundaries of the district's trustee areas based on population figures as validated by the Population Research Unit of the Department of Finance. (Education Code 5019.5)~~

Note: Any district that selects Option 2 or 3 should ensure that its decision is consistent with Elections Code 14025-14032 (the California Voting Rights Act (CVRA)) which prohibits the use of the "at-large" voting method for elections within jurisdictions with a history of "racially polarized voting" (i.e., difference between voters of a protected class and voters in the rest of the jurisdiction in the choice of candidates preferred). Any district seeking more information about the CVRA and its possible effects should consult legal counsel.

GOVERNING BOARD ELECTIONS (continued)

OPTION 2: (Election using "at-large" voting method)

Board members may reside anywhere within the district's boundaries and shall be elected by all voters in the district.

Note: The extent, if any, to which a district using the "from trustee area/hybrid" method (Option 3) is required to balance its trustee areas by population is unclear; see Dusch v. Davis. Any district using Option 3 should consult with legal counsel regarding whether to population balance its trustee areas.

~~OPTION 3: (Election from trustee area/hybrid method)~~

~~Each Board member shall reside within the trustee area that he/she represents but shall be elected by all voters in the district.~~

Note: The remainder of this section is for districts using Option 2 or 3 and may be revised to reflect district practice. Such districts should periodically monitor the demographics within their geographical boundaries to ensure that no violation of the CVRA occurs. Any district found in violation of the CVRA could be held liable for attorneys' fees and legal costs.

To ensure ongoing compliance with the California and federal Voting Rights Acts, the Board may review the district's Board election method to determine whether any modification is necessary due to changes in the district's population or any of its racial, color, or language minority group composition. The review shall be based on the Superintendent or designee's report to the Board after the release of each decennial federal census.

Note: Converting from an "at-large" (Option 1) to a "by trustee area" (Option 2) voting method involves complex issues of law regarding matters such as the redrawing of maps, required approvals, and transition dates. Any district that is considering switching to "by trustee area" election method should consult legal counsel as necessary.

If the Board determines that a change is necessary, it shall adopt a resolution at an open meeting specifying the change(s) and shall, in accordance with Education Code 5019 or other applicable provisions of law, obtain approval from the county committee on school district organization having jurisdiction over the district.

(cf. 9320 - Meetings and Notices)

Campaign Conduct

Note: Education Code 35177 has long authorized boards, by resolution, to limit campaign expenditures and/or contributions for candidates in board elections. However, in June 2006, the U.S. Supreme Court held in Randall v. Sorrell that limits on campaign expenditures are unconstitutional and violate a candidate's right to free speech. The court did hold that limits on contributions to candidates could be constitutional if such limits are not overly restrictive, allow candidates to compete in the race, and do not operate to protect

GOVERNING BOARD ELECTIONS (continued)

incumbents. However, because Education Code 35177 provides no mechanism for the district to enforce any contribution limits set by the Board, such limits would be completely voluntary, and other candidates and the Board would have no remedy in the event of noncompliance by a candidate. It is strongly recommended that, before adopting voluntary contribution limits under the authority granted in Education Code 35177, the Board consult legal counsel in order to ensure that the district's limits satisfy legal restrictions.

Pursuant to Elections Code 20440, county election officials present each candidate running for public office with a voluntary Code of Fair Campaign Practices for the candidate to sign. The pledge states the candidate's intent to conduct his/her campaign openly and fairly and provides that the candidate may not use or permit negative prejudice based on another candidate's race, religion, physical or mental disability, sex, gender, sexual orientation, or any other prohibited category of discrimination listed in Government Code 12940. Although neither the district nor opposing candidates have authority to enforce the pledge if it is violated, a candidate's signature is a matter of public record. The following optional paragraph expresses the Board's desire that candidates for Board membership sign and abide by the terms of the pledge.

In order to help protect the public's trust in the electoral process as well as the public's confidence in the Board and district, the Board encourages all candidates to sign and adhere to the principles in the Code of Fair Campaign Practices pursuant to Elections Code 20440.

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 9005 - Governance Standards)

Statement of Qualifications

Note: Prior to the beginning of the nominating period, Elections Code 13307 requires the Board to determine whether to have the district assume the costs of producing candidate statements of qualifications (Option 1 below) or to charge candidates for the costs (Option 2 below). In 85 Ops.Cal.Atty.Gen. (2002), the Attorney General opined that Elections Code 13307, which authorizes the district to pay for the cost of distributing candidate statements, does not conflict with Education Code 7054, which prohibits the use of district resources for campaign purposes. According to the Attorney General, distributing campaign statements cannot be considered campaigning for any particular candidate in a partisan manner so as to conflict with the Education Code prohibition.

OPTION 1: ~~In order to help defray the costs of campaigning for the Board, the district shall pay the cost of printing, handling, translating, and mailing candidate statements filed pursuant to Elections Code 13307.~~

OPTION 2: The district shall assume no part of the cost of printing, handling, translating, or mailing of candidate statements filed pursuant to Elections Code 13307. As a condition of having candidate statements included in the voter's pamphlet, the district may require candidates to pay their estimated pro rata share of these costs to the district in advance pursuant to Elections Code 13307.

Note: The following paragraph applies to both of the above options.

GOVERNING BOARD ELECTIONS (continued)

On the 125th day prior to the day fixed for the general district election, the Board secretary or his/her designee shall deliver a notice, bearing the secretary's signature and district seal, to the county elections official describing both of the following: (Elections Code 10509)

1. The elective offices of the district to be filled at the general election and which offices, if any, are for the balance of an unexpired term
2. Whether the district or the candidate is to pay for the publication of a statement of qualifications pursuant to Elections Code 13307

(cf. 9223 - Filling Vacancies)

Note: Pursuant to Elections Code 13307, the candidate's statement is limited to 200 words (Option 1 below), unless the Board has authorized an increase to a 400-word maximum (Option 2 below).

OPTION 1: Candidate statements shall be limited to no more than 200 words. (Elections Code 13307)

~~**OPTION 2:** Candidate statements shall be limited to no more than 400 words. (Elections Code 13307)~~

Tie Votes in Board Member Elections

Note: Education Code 5016 requires the Board to decide, before conducting any election, whether a potential tie will be resolved by lot or with a runoff election. Option 1 is for use by districts that will make this determination prior to each election. For districts that do not re-determine the method at each election, Option 2 provides for the use of lots to determine the winner in case of a tie in every election while Option 3 provides for a runoff election.

Education Code 5016 requires the County Superintendent of Schools to provide certification of a tie vote in an election to the district Board.

~~**OPTION 1:** Before each election, the Board shall establish whether a potential tie is to be resolved by lot or with a runoff election. (Education Code 5016)~~

~~After an election for which the Board has decided to resolve a tie by lot, the Board shall immediately notify the candidates who received the tie votes of the time and place where the candidates or their representatives should appear before the Board. The Board at that time shall determine the winner by lot. (Education Code 5016)~~

~~After an election for which the Board has decided to resolve a tie with a runoff election, the Board shall schedule the runoff election in accordance with law. (Education Code 5016)~~

GOVERNING BOARD ELECTIONS (continued)

OPTION 2: Whenever a tie makes it impossible to determine which of two or more candidates has been elected to the Board, the Board shall immediately notify the candidates who received the tie votes of the time and place where the candidates or their representatives should appear before the Board. The Board at that time shall determine the winner by lot. (Education Code 5016)

~~**OPTION 3:** Whenever a tie makes it impossible to determine which of two or more candidates has been elected to the Board, the Board shall schedule a runoff election in accordance with law. (Education Code 5016)~~

Legal Reference:

EDUCATION CODE

1000 *Composition, and trustee area, county board of education*
 1006 *Qualifications for holding office, county board of education*
 5000-5033 *Elections*
 5220-5231 *Elections*
 5300-5304 *General provisions (conduct of elections)*
 5320-5329 *Order and call of elections*
 5340-5345 *Consolidation of elections*
 5360-5363 *Election notice*
 5380 *Compensation (of election officer)*
 5390 *Qualifications of voters*
 5420-5426 *Cost of elections*
 5440-5442 *Miscellaneous provisions*
 7054 *Use of district property*
 35107 *Eligibility; school district employees*
 35177 *Campaign expenditures or contributions*
 35239 *Compensation of governing board member of districts with less than 70 ADA*

ELECTIONS CODE

20 *Public office eligibility*
 1302 *Local elections, school district election*
 2201 *Grounds for cancellation*
 4000-4004 *Elections conducted wholly by mail*
 10400-10418 *Consolidation of elections*
 10509 *Notice of election by secretary*
 10600-10604 *School district elections*
 13307 *Candidate's statement*
 13309 *Candidate's statement, indigence*
 14025-14032 *California Voting Rights Act*
 20440 *Code of Fair Campaign Practices*

Legal Reference continued: (see next page)

GOVERNING BOARD ELECTIONS (continued)

Legal Reference: (continued)

GOVERNMENT CODE

1021 Conviction of crime

1097 Illegal participation in public contract

12940 Nondiscrimination, Fair Employment and Housing Act

81000-91014 Political Reform Act

PENAL CODE

68 Bribes

74 Acceptance of gratuity

424 Embezzlement and falsification of accounts by public officers

661 Removal for neglect or violation of official duty

CALIFORNIA CONSTITUTION

Article 2, Section 2 Voters, qualifications

Article 7, Section 7 Conflicting offices

Article 7, Section 8 Disqualification from office

UNITED STATES CODE, TITLE 42

1973-1973aa-6 Voting Rights Act

COURT DECISIONS

Rey v. Madera Unified School District, (2012) 138 Cal. Rptr. 3d 192

Randall v. Sorrell, (2006) 126 S.Ct. 2479

Sanchez v. City of Modesto, (2006) 51 Cal.Rptr.3d 821

Dusch v. Davis, (1967) 387 U.S. 112

ATTORNEY GENERAL OPINIONS

85 *Ops.Cal.Atty.Gen.* 49 (2002)

83 *Ops.Cal.Atty.Gen.* 181 (2000)

81 *Ops.Cal.Atty.Gen.* 98 (1998)

69 *Ops.Cal.Atty.Gen.* 290 (1986)

Management Resources:

WEB SITES

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

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

Fair Political Practices Commission: <http://www.fppc.ca.gov>

Institute for Local Self Government: <http://www.ca-ilg.org>

Center USD

Board Bylaw

Governing Board Elections

BB 9220

Board Bylaws

Any person is eligible to be a Governing Board member, without further qualifications, if he/she is 18 years of age or older, a citizen of the state, a resident of the school district, a registered voter, and not legally disqualified from holding civil office. (Education Code 35107)

A district employee elected to the Board shall resign his/her position before being sworn in or shall have his/her employment automatically terminated upon being sworn into office. (Education Code 35107)

(cf. 9224 - Oath of Affirmation)

(cf. 9270 - Conflict of Interest)

Whenever possible, the Board shall consolidate Board elections with the local municipal or statewide primary or general election. Board election procedures shall be conducted in accordance with state and federal law.

(cf. 9110 - Terms of Office)

Campaign Conduct

In order to help protect the public's trust in the electoral process as well as the public's confidence in the Board and district, the Board encourages all candidates to sign and adhere to the principles in the Code of Fair Campaign Practices pursuant to Elections Code 20440.

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

(cf. 9005 - Governance Standards)

Statement of Qualifications

The district shall assume no part of the cost of printing, handling, translating, or mailing of candidate statements filed pursuant to Elections Code 13307. As a condition of having candidate statements included in the voter's pamphlet, the district may require candidates to pay their estimated pro rata share of these costs to the district in advance pursuant to Elections Code 13307.

On the 125th day prior to the day fixed for the general district election, the Board secretary or his/her designee shall deliver a notice, bearing the secretary's signature and district seal, to the county elections official describing both of the following: (Elections Code 10509)

1. The elective offices of the district to be filled at the general election and which offices, if any, are for the balance of an unexpired term
2. Whether the district or the candidate is to pay for the publication of a statement of qualifications pursuant to Elections Code 13307

(cf. 9223 - Filling Vacancies)

Candidate statements shall be limited to no more than 200 words. (Elections Code 13307)

Tie Votes in Board Member Elections

Whenever a tie makes it impossible to determine which of two or more candidates has been elected to the Board, the Board shall immediately notify the candidates who received the tie votes of the time and place where lots shall be cast to determine the winner. (Education Code 5016)

Legal Reference:

EDUCATION CODE

1006 Qualifications for holding office, county board of education

5000-5033 Elections

5220-5231 Elections

5300-5304 General provisions (conduct of elections)

5320-5329 Order and call of elections

5340-5345 Consolidation of elections

5360-5363 Election notice

5380 Compensation (of election officer)

5390 Qualifications of voters

5420-5426 Cost of elections

5440-5442 Miscellaneous provisions

7054 Use of district property

35107 Eligibility; school district employees

35177 Campaign expenditures or contributions

35239 Compensation of governing board member of districts with less than 70 ADA

ELECTIONS CODE

1302 Local elections, school district election

2201 Grounds for cancellation

4000-4004 Elections conducted wholly by mail

10400-10418 Consolidation of elections

10509 Notice of election by secretary

10600-10604 School district elections

13307 Candidate's statement

13309 Candidate's statement, indigency

20440 Code of Fair Campaign Practices

GOVERNMENT CODE

1021 Conviction of crime

1097 Illegal participation in public contract

12940 Nondiscrimination, Fair Employment and Housing Act

81000-91014 Political Reform Act

PENAL CODE

68 Bribes

74 Acceptance of gratuity

424 Embezzlement and falsification of accounts by public officers

661 Removal for neglect or violation of official duty

CALIFORNIA CONSTITUTION

Article 2, Section 2 Voters, qualifications

Article 7, Section 7 Conflicting offices

Article 7, Section 8 Disqualification from office

COURT DECISIONS

Randall v. Sorrell, (2006) 126 S.Ct. 2479

ATTORNEY GENERAL OPINIONS

85 Ops.Cal.Atty.Gen. 49 (2002)

83 Ops.Cal.Atty.Gen. 181 (2000)

81 Ops.Cal.Atty.Gen. 98 (1998)

69 Ops.Cal.Atty.Gen. 290 (1986)

Management Resources:

WEB SITES

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

Fair Political Practices Commission: <http://www.fppc.ca.gov>

Institute for Local Self Government: <http://www.ca-ilg.org/>

Bylaw CENTER UNIFIED SCHOOL DISTRICT

adopted: May 2, 2007 Antelope, California

Center Joint Unified School District

AGENDA REQUEST FOR:

Dept./Site: Superintendent's Office

Action Item X

To: Board of Trustees

Information Item

Date: November 6, 2013

Attached Pages

From: Scott A. Loehr, Superintendent

Principal/Administrator Initials:

SUBJECT: First Reading: Board Policies/Regulations/Exhibits (8/13)

Revise	BP/AR	0420	School Plans/Site Councils
Revise	BP	1431	Waivers
Revise	BP/AR	3311	Bids
Revise	AR	3514	Environmental Safety
Revise	AR 3	542	School Bus Drivers
Revise	BP	4112.42/4212.42/4312.42	Drug and Alcohol Testing of Bus Drivers
Add	AR	4112.42/4212.42/4312.42	Drug and Alcohol Testing of Bus Drivers
Revise	AR	4161.11/4261.11/4361.11	Industrial Accident/Illness Leave
Revise	AR	4161.8/4261.8/4361.8	Family Care and Medical Leave
Revise	AR	5111.2	Nonresident Foreign Students
Revise	BP/AR	5141.27	Food Allergies/Special Dietary Needs
Revise	BP	6117	Year-Round Schedules
Delete	AR	6117	Year-Round Schedules
Revise	BP/AR	6162.6	Use of Copyrighted Materials
Revise	BB	9010	Public Statements
Revise	BB	9250	Remuneration, Reimbursement and Other Benefits
Add	E	9250	Remuneration, Reimbursement and Other Benefits

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

SCHOOL PLANS/SITE COUNCILS

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

The Governing Board believes that comprehensive planning at each district school is necessary in order to focus school improvement efforts on student academic achievement and facilitate the effective use of district resources. The Superintendent or designee shall ensure that school plans provide clear direction and identify cohesive strategies aligned with school and district goals.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

(cf. 0400 - Comprehensive Plans)

Note: School site councils or other schoolwide advisory committees are required to develop a single plan for student achievement (SPSA) to consolidate the school plans required for the state and federal categorical programs included in the state's consolidated application (Education Code 64000-64001) and the Quality Education Investment Act (Education Code 52055.700-52055.770). School plans formerly required for the Pupil Retention Block Grant (Education Code 41505-41508) and School and Library Improvement Block Grant (Education Code 41571-41573) may no longer be applicable since the funding for those programs is now included in the Local Control Funding Formula pursuant to AB 97 (Ch. 47, Statutes of 2013). For additional information regarding the development and content of the SPSA, see the accompanying administrative regulation and the California Department of Education's (CDE) publication [A Guide for Developing the Single Plan for Student Achievement: A Resource for the School Site Council](#), available on its web site.

For any school that participates in specified state and/or federal categorical programs, the school site council or other schoolwide advisory committee shall consolidate the plans required for those categorical programs into a single plan for student achievement (SPSA). (Education Code 52055.755, 64001)

(cf. 0420.1 - School-Based Program Coordination)

(cf. 0450 - Comprehensive Safety Plan)

(cf. 0520.2 - Title I Program Improvement Schools)

(cf. 0520.4 - Quality Education Investment Schools)

(cf. 1220 - Citizen Advisory Committees)

(cf. 1431 - Waivers)

(cf. 3513.3 - Tobacco-Free Schools)

(cf. 4131 - Staff Development)

(cf. 5147 - Dropout Prevention)

(cf. 6020 - Parent Involvement)

(cf. 6142.91 - Reading/Language Arts Instruction)

(cf. 6151 - Class Size)

(cf. 6164.2 - Counseling/Guidance Services)

(cf. 6171 - Title I Programs)

(cf. 6174 - Education for English Language Learners)

(cf. 6190 - Evaluation of the Instructional Program)

SCHOOL PLANS/SITE COUNCILS (continued)

As appropriate, a school may incorporate any other school plan into the SPSA. (Education Code 64001)

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

The Superintendent or designee shall review each school's SPSA to ensure that it meets the content requirements for all programs included, is based on an analysis of current practices and student academic performance, and reasonably links improvement strategies to identified needs of the school and students. He/she shall submit to the Board his/her recommendations for plan approval or revision.

The Board shall review and approve each school's SPSA and any subsequent material revisions affecting the academic programs for students participating in the categorical programs addressed in the SPSA. The Board shall certify that, to the extent allowable under federal law, the SPSA is consistent with district local improvement plans required as a condition of receiving federal funding. Any such review and approval shall be at a regularly scheduled Board meeting. (Education Code 64001)

Note: The CDE's publication [A Guide for Developing the Single Plan for Student Achievement: A Resource for the School Site Council](#) indicates that, as with plans required for School-Based Program Coordination pursuant to Education Code 52855, the Board must communicate its reasons any time it does not approve the SPSA.

Whenever the Board does not approve a school's SPSA, it shall communicate its specific reasons for disapproval of the plan to the school site council or committee. The school site council or committee shall then revise and resubmit the SPSA to the Board for its approval.

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

The Superintendent or designee shall ensure that school administrators and school site council members receive training on the roles and responsibilities of the site council.

Legal Reference: (see next page)

SCHOOL PLANS/SITE COUNCILS (continued)

Legal Reference:

EDUCATION CODE

52-53 Designation of schools
33133 Information guide for school site councils
35147 Open meeting laws exceptions
41500-41573 Categorical education block grants
52055.700-52055.770 Quality Education Investment Act
52176 Advisory committees
52500-52617 Adult education
52800-52887 School-Based Program Coordination Act
52890 Qualifications and duties of outreach consultants
54000-54028 Educationally Disadvantaged Youth Programs
54100-54145 Miller-Unruh Basic Reading Act
54425 Advisory committees (compensatory education)
54650-54659 Education Improvement Incentive Program
56000-56867 Special education
64000 Categorical programs included in consolidated application
64001 Single school plan for student achievement, consolidated application programs

HEALTH AND SAFETY CODE

104420 Tobacco use prevention

CODE OF REGULATIONS, TITLE 5

3930-3937 Compliance plans

UNITED STATES CODE, TITLE 20

6311 Accountability, adequate yearly progress
6312-6319 Title I programs; plans
6421-6472 Programs for neglected, delinquent, and at-risk children and youth
6601-6651 Teacher and Principal Training and Recruitment program
6801-7014 Limited English proficient and immigrant students
7101-7165 Safe and Drug-Free Schools and Communities
7341-7355c Rural Education Initiative

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

A Guide for Developing the Single Plan for Student Achievement: A Resource for the School Site Council, February 2013

WEST ED PUBLICATIONS

California Healthy Kids Survey
California School Climate Survey

WEB SITES

California Department of Education, Single Plan for Student Achievement:
<http://www.cde.ca.gov/nclb/sr/le/singleplan.asp>
U.S. Department of Education: <http://www.ed.gov>
WestEd: <http://www.wested.org>

Center USD

Board Policy

School Plans/Site Councils

BP 0420

Philosophy, Goals, Objectives and Comprehensive Plans

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.

When required by law or determined to be a useful tool to accomplish district and school goals, school site councils or other school advisory groups shall develop comprehensive school plans designed to enhance student achievement at individual school sites.

- (cf. 0000 - Vision)
- (cf. 0200 - Goals for the School District)
- (cf. 0400 - Comprehensive Plans)
- (cf. 0420.5 - School-Based Decision Making)
- (cf. 1220 - Citizen Advisory Committees)
- (cf. 1431 - Waivers)
- (cf. 6020 - Parent Involvement)

Single Plan for Student Achievement

The Superintendent or designee shall ensure that a single plan for student achievement is prepared by the school site council as required by law for each school participating in specified state and/or federal categorical programs. (Education Code 41507, 41572, 52055.755, 64001)

- (cf. 0420.1 - School-Based Program Coordination)
- (cf. 0450 - Comprehensive Safety Plan)
- (cf. 0520 - Intervention for Underperforming Schools)
- (cf. 0520.1 - High Priority Schools Grant Program)
- (cf. 0520.2 - Title I Program Improvement Schools)
- (cf. 0520.4 - Quality Education Investment Schools)
- (cf. 3513.3 - Tobacco-Free Schools)
- (cf. 4131 - Staff Development)

(cf. 4139 - Peer Assistance and Review)
(cf. 5147 - Dropout Prevention)
(cf. 5148.1 - Child Care Services for Parenting Students)
(cf. 6142.91 - Reading/Language Arts Instruction)
(cf. 6163.1 - Library Media Centers)
(cf. 6164.2 - Counseling/Guidance Services)
(cf. 6171 - Title I Programs)
(cf. 6174 - Education for English Language Learners)
(cf. 6190 - Evaluation of the Instructional Program)

Whenever feasible, any other school plan may be incorporated into the single plan for student achievement.

The Superintendent or designee shall review each school's single plan and ensure that it has been developed and approved by a properly constituted school site council, meets the content requirements for all programs included, is based on an analysis of current practices and student academic performance, and reasonably links improvement strategies to identified needs of the school and students. He/she shall submit to the Governing Board his/her recommendations for plan approval or recommendations regarding any subsequent material revisions of the plan.

The Board shall review and approve each school's single plan for student achievement at a regularly scheduled meeting. The Board also shall review and approve any subsequent revisions that include material changes affecting the academic programs for students participating in these categorical programs. The Board shall certify that, to the extent allowable under federal law, the plan is consistent with district local improvement plans required as a condition of receiving federal funding. (Education Code 64001)

The Superintendent or designee shall ensure that principals and members of each site council receive training on the roles and responsibilities of the site council. To the extent necessary, he/she shall ensure that site councils receive the resources necessary in order to perform their role effectively.

School Site Block Grants

Upon receipt of state funding for school site block grants, the Board shall allocate the funds to district schools on an equal per-pupil basis. (AB 1802, Sec. 43, Statutes of 2006)

The school's use of the funds allocated through this block grant shall be proposed by the school site council or, if the school does not have a school site council, by a schoolwide advisory group or school support group. (AB 1802, Sec. 43, Statutes of 2006)

The Board encourages school site councils to fund the highest priority needs identified in school improvement plans. The school site council shall provide the Superintendent or designee and the Board with a written proposal that includes a statement of the identified

need(s) and how the funds will be used to enhance the educational program.

Before the funds are encumbered or expended, the Board shall approve the site council's proposed use of the funds. If the Board does not approve the proposed use, the Board shall inform the school site council of the reasons for disapproval and request that the council review and revise its proposal. (AB 1802, Sec. 43, Statutes of 2006)

Legal Reference:

EDUCATION CODE

52-53 Designation of schools

8240-8244 General child care and development programs

8750-8754 Conservation education

18100-18203 School libraries

32228-32228.5 School safety and violence prevention

33133 Information guide for school site councils

35147 Open meeting laws exceptions

41500-41573 Categorical education block grants

44500-44508 Peer Assistance and Review Program

44520-44534 New Careers Program

48400-48403 Compulsory continuation education

48430-48438 Continuation education

48660-48667 Community day schools

51745-51749.3 Independent study

51760-51769.5 Work experience education

51870-51874 Educational technology

52053-52055.55 Immediate Intervention/Underperforming Schools Program

52055.700-52055.770 Quality Education Investment Act

52176 Advisory committees

52200-52212 Gifted and Talented Education Program

52300-52346 Regional occupational centers

52500-52617 Adult education, including:

52610-52616.24 Adult education finances

52800-52887 School-Based Program Coordination Act

52890 Qualifications and duties of outreach consultants

54000-54028 Educationally Disadvantaged Youth Programs

54100-54145 Miller-Unruh Basic Reading Act

54425 Advisory committees (compensatory education)

54650-54659 Education Improvement Incentive Program

54740-54749.5 California School Age Families Education Program

56000-56867 Special education

64000 Categorical programs included in consolidated application

64001 Single school plan for student achievement, consolidated application programs

REPEALED EDUCATION CODE FOR CATEGORICAL PROGRAMS

52012 Establishment of school site council

52014-52015 School plans
HEALTH AND SAFETY CODE
104420 Tobacco use prevention
MILITARY AND VETERANS CODE
500-520.1 California Cadet Corps
AB 1802 UNCODIFIED 2006 STATUTE
43 School site block grants
CODE OF REGULATIONS, TITLE 5
3930-3937 Compliance plans
UNITED STATES CODE, TITLE 206312-6319 Title I programs; plans
6421-6472 Programs for neglected, delinquent, and at-risk children and youth
6601-6651 Teacher and Principal Training and Recruitment program
6801-7014 Limited English proficient and immigrant students
7101-7165 Safe and Drug-Free Schools and Communities
7341-7355c Rural Education Initiative

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

A Guide and Template for the Single Plan for Student Achievement: A Handbook for School Site Councils, April 2006

WEB SITES

California Department of Education, Single Plan for Student Achievement:

<http://www.cde.ca.gov/nclb/sr/le/singleplan.asp>

Center for Comprehensive School Reform and Improvement:

<http://www.centerforcsri.org>

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

Policy CENTER UNIFIED SCHOOL DISTRICT
adopted: May 2, 2007 Antelope, California

SCHOOL PLANS/SITE COUNCILS

School Site Councils

Note: Education Code 52852 requires the establishment of a school site council at each school that participates in School-Based Program Coordination. In addition, Education Code 64001 requires that each school have a school site council, or other advisory committee that meets the requirements of Education Code 52852, to develop and review the school's single plan for student achievement (SPSA) for any categorical programs included in the state's consolidated application; see section "Single Plan for Student Achievement" below.

For information about the organization of the school site council, including sample school site council bylaws that address duties, membership, officers, subcommittees, and meetings, see the California Department of Education's (CDE) publication [A Guide for Developing the Single Plan for Student Achievement: A Resource for the School Site Council](#), available on the CDE's web site.

School site councils shall be established when required for participation in a categorical program. (Education Code 52852, 64001)

(cf. 0420.1 - School-Based Program Coordination)

The school site council shall be composed of the following: (Education Code 52852)

1. The principal
2. Teachers selected by the school's teachers
3. Other school personnel selected by the school's other personnel
4. Parent/guardian representatives, who may include parents/guardians of students attending the school and/or community members, selected by parents/guardians of students attending the school

Note: Education Code 52852 requires that secondary schools include students on their school site council. Pursuant to Education Code 52 and 53, secondary schools include high schools and junior high schools. The CDE's publication [A Guide for Developing the Single Plan for Student Achievement: A Resource for the School Site Council](#) advises that middle schools may include student representation on the school site council at the district's discretion. If the district does determine that middle schools should include students on their school site council, then such councils must meet the composition required of secondary schools as noted in the paragraph below item #5.

5. In secondary schools, students attending the school selected by other such students

Half of the school site council membership shall consist of school staff, the majority of whom shall be classroom teachers. For elementary school site councils, the remaining half shall be parent/guardian representatives. For secondary school site councils, the remaining half shall be equal numbers of parent/guardian representatives and students. (Education Code 52852)

SCHOOL PLANS/SITE COUNCILS (continued)

A district employee may serve as a parent/guardian representative on the school site council of the school his/her child attends, provided the employee does not work at that school. (Education Code 52852)

Note: The method of selecting members of school site councils is not specified in law, except that members must be chosen by peers as noted above. No additional membership qualifications may be required. The CDE's publication A Guide for Developing the Single Plan for Student Achievement: A Resource for the School Site Council suggests that the selection process may be addressed in Board policy or in bylaws of the school site council. The following optional paragraph may be revised to reflect district practice.

The bylaws of each school site council shall include the method of selecting members and officers, terms of office, responsibilities of council members, time commitment, and a policy of nondiscrimination.

School site councils may function on behalf of other committees in accordance with law. (Education Code 52176, 52870, 54425; 5 CCR 3932)

Note: Pursuant to Education Code 35147, school site councils and some advisory committees are exempt from open meeting law requirements (the Brown Act), but must comply with other, less complex procedural requirements as specified; see AR 1220 - Citizen Advisory Committees.

School site councils shall operate in accordance with procedural meeting requirements established in Education Code 35147.

(cf. 1220 - Citizen Advisory Committees)

Single Plan for Student Achievement

Note: The following section reflects requirements pertaining to the development of the SPSA required for the state and federal categorical programs included in the consolidated application (Education Code 64000-64001) and the Quality Education Investment Act (Education Code 52055.700-52055.770). The CDE has developed a template for the SPSA, available on its web site, to help schools meet plan requirements.

In order for a school to participate in any state or federal categorical program specified in Education Code 52055.700 or 64000 on an ongoing basis, the school site council shall approve and annually review and update a single plan for student achievement (SPSA). If the school does not have a school site council, these responsibilities shall be fulfilled by a schoolwide advisory group or school support group conforming to the composition requirements of the school site council listed in the section "School Site Councils" above. (Education Code 52055.755, 64001)

(cf. 0450 - Comprehensive Safety Plan)

(cf. 0520.4 - Quality Education Investment Schools)

(cf. 1431 - Waivers)

SCHOOL PLANS/SITE COUNCILS (continued)

(cf. 3513.3 - Tobacco-Free Schools)
(cf. 4131 - Staff Development)
(cf. 5147 - Dropout Prevention)
(cf. 6020 - Parent Involvement)
(cf. 6142.91 - Reading/Language Arts Instruction)
(cf. 6151 - Class Size)
(cf. 6164.2 - Counseling/Guidance Services)
(cf. 6171 - Title I Programs)
(cf. 6174 - Education for English Language Learners)
(cf. 6184 - Continuation Education)

The SPSA shall be developed with the review, advice, and certification of any applicable school advisory committees. (Education Code 64001)

Note: The following optional paragraph may be revised to reflect district practice.
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Such groups may include, but are not limited to, advisory committees established for categorical programs such as English learner, special education, gifted and talented education, and Economic Impact Aid programs; Western Association of Schools and Colleges leadership teams; district or school liaison teams for schools identified for program improvement; and other committees established by the school or district.

(cf. 0520.2 - Title I Program Improvement Schools)
(cf. 6172 - Gifted and Talented Student Program)
(cf. 6190 - Evaluation of the Instructional Program)

Note: Pursuant to Education Code 64001, the SPSA must be based upon an analysis of verifiable state data, including the Academic Performance Index and the California English Language Development Test, and may include other district data on student achievement. The CDE's publication <u>A Guide for Developing the Single Plan for Student Achievement: A Resource for the School Site Council</u> recommends that such data could include results of other state assessments, "adequate yearly progress" as measured pursuant to 20 USC 6311, and local benchmark and curriculum-embedded assessments. The following paragraph may be revised to include any additional measures required by the district.

The SPSA shall be aligned with school goals for improving student achievement. School goals shall be based on an analysis of verifiable state data, including the Academic Performance Index (API) and the California English Language Development Test, and may consider any other data developed by the district to measure student achievement. (Education Code 64001)

(cf. 0500 - Accountability)
(cf. 6162.5 - Student Assessment)
(cf. 6162.51 - Standardized Testing and Reporting Program)
(cf. 6162.52 - High School Exit Examination)

SCHOOL PLANS/SITE COUNCILS (continued)

The SPSA shall, at a minimum: (Education Code 64001)

1. Address how funds provided to the school through specified categorical programs will be used to improve the academic performance of all students to the level of the performance goals established by the API
2. Identify the means of evaluating the school's progress toward accomplishing those goals
3. Identify how state and federal law governing the categorical programs will be implemented

Note: The CDE's publication A Guide for Developing the Single Plan for Student Achievement: A Resource for the School Site Council clarifies that the SPSA must address all plan components required for individual categorical programs covered by the SPSA. For example, the SPSA for a school that participates in School-Based Program Coordination must include the plan requirements for that program as specified in AR 0420.1 - School-Based Program Coordination.

In addition to meeting the requirements common to all applicable school plans, the SPSA shall address any content required by law for each individual categorical program in which the school participates.

Note: The remainder of this section reflects steps recommended in the CDE's publication A Guide for Developing the Single Plan for Student Achievement: A Resource for the School Site Council and may be revised to reflect district practice.

In developing or revising the SPSA, the school site council or other schoolwide advisory group or school support group shall:

1. Analyze student achievement data. Using measures of student academic performance, the school shall identify significant patterns of low performance in particular content areas, student groups, and/or individual students and determine which data summaries to include in the plan as most informative and relevant to school goals.

(cf. 6011 - Academic Standards)

Note: To measure the effectiveness of the school's current instructional program, as provided in item #2 below, the CDE's publication A Guide for Developing the Single Plan for Student Achievement: A Resource for the School Site Council recommends a number of state tools available on the CDE web site, including, but not limited to, the Academic Program Survey, District Assistance Survey, Inventory for School Services, and English Learner Subgroup Self-Assessment. In addition, the California School Climate Survey and California Healthy Kids Survey, available on WestEd's web site, are recommended to help assess the need for support services.

SCHOOL PLANS/SITE COUNCILS (continued)

2. Assess the effectiveness of the school's instructional program in relation to the analysis of student data.
3. Identify a limited number of achievement goals and key improvement strategies to achieve the goals. School goals shall reflect the needs identified at the school site while aligning with goals identified in federally required district plans. The school shall specify the student group(s) on which each goal is focused, the methods or practices that will be used to reach the goal, and the criteria that will be used to determine if the goal is achieved.

Note: The CDE has developed a budget planning tool to assist schools with projecting the estimated expenditures of their SPSA goals against the school's allocations from the consolidated application. The budget planning tool is available on the CDE's web site and is included in the publication [A Guide for Developing the Single Plan for Student Achievement: A Resource for the School Site Council](#).

4. Define timelines, personnel responsible, proposed expenditures, and funding sources to implement the SPSA.

The school site council or other schoolwide group shall approve the proposed SPSA at a meeting for which public notice has been posted and then submit the SPSA to the Governing Board for approval. (Education Code 35147, 64001)

Note: The CDE's publication [A Guide for Developing the Single Plan for Student Achievement: A Resource for the School Site Council](#) states that it is the responsibility of the school site council to monitor the effectiveness of the SPSA and modify activities when needed. The guide contains an annual evaluation tool to assist school site councils in assessing the effectiveness of the plan.

The school site council or other schoolwide group shall regularly monitor the implementation and effectiveness of the SPSA and modify any activities that prove ineffective. At least once per year, the school shall evaluate results of improvement efforts and report to the Board, advisory committees, and other interested parties regarding progress toward school goals.

The school site council or other schoolwide group may amend the SPSA at any time. Any revisions that would substantively change the academic programs funded through the consolidated application shall be submitted to the Board for approval.

Center USD

Administrative Regulation

School Plans/Site Councils

AR 0420

Philosophy, Goals, Objectives and Comprehensive Plans

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.

School Site Councils

When required for participation in any categorical program, each district school shall establish a school site council or advisory committee. (Education Code 41507, 41572, 52852, 64001)

The school site council shall be composed of the following: (Education Code 41507, 41572, 52852)

1. The principal
2. Teachers selected by the school's teachers
3. Other school personnel chosen by the school's other personnel
4. Parents/guardians of students attending the school chosen by other such parents/guardians, or community members chosen by the parents/guardians as representatives
5. In secondary schools, students attending the school chosen by other such students

Half of the school site council membership shall consist of school staff, the majority of whom shall be classroom teachers. For elementary school site councils, the remaining half shall be parents/guardians or parent/guardian representatives. For secondary school site councils, the remaining half shall be equal numbers of parents/guardians (or parent/guardian representatives) and students. (Education Code 41507, 41572, 52852)

A district employee may serve as a parent/guardian representative on the site council of the school his/her child attends, provided the employee does not work at that school. (Education Code 52852)

School site councils may function on behalf of other committees in accordance with law. (Education Code 52176, 52870, 54425; 5 CCR 3932)

(cf. 0520.1 - High Priority Schools Grant Program)

School site councils shall operate in accordance with procedural meeting requirements established in Education Code 35147.

(cf. 1220 - Citizen Advisory Committees)

Single Plan for Student Achievement

In order for a school to participate in any state or federal categorical program specified in Education Code 41506, 41571, 52055.700, or 64000, the school site council shall approve, annually review, and update a single plan for student achievement. If the school does not have a school site council, a schoolwide advisory group or school support group conforming to the composition requirements of the school site council listed above shall fulfill these responsibilities. (Education Code 41507, 41572, 52055.755, 64001)

(cf. 0420.1 - School-Based Program Coordination)

(cf. 0450 - Comprehensive Safety Plan)

(cf. 0520 - Intervention for Underperforming Schools)

(cf. 0520.1 - High Priority Schools Grant Program)

(cf. 0520.2 - Title I Program Improvement Schools)

(cf. 0520.4 - Quality Education Investment Schools)

(cf. 3513.3 - Tobacco-Free Schools)

(cf. 4131 - Staff Development)

(cf. 4139 - Peer Assistance and Review)

(cf. 5147 - Dropout Prevention)

(cf. 5148.1 - Child Care Services for Parenting Students)

(cf. 6142.91 - Reading/Language Arts Instruction)

(cf. 6163.1 - Library Media Centers)

(cf. 6164.2 - Counseling/Guidance Services)

(cf. 6171 - Title I Programs)

(cf. 6174 - Education for English Language Learners)

The single plan for student achievement shall be aligned with school goals for improving student achievement and shall be based on an analysis of verifiable state data, including the Academic Performance Index (API) and the California English Language Development Test (CELDT), and any other data voluntarily developed by the district to measure student achievement. (Education Code 64001)

The plan shall, at a minimum: (Education Code 64001)

- 1. Address how funds provided to the school through categorical programs will be used to improve the academic performance of all students to the level of the performance goals established by the API**
- 2. Identify the school's means of evaluating progress toward accomplishing those goals**
- 3. Identify how state and federal law governing these programs will be implemented**

In addition to meeting the requirements common to all applicable school plans, the single plan shall address the content required by law for each individual categorical program in which the school participates.

Plans developed for the state's Immediate Intervention/Underperforming Schools Program pursuant to Education Code 52054 or the federal Title I schoolwide programs pursuant to 20 USC 6314 shall satisfy the requirement for the single plan. (Education Code 64001)

**(cf. 0520 - Intervention for Underperforming Schools)
(cf. 6171 - Title I Programs)**

In developing or revising the single plan, the school site council shall:

- 1. Measure the effectiveness of current improvement strategies at the school**

The school site council shall analyze student performance based on state and local data, identify significant low performance among all student groups, and analyze instructional programs to determine program areas that need to be addressed in order to raise performance of student groups not meeting academic standards.

(cf. 6011 - Academic Standards)

- 2. Seek input from other school advisory committees as appropriate**
- 3. Reaffirm or revise school goals to serve as a basis for school improvement activities and expenditures**
- 4. Revise improvement strategies and expenditures**

The school site council shall specify actions to be taken, dates by which actions are to be started and completed, expenditures needed to implement the action, the funding source, anticipated annual performance growth for each student group, and the means that will be used to evaluate progress toward each goal.

5. Approve and recommend the plan to the Governing Board

The Superintendent or designee and the principal shall implement the strategies in the single plan and report to the school site council and the Board regarding progress toward school goals. The school site council shall monitor the implementation and effectiveness of the single plan and modify any activities that prove ineffective.

School Plans for Categorical Block Grants

Whenever a school participates in the state's categorical block grant programs for student retention and/or school and library improvement, the school site council shall develop a plan which shall include, but need not be limited to: (Education Code 41507, 41572)

1. Curricula, instructional strategies, and materials responsive to the individual educational needs and learning styles of each student that enables all students to do all of the following:

- a. Make continuous progress and learn at a rate appropriate to their abilities**
- b. Master basic skills in language development and reading, writing, and mathematics**
- c. Develop knowledge and skills in other aspects of the curricula, such as arts and humanities; physical, natural, and social sciences; multicultural education; physical, emotional, and mental health; consumer economics; and career education**
- d. Pursue educational interests and develop esteem for self and others; personal and social responsibility, critical thinking, and independent judgment**

(cf. 5148 - Child Care and Development)

(cf. 6158 - Independent Study)

(cf. 6184 - Continuation Education)

(cf. 6185 - Community Day School)

2. Consideration of the use of community resources to achieve instructional improvement objectives

3. Consideration of the use of education technology

(cf. 0440 - District Technology Plan)

4. A staff development program for teachers, other school personnel, paraprofessionals, and volunteers

(cf. 1240 - Volunteer Assistance)

(cf. 4131.1 - Beginning Teacher Support/Induction)

(cf. 4138 - Mentor Teachers)
(cf. 4222 - Teacher Aides/Paraprofessionals)
(cf. 4231 - Staff Development)

5. Provisions for utilization of the student success team process to identify and assess the needs of students who are dropouts or potential dropouts, and to develop programs to meet those needs

(cf. 5147 - Dropout Prevention)
(cf. 5149 - At-Risk Students)
(cf. 6164.5 - Student Success Teams)

6. Procedures for coordinating services from funding sources at the school level to help students participate successfully in the core academic curricula and specialized curricula related to jobs and career opportunities

(cf. 6030 - Integrated Academic and Vocational Instruction)
(cf. 6178 - Vocational Education)
(cf. 6178.1 - Work Experience Education)

7. Instructional and auxiliary services to meet the special needs of students who are limited-English-speaking, including instruction in a language they understand; educationally disadvantaged students; gifted and talented students; and students with disabilities

(cf. 6172 - Gifted and Talented Student Program)

8. Improvement of the classroom and school environments, including improvement of relationships between and among students, school personnel, parents/guardians, and the community, and reduction of the incidence of violence and vandalism among students

(cf. 5137 - Positive School Environment)
(cf. 5138 - Conflict Resolution/Peer Mediation)

9. Improvement of student attendance, including parent/guardian awareness of the importance of regular school attendance

(cf. 5113 - Absence and Excuses)
(cf. 5113.1 - Truancy)

10. The proposed expenditure of block grant funds and the degree to which expenditures meet the plan's criteria

11. Other activities and objectives established by the school site council

12. A process for ongoing evaluation and modification of the plan

The evaluation shall be based on the degree to which the school is meeting the plan's objectives, student achievement, and improved school environment. An improved school environment shall be measured by indicators such as the incidence of absenteeism, suspension and expulsion, dropouts, school violence, vandalism and theft; student attitudes towards the school, self, and others; absenteeism among staff, staff resignations, and requests for transfers; and satisfaction of students, parents/guardians, teachers, administrators, and staff.

In addition, any school receiving state funding for school and library improvement shall incorporate plans pertaining to school libraries. (Education Code 41572)

The student retention and/or school and library improvement plans shall be incorporated into the school's single plan for student achievement as described in the above section. (Education Code 41507, 41572)

School Site Block Grants

The school site council may propose any one-time educational purpose for the use of funds allocated to school sites under school site block grants, including, but not limited to, the following purposes: (AB 1802, Sec. 43, Statutes of 2006)

1. Instructional materials
2. Classroom and laboratory supplies and materials
3. School and classroom library materials
4. Educational technology
5. Deferred maintenance
6. Expenditures designed to close the achievement gap
7. Professional development

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

WAIVERS

Note: The following **optional** policy covers waiver requests which the State Board of Education (SBE) generally has legal authority to grant (general waivers). In order to provide districts with flexibility without undermining the basic intent of the law, Education Code 33050-33053 permit districts to request that the SBE waive sections of the Education Code, Title 5 of the California Code of Regulations, or any applicable federal law, including portions of the No Child Left Behind Act. Education Code 33050 exempts certain sections of the Education Code from the authority of the SBE to grant waivers.

However, this policy does not address waivers expressly authorized by law for specific programs and situations (specific waivers) such as the waiver of Education Code 56101 for students with disabilities and waivers that may be granted by the Commission on Teacher Credentialing or the Superintendent of Public Instruction, such as waivers for alternative schools. See BP 6181 - Alternative Schools/Programs of Choice. For any such waiver, the process for obtaining the waiver would be as specified in the provision of law governing the program. In addition, this policy does not cover waiver requests that a district's governing board is authorized to grant, such as (1) parent/guardian requests for waivers regarding the sheltered English language immersion program for English learners offered pursuant to Education Code 305, or (2) the requirement for a student with disabilities to successfully pass the high school exit examination. See BP/AR 6174 - Education for English Language Learners and AR 6162.52 - High School Exit Examination for the procedures for these waiver requests.

The Governing Board recognizes that strict compliance with the law may sometimes hinder the district's ability to provide its students with an effective, well-rounded educational program. When it is in the interest of district students, the Board may request that the State Board of Education (SBE) waive any provision of state or federal law or regulation which it has authority to waive pursuant to Education Code 33050.

Note: The California Department of Education (CDE) has instituted an online waiver request system which it encourages districts to use. In addition, CDE has updated guidance and Frequently Asked Questions on its web site to help expedite the waiver submission process. Prior to submitting a waiver request, the district should confirm that it has gathered all the data required and complied with all the legal requirements for the request. The district should also review Education Code 33051 which specifies the reasons for which the SBE may deny the request. For example, a request to waive a provision of law regarding a program that requires the existence of a site council must be approved by that site council; otherwise the request will be denied by the SBE.

Any waiver request to be submitted to the SBE shall first be approved by the Board. The Superintendent or designee shall ensure that each proposed waiver request includes all information necessary for the Board to analyze the need for the waiver and make an informed decision.

Prior to presenting the proposed request for Board approval, the Superintendent or designee shall consult with and obtain the approval of any advisory committee or site council when required by law.

(cf. 0420 - School Plans/Site Councils)
(cf. 0420.1 - School-Based Program Coordination)
(cf. 1220 - Citizen Advisory Committees)

WAIVERS (continued)

Note: The following **optional** paragraph is for districts with an employee organization certified to represent the district's employees in negotiations with the district.

In addition, the Superintendent or designee shall involve the exclusive representative of district employees in the development of the waiver request, and shall include in the request the exclusive representative's position regarding the waiver. (Education Code 33050)

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

To receive public testimony on each waiver request proposal, the Board shall hold a properly noticed public hearing during a Board meeting. (Education Code 33050)

Note: Education Code 33050 does not specify the length of the advanced notice required for the public hearing described above. However, CSBA believes that the notice must allow sufficient time to enable members of the public adequate opportunity to participate in the waiver request process. The following **optional** paragraph may be revised to specify the length of the notice, in accordance with district practice.

The notice, which shall state the time, date, location, and subject of the public hearing, may be printed in a newspaper of general circulation or posted at each school and three public places in the district.

(cf. 9320 - Meetings and Notices)

Note: The following **optional** paragraph addresses renewal of general waivers which have been granted by the SBE. According to CDE's State Board of Education - CalEd Facts issued in January 2013, pursuant to Education Code 33051, any general waiver which has been granted for two consecutive years, or which is initially granted for two years, may be regarded as "permanent" for as long as the information on the waiver request remains current. However, the SBE may require updated information for a general waiver whenever it determines that information to be necessary. The SBE may also rescind a waiver if additional information supporting a recession is made available to the SBE. Additionally, a district is required to apply annually for the renewal of any waiver regarding teacher credentialing.

When the district has requested and received the same general waiver from the SBE for two consecutive years, the Board is not required to reapply annually if the information contained on the request remains current. However, the district shall apply annually for the renewal of any waiver regarding teacher credentialing. (Education Code 33051)

Legal Reference: (see next page)

WAIVERS (continued)*Legal Reference:***EDUCATION CODE**

305-311 *Structured English immersion program; parental exception waivers*
 5000-5033 *Governing board elections*
 8750-8754 *Grants for conservation education*
 10400-10407 *Cooperative improvement programs*
 17047.5 *Facilities used by special education students*
 17291 *Portable school buildings*
 33050-33053 *General waiver authority*
 37202 *Equity length of time*
 41000-41360 *School finance*
 41381 *Minimum school day*
 41600-41854 *Computation of allowances*
 41920-42842 *Budget requirements; local taxation by school districts*
 44520-44534 *New Careers Program*
 44666-44669 *School-Based Management and Advanced Career Opportunities*
 44681-44689 *Administrator Training and Evaluation*
 45108.7 *Maximum number of senior management positions*
 48660-48666 *Community day schools*
 48800 *Attendance at community college*
 49550-49560 *Meals for needy students*
 51224.5 *Algebra instruction*
 51745.6 *Charter school independent study ratio*
 51870-51874 *Educational technology*
 52080-52090 *Class size reduction grade 9*
 52122.6-52122.8 *Class size reduction, impacted school sites*
 52160-52178 *Bilingual-Bicultural Education Act of 1976*
 52180-52186 *Bilingual teacher waiver*
 52200-52212 *Gifted and Talented Pupils Program*
 52340-52346 *Career Guidance Centers*
 52522 *Plans for adult education*
 52850-52863 *School-Based Program Coordination*
 54000-54028 *Disadvantaged Youth Program*
 54100-54145 *Miller-Unruh Basic Reading Program*
 54407 *Waiver for compensatory education programs*
 56000-56867 *Special education programs*
 58407 *Waiver related to individualized instruction program*
 58900-58928 *Restructuring demonstration programs*
 60119 *Public hearing on sufficiency of instructional materials*
 60851 *High school exit examination, waiver for student with disabilities*

CODE OF REGULATIONS, TITLE 5

1032 *Academic Performance Index*
 3100 *Resource specialist caseload waivers*
 3945 *Cooperative programs*
 9531 *Instructional materials funding*
 11960 *Charter school attendance*
 11963.4 *Charter school percentage funding*
 13017 *Waivers, compensatory education New Careers in Education Program*
 13044 *Waivers, compensatory education Professional Development and Program Improvement Programs*

Legal Reference continued: (see next page)

WAIVERS (continued)

Legal Reference: (continued)

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act

7115 Safe and Drug Free Schools, authorized activities

Management Resources:

WEB SITES

California Department of Education, Waiver Office: <http://www.cde.ca.gov/re/lr/wr>

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

Center USD

Board Policy

Waivers

BP 1431

Community Relations

The Governing Board may request that the State Board of Education waive certain provisions of the Education Code, Title 5 regulations, or the federal law when such provisions prevent the district from offering its students the best possible educational program. The Superintendent or designee, advisory committees, or site councils shall identify the need for the Board to submit waiver requests and shall provide the Board with the necessary information to analyze the need for the waiver.

The Board shall hold a properly noticed public hearing on all waiver requests.
(Education Code 33050)

(cf. 9320 - Meetings and Notices)

The Board shall include the exclusive employee representative in the development of the waiver.

(cf. 4140/4240 - Bargaining Units)

If the waiver affects a program that requires the existence of a school site council, the school site council shall first approve the request.

(cf. 0420 - School Plans/Site Councils)

(cf. 0420.1 - School-Based Program Coordination)

(cf. 1220 - Citizen Advisory Committees)

For general waivers, the request to the State Board of Education shall include a statement as to whether the exclusive employee representative participated in the development of the waiver and the exclusive employee representative's position on the waiver. General waiver requests shall include a written summary of any objections to the request by the councils or advisory committees. (Education Code 33050)

Legal Reference:

EDUCATION CODE

5000-5033 Governing board elections

8750-8754 Grants for conservation education

10400-10407 Cooperative improvement programs

17047.5 Facilities used by special education students

17291 Portable school buildings
33050-33053 General waiver authority
37202 Equity length of time
41000-41360 School finance
41381 Minimum school day
41600-41854 Computation of allowances
41920-42842 Budget requirements; local taxation by school districts
44520-44534 New program for careers
44666-44669 School-Based Management and Advanced Career Opportunities
44681-44689 Administrator Training and Evaluation
45108.7 Maximum number of senior management positions
48660-48666 Community day schools
48800 Attendance at Community College
49550-49560 Meals for needy students
51224.5 Algebra instruction
51745.6 Charter school independent study ratio
51870-51874 Educational technology
52053-52055.55 Immediate Intervention for Underperforming Schools Program
52055.600-52055.662 High Priority Schools Grant Program
52080-52090 Class size reduction grade 9
52122.6-52122.8 Class size reduction - impacted school sites
52160-52178 Bilingual-Bicultural Education Act of 1976
52180-52186 Bilingual teacher waiver
52200-52212 Gifted and Talented Pupils Program
52340-52346 Career Guidance Centers
52522 Plans for adult education
52850-52863 School-Based Coordinated Program
54000-54028 Disadvantaged Youth Program
54100-54145 Miller-Unruh Basic Reading Program
54407 Waiver for compensatory education programs
56000-56867 Special education programs
58407 Waiver related to individualized instruction program
58900-58928 Restructuring demonstration programs
60119 Public hearing on sufficiency of instructional materials
60422 Instructional materials funding realignment program
CODE OF REGULATIONS, TITLE 5
1032 Academic Performance Index
3100 Resource specialist caseload waivers
3945 Cooperative programs
9531 Instructional materials funding
11960 Charter school attendance
11963.4 Charter school percentage funding
13017 Waivers
13044 Waivers
UNITED STATES CODE, TITLE 20
1400-1482 Individuals with Disabilities in Education Act

7115 Safe and Drug Free Schools, authorized activities

Management Resources:

WEB SITES

California Department of Education, Waiver Office: <http://www.cde.ca.gov/re/lr/wr>

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

Policy CENTER UNIFIED SCHOOL DISTRICT

adopted: September 21, 2005 Antelope, California

BIDS

Note: The following **optional** policy and accompanying mandated administrative regulation are for districts that have not adopted the Uniform Public Construction Cost Accounting Act (Public Contract Code 22030-22045). California law requires competitive bidding for most public contracts. Pursuant to Public Contract Code 20111 and 22002, public contracts for the lease or purchase of equipment, materials, supplies, or services or for "public projects," as defined, are required to be competitively bid when they involve expenditure of specified amounts.

The Governing Board is committed to promoting public accountability and ensuring prudent use of public funds. In leasing or purchasing equipment, materials, supplies, or services for the district and when contracting for public projects involving district facilities, the Board shall explore lawful opportunities to obtain the greatest possible value for its expenditure of public funds. When required by law, or if the Board determines that it is in the best interest of the district, such leases and purchases shall be made using competitive bidding.

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

(cf. 3000 - Concepts and Roles)

(cf. 3300 - Expenditures and Purchases)

Note: Requirements for competitive bidding, including notice and advertising, are specified in Public Contract Code 20111-20118.4. See the accompanying administrative regulation.

The Superintendent or designee shall establish comprehensive bidding procedures for the district in accordance with law. The procedures shall include a process for advertising bids, instructions and timelines for submitting and opening bids, and other relevant requirements.

No work, project, service, or purchase shall be split or separated into smaller work orders or projects for the purpose of evading the legal requirements of Public Contract Code 20111-20118.4. (Public Contract Code 20116)

Note: Districts should be careful in crafting bid specifications as a misleading specification that results in a lower bid than might have been made may make the district liable for the extra work done or expenses incurred by the contractor. In Los Angeles Unified School District v. Great American Insurance Co., the California Supreme Court held in favor of a contractor who was misled by the district's nondisclosure of material information that would have affected the contractor's bid.

When calling for bids, the Superintendent or designee shall ensure that the bid specification clearly describes in appropriate detail the quality, delivery, and service required and includes all information which the district knows, or has in its possession, that is relevant to the work to be performed or that may impact the cost of performing the work.

Note: Pursuant to Public Contract Code 20111.5, the district is permitted, but not required, to establish prequalification procedures for any contract for which bids are legally required; see the accompanying administrative regulation. However, pursuant to Public Contract Code 20111.6, as added by AB 1565 (Ch. 808, Statutes of 2012), a district with average daily attendance of 2,500 or greater is required to prequalify all general contractors and electrical, mechanical, and plumbing subcontractors for public projects of \$1 million or more awarded on or after January 1, 2014, if School Facilities Program funds (Education Code

BIDS (continued)

17070.10-17079.30) or other future state school bonds are used. In addition, the Governing Board is required to adopt a uniform system of rating bidders based on completed questionnaires and financial statements which must address, at a minimum, the issues covered by the standardized questionnaire and model guidelines developed by the Department of Industrial Relations for such purpose.

The Superintendent or designee shall develop the procedures to be used for rating bidders for award of contracts which, by law or Board policy, require prequalification. The procedures shall identify a uniform system for rating bidders and shall address the issues covered by the standardized questionnaire and model guidelines developed by the Department of Industrial Relations pursuant to Public Contract Code 20101.

(cf. 9270 - Conflict of Interest)

Note: Pursuant to Public Contract Code 20111, a contract required to be put out to bid must be awarded to the lowest responsible bidder. A "responsible bidder" is one who possesses the quality, fitness, and capacity to satisfactorily perform the proposed work. (City of Inglewood-Los Angeles County Civic Center Authority v. Superior Court)

However, a bid may be awarded to other than the "lowest responsible bidder" when conditions specified in law exist. For example, a district is permitted to give preference to minorities, women, veterans, and small businesses in accordance with Public Contract Code 2000-2002. Also see "Award of Contract" section in the accompanying administrative regulation.

Except as authorized by law and specified in the administrative regulation, contracts shall be let to the lowest responsible bidder who shall give such security as the Board requires, or else all bids shall be rejected. (Public Contract Code 20111)

Note: Pursuant to Public Contract Code 20118, districts may be exempt from the bidding requirements and may "piggyback" onto the bid of any public corporation or agency for specific items when the Board determines it is in the best interest of the district. See the accompanying administrative regulation for a list of those items that may be leased or purchased using this procedure.

When the Board has determined that it is in the best interest of the district, the district may piggyback onto the contract of another public agency or corporation to lease or purchase equipment or supplies to the extent authorized by law. (Public Contract Code 20118)

Legal Reference: (see next page)

BIDS (continued)

Legal Reference:

EDUCATION CODE

17070.10-17079.30 *Leroy F. Greene School Facilities Act*
17406 *Lease-leaseback contract*
17595 *Purchase of supplies through Department of General Services*
17602 *Purchase of surplus property from federal agencies*
38083 *Purchase of perishable foodstuffs and seasonable commodities*
38110-38120 *Apparatus and supplies*
39802 *Transportation services*

GOVERNMENT CODE

4217.10-4217.18 *Energy conservation contracts*
4330-4334 *Preference for California-made materials*
6252 *Definition of public record*
53060 *Special services and advice*
54201-54205 *Purchase of supplies and equipment by local agencies*

PUBLIC CONTRACT CODE

1102 *Emergencies*
2000-2002 *Responsive bidders*
3000-3010 *Roofing projects*
3400 *Bids, specifications by brand or trade name not permitted*
3410 *United States produce and processed foods*
6610 *Bid visits*
12200 *Definitions, recycled goods, materials and supplies*
20101-20103.7 *Public construction projects, requirements for bidding*
20103.8 *Award of contracts*
20107 *Bidder's security*
20111-20118.4 *Contracting by school districts*
20189 *Bidder's security, earthquake relief*
22002 *Definition of public project*
22030-22045 *Alternative procedures for public projects (UPCCAA)*
22050 *Alternative emergency procedures*
22152 *Recycled product procurement*

COURT DECISIONS

Los Angeles Unified School District v. Great American Insurance Co., (2010) 49 Cal.4th 739
Great West Contractors Inc. v. Irvine Unified School District, (2010) 187 Cal.App.4th 1425
Marshall v. Pasadena Unified School District, (2004) 119 Cal.App.4th 1241
Konica Business Machines v. Regents of the University of California, (1988) 206 Cal.App.3d 449
City of Inglewood-Los Angeles County Civic Center Authority v. Superior Court, (1972) 7 Cal.3d 861

ATTORNEY GENERAL OPINIONS

89 *Ops.Cal.Atty.Gen.* 1 (2006)

Management Resources:

WEB SITES

CSBA: <http://www.csba.org>
California Association of School Business Officials: <http://www.casbo.org>

Center USD

Board Policy

Bids

BP 3311

Business and Noninstructional Operations

In order to ensure transparency and the prudent expenditure of public funds, the Governing Board shall award contracts in an objective manner and in accordance with law. District equipment, supplies, and services shall be purchased using competitive bidding when required by law or if the Board determines that it is in the best interest of the district to do so.

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

(cf. 3000 - Concepts and Roles)

(cf. 3300 - Expenditures and Purchases)

When the Board has determined that it is in the best interest of the district, the district may piggyback onto the contract of another public agency or corporation to lease or purchase equipment or supplies to the extent authorized by law. (Public Contract Code 20118)

Bid specifications shall be carefully designed and shall describe in detail the quality, delivery, and service required.

To assist the district in determining whether bidders are responsible, the Board may require prequalification procedures as allowed by law and specified in administrative regulation.

(cf. 9270 - Conflict of Interest)

Legal Reference:

EDUCATION CODE

17595 Purchases through Department of General Services

38083 Purchase of perishable foodstuffs and seasonable commodities

38110-38120 Apparatus and supplies

39802 Transportation services

GOVERNMENT CODE

4330-4334 Preference for California-made materials

6252 Definition of public record

53060 Special services and advice

54201-54205 Purchase of supplies and equipment by local agencies

PUBLIC CONTRACT CODE

1102 Emergencies
2001-2001 Responsive bidders
3002 Roofing projects
3400 Bids, specifications by brand or trade name not permitted
3410 United States produce and processed foods
6610 Bid visits
12200 Definitions, recycled goods, materials and supplies
20103.8 Award of contracts
20107 Bidder's security
20111-20118.4 Contracting by school districts
20189 Bidder's security, earthquake relief
22002 Definition of public project
22030-22045 Alternative procedures for public projects (UPCCAA)
22050 Alternative emergency procedures
22152 Recycled product procurement

COURT DECISIONS

Marshall v. Pasadena USD, (2004) 119 Cal.App.4th 1241
Konica Business Machines v. Regents of the University of California, (1988) 206 Cal.App.3d 449
City of Inglewood-Los Angeles County Civic Center Authority v. Superior Court, (1972) 7 Cal.3d 861

ATTORNEY GENERAL OPINIONS

89 Ops.Cal.Atty.Gen. 1 (2006)

Management Resources:

WEB SITES

CSBA: [http:// www.csba.org](http://www.csba.org)

California Association of School Business Officials: <http://www.casbo.org>

Policy CENTER UNIFIED SCHOOL DISTRICT

adopted: October 15, 2008 Antelope, California

BIDS

Note: Pursuant to Government Code 54202, districts are **mandated** to adopt bidding procedures governing the purchase of equipment and supplies.

The following administrative regulation is for use by districts that have not adopted the provisions of the Uniform Public Construction Cost Accounting Act (UPCCAA). Procedures and bid limits under the UPCCAA are specified in Public Contract Code 22030-22045.

Advertised/Competitive Bids

The district shall advertise for competitive bids to let any public project contract involving an expenditure of \$15,000 or more. *Public project* means construction, reconstruction, erection, alteration, renovation, improvement, painting, repainting, demolition, and repair work involving a district owned, leased, or operated facility. (Public Contract Code 20111, 22002)

Note: For items #1-3 below, Public Contract Code 20111 requires the Superintendent of Public Instruction (SPI) to annually establish a bid limit that reflects U.S. Department of Commerce data. The following optional paragraph allows the amount to escalate automatically once the SPI has made the annual determination. For 2013, the bid limit is \$83,400.

The district shall also seek competitive bids through advertisement for contracts exceeding the amount specified in law, as annually adjusted by the Superintendent of Public Instruction, for any of the following: (Public Contract Code 20111)

1. The purchase of equipment, materials, or supplies to be furnished, sold, or leased to the district
2. Services, not including construction services or special services and advice in accounting, financial, legal, or administrative matters
3. Repairs that are not a public project, including maintenance

Maintenance means routine, recurring, and usual work for preserving, protecting, and keeping a district facility operating in a safe, efficient, and continually usable condition for the intended purpose for which it was designed, improved, constructed, altered, or repaired. *Maintenance* includes, but is not limited to, carpentry, electrical, plumbing, glazing, and other craft work designed to preserve the facility, as well as repairs, cleaning, and other operations on machinery and other permanently attached equipment, but does not include painting, repainting, or decorating other than touchup, or among other types of work, janitorial or custodial services and protection provided by security forces. (Public Contract Code 20115)

BIDS (continued)**Instructions and Procedures for Advertised Bids**

The Superintendent or designee shall call for bids by placing a notice at least once a week for two weeks in a local newspaper of general circulation published in the district, or if no such newspaper exists, then in some newspaper of general circulation circulated in the county. The Superintendent or designee also may post the notice on the district's web site or through an electronic portal. The notice shall state the work to be done or materials or supplies to be furnished and the time and place and web site where bids will be opened. The district may accept a bid that has been submitted electronically or on paper. (Public Contract Code 20112)

(cf. 1113 - District and School Web Sites)

The notice shall contain the time, date, and location of any mandatory prebid conference, site visit, or meeting. The notice shall also detail when and where project documents, including the final plan and specifications, are available. Any such mandatory visit or meeting shall occur not less than five calendar days after the publication of the initial notice. (Public Contract Code 6610)

Note: For a bid to be successful, it must conform to specifications (i.e., it must be "responsive") and the bidder must be determined to be able to perform the work (i.e., he/she must be "responsible"). A district must be careful in making a determination on the responsiveness of a bid based on investigation or information outside of the submitted bid. When relying on such outside investigation or information to disqualify a bidder, the district must follow the hearing procedures applicable for a finding of "nonresponsibility." (Great West Contractors Inc. v. Irvine Unified School District) To avoid any confusion, the district should provide clear and comprehensive specifications to bidders.

Bid instructions and specifications shall include the following requirements and information:

1. All bidders shall certify the minimum, if not exact, percentage of post-consumer materials in products, materials, goods, or supplies offered or sold. (Public Contract Code 22152)

(cf. 3510 - Green School Operations)

2. All bids for construction work shall be presented under sealed cover and shall be accompanied by one of the following forms of bidder's security: (Public Contract Code 20107, 20111)
 - a. Cash
 - b. A cashier's check made payable to the district
 - c. A certified check made payable to the district

BIDS (continued)

- d. A bidder's bond executed by an admitted surety insurer and made payable to the district

The security of unsuccessful bidders shall be returned in a reasonable period of time, but in no event later than 60 days after the bid is awarded. (Public Contract Code 20111)

- 3. When a standardized proposal form is provided by the district, bids not presented on the standard form shall be disregarded. (Public Contract Code 20111.5)
- 4. Bids shall not be accepted after the advertised bid opening time, regardless of whether the bids are actually opened at that time. (Public Contract Code 20112)
- 5. When two or more identical lowest or highest bids are received, the Governing Board may determine by lot which bid shall be accepted. (Public Contract Code 20117)

Note: Public Contract Code 20103.8 specifies that, in those cases when the bid includes items that may be added to or deducted from the scope of the work in the contract, the bid solicitation must specify the method to be used to determine the lowest bid, as detailed below. Districts should consult with legal counsel, as appropriate, as to the applicability of this law to school districts and other unclear provisions of this law.

- 6. If the district requires that the bid include prices for items that may be added to or deducted from the scope of work in the contract, the bid solicitation shall specify which one of the following methods will be used to determine the lowest bid. In the absence of such a specification, only the method provided in item #a below shall be used. (Public Contract Code 20103.8)
 - a. The lowest bid shall be the lowest total of the bid prices on the base contract without consideration of the prices on the additive or deductive items.
 - b. The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that were specifically identified in the bid solicitation as being used for the purpose of determining the lowest bid price.
 - c. The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that, when taken in order from a specifically identified list of those items in the solicitation, and added to or subtracted from the base contract, are less than or equal to a funding amount publicly disclosed by the district before the first bid is opened.

BIDS (continued)

The lowest bid shall be determined in a manner that prevents any information that would identify any of the bidders or proposed subcontractors or suppliers from being revealed to the district before the ranking of all bidders from lowest to highest has been determined. (Public Contract Code 20103.8)

7. Any subsequent change or alteration of a contract shall be governed by the provisions of Public Contract Code 20118.4.
8. After being opened, all submitted bids become public records pursuant to Government Code 6252 and shall be made available for public review pursuant to law, Board policy, and administrative regulation.

(cf. 1340 - Access to District Records)

9. When a bid is disqualified as nonresponsive based on district investigation or other information not obtained from the submitted bid, the Superintendent or designee shall notify the bidder and give him/her an opportunity to respond to the information.

Prequalification Procedure

Note: The following section is **optional**. Pursuant to Public Contract Code 20111.5, a district is permitted, but not required, to establish prequalification procedures for any contract for which bids are legally required. However, pursuant to Public Contract Code 20111.6, as added by AB 1565 (Ch. 808, Statutes of 2012), a district with average daily attendance (ADA) of 2,500 or greater is required to prequalify all general contractors and electrical, mechanical, and plumbing subcontractors for any public project of \$1 million or more awarded on or after January 1, 2014, if School Facilities Program funds (Education Code 17070.10-17079.30) or other future state school bonds are used.

When required by law or the Board, each prospective bidder shall complete and submit a standardized questionnaire and financial statement. For this purpose, the Superintendent or designee shall provide a standardized proposal form which requires a complete statement of the bidder's financial ability and experience in performing public works. The bidder's information shall be verified under oath in the manner in which civil law pleadings are verified. The questionnaires and financial statements shall not be public records and shall not be open to public inspection. (Public Contract Code 20111.5, 20111.6)

Prospective bidders shall submit the questionnaire and financial statement at least five days before the date fixed for public opening of sealed bids. (Public Contract Code 20111.5)

The Superintendent or designee shall establish a uniform system for rating bidders on the basis of completed questionnaires and financial statements in order to determine the size of contracts on which each bidder is qualified to bid. Bidders must be prequalified by the district at least one day before the fixed bid-opening date. (Public Contract Code 20111.5)

BIDS (continued)

The district may establish a procedure for prequalifying bidders on a quarterly basis and may authorize that prequalification be considered valid for up to one calendar year following the date of the initial prequalification. (Public Contract Code 20111.5)

Award of Contract

Note: Pursuant to Public Contract Code 20111, the district is required to award a contract to the lowest responsible bidder except in the circumstances specified in the following **optional** section.

The district shall award each contract to the lowest responsible bidder except in the following circumstances:

1. When the contract is for the procurement and/or maintenance of electronic data processing systems and supporting software, in which case the Board may contract with any one of the three lowest responsible bidders (Public Contract Code 20118.1)
2. For any transportation service contract involving an expenditure of more than \$10,000, which the Board contemplates may be made with a person or corporation other than a common carrier, municipally owned transit system, or a parent/guardian of students who are to be transported, in which case the Board may contract with other than the lowest bidder (Education Code 39802)

Note: Pursuant to Public Contract Code 2000-2002, a district is permitted to establish bidding requirements that facilitate the participation of minority, women, disabled veteran business enterprises and small businesses in contracts.

3. When the contract is one for which the Board has established goals and requirements relating to participation of minority, women, disabled veteran, or small business enterprises in accordance with Public Contract Code 2000-2002, in which case the Board may contract with the lowest responsible bidder who complies or makes a good faith effort to comply with the goals and requirements (Public Contract Code 2000-2002)

Protests by Bidders

Note: The law does not specify a procedure for handling protests by bidders. The following **optional** section provides one such procedure and should be modified to reflect district practice.

A bidder may protest a bid award if he/she believes that the award is not in compliance with law, Board policy, or the bid specification. A protest must be filed in writing with the Superintendent or designee within five working days after receipt of notification of the contract award and shall include all documents supporting or justifying the protest. A

BIDS (continued)

bidder's failure to file the protest documents in a timely manner shall constitute a waiver of his/her right to protest the award of the contract.

The Superintendent or designee shall review the documents submitted with the bidder's claims and render a decision in writing within 30 working days. The Superintendent or designee may also convene a meeting with the bidder in order to attempt to resolve the problem.

The bidder may appeal the Superintendent or designee's decision to the Board. The Superintendent or designee shall provide reasonable notice to the bidder of the date and time for Board consideration of the protest. The Board's decision shall be final.

Alternative Bid Procedures for Technological Supplies and Equipment

Rather than seek competitive bids, the Board may use competitive negotiation when it makes a finding that a district procurement is for computers, software, telecommunications equipment, microwave equipment, or other related electronic equipment and apparatus. Competitive negotiation shall not be used to contract for construction or for the procurement of any product that is available in substantial quantities to the general public. (Public Contract Code 20118.2)

The competitive negotiation process shall include, but not be limited to, the following requirements: (Public Contract Code 20118.2)

1. The Superintendent or designee shall prepare a request for proposals (RFP) that shall be submitted to an adequate number of qualified sources, as determined by the district, to permit reasonable competition consistent with the nature and requirement of the procurement.
2. Notice of the RFP shall be published at least twice in a newspaper of general circulation, at least 10 days before the date for receipt of the proposals.
3. The Superintendent or designee shall make every effort to generate the maximum feasible number of proposals from qualified sources and shall make a finding to that effect before proceeding to negotiate if only a single response to the RFP is received.
4. The RFP shall identify all significant evaluation factors, including price, and their relative importance.
5. The Superintendent or designee shall provide reasonable procedures for the technical evaluation of the RFPs received, the identification of qualified sources, and the selection for the award of the contract.

BIDS (continued)

6. The Board shall award the contract to the qualified bidder whose proposal meets the evaluation standards and will be most advantageous to the district with price and all other factors considered.
7. If the Board does not award the contract to the bidder whose proposal contains the lowest price, then the Board shall make a finding setting forth the basis for the award.
8. The Board, at its discretion, may reject all proposals and request new RFPs.
9. Provisions in any contract concerning utilization of small business enterprises that are in accordance with the RFP shall not be subject to negotiation with the successful proposer.

Sole Sourcing

Note: "Sole sourcing" is the practice by which one brand name product is specified, although comparable, competitive products are available. Public Contract Code 3400 allows sole sourcing in limited circumstances and requires that the specification of the designated product be followed by the words "or equal," so that bidders for such a contract are able to base their bids on the use of other products of equal functionality that may result in cost savings for the district. The following section is **optional**.

In any contract for the construction, alteration, or repair of school facilities, the Superintendent or designee shall not draft the bid specification in a manner that: (Public Contract Code 3400)

1. Directly or indirectly limits bidding to any one specific concern
2. Calls for a designated material, product, thing, or service by a specific brand or trade name, unless the specification is followed by the words "or equal," so that bidders may furnish any equal material, product, thing, or service

In any such case, the bid specification shall provide a time period, before and/or after the award of the contract, for the contractor to submit data substantiating the request for substituting the designated material, product, thing, or service. If no such time period is specified, the contractor may submit the data within 35 days after the award of the contract.

Note: The following **optional** paragraph is for districts with ADA of more than 2,500. For the repair or replacement of the roof of a public facility, a material must meet the requirements specified below to be considered "equal" pursuant to Public Contract Code 3000-3010.

When the bid is for a roof project, a material, product, thing, or service is considered "equal" to that designated if it is equal in quality, durability, design, and appearance;

BIDS (continued)

will perform the intended function equally well; and conforms substantially to the detailed requirements in the bid specification. (Public Contract Code 3002)

However, the Superintendent or designee may designate a specific material, product, thing, or service by brand or trade name (sole sourcing), if the Board has made a finding, described in the invitation for bids or RFP, that a particular material, product, thing, or service is designated for any of the following purposes: (Public Contract Code 3400)

1. To conduct a field test or experiment to determine its suitability for future use
2. To match others in use on a particular public improvement that has been completed or is in the course of completion
3. To obtain a necessary item that is only available from one source
4. To respond to the Board's declaration of an emergency, as long as the declaration has been approved by four-fifths of the Board when issuing the invitation for bid or RFP

(cf. 9323.2 - Actions by the Board)

Bids Not Required

Note: The following paragraph lists those items that may be purchased through a "piggybacked" bid; see the accompanying Board policy. Many districts have used the piggyback procedure to purchase portable and relocatable buildings. The Attorney General has opined (89 Ops.Cal.Atty.Gen. 1 2006) that a district may not rely on the piggyback exception to contract for the acquisition and installation of factory-built modular building components (i.e., roofs and walls) for installation on a permanent foundation. However, this opinion does not apply to typical portable or relocatable single-classroom buildings, because they lack a permanent foundation and building mobility. Districts considering using the piggyback process for relocatables, portables, modulares, and the like should consult district legal counsel. While Attorney General opinions are not binding, they are often given deference by the court and may also be considered by the State Allocation Board when making funding decisions.

Without advertising for bids and upon a determination that it is in the best interest of the district, the Board may authorize another public corporation or agency, by contract, lease, requisition, or purchase order, to lease data-processing equipment or to purchase materials, supplies, equipment, automotive vehicles, tractors, and other personal property for the district in the manner that the other public corporation or agency is authorized to make the leases or purchases from a vendor ("piggyback"). Alternatively, if the public corporation or agency has an existing contract with a vendor for the lease or purchase of personal property, the district may authorize the lease or purchase of personal property directly from the vendor and make payments under the same terms that are available to the public corporation or agency under the contract. (Public Contract Code 20118)

(cf. 3300 - Expenditures and Purchases)

BIDS (continued)

Note: The following optional paragraph is commonly described as the "lease-leaseback" contract. This method should only be used in coordination with competent technical consultants and legal counsel to ensure all legal requirements are met.

In addition, upon a determination that it is in the best interest of the district and without advertising for bids, the Board may lease currently owned district property to any person, firm, or corporation for a minimum of \$1 per year, as long the lease requires the person, firm, or corporation to construct a building or buildings on the property for the district's use during the lease and the property and building(s) will vest in the district at the expiration of the lease ("lease-leaseback"). (Education Code 17406)

(cf. 3280 - Sale or Lease of District-Owned Real Property)

Note: The following optional paragraph reflects the authority granted to public agencies pursuant to Government Code 4217.10-4217.18 to enter into energy service contracts without competitive bidding when the agency's governing body determines that the contract is in the best interest of the agency based on the "costs-benefits" analysis specified in Government Code 4217.12.

Without advertising for bids, the Board may enter into an energy service contract and any related facility ground lease, when it determines that the terms of the contract and lease are in the best interest of the district. The Board's determination shall be made at a regularly scheduled public hearing of which notice is given to the public at least two weeks in advance and shall be based on cost comparison findings specified in Government Code 4217.12. (Government Code 4217.12)

(cf. 3510 - Green School Operations)
(cf. 3511 - Energy and Water Management)
(cf. 9320 - Meetings and Notices)

Supplementary textbooks, library books, educational films, audiovisual materials, test materials, workbooks, instructional computer software packages, or periodicals may be purchased in any amount without taking estimates or advertising for bids. (Public Contract Code 20118.3)

(cf. 6161.1 - Selection and Evaluation of Instructional Materials)
(cf. 6161.11 - Supplementary Instructional Materials)
(cf. 6163.1 - Library Media Centers)

Perishable foodstuffs and seasonal commodities needed in the operations of cafeterias may be purchased through bid or on the open market. (Education Code 38083)

(cf. 3551 - Food Service Operations/Cafeteria Fund)

Note: Pursuant to Public Contract Code 20113, a district may award contracts without competitive bidding

BIDS (continued)

in emergency situations, as specified below. In Marshall v. Pasadena Unified School District, a court held that the definition of "emergency" in Public Contract Code 1102 is applicable. Public Contract Code 1102 defines "emergency" as a "sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services."

In an emergency when any repairs, alterations, work, or improvement to any school facility is necessary to permit the continuance of existing school classes or to avoid danger to life or property, the Board may, by unanimous vote and with the approval of the County Superintendent of Schools, contract for labor and materials or supplies without advertising for or inviting bids or may authorize the use of day labor or force account for the emergency purpose. (Public Contract Code 20113)

(cf. 3517 - Facilities Inspection)

Bids shall not be required for day labor under circumstances specified in Public Contract Code 20114. Day labor shall include the use of maintenance personnel employed on a permanent or temporary basis. (Public Contract Code 20114)

The district may purchase any surplus property from the federal government or any of its agencies in any quantity needed for the operation of its schools without taking estimates or advertising for bids. (Education Code 17602)

Center USD

Administrative Regulation

Bids

AR 3311

Business and Noninstructional Operations

Advertised/Competitive Bids

The district shall seek competitive bids through advertisement for contracts involving an expenditure of \$15,000 or more for a public project. Public project means construction, reconstruction, erection, alteration, renovation, improvement, painting, repainting, demolition, and repair work involving a district owned, leased, or operated facility. (Public Contract Code 20111, 22002)

The district shall also seek competitive bids through advertisement for contracts exceeding the amount specified in law, and as annually adjusted by the Superintendent of Public Instruction, for any of the following: (Government Code 53060; Public Contract Code 20111)

1. The purchase of equipment, materials, or supplies to be furnished, sold, or leased to the district
2. Services, not including construction services or special services and advice in accounting, financial, legal, or administrative matters
3. Repairs, including maintenance that is not a public project

Maintenance means routine, recurring, and usual work for preserving, protecting, and keeping a district facility operating in a safe, efficient, and continually usable condition for the intended purpose for which it was designed, improved, constructed, altered, or repaired. Maintenance includes, but is not limited to, carpentry, electrical, plumbing, glazing, and other craft work designed to preserve the facility, as well as repairs, cleaning, and other operations on machinery and other permanently attached equipment. This definition does not include, among other types of work, janitorial or custodial services and protection provided by security forces, nor does it include painting, repainting, or decorating other than touchup. (Public Contract Code 20115)

Unless otherwise authorized by law, contracts shall be let to the lowest responsible bidder who shall give such security as the Governing Board requires, or else all bids shall be rejected. (Public Contract Code 20111)

When letting a contract for the procurement and/or maintenance of electronic data processing systems and supporting software, the Board may contract with any one of the

three lowest responsible bidders. (Public Contract Code 20118.1)

The Board shall secure bids pursuant to Public Contract Code 20111 and 20112 for any transportation service expenditure of more than \$10,000 when contemplating that such a contract may be made with a person or corporation other than a common carrier, municipally owned transit system, or a parent/guardian of students who are to be transported. The Board may let this contract to other than the lowest bidder. (Education Code 39802)

No work, project, service, or purchase shall be split or separated into smaller work orders or projects for the purpose of evading the legal requirements of Public Contract Code 20111-20118.4 for contracting after competitive bidding. (Public Contract Code 20116)

Instructions and Procedures for Advertised Bids

The Superintendent or designee shall call for bids by placing a notice at least once a week for two weeks in a local newspaper of general circulation published in the district, or if no such newspaper exists, then in some newspaper of general circulation circulated in the county. The Superintendent or designee also may post the notice on the district's web site or through an electronic portal. The notice shall state the work to be done or materials or supplies to be furnished and the time and place and web site where bids will be opened. The district may accept a bid that has been submitted electronically or on paper. (Public Contract Code 20112)

The notice shall contain the time, date, and location of any mandatory prebid conference, site visit, or meeting. The notice shall also detail when and where project documents, including final plan and specifications, are available. Any such mandatory visit or meeting shall not occur within a minimum of five calendar days of the publication of the initial notice. (Public Contract Code 6610)

Bid instructions and specifications shall include the following requirements and information:

1. All bidders shall certify the minimum, if not exact, percentage of post-consumer materials in products, materials, goods, or supplies offered or sold. (Public Contract Code 22152)

(cf. 3510 - Green School Operations)

2. All bids for construction work shall be presented under sealed cover and shall be accompanied by one of the following forms of bidder's security: (Public Contract Code 20107, 20111)

- a. Cash

- b. A cashier's check made payable to the district

- c. A certified check made payable to the district
- d. A bidder's bond executed by an admitted surety insurer and made payable to the district

The security of unsuccessful bidders shall be returned in a reasonable period of time, but in no event later than 60 days after the bid is awarded. (Public Contract Code 20111)

3. When a standardized proposal form is provided by the district, bids not presented on the standard form shall be disregarded. (Public Contract Code 20111.5)

4. Bids shall not be accepted after the advertised bid opening time, regardless of whether the bids are actually opened at that time. (Public Contract Code 20112)

5. When two or more identical lowest or highest bids are received, the Board may determine by lot which bid shall be accepted. (Public Contract Code 20117)

6. If the district requires that the bid include prices for items that may be added to or deducted from the scope of work in the contract, the bid solicitation shall specify which one of the following methods will be used to determine the lowest bid. In the absence of such a specification, only the method provided in item #a below shall be used. (Public Contract Code 20103.8)

a. The lowest bid shall be the lowest total of the bid prices on the base contract without consideration of the prices on the additive or deductive items.

b. The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that were specifically identified in the bid solicitation as being used for the purpose of determining the lowest bid price.

c. The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that, when taken in order from a specifically identified list of those items in the solicitation, and added to or subtracted from the base contract, are less than or equal to a funding amount publicly disclosed by the district before the first bid is opened.

The lowest bid shall be determined in a manner that prevents any information that would identify any of the bidders or proposed subcontractors or suppliers from being revealed to the district before the ranking of all bidders from lowest to highest has been determined. (Public Contract Code 20103.8)

7. Any subsequent change or alteration of a contract shall be governed by the provisions of Public Contract Code 20118.4.

8. After being opened, all submitted bids become public records pursuant to

Government Code 6252 and shall be made available for review pursuant to law, Board policy, and administrative regulation.

(cf. 1340 - Access to District Records)

Alternative Bid Procedures for Technological Supplies and Equipment

Rather than seek competitive bids, the Board may use competitive negotiation when it makes a finding that a district procurement is for computers, software, telecommunications equipment, microwave equipment, or other related electronic equipment and apparatus. Competitive negotiation shall not be used to contract for construction or for the procurement of any product that is available in substantial quantities to the general public. (Public Contract Code 20118.2)

The competitive negotiation process shall include, but not be limited to, the following requirements: (Public Contract Code 20118.2)

1. The Superintendent or designee shall prepare a request for proposals (RFP) that shall be submitted to an adequate number of qualified sources, as determined by the district, to permit reasonable competition consistent with the nature and requirement of the procurement.
2. Notice of the RFP shall be published at least twice in a newspaper of general circulation, at least 10 days before the date for receipt of the proposals.
3. The Superintendent or designee shall make every effort to generate the maximum feasible number of proposals from qualified sources and shall make a finding to that effect before proceeding to negotiate if only a single response to the RFP is received.
4. The RFP shall identify all significant evaluation factors, including price, and their relative importance.
5. The Superintendent or designee shall provide reasonable procedures for the technical evaluation of the RFPs received, the identification of qualified sources, and the selection for the award of the contract.
6. The Board shall award the contract to the qualified bidder whose proposal meets the evaluation standards and will be most advantageous to the district with price and all other factors considered.
7. If the Board does not award the contract to the bidder whose proposal contains the lowest price, then the Board shall make a finding setting forth the basis for the award.
8. The Board, at its discretion, may reject all proposals and request new RFPs.
9. Provisions in any contract concerning utilization of small business enterprises that

are in accordance with the RFP shall not be subject to negotiation with the successful proposer.

Bids Not Required

Without advertising for bids and upon a determination that it is in the best interest of the district, the Board may authorize by contract, lease, requisition, or purchase order, another public corporation or agency to lease data-processing equipment or to purchase materials, supplies, equipment, automotive vehicles, tractors, and other personal property for the district in the manner that the other public corporation or agency is authorized to make the leases or purchases from a vendor ("piggyback"). (Public Contract Code 20118)

(cf. 3300 - Expenditures and Purchases)

Alternatively, if there is an existing contract between a public corporation or agency and a vendor for the lease or purchase of personal property, the district may authorize the lease or purchase of personal property directly from the vendor by contract, lease, requisition, or purchase order and make payment to the vendor under the same terms that are available to the public corporation or agency under the contract. (Public Contract Code 20118)

Supplementary textbooks, library books, educational films, audiovisual materials, test materials, workbooks, instructional computer software packages, or periodicals may be purchased in any amount without taking estimates or advertising for bids. (Public Contract Code 20118.3)

(cf. 6161.1 - Selection and Evaluation of Instructional Materials)

(cf. 6161.11 - Supplementary Instructional Materials)

(cf. 6163.1 - Library Media Centers)

Perishable commodities, such as foodstuffs, needed in the operations of cafeterias may be purchased through bid or on the open market. (Education Code 38083)

(cf. 3551 - Food Service Operations/Cafeteria Fund)

In an emergency when any repairs, alterations, work, or improvement to any school facility is necessary to permit the continuance of existing school classes or to avoid danger to life or property, the Board may, by unanimous vote and with the approval of the County Superintendent of Schools, contract for labor and materials or supplies without advertising for or inviting bids or may authorize the use of day labor or force account for the emergency purpose. (Public Contract Code 20113)

(cf. 3517 - Facilities Inspection)

(cf. 9323.2 - Actions by the Board)

Bids shall also not be required for day labor under circumstances specified in Public Contract Code 20114. Day labor shall include the use of maintenance personnel employed on a permanent or temporary basis. (Public Contract Code 20114)

Sole Sourcing

In any contract for the construction, alteration, or repair of school facilities, the Superintendent or designee shall not draft the bid specification in a manner that, either directly or indirectly, limits bidding to any one specific concern or calls for a designated material, product, thing, or service by a specific brand or trade name, unless the specification designating the specific material, product, thing, or particular brand name is followed by the words "or equal" so that bidders may furnish any equal material, product, thing, or service. In such cases, the bid specification shall provide a time period, before and/or after the award of the contract, for the contractor to submit data substantiating the request for substituting the designated material, product, thing, or service. If no such time period is specified, the contractor may submit the data within 35 days after the award of the contract. (Public Contract Code 3400)

When the bid is for a roof project, a material, product, thing, or service is considered "equal" to the one designated if it is equal in quality, durability, design, and appearance; will perform the intended function equally well; and conforms substantially to the detailed requirements in the bid specification. (Public Contract Code 3002)

However, the Superintendent or designee may designate a specific concern, material, product, thing, or service by brand or trade name (sole sourcing), if the Board has made a finding, described in the invitation for bids or RFP, that a particular material, product, thing, or service is designated for any of the following purposes: (Public Contract Code 3400)

1. To conduct a field test or experiment to determine its suitability for future use
2. To match others in use on a particular public improvement that has been completed or is in the course of completion
3. To obtain a necessary item that is only available from one source
4. To respond to the Board's declaration of an emergency, as long as the declaration has been approved by four-fifths of the Board when issuing the invitation for bid or RFP

Prequalification Procedure

For any contract for which bids are legally required, the Board may require that each prospective bidder complete and submit a standardized questionnaire and financial statement. For this purpose, the Superintendent or designee shall supply a form which requires a complete statement of the bidder's financial ability and experience in performing public works. The information shall be verified under oath in the manner in

which civil law pleadings are verified. The questionnaires and financial statements shall not be public records and shall not be open to public inspection. (Public Contract Code 20111.5)

Prospective bidders shall submit the questionnaire and financial statement at least five days before the date fixed for public opening of sealed bids. (Public Contract Code 20111.5)

The Superintendent or designee shall establish a uniform system for rating bidders on the basis of completed questionnaires and financial statements in order to determine the size of contracts on which each bidder is qualified to bid. Bidders must be deemed prequalified by the district at least one day before the fixed bid-opening date. (Public Contract Code 20111.5)

The district may establish a procedure for prequalifying bidders on a quarterly basis and may authorize that prequalification be considered valid for up to one calendar year following the date of the initial prequalification. (Public Contract Code 20111.5)

Protests by Bidders

A bidder may protest a bid award if he/she believes that the award is inconsistent with Board policy, the bid's specifications, or is not in compliance with law. A protest must be filed in writing with the Superintendent or designee within five working days after receipt of notification of the contract award. The bidder shall submit all documents supporting or justifying the protest. A bidder's failure to file the protest documents in a timely manner shall constitute a waiver of his/her right to protest the award of the contract.

The Superintendent or designee shall review the documents submitted with the bidder's claims and render a decision in writing within 30 working days. The Superintendent or designee may also convene a meeting with the bidder in order to attempt to resolve the problem.

The bidder may appeal the Superintendent or designee's decision to the Board. The Superintendent or designee shall provide reasonable notice to the bidder of the time for Board consideration of the protest. The Board's decision shall be final.

Regulation CENTER UNIFIED SCHOOL DISTRICT
approved: February 16, 2011 Antelope, California

ENVIRONMENTAL SAFETY

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

The following paragraph may be revised to reflect the job position(s) designated to coordinate the district's environmental safety programs.

The Superintendent may designate and train one or more employees to oversee and coordinate the district's environmental safety program(s). The responsibilities of the coordinator(s) shall include, but are not limited to, overseeing assessments of district facilities, recommending strategies for the prevention and mitigation of environmental health risks, ensuring effective implementation of environmental safety strategies, and reporting to the Superintendent regarding the district's progress in addressing environmental safety concerns.

(cf. 3510 - Green School Operations)
(cf. 3511 - Energy and Water Management)
(cf. 3517 - Facilities Inspection)
(cf. 4157/4257/4357 - Employee Safety)
(cf. 5030 - Student Wellness)
(cf. 5142 - Safety)
(cf. 7111 - Evaluating Existing Buildings)
(cf. 7150 - Site Selection and Development)

Indoor Air Quality

Note: The following **optional** section addresses strategies for maintaining healthy indoor air quality and may be revised to reflect district practice. For further information, see the U.S. Environmental Protection Agency's (EPA) Indoor Air Quality Tools for Schools and CSBA's policy briefs on Indoor Air Quality: Governing Board Actions for Creating Healthy School Environments and Asthma Management in the Schools.

In order to provide proper ventilation, humidity, and temperature in school facilities and to reduce indoor air contaminants, the Superintendent or designee shall ensure that the following strategies are implemented:

1. Mechanically driven heating, ventilation, and air conditioning systems shall be operated continuously during working hours except under the circumstances specified in 8 CCR 5142. The systems shall be inspected at least annually and problems corrected within a reasonable time. Where the air supply is filtered, the filters shall be replaced or cleaned regularly to prevent significant reductions in airflow. Documentation of inspections, tests of ventilation rates, and maintenance shall be retained for at least five years. (8 CCR 5142-5143)

(cf. 3580 - District Records)

ENVIRONMENTAL SAFETY (continued)

Staff shall ensure that airflow is not obstructed by the blocking of ventilators with posters, furniture, books, or other obstacles.

2. School facilities shall be regularly inspected for water damage, spills, leaks in plumbing and roofs, poor drainage, and improper ventilation so as to preclude the buildup of mold and mildew. Wet building materials and furnishings shall be dried within 48 hours if possible to prevent mold growth. When evidence of mold or mildew is found, maintenance staff shall locate and repair the source of water intrusion and remove or clean moldy materials.
3. Exterior wall and foundation cracks and openings shall be sealed as soon as possible to minimize seepage of radon into buildings from surrounding soils.
4. Least toxic pest management practices shall be used to control and manage pests at school sites.

(cf. 3514.2 - Integrated Pest Management)

5. In any new school construction, and in all existing schools when feasible, the Superintendent or designee shall install a carbon monoxide detector in each school building that contains a fossil fuel burning furnace. The device shall be placed in close proximity to the furnace in order to accurately detect any leakage of carbon monoxide.
6. Schedules and practices for routine housekeeping and maintenance shall be designed to effectively reduce levels of dust, dirt, and debris. Plain water, soap and water, or low-emission cleaning products shall be used whenever possible. Aerosols, including air fresheners and other products containing ozone, shall be avoided to the extent possible.

(cf. 5141.23 - Asthma Management)

7. Painting of school facilities and maintenance or repair duties that require the use of potentially harmful substances shall be limited to those times when school is not in session. Following any such activity, the facility shall be properly ventilated with adequate time allowed prior to reopening for use by any person.
8. Paints, adhesives, and solvents shall be used and stored in well-ventilated areas. These items shall be purchased in small quantities to avoid storage exposure.

(cf. 3514.1 - Hazardous Substances)

(cf. 6161.3 - Toxic Art Supplies)

ENVIRONMENTAL SAFETY (continued)

9. To the extent possible, printing and duplicating equipment that may generate indoor air pollutants, such as methyl alcohol or ammonia, shall be placed in locations that are well ventilated and not frequented by students and staff.
10. The district's tobacco-free schools policy shall be consistently enforced in order to reduce the health risks caused by second-hand smoke.

(cf. 3513.3 - Tobacco-Free Schools)

11. Staff and students shall be asked to refrain from bringing common irritants such as furred or feathered animals, stuffed toys that may collect dust mites, scented candles, incense, or air fresheners and from using perfume or cologne, scented lotion or hair spray, nail polish or nail polish remover, or other personal care products that are not fragrance-free in classrooms or other enclosed areas or buildings.

(cf. 6163.2 - Animals at School)

Outdoor Air Quality

Note: The following optional section may be revised to reflect district practice. Forecasts of ozone levels and particle pollution are available through the federal AirNow web site and may be printed in local newspapers. The district may monitor ultraviolet radiation levels through the EPA's UV Index web site; see BP 5141.7 - Sun Safety and CSBA's policy brief on Sun Safety in Schools.

The Superintendent or designee may monitor local health advisories and outdoor air quality alerts, including forecasts of ozone levels, particle pollution, and/or ultraviolet radiation levels.

Whenever these measures indicate a significant health risk, the Superintendent or designee shall communicate with each principal so that outdoor activities, especially those requiring prolonged or heavy exertion, may be avoided, limited in duration, or modified as necessary for all persons or for persons who may be particularly susceptible to the health risk involved.

(cf. 5141.7 - Sun Safety)
(cf. 6142.7 - Physical Education and Activity)
(cf. 6145 - Extracurricular and Cocurricular Activities)
(cf. 6145.2 - Athletic Competition)

Vehicle Emissions

Note: 13 CCR 2480 prohibits idling of school buses, student activity buses, and other commercial motor vehicles within 100 feet of a school except under specified conditions; see AR 3542 - School Bus Drivers for additional language reflecting these requirements.

ENVIRONMENTAL SAFETY (continued)

In order to reduce public exposure to toxic air contaminants, school bus drivers and other drivers of commercial motor vehicles shall limit unnecessary idling of vehicles at or near schools in accordance with 13 CCR 2480.

(cf. 3540 - Transportation)

(cf. 3541.1 - Transportation for School-Related Trips)

(cf. 3542 - School Bus Drivers)

Note: Pursuant to 13 CCR 2025, any district that owns, operates, leases, or rents a diesel-fueled school bus with a gross vehicle weight rating over 14,000 pounds that was manufactured on or after April 1, 1977 is required to install a particulate filter in the bus that reduces diesel particulate matter emissions by 85 percent. The district must ensure that 100 percent of its fleet complies with this requirement by January 1, 2014. An exception exists for any school bus that operates fewer than 1,000 miles per year. In the event that the filter cannot be installed (i.e., if doing so would void the engine warranty, if no appropriate filter is commercially available, or if the manufacturer or installer does not deem the filter to be technologically feasible for the school bus), the district may receive an extension until January 1, 2018 by providing specified information to the Air Resources Board each year. Any school bus manufactured before April 1, 1977 must be retired.

Any diesel-fueled school bus with a gross vehicle weight rating over 14,000 pounds manufactured on or after April 1, 1977 shall be equipped with a particulate filter designed to reduce particulate matter emissions, oxides of nitrogen emissions, and other pollutants. (13 CCR 2025)

Drinking Water

Note: The following optional section addresses the quality of tap water available in schools. See AR 3550 - Food Service/Child Nutrition Program for information about requirements to make fresh drinking water available during mealtimes.

The quality and safety of the district's drinking water sources shall be regularly assessed.

Note: State and federal law require public water systems, including any schools and child care facilities that are nontransient noncommunity water systems as defined in 40 CFR 141.2, to regularly test water samples for lead. Pursuant to the standards established in 40 CFR 141.80 and 22 CCR 64678, the district may need to take action whenever notified by the public water system, or by its own testing, that lead concentrations exceed .015 milligrams per liter.

Whenever testing of drinking water finds concentrations of lead that exceed federal and state standards in 40 CFR 141.80 and 22 CCR 64678, water outlets shall be flushed thoroughly each day before use or made inoperable until a plan for remediation can be implemented.

Whenever levels of arsenic, bacteria, or other contaminants in the drinking water are determined to be a concern, the Superintendent or designee may recommend basic filtration or pipe flushing when feasible.

ENVIRONMENTAL SAFETY (continued)

Until drinking water is assured to be safe, the Superintendent or designee may explore alternatives, such as bottled water, to ensure that students have access to fresh drinking water at mealtimes and at other times throughout the day. As needed, he/she also may encourage appropriate governmental agencies to conduct regular testing of the water quality in district schools and to implement strategies to improve water quality in the community.

(cf. 3550 - Food Service/Child Nutrition Program)

Drinking fountains in district schools shall be regularly cleaned and maintained to avoid the presence of dirt, mold, or other impurities or health concerns.

Lead Exposure

Note: The following optional section reflects recommendations of the EPA. For further information, the district may contact its city or county lead poisoning prevention program.

In addition to keeping school facilities as dust-free and clean as possible, the following steps shall be taken to minimize potential exposure to lead in school facilities:

1. Lead-based paint, lead plumbing and solders, or other potential sources of lead contamination shall not be used in the construction of any new school facility or the modernization or renovation of any existing school facility. (Education Code 32244)
2. Lead exposure hazards shall be evaluated before any renovation or remodeling is begun, and children shall not be allowed in or near buildings in which these activities may create lead dust. Contractors and workers shall comply with state and federal standards related to the handling and disposal of lead debris and the clean-up and containment of dust within the construction area.

Note: 17 CCR 35001-36100 contain state standards for lead abatement services. In addition, 40 CFR 745.61-745.339 extend federal standards for renovations involving lead-based paint to child-occupied facilities, which include preschools and elementary schools.

3. Lead-based painted surfaces that are in good condition shall be kept intact. If lead-based paint is peeling, flaking, or chalking, contractors or workers shall follow state and federal standards for safe work practices to minimize contamination when removing the paint.
4. Soil with high lead content may be covered with grass, other plantings, concrete, or asphalt.
5. Drinking water shall be regularly tested for lead and remediated as provided in the section "Drinking Water" above.

ENVIRONMENTAL SAFETY (continued)

Any action to abate existing lead hazards, excluding containment or cleaning, shall be taken only by contractors, inspectors, and workers certified by the California Department of Public Health in accordance with 17 CCR 35001-35099. (Education Code 32243)

Mercury Exposure

Note: The following **optional** section may be revised to reflect district practice. Mercury may exist in schools in thermometers, barometers, switches, thermostats, flowmeters, lamps, and other sources. Although devices containing mercury are considered safe as long as the mercury is sealed, if a device is broken and mercury spills, the health of students and staff may be endangered.

The Superintendent or designee shall identify any products containing mercury that are present in district facilities and, to the extent possible, shall replace them with mercury-free alternatives.

Note: The EPA's web site contains detailed procedures for cleaning up a small mercury spill, actions that should never be taken in the event of a spill, and items that should be assembled in a mercury spill kit.

Staff shall receive information about proper procedures to follow in the event of a mercury spill. Clean-up instructions, a clearly labeled kit with necessary clean-up supplies, and a list of local resources shall be readily accessible.

In the event of a spill, staff shall evacuate all students from the immediate area of the spill, ensure that any clothing or other items with mercury on them remain in the room, open windows to the outside, and close doors to other parts of the school. Staff who are trained in proper clean-up procedures may carefully clean a small spill. As needed for larger or difficult-to-clean spills, the Superintendent or designee shall use an experienced professional referred by the local health department or environmental agency.

Any products containing mercury shall be properly disposed at an appropriate hazardous waste collection facility.

Asbestos Management

Note: The following section is **optional**. Education Code 49410-49410.7 and the federal Asbestos Hazard Emergency Response Act (AHERA) (15 USC 2641-2656; 40 CFR 763.80-763.99) contain requirements for asbestos inspection and abatement which are applicable to school districts. For further information, consult the local air quality management district or air pollution control district.

40 CFR 763.84 requires the district to designate a person who will be responsible for ensuring that federal and state requirements are properly implemented. According to the EPA, this designated person is not required to be a licensed asbestos consultant, but the district must verify that he/she has received proper training. The specific knowledge that the designated person must have is described in the EPA's publication [How to Manage Asbestos in School Buildings: AHERA Designated Person's Self-Study Guide](#). The

ENVIRONMENTAL SAFETY (continued)

following section may be revised to reflect the position designated to fulfill this responsibility, who may be the same person designated above to coordinate all of the district's environmental safety programs.

The Superintendent shall designate an employee who shall ensure that the district's responsibilities related to asbestos inspection and abatement are implemented in accordance with federal and state regulations. This employee shall receive adequate training to perform these duties, including, as necessary, training on the health effects of asbestos; detection, identification, and assessment of asbestos-containing materials; options for controlling asbestos-containing building materials; and relevant federal and state regulations. (40 CFR 763.84)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

The designated employee shall ensure that the district complies with the following requirements:

1. School facilities shall be inspected for asbestos-containing materials as necessary in accordance with the following:
 - a. Any school building that is leased or acquired by the district shall be inspected for asbestos-containing materials prior to its use as a school building, unless exempted by federal regulations. (40 CFR 763.85, 763.99)
 - b. At least once every six months, the district shall conduct a periodic surveillance consisting of a visual inspection of each school building that contains or is assumed to contain asbestos-containing building materials. (40 CFR 763.92)
 - c. At least once every three years, the district shall conduct a re-inspection of all known or assumed asbestos-containing building materials in each school building. (40 CFR 763.85)
2. Based on the results of the inspection, an appropriate response which is sufficient to protect human health and the environment shall be determined from among the options specified in 40 CFR 763.90. The district may select the least burdensome response, taking into consideration local circumstances, including occupancy and use patterns within the school building and economic concerns such as short-term and long-term costs. (40 CFR 763.90)
3. An asbestos management plan for each school site shall be maintained and regularly updated to keep it current with ongoing operations and maintenance, periodic surveillance, inspection, re-inspection, and response action activities. (15 USC 2643; 40 CFR 763.93)

ENVIRONMENTAL SAFETY (continued)

The asbestos management plan shall be available for inspection in district and school offices during normal business hours. Parent/guardian, teacher, and employee organizations shall be annually informed of the availability of these plans. (40 CFR 763.84)

(cf. 4112.9/4212.9/4312.9 - Employee Notifications)
(cf. 5145.6 - Parental Notifications)

4. Staff, students, and parents/guardians shall be informed at least once each school year about any inspections, response actions, and post-response actions, including periodic re-inspection and surveillance activities, that are planned or in progress. (40 CFR 763.84)
5. Inspections, re-inspections, periodic surveillance, and response actions, including operations and maintenance, shall be conducted in compliance with state and federal regulations for the protection and safety of workers and all other individuals. (Education Code 49410.5; 40 CFR 763.84)

Asbestos inspection and abatement work and any maintenance activities that may disturb asbestos-containing building materials, except for emergency repairs or small-scale, short-duration maintenance activities, shall be completed by state-certified asbestos inspectors or contractors. (15 USC 2646; 40 CFR 763.84, 763.85, 763.91)

6. All custodial and maintenance employees shall be properly trained in accordance with applicable federal and/or state regulations. (40 CFR 763.84)

All district maintenance and custodial staff who may work in a building that contains asbestos-containing materials, regardless of whether they are required to work with such materials, shall receive at least two hours of related asbestos awareness training. New maintenance and custodial staff shall receive such training within 60 days after beginning employment. Any maintenance or custodial staff who conduct activities that will disturb asbestos-containing materials shall receive 14 hours of additional training. The trainings shall address the topics specified in 40 CFR 763.92. (15 USC 2655; 40 CFR 763.84, 763.92)

7. Short-term workers, such as telephone repair workers, utility workers, or exterminators, who may come in contact with asbestos in a school shall be provided information regarding the locations of known or suspected asbestos-containing building materials. (40 CFR 763.84)
8. Warning labels shall be posted immediately adjacent to any known or suspected asbestos-containing building material located in routine maintenance areas in accordance with 40 CFR 763.95. (40 CFR 763.84)

ENVIRONMENTAL SAFETY (continued)

The district shall maintain, in both the district and school offices and for a period of three years, records pertaining to each preventive measure and response action taken; staff training; periodic surveillances conducted; cleaning, operations, and maintenance activities; and any fiber release episode. (40 CFR 763.94)

Center USD

Administrative Regulation

Environmental Safety

AR 3514

Business and Noninstructional Operations

Air Quality

The Superintendent or designee shall ensure that the following measures are taken in order to reduce indoor air contaminants:

1. Low-emission cleaning products shall be used whenever possible, and custodial duties that require polluting products shall be performed after classes are dismissed.
2. Paints, adhesives and solvents shall be used and stored in well-ventilated areas; these items shall be purchased in small quantities to avoid storage exposure.
3. Water-damaged ceiling tiles, carpet, and other building materials shall be removed as soon as practicable.
4. Pest control measures shall involve the use of integrated pest management procedures (IPM).

(cf. 3514.2 - Integrated Pest Management)

Other Environmental Safety Precautions

Principals or their designees shall enforce school rules designed to:

1. Prevent the accumulation of flammable, noxious or otherwise dangerous materials unless adequate safeguards are provided

(cf. 6161.3 - Toxic Art Supplies)

2. Keep all school facilities free of debris
3. Keep walkways at all times open to pedestrian traffic and clear of obstructions

Regulation **CENTER UNIFIED SCHOOL DISTRICT**
approved: December 19, 2001 **Antelope, California**

SCHOOL BUS DRIVERS

Note: The following administrative regulation is mandated pursuant to 5 CCR 14103 (see the sections "Training" and "Authority" below) and is for use by districts that employ their own school bus drivers or student activity bus drivers. Districts that contract out for all transportation services may revise this regulation as appropriate to ensure that the contracting firm meets all legal requirements regarding qualifications and responsibilities.

Qualifications

Note: Pursuant to Vehicle Code 12517, school bus drivers are required to possess a commercial driver's license issued by the California Department of Motor Vehicles (DMV), with a special endorsement authorizing school bus operation (indicated by the letter S on the driver's license). District employees who operate 15-passenger vans must possess a commercial driver's license with a passenger transport vehicle (PV) endorsement.

In addition, any driver employed to operate a school bus or student activity bus must possess a special certificate from the California Highway Patrol (CHP) permitting such service. Issuance of the certificate is based on successful completion of prescribed examinations conducted by the CHP and compliance with all applicable provisions of the Vehicle Code.

All drivers employed to operate school buses or student activity buses shall possess, and shall retain in their immediate possession while operating the bus, the following documents: (Vehicle Code 12517, 12517.4)

1. A valid driver's license issued by the California Department of Motor Vehicles (DMV) for the appropriate class of vehicle to be driven and endorsed for school bus and/or passenger transportation
2. A certificate issued by the California Highway Patrol (CHP) which permits the operation of school buses or student activity buses, as applicable

(cf. 3540 - Transportation)

(cf. 3541.1 - Transportation for School-Related Trips)

(cf. 4200 - Classified Personnel)

(cf. 4111/4211/4311 - Recruitment and Selection)

Note: Pursuant to Vehicle Code 12517.3, applicants for the certificate to drive a school bus or student activity bus must be fingerprinted by the CHP for submission to the Department of Justice (DOJ), or the fingerprinting may be conducted by the district, county office of education, or a public law enforcement agency using an electronic fingerprinting system (LiveScan) with terminals managed by the DOJ. The following optional paragraph is for use by districts that choose to use this method to conduct the fingerprinting themselves.

The Superintendent or designee may use an electronic fingerprinting system, managed by the California Department of Justice, to fingerprint an applicant for an initial certificate to drive a school bus or student activity bus. (Vehicle Code 12517.3)

(cf. 4212.5 - Criminal Record Check)

SCHOOL BUS DRIVERS (continued)

Note: Pursuant to Vehicle Code 12517.2, a driver who is initially applying for or seeking renewal of a commercial driver's license or a certificate authorizing him/her to drive a school bus or student activity bus must provide evidence of having obtained a medical examination by a qualified health professional. The report must be on a form approved by the DMV, which is available on its web site.

When initially applying for or renewing a license or certificate to drive a school bus or student activity bus, and annually upon reaching age 65 years, the driver shall submit to the DMV and to the Superintendent or designee a report of a medical examination conducted in accordance with the timelines and procedures specified in Vehicle Code 12517.2. (Vehicle Code 12517.2; 13 CCR 1234)

The Superintendent or designee shall notify each driver of the expiration date of his/her driver's license, certificate, and medical certificate and shall ensure each document is renewed prior to expiration. (13 CCR 1234)

(4112.9/4212.9/4312.9 - Employee Notifications)

School bus and student activity bus drivers shall be subject to drug and alcohol testing in accordance with Board policy and the requirements of federal law.

(cf. 4112.42/4212.42/4312.42 - Drug and Alcohol Testing for School Bus Drivers)

The Superintendent or designee shall notify the DMV within five days whenever any driver refuses, fails to comply, or receives a positive test result on a drug or alcohol test; is dismissed for a cause related to student transportation safety; or is reinstated after being dismissed for a cause related to student transportation safety. (Vehicle Code 1808.8, 13376)

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

Training

Note: Education Code 40082, 40083, and 40085 specify training and experience required for initial and renewed certification as a driver of a school bus or student activity bus. The following section lists additional required and optional training and may be revised to reflect district practice.

In addition to any other training required to obtain or renew the certificate authorizing operation of a school bus or student activity bus, drivers shall receive training which includes, but is not limited to:

Note: Pursuant to Vehicle Code 12522, as part of the application process for a bus driver certificate, each driver must pass a DMV examination on first aid practices deemed necessary for school bus operators. Toward this end, the district is required to provide instruction for bus drivers on necessary first aid practices.

SCHOOL BUS DRIVERS (continued)

1. First aid practices deemed necessary for school bus drivers, through a course of instruction that prepares drivers to pass the related DMV examination (Vehicle Code 12522)

Note: Education Code 56195.8 mandates that each entity providing special education adopt policy ensuring that school bus drivers have received the training described in item #2 below.

2. The proper installation of mobile seating devices in the bus securement systems (Education Code 56195.8)

(cf. 3541.2 - Transportation for Students with Disabilities)

3. The proper actions to be taken in the event that a school bus is hijacked (Education Code 39831)

Note: To determine additional topics for professional development, the district might review district data as provided in the **optional** paragraph below. Training courses and guides are also available through governmental agencies and professional associations. For instance, the National Highway Traffic Safety Administration provides an inservice training program for experienced school bus drivers, available on its web site, which addresses driver attitude, student management, highway-rail grade crossing safety, vehicle training, routes, loading and unloading students, driving under adverse weather conditions, emergency evacuation, and transporting students with special needs.

To determine any other needs for professional development, the Superintendent or designee shall periodically review accident reports involving district drivers and may seek input from drivers, district and school administrators, students, and/or other stakeholders on desired topics for professional development.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Authority

Note: 5 CCR 14103 mandates that the Governing Board adopt rules related to bus driver authority, including, but not limited to, specific administrative regulations related to suspension of riding privileges, and to make them available to parents/guardians, students, teachers, and other interested parties. For language related to suspension of riding privileges, see BP/AR 5131.1 - Bus Conduct.

Students transported in a school bus or student activity bus shall be under the authority of, and responsible directly to, the driver of the bus. The driver shall be held responsible for the orderly conduct of the students while they are on the bus or being escorted across a street, highway, or road. (5 CCR 14103)

(cf. 5131.1 - Bus Conduct)

SCHOOL BUS DRIVERS (continued)

The driver shall have the authority to discontinue the operation of a school bus or student activity bus whenever he/she determines that it is unsafe to continue.

(cf. 3516.5 - Emergency Schedules)

(cf. 3543 - Transportation Safety and Emergencies)

This regulation and AR 5131.1 - Bus Conduct shall be made available to parents/guardians, students, teachers, and other interested parties. (5 CCR 14103)

Responsibilities

The driver's primary responsibility is to safely transport students to and from school and school activities. He/she shall follow procedures contained in district plans and regulations pertaining to transportation safety.

The driver shall stop to load or unload students only at school bus stops designated by the Superintendent or designee, or authorized by the Superintendent or designee for school activity trips. (Vehicle Code 22112)

(cf. 3541 - Transportation Routes and Services)

The driver shall activate the amber warning light system, flashing red signal lights, and stop arm signal and shall escort students in accordance with Vehicle Code 22112.

The driver shall not require any student to leave the bus en route between home and school or other destinations. (5 CCR 14103)

Note: Vehicle Code 23125 prohibits a school bus driver from using a wireless telephone while driving the bus, except for work-related or emergency purposes. In addition, Vehicle Code 23123.5 prohibits the driver of any motor vehicle from using a wireless communications device for text-based communication, except when the device is specifically designed and configured to allow voice and hands-free operation. Requirements for "motor vehicles" are applicable to school buses and student activity buses pursuant to the definitions in Vehicle Code 415 and 545. At its discretion, the district may establish conditions that are more restrictive than law. See AR 3543 - Transportation Safety and Emergencies for language detailing these requirements.

The driver shall not drive a school bus or student activity bus while using a wireless telephone or using a wireless communications device for text-based communication, except when otherwise authorized by law and AR 3543 - Transportation Safety and Emergencies.

SCHOOL BUS DRIVERS (continued)

The driver shall report the following to the Superintendent or designee:

Note: Pursuant to 13 CCR 1215, school bus drivers must prepare and sign a written report at the completion of each day's work regarding the condition of the equipment listed in 13 CCR 1215, as provided in item #1 below. For further information about this report, see AR 3543 - Transportation Safety and Emergencies.

1. The condition of the bus at the completion of each work day (13 CCR 1215)
2. His/her duty status for each 24-hour period, including, but not limited to, the number of hours on and off duty (13 CCR 1213)
3. Any traffic accident involving the bus (13 CCR 1219)

In addition to notifying the Superintendent or designee, the driver shall immediately notify the CHP of any traffic accident and, if the bus is operated under contract, his/her employer. (13 CCR 1219)

Note: Items #4-8 below are optional and may be revised to reflect district practice.

4. Traffic violations
5. Consistently late school dismissals which cause transportation delays
6. Overload runs
7. Recurring and serious student misbehavior
8. Parent/guardian and student complaints

Vehicle Idling

Note: 13 CCR 2480 prohibits idling of school buses, student activity buses, and other commercial motor vehicles within 100 feet of a school except under specified conditions. Failure to comply with the requirements specified in items #1-2 below may result in specified civil and/or criminal penalties to the driver or the Superintendent or designee who directs school bus operations.

The driver of a school bus or student activity bus shall: (13 CCR 2480)

1. Turn off the bus engine upon stopping at a school or within 100 feet of a school and not restart the engine more than 30 seconds before beginning to depart
2. Not cause or allow the bus to idle at any location greater than 100 feet from a school for more than five consecutive minutes or for an aggregated period of more than five minutes in any one hour

SCHOOL BUS DRIVERS (continued)

(cf. 3514 - Environmental Safety)

However, vehicle idling may be allowed under limited conditions, including, but not limited to, occasions when idling is necessary to: (13 CCR 2480)

1. Stop for an official traffic control signal or device, for traffic conditions under which the driver has no control, or at the direction of law enforcement
2. Ascertain that the bus is in safe operating condition and properly equipped
3. Operate equipment designed to safely load, unload, or transport students with disabilities
4. Operate a heater, air conditioner, defroster, or other equipment as necessary to ensure the safety or health of passengers
5. Cool down a turbo-charged diesel engine before turning off the engine
6. Recharge a battery or other energy storage unit of a hybrid electric bus or vehicle

The Superintendent or designee shall notify all drivers, upon employment and at least once per year thereafter, of the requirements specified above and the potential legal and employment consequences of failure to comply. All complaints of noncompliance shall be reviewed and remedial action taken as necessary. The Superintendent or designee shall retain records of the training and of any complaints and enforcement actions for at least three years. (13 CCR 2480)

Reports

The Superintendent or designee shall retain records of: (13 CCR 1234)

1. Each driver's duty status and supporting documents provided pursuant to 13 CCR 1201 and 1213. Such records shall be retained for six months and made available to the CHP upon request.
2. The different types of vehicles and vehicle combinations each driver has demonstrated capability to operate.
3. Records of each driver's license, certificate, medical certificate, first aid certificate, and training as specified in 13 CCR 1234.
4. Daily vehicle inspection reports prepared by drivers pursuant to 13 CCR 1215.

SCHOOL BUS DRIVERS (continued)

(cf. 3580 - District Records)

Legal Reference:

EDUCATION CODE

39800.5 *Qualifications of driver of 15-passenger van*

39830-39842 *School buses*

40080-40090.5 *Training required to obtain or renew bus driver certificate*

45125.1 *Criminal background checks for contractors*

56195.8 *Training in installation of mobile seating devices*

HEALTH AND SAFETY CODE

39640-39642 *Vehicle idling, penalties*

PENAL CODE

241.3 *Assault against school bus driver*

243.3 *Battery against school bus driver*

VEHICLE CODE

415 *Definition of motor vehicle*

545 *Definition of school bus*

546 *Definition of student activity bus*

1808.8 *Dismissal for safety-related cause*

2570-2574 *Contracts with private school bus contractors*

12516-12517.4 *Certification requirements*

12522 *First aid training for school bus drivers*

13370-13371 *Suspension or revocation of bus driver certificate*

13376 *Driver certificates; revocation or suspension; sex offense prosecution*

22112 *School bus signals; roadway crossings*

23123-23125 *Prohibitions against use of wireless telephone and text communications while driving; exceptions*

25257-25257.7 *School bus equipment*

34501.6 *School buses; reduced visibility*

CODE OF REGULATIONS, TITLE 5

14103 *Authority of the driver*

14104 *School bus driver instructor*

CODE OF REGULATIONS, TITLE 13

1200-1202.2 *Motor carrier safety*

1212-1228 *School bus driver requirements*

1234 *Reports regarding school buses and bus drivers*

2480 *Vehicle idling*

CODE OF FEDERAL REGULATIONS, TITLE 49

40.1-40.413 *Transportation drug and alcohol testing programs*

382.101-382.605 *Controlled substance and alcohol use and testing*

571.222 *Federal motor vehicle safety standard #222*

Management Resources:

DEPARTMENT OF MOTOR VEHICLES PUBLICATIONS

California Commercial Driver Handbook

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION PUBLICATIONS

School Bus Driver In-Service Safety Series, October 2011

Management Resources continued: (see next page)

SCHOOL BUS DRIVERS (continued)

Management Resources: (continued)

WEB SITES

California Air Resources Board: <http://www.arb.ca.gov>

California Department of Education, Office of School Transportation: <http://www.cde.ca.gov/ls/tl>

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

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

California Department of Justice: <http://oag.ca.gov>

National Transportation Safety Board: <http://www.nts.gov>

*U.S. Department of Transportation, National Highway Traffic Safety Administration:
<http://www.nhtsa.dot.gov>*

Center USD

Administrative Regulation

School Bus Drivers

AR 3542

Business and Noninstructional Operations

Authority

Students transported in a school bus or in a student activity bus shall be under the authority of, and responsible directly to, the driver of the bus. The driver shall be held responsible for the orderly conduct of the students while they are on the bus or being escorted across a street, highway or road. (5 CCR 14103)

(cf. 3540 - Transportation)

A bus driver shall have the authority to discontinue the operation of a school bus whenever he/she determines that it is unsafe to continue.

Administrative regulations related to bus driver authority shall be made available to parents/guardians, students, teachers and other interested parties. (5 CCR 14103)

(cf. 3516.5 - Emergency Schedules)

(cf. 3543 - Transportation Safety and Emergencies)

(cf. 5131.1 - Bus Conduct)

Qualifications, Training and Monitoring

All drivers employed to operate school buses or student activity buses shall possess, at a minimum, both of the following documents issued by the state Department of Motor Vehicles: (Education Code 39830.1; Vehicle Code 12517)

1. A valid driver's license for the appropriate class of vehicle to be driven
2. A certificate which permits the driver to operate either school buses or student activity buses, as applicable

(cf. 4200 - Classified Personnel)

(cf. 4211 - Recruitment and Selection)

The Superintendent or designee may use an electronic fingerprinting system, managed by the California Department of Justice, to fingerprint an applicant for an original certificate to drive a school bus or student activity bus. (Vehicle Code 12517.3)

(cf. 4212.5 - Criminal Record Check)

The Superintendent or designee shall ensure that school bus drivers receive training which includes:

- 1. First aid practices (Vehicle Code 12522)**
- 2. The proper actions to be taken in the event that a school bus is hijacked (Education Code 39831)**
- 3. The proper installation of mobile seating devices in the bus securement systems (Education Code 56195.8)**

(cf. 3541.2 - Transportation for Students with Disabilities)

(cf. 4231 - Staff Development)

School bus drivers shall be subject to drug and alcohol testing in accordance with Governing Board policy and the requirements of federal law.

(cf. 4112.42/4212.42/4312.42 - Drug and Alcohol Testing for School Bus Drivers)

The Superintendent or designee shall notify the Department of Motor Vehicles within five days whenever any school bus driver has tested positive for drugs or alcohol, is dismissed for a cause related to student transportation safety, or whenever a driver so dismissed has been reinstated. (Vehicle Code 1808.8, 13376)

(cf. 4215 - Evaluation/Supervision)

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

Responsibilities

The school bus driver's primary responsibility is to safely transport students to and from school and school activities. He/she shall follow procedures contained in the district's transportation safety plan.

The driver shall not require any student to leave the bus en route between home and school or other destinations. (5 CCR 14103)

The driver shall stop to load or unload students only at school bus stops designated by the Superintendent or designee, or authorized by the Superintendent or designee for school activity trips. (Vehicle Code 22112)

(cf. 3541 - Transportation Routes and Services)

The driver shall activate the amber warning light system, flashing red signal lights and stop arm signal and shall escort students in accordance with Vehicle Code 22112.

The driver shall immediately report all school bus accidents to the California Highway Patrol, the Superintendent or designee, and the driver's employer. (13 CCR 1219)

The driver also shall report the following to the Superintendent or designee:

1. Recurring and serious student misbehavior
2. Parental and student complaints
3. Traffic violations
4. Consistently late school dismissals which cause transportation delays
5. Overload runs
6. Mechanical or other problems with buses and equipment

Legal Reference:

EDUCATION CODE

39830-39842 School buses

40080-40090.5 Training required to obtain or renew bus driver certificate

45125.1 Criminal background checks for contractors

56195.8 Training in installation of mobile seating devices

PENAL CODE

241.3 Assault against school bus driver

243.3 Battery against school bus driver

VEHICLE CODE

1808.8 Dismissal for safety-related cause

2570-2575 Transportation of students

12517-12517.4 Certification requirements

12522 First aid training for school bus drivers

13376 Driver certificates; revocation or suspension; sex offense prosecution

22112 School bus signals; roadway crossings

25257 School bus; flashing light signal system

25257.2 School bus used for transportation of developmentally disabled person

34501.6 School buses; reduced visibility

34508.5 Investigation of accidents

CODE OF REGULATIONS, TITLE 5

14103 Authority of the driver

14104 School bus driver instructor

CODE OF REGULATIONS, TITLE 13

1200-1228 General provisions, school bus regulations

CODE OF FEDERAL REGULATIONS, TITLE 49

571.222 Federal motor vehicle safety standard #222

Management Resources:

WEB SITES

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

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

California Department of Justice: <http://caag.state.ca.us>

Regulation CENTER UNIFIED SCHOOL DISTRICT

approved: April 23, 2003 Antelope, California

All Personnel

BP 4112.42(a)

4212.42

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS

4312.42

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

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

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

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

(cf. 3540 - Transportation)

(cf. 3542 - School Bus Drivers)

(cf. 3543 - Transportation Safety and Emergencies)

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

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

A driver shall not report for duty or remain on duty when he/she has used any drug listed in 21 CFR 1308.11. A driver is also prohibited from reporting for duty or remaining on duty when he/she has used any drug listed in 21 CFR 1308.12-1308.15, unless he/she is using the drug under the direction of a physician who has advised him/her that the substance will not adversely affect the driver's ability to safely operate a bus. In addition, a driver shall not consume alcohol while on duty or for four hours prior to on-duty time. (49 CFR 382.201-382.209, 382.213)

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

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

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

The district's testing program for drivers shall include pre-employment drug testing and reasonable suspicion, random, post-accident, return-to-duty, and follow-up drug and alcohol testing of drivers. (49 USC 31306; 49 CFR 382.301-382.311)

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

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

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

Consequences Based on Test Results

Any driver who refuses to take a required drug or alcohol test, tests positive for drugs, or is found to have a blood alcohol concentration level that exceeds the levels specified in law shall be removed from performing safety-sensitive functions in accordance with 49 CFR 40.23 and 382.211.

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

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

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

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

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

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

Any driver who refuses, fails to comply, or has a positive test result may be referred to an education and treatment program that meets the requirements of 49 CFR 40.281-40.313. If the substance abuse professional recommends that ongoing services are needed to assist the driver to maintain sobriety or abstinence from drug use, the Superintendent or designee shall require the driver to participate in the recommended services as part of a return-to-duty agreement and shall monitor his/her compliance. Any drop from a rehabilitation or return-to-duty program or a subsequent positive test result shall be reported to the DMV. (Vehicle Code 13376; 49 CFR 40.285, 40.287, 40.303, 382.605)

(cf. 4159/4259/4359 - Employee Assistance Programs)

(cf. 4161/4261 - Leaves)

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

(cf. 4161.9/4261.9/4361.9 - Catastrophic Leave Program)

(cf. 4261.1 - Personal Illness/Injury Leave)

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

(cf. 4117.4 - Dismissal)

(cf. 4118 - Suspension/Disciplinary Action)

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

Voluntary Self-Identification

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

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

include employee monitoring and non-DOT follow-up testing. If the district chooses to incorporate these elements, it should add them to this list.
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Whenever a driver admits to alcohol or drug misuse under the district's voluntary self-identification program, the Superintendent or designee shall ensure all of the following: (49 CFR 382.121)

1. No adverse action shall be taken against the driver by the district.
2. The driver shall be allowed sufficient opportunity to seek evaluation, education, or treatment to establish control over his/her drug or alcohol problem.
3. The driver shall be permitted to participate in safety-sensitive functions only after:
 - a. Successfully completing an education or treatment program, as determined by a drug and alcohol abuse evaluation expert, such as an employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor
 - b. Undergoing a return-to-duty test with a result indicating an alcohol concentration of less than 0.02 and/or a verified negative result for drug use

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

Legal Reference: (see next page)

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

GOVERNMENT CODE

8355 Drug-free workplace; employee notification

VEHICLE CODE

13376 Driver certificates; revocation or suspension

34500-34520.5 Safety regulations

CODE OF REGULATIONS, TITLE 13

1200-1293 Motor carrier safety, especially:

1213.1 Placing drivers out-of-service

UNITED STATES CODE, TITLE 41

8101-8106 Drug-Free Workplace Act

UNITED STATES CODE, TITLE 49

31306 Alcohol and drug testing

CODE OF FEDERAL REGULATIONS, TITLE 21

1308.11-1308.15 Controlled substances

CODE OF FEDERAL REGULATIONS, TITLE 49

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

382.101-382.605 Drug and alcohol use and testing; especially:

382.205 On-duty use

382.207 Pre-duty use

382.209 Use following an accident

Management Resources:

CALIFORNIA HIGHWAY PATROL PUBLICATIONS

Controlled Substances and Alcohol Testing Compliance Checklist, 2007

What is CSAT? Controlled Substances and Alcohol Testing, 2005

WEB SITES

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

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

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

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

Center USD

Board Policy

Drug And Alcohol Testing For School Bus Drivers

BP 4112.42 4212.42,4312.42

Personnel

The Governing Board desires to ensure that district-provided transportation is safe for students, staff, and the public. To that end, the Superintendent or designee shall establish a drug and alcohol testing program for all district drivers and other employees who hold a commercial driver's license which is necessary to perform duties related to their employment with the district. This program shall be designed to fulfill the requirements of state and federal law.

(cf. 3540 - Transportation)

(cf. 3543 - Transportation Safety and Emergencies)

The district's testing program shall include pre-employment drug testing and reasonable suspicion, random, post-accident, return-to-duty, and follow-up drug and alcohol testing of drivers. (49 USC 31306)

The Superintendent or designee shall contract for testing services and shall ensure that testing contractors and procedures are certified by the U.S. Department of Health and Human Services to conduct drug specimen analysis and to conform to the requirements of federal law.

(cf. 3542 - School Bus Drivers)

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

No driver may operate a district vehicle when his/her blood alcohol content is found to be .01 percent or greater. A driver shall not consume alcohol while on duty or for four hours prior to on-duty time and up to eight hours following an accident or until he/she undergoes a post-accident test, whichever occurs first. A driver shall not report for duty or remain on duty that requires performing safety-sensitive functions when the driver uses a controlled substance, unless so instructed by a physician. (49 CFR 382.205, 382.207, 382.209; Vehicle Code 34520.3; 13 CCR 1213.1)

Any driver who tests positive for alcohol or drugs or who refuses to submit to a test shall be removed from safety-sensitive functions and may be subject to disciplinary action up to and including dismissal in accordance with law, administrative regulations, and the district's collective bargaining agreement.

(cf. 4117.4 - Dismissal)

(cf. 4118 - Suspension/Disciplinary Action)

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

The Superintendent or designee shall ensure that each driver receives an explanation of the federal regulations and the district's policy and procedure in accordance with law. In addition, each driver shall sign a statement certifying that he/she has received a copy of the above materials. Representatives of employee organizations shall be notified of the availability of this information. (49 CFR 382.601)

(cf. 4112.9 - Employee Notifications)

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

VEHICLE CODE

34500-34520.5 Safety regulations

CODE OF REGULATIONS, TITLE 13

1200-1293 Motor carrier safety, especially:

1213.1 Placing drivers out-of-service

UNITED STATES CODE, TITLE 49

31306 Alcohol and controlled substances testing

41501-41507 Transportation Employee Testing Act

CODE OF FEDERAL REGULATIONS, TITLE 49

40.1-40.413 Part 40, Procedures for transportation workplace drug and alcohol testing programs

382.101-382.605 Controlled substance and alcohol use and testing; especially:

382.205 On-duty use

382.207 Pre-duty use

382.209 Use following an accident

Management Resources:

WEB SITES

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

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

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

Policy CENTER UNIFIED SCHOOL DISTRICT

adopted: August 16, 2006 Antelope, California

Add

All Personnel

AR 4112.42(a)
4212.42
4312.42

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS

Note: The following administrative regulation reflects state and federal requirements (Vehicle Code 34520; 49 CFR 40.1-40.413, 382.101-382.605) for drug and alcohol testing of school bus drivers, including pre-employment, post-accident, random, reasonable suspicion, return-to-duty, and follow-up testing. Pursuant to 49 CFR 40.27, the district must not require a driver to sign a consent, release, waiver of liability, or indemnification agreement with respect to any part of the drug or alcohol testing process.

Definitions

For purposes of drug testing required by the U.S. Department of Transportation (DOT), drugs included in the tests are marijuana, cocaine, amphetamines, phencyclidine (PCP), and opiates. (49 CFR 40.3, 40.85, 382.107)

Alcohol concentration or level means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath. For purposes of the DOT alcohol testing program, an alcohol level between 0.02 and 0.04 requires removal of the bus driver for a 24-hour period following the test. An alcohol level of 0.04 or higher requires immediate removal of the driver from performing safety-sensitive functions until the driver has successfully completed the return-to-duty process. (49 CFR 382.107, 382.201, 382.505)

Safety-sensitive function means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions include, but are not limited to, all time driving or otherwise in the bus; waiting at a district facility to be dispatched; inspecting, servicing, or conditioning the bus or bus equipment; loading or unloading the bus; supervising or assisting in the loading or unloading of the bus; and repairing, obtaining assistance, or remaining in attendance upon a disabled bus. (49 CFR 382.107)

(cf. 3540 - Transportation)

(cf. 3542 - School Bus Drivers)

(cf. 3543 - Transportation Safety and Emergencies)

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

Designated Employer Representative

Note: 49 CFR 40.35 and 40.215 require the district to identify a "designated employer representative" to perform the duties specified in 49 CFR 40.3. The following paragraph may be revised to reflect the title of the employee so designated.

The Superintendent or designee shall identify a designated employer representative and shall provide his/her name and telephone number to the testing contractor to contact about any problems or issues that may arise during the testing process. (49 CFR 40.35, 40.215)

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

The designated employer representative shall be responsible for receiving test results and other communications, taking immediate action(s) to remove drivers from safety-sensitive functions, and making other required decisions in the testing and evaluation processes. (49 CFR 40.3)

Pre-employment Testing

When hiring a new driver, the Superintendent or designee shall, with the driver's written consent, request the driver's past drug and alcohol testing record, as specified in 49 CFR 40.25, from any employer who has employed the driver at any time during the previous two years. In addition, the Superintendent or designee shall ask the driver if he/she tested positive, or refused to test, on any pre-employment drug or alcohol test that was administered during the past two years in the course of applying for another safety-sensitive transportation position that he/she did not obtain. The driver shall not be permitted to perform safety-sensitive functions if he/she refuses to provide consent to obtain the information from previous employers, the information from previous employers is not received within 30 days of the date on which the driver first performed safety-sensitive functions for the district, or the driver or a previous employer reports a violation of a drug or alcohol regulation without subsequent completion of the return-to-duty process. (49 CFR 40.25, 382.413)

Upon making a contingent offer of employment to a driver and prior to the first time the driver performs safety-sensitive functions for the district, the Superintendent or designee shall require the driver to undergo testing for drugs and to receive a verified negative test result. This testing requirement may be waived if all of the following conditions exist: (49 CFR 382.301)

1. The driver has participated in a qualified drug testing program within the previous 30 days.
2. While participating in the program, the driver either was tested within the past six months or participated in a random drug testing program for the previous 12 months.
3. The Superintendent or designee has contacted the testing program(s) in which the driver has participated and has obtained information about the program and the driver's participation as specified in 49 CFR 382.301.
4. No prior employer of the driver of whom the district has knowledge has records of the driver's violation of federal drug testing regulations within the previous six months.

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

Note: The following **optional** paragraph is for use by districts that choose to conduct pre-employment alcohol testing; see the accompanying Board policy. Pursuant to 49 CFR 382.301, pre-employment alcohol testing is not required but, if the district chooses to conduct such testing, it must comply with the following requirements.

In addition, the Superintendent or designee shall require the driver to undergo pre-employment alcohol testing in accordance with the procedures in 49 CFR 40.1-40.605 and to receive a test result indicating an alcohol concentration level of less than 0.04. (49 CFR 382.301)

Post-Accident Testing

As soon as practicable following an accident involving a school bus or student activity bus, the Superintendent or designee shall ensure that the driver involved is tested for alcohol and/or drugs under either of the following conditions: (49 CFR 382.303)

1. The accident involved loss of human life.
2. The driver receives a citation for alcohol use within eight hours of the accident, or for drug use within 32 hours of the accident, and the accident involved bodily injury to a person who required immediate medical treatment away from the scene of the accident and/or disabling damage to one or more vehicles requiring towing.

The Superintendent or designee shall attempt to administer a required alcohol test up to eight hours following the accident and/or a drug test up to 32 hours following the accident. The results of an alcohol or drug test conducted by federal, state, or local officials having independent authority for the test shall be considered to meet this requirement. If the alcohol test is not administered within two hours following the accident, or the test for drugs is not administered within 32 hours following the accident, the Superintendent or designee shall make a record stating the reasons the test was not promptly administered. (49 CFR 382.303)

Random Testing

Note: The district may revise the following paragraph to specify the method by which it will select drivers for random drug and alcohol testing. Pursuant to 49 CFR 382.305, the district must randomly select drivers for testing using a scientifically valid method such as a random number table or a computer-based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Pursuant to 49 CFR 40.347, the district may contract with a third-party administrator or join a consortium of employers to operate the random selection process.

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

The Superintendent or designee shall ensure that random, unannounced drug and alcohol tests of bus drivers are conducted on testing dates reasonably spread throughout the year. Such tests shall be conducted during, immediately before, or immediately after the performance of safety-sensitive functions. (49 CFR 382.305)

Note: The district must annually test at least 10 percent of district drivers for alcohol and at least 50 percent for drugs, in accordance with the calculations and procedures described in 49 CFR 382.305. The minimum required percentage is subject to change as determined necessary by the Federal Motor Carrier Safety Administration (FMCSA). Any such change will be published in the Federal Register and on the FMCSA's web site and will be effective starting January 1 following such publication.

The Superintendent or designee shall ensure that the percentage of district drivers randomly tested for drugs and alcohol meets or exceeds the minimum annual percentage rates specified in 49 CFR 382.305 or subsequently published in the Federal Register.

Each driver selected for random testing shall have an equal chance of being tested each time selections are made. (49 CFR 382.305)

Each driver who is selected for testing shall proceed to the test site immediately or, if performing a safety-sensitive function other than driving a bus, then as soon as possible after ceasing that function. (49 CFR 382.305)

Reasonable Suspicion Testing

Note: The following section may be revised to reflect the position (e.g., driver's supervisor or other district employee) authorized and trained to make observations for reasonable suspicion drug or alcohol testing.

A driver shall be required to submit to a drug or alcohol test whenever the Superintendent or designee has reasonable suspicion that the driver has violated the prohibitions against the use of drugs or alcohol. Such reasonable suspicion shall be based on specific, contemporaneous, articulable observations, conducted during, immediately before, or immediately after the performance of safety-sensitive functions, concerning the driver's appearance, behavior, speech, and/or body odors. Reasonable suspicion of drug use may also include indications of the chronic and withdrawal effects of drugs. (49 CFR 382.307)

The person who makes the required observations for reasonable suspicion testing for drugs or alcohol shall be trained in accordance with 49 CFR 382.603. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test shall not be the same person who conducts the alcohol test. (49 CFR 382.307)

Within 24 hours of the observed behavior or before the results of the drug or alcohol test are released, whichever is earlier, the Superintendent or designee shall prepare and sign a written record of the observations leading to a reasonable suspicion test. (49 CFR 382.307)

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

An alcohol test required as a result of reasonable suspicion shall be administered within eight hours following the determination of reasonable suspicion. If the test is not administered within two hours, the Superintendent or designee shall prepare and maintain on file a record stating the reasons the test was not promptly administered. (49 CFR 382.307)

In the absence of a reasonable suspicion alcohol test, the district shall take no action against a driver based solely on the driver's behavior and appearance, except that the driver shall not be allowed to report for or remain on safety-sensitive functions until an alcohol test is administered and the results show a concentration less than 0.02 or 24 hours have elapsed following the determination of reasonable suspicion. (49 CFR 382.307)

Return-to-Duty Testing

Note: Pursuant to 49 CFR 40.305, the district may return a driver to safety-sensitive functions after he/she completes required education and treatment services as described in the accompanying Board policy and a return-to-duty drug or alcohol test. Such personnel decisions may be subject to collective bargaining or other legal requirements.

The Superintendent or designee may permit a driver who has violated federal drug or alcohol regulations to return to safety-sensitive functions after the driver has successfully complied with the education and treatment services prescribed by a substance abuse professional and has taken a return-to-duty drug or alcohol test. The driver shall not resume performance of safety-sensitive functions unless the drug test shows a negative result and/or the alcohol test shows a concentration of less than 0.02. (49 CFR 40.305, 382.309)

Follow-Up Testing

Note: Pursuant to 49 CFR 40.307, after a driver successfully complies with education and treatment services, the substance abuse professional will prescribe a follow-up testing plan and will present that plan to the designated employer representative. The plan must direct that the driver be subject to at least six unannounced follow-up tests in the first 12 months following the driver's return to safety-sensitive functions.

Upon receiving a written follow-up testing plan from a substance abuse professional, the Superintendent or designee shall determine the actual dates for follow-up testing consistent with those recommendations and shall ensure that such tests are unannounced and follow no discernable pattern as to their timing. No additional tests beyond those included in the plan shall be imposed by the district. (49 CFR 40.307-40.309, 382.111)

Notifications

Note: Pursuant to 49 CFR 382.601, the district is mandated to adopt policy and procedures pertaining to

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

misuse of drugs and alcohol and to provide these materials to each driver. When conducting compliance inspections, the CHP reviews whether district policy or regulations contain all of items #1-11 below.

The Superintendent or designee shall provide each driver with materials explaining the federal regulations and the district's policy and procedure related to drug and alcohol testing and shall notify representatives of employee organizations of the availability of this information. This information shall include a detailed discussion of at least the following: (49 CFR 382.303, 382.113, 382.601)

1. The identity of the person designated by the district to answer driver questions about the materials
2. The categories of drivers who are subject to drug and alcohol testing
3. Sufficient information about the safety-sensitive functions performed by those drivers to make clear what period of the workday the driver is required to be in compliance
4. Specific information concerning prohibited driver conduct
5. The circumstances under which a driver will be tested for drugs and/or alcohol, including post-accident testing
6. The procedures that will be used to test for the presence of drugs and alcohol, protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver
7. The requirement that a driver submit to drug and alcohol tests
8. An explanation of what constitutes a refusal to submit to a drug or alcohol test and the attendant consequences
9. The consequences for drivers found to have violated the prohibitions against drug or alcohol use, including the circumstances under which drivers will be removed immediately from safety-sensitive functions and the requirements for education, treatment, and return-to-duty testing
10. The consequences for drivers found to have a blood alcohol concentration between 0.02 and 0.04

DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS (continued)

11. Information concerning the effects of drug and alcohol use on an individual's health, work, and personal life; signs and symptoms of a drug or alcohol problem (the driver's or a co-worker's); and available methods of intervening when a drug or alcohol problem is suspected, including confrontation, referral to any employee assistance program, and/or referral to management

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

Each driver shall sign a statement certifying that he/she has received a copy of the above materials. The Superintendent or designee shall maintain the original of the signed certificate and may provide a copy of the certificate to the driver. (49 CFR 382.601)

In addition, prior to administering each alcohol or drug test, the driver shall be notified that the test is required pursuant to Title 49, Part 382, of the Code of Federal Regulations. (49 CFR 382.113)

The driver shall be notified of the results of drug and alcohol tests in accordance with 49 CFR 382.411.

Records

Note: 49 CFR 40. 333 and 382.401 specify the records that must be retained by the district and how long each record must be retained (i.e., one year, two years, three years, five years, or indefinitely). Upon receiving a request from the FMCSA to inspect any such record, the district must make the record(s) available for inspection at the district office within two business days.
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The Superintendent or designee shall maintain records of the district's drug and alcohol testing program in accordance with 49 CFR 40.333 and 382.401. Such records shall be maintained in a secure location with controlled access and shall be disclosed only in accordance with 49 CFR 382.405.

(cf. 3580 - District Records)

INDUSTRIAL ACCIDENT/ILLNESS LEAVE

Note: Education Code 44984 and 45192 **mandate** that the Governing Board adopt rules and regulations providing industrial accident and illness leave for certificated and classified employees. The following regulation is subject to collective bargaining agreements.

For information about employees' rights related to workers' compensation benefits for industrial accidents or illnesses, see BP 4157.1/4257.1/4357.1 - Work-Related Injuries.

An eligible employee shall be entitled to a leave of absence for an industrial accident or illness arising in the course of his/her assigned duties. (Education Code 44984, 45192)

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

(cf. 4157/4257/4357 - Employee Safety)

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

(cf. 4157.2/4257.2/4357.2 - Ergonomics)

(cf. 4161/4261/4361 - Leaves)

Note: Education Code 44984 and 45192 **mandate** that district rules and regulations specify the amount of allowable leave as provided in the following paragraph. **The district should fill in the blank in the following paragraph to specify the maximum amount of leave allowed by the district which, pursuant to Education Code 44984 and 45192, must not be less than 60 working days in any one fiscal year for the same industrial accident or illness.** In the absence of district rules and regulations, employees shall be entitled to industrial accident or illness leave, but without limitation as to the number of days of such leave.

For such leave, the employee shall be granted no more than 60 working days in any one fiscal year for the same industrial accident or illness.

Note: Pursuant to Education Code 45192, the Board may require that classified employees serve a specified period of time, not to exceed three years, before being eligible for industrial accident or illness leave. In addition, Education Code 45192 allows the Board, at its discretion, to require that the time be served continuously. The following **optional** paragraph should be revised to reflect district practice.

To be eligible for industrial accident or illness leave, a classified employee shall have served in the district continuously for at least three years.

Note: Education Code 44984 and 45192 **mandate** that district rules and regulations include the provisions in the following paragraph and items #1-4.

Allowable industrial accident or illness leave shall not be accumulated from year to year. (Education Code 44984, 45192)

When an employee is absent from his/her duties because of an industrial accident or illness: (Education Code 44043, 44044, 44984, 45192)

INDUSTRIAL ACCIDENT/ILLNESS LEAVE (continued)

1. The leave shall start on the first day of absence.
2. During the period of absence, the employee shall be paid such portion of his/her wage or salary that, when added to the award granted under state workers' compensation laws, will not exceed his/her normal wage or salary.
3. The leave shall be reduced by one day for each day of authorized absence, regardless of an award granted under workers' compensation laws.
4. When the leave overlaps into the next fiscal year, the employee is entitled to only the amount of unused leave due the employee for the same illness or injury.

Note: Pursuant to Education Code 44043, a certificated or classified employee who uses a paid leave of absence while receiving temporary disability benefits under state workers' compensation laws must endorse his/her workers' compensation check payable to the district, and the district shall then issue a salary warrant to the employee after deducting retirement contributions and other appropriate deductions (see Option 1 below). However, Education Code 44044 authorizes the district to waive this requirement, thereby allowing an employee to retain the workers' compensation check and receive a salary payment from the district with the equivalent amount of the workers' compensation check deducted (see Option 2 below).

OPTION 1: During any paid leave of absence, the employee shall endorse to the district any workers' compensation checks received on account of an industrial accident or illness. The Superintendent or designee shall then issue payment of the employee's normal wage or salary less any appropriate deductions, including, but not limited to, employee retirement contributions. (Education Code 44043)

~~**OPTION 2:** During any paid leave of absence, the employee shall retain any workers' compensation check received on account of an industrial accident or illness. The employee shall notify the Superintendent or designee that he/she has received such check. The Superintendent or designee shall then issue payment of the employee's normal wage or salary less an amount equivalent to the face amount of the workers' compensation check and other appropriate deductions, including, but not limited to, employee retirement contributions. Employee benefits shall be computed on the basis of the employee's regular wage or salary prior to the deduction of any amounts for temporary disability payments. (Education Code 44044)~~

Note: The remainder of this regulation applies to all districts.

Any employee receiving benefits under this leave shall, during periods of injury or illness, remain within California unless the Governing Board authorizes travel outside the state. (Education Code 44984, 45192)

INDUSTRIAL ACCIDENT/ILLNESS LEAVE (continued)

Note: Education Code 45192 specifies that classified employees may return to their position during the leave of absence without suffering any loss of status or benefits and that the absence will not be considered a break in service. The law does not expressly provide this benefit to certificated employees. The following paragraph extends these provisions to all employees and should be revised by districts that choose to limit these provisions to classified employees. If the district chooses to limit these provisions to classified employees, it is recommended that the district consult legal counsel regarding potential legal risks.

~~Absence for industrial accident or illness shall not be considered a break in service of the employee. An employee using such leave shall retain all status and benefits to which he/she would otherwise be entitled.~~

~~(cf. 4116—Probationary/Permanent Status)~~

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

~~(cf. 4216—Probationary/Permanent Status)~~

Note: Education Code 45192 requires the district to notify classified employees in writing when their industrial accident or illness leave has been exhausted and to offer them an opportunity to request additional leave. Education Code 44984 authorizes certificated employees to use personal illness and injury leave upon expiration of the industrial accident or illness leave, but does not specifically require notification of the employee. The following paragraph extends this notification to all employees and should be revised by districts that choose to limit such notification to classified employees. If the district chooses to limit these provisions to classified employees, it is recommended that the district consult legal counsel regarding potential legal risks.

~~When available industrial accident or illness leave has been exhausted, the employee shall be so notified in writing and shall be offered an opportunity to request any additional paid or unpaid leave available to the employee. (Education Code 45192)~~

~~(cf. 4112.9/4212.9/4312.9—Employee Notifications)~~

Upon expiration of allowable leave for an industrial accident or illness, the employee may use personal illness and injury leave provided pursuant to Education Code 44977, 44978, 44983, or 45191, as applicable, provided that such leave, when added to any continuing workers' compensation award, does not result in a payment to the employee of more than his/her full wage or salary. (Education Code 44984, 45192)

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

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

If a certificated employee is unable to resume the duties of his/her position after exhausting all accumulated sick leave, including the consecutive five-month period provided by Education Code 44977, he/she shall, if not placed in another position, be placed on a reemployment list for a period of 24 months if he/she is a probationary employee or 39

INDUSTRIAL ACCIDENT/ILLNESS LEAVE (continued)

months if he/she is a permanent employee. If the employee becomes medically able to resume duties during the period of reemployment eligibility, he/she shall be returned to employment in a position for which he/she is credentialed and qualified. (Education Code 44978.1)

Note: While the Education Code allows probationary certificated employees to be placed on a 24-month reemployment list, there is no equivalent 24-month reemployment list for probationary classified employees. Pursuant to Education Code 45192, all classified employees, whether permanent or probationary, are placed on a 39-month reemployment list.

If a classified employee has exhausted all available leaves of absence, paid or unpaid, and is not medically able to resume the duties of his/her position, he/she shall, if not placed in another position, be placed on a reemployment list for a period of 39 months. If he/she becomes medically able to resume duties during the period of reemployment eligibility, he/she shall be employed in a vacant position in the class of his/her previous assignment over all other candidates except those on a reemployment list established because of lack of work or lack of funds, in which case the employee shall be listed in accordance with seniority regulations. If the employee is medically released to return to duty but fails to accept an appropriate assignment, he/she shall be dismissed. (Education Code 45192)

(cf. 4217.3 - Layoff/Rehire)

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

Legal Reference: (see next page)

INDUSTRIAL ACCIDENT/ILLNESS LEAVE (continued)

Legal Reference:

EDUCATION CODE

44043 Temporary disability

44044 Temporary disability checks; waiver of endorsement to district

44977 Salary deductions during absence from duties

44978 Provisions for certificated employee sick leave

44978.1 Inability of certificated employee to return to duty; placement in another position or on reemployment list

44983 Exception to sick leave

44984 Industrial accident and illness leave, certificated employees

45191 Personal illness and injury leave, classified employees

45192 Industrial accident and illness leave, classified employees

LABOR CODE

3200-6002 Workers' compensation

Management Resources:

WEB SITES

Department of Industrial Relations: <http://www.dir.ca.gov>

INDUSTRIAL ACCIDENT/ILLNESS LEAVE

Note: Education Code 44984 and 45192 mandate that the Governing Board adopt rules and regulations providing industrial accident and illness leave for certificated and classified employees. The following regulation is subject to collective bargaining agreements.

For information about employees' rights related to workers' compensation benefits for industrial accidents or illnesses, see BP 4157.1/4257.1/4357.1 - Work-Related Injuries.

An eligible employee shall be entitled to a leave of absence for an industrial accident or illness arising in the course of his/her assigned duties. (Education Code 44984, 45192)

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

(cf. 4157/4257/4357 - Employee Safety)

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

(cf. 4157.2/4257.2/4357.2 - Ergonomics)

(cf. 4161/4261/4361 - Leaves)

Note: Education Code 44984 and 45192 mandate that district rules and regulations specify the amount of allowable leave as provided in the following paragraph. The district should fill in the blank in the following paragraph to specify the maximum amount of leave allowed by the district which, pursuant to Education Code 44984 and 45192, must not be less than 60 working days in any one fiscal year for the same industrial accident or illness. In the absence of district rules and regulations, employees shall be entitled to industrial accident or illness leave, but without limitation as to the number of days of such leave.

For such leave, the employee shall be granted no more than 60 working days in any one fiscal year for the same industrial accident or illness.

Note: Pursuant to Education Code 45192, the Board may require that classified employees serve a specified period of time, not to exceed three years, before being eligible for industrial accident or illness leave. In addition, Education Code 45192 allows the Board, at its discretion, to require that the time be served continuously. The following optional paragraph should be revised to reflect district practice.

To be eligible for industrial accident or illness leave, a classified employee shall have served in the district continuously for at least three years.

Note: Education Code 44984 and 45192 mandate that district rules and regulations include the provisions in the following paragraph and items #1-4.

Allowable industrial accident or illness leave shall not be accumulated from year to year. (Education Code 44984, 45192)

When an employee is absent from his/her duties because of an industrial accident or illness: (Education Code 44043, 44044, 44984, 45192)

INDUSTRIAL ACCIDENT/ILLNESS LEAVE (continued)

1. The leave shall start on the first day of absence.
2. During the period of absence, the employee shall be paid such portion of his/her wage or salary that, when added to the award granted under state workers' compensation laws, will not exceed his/her normal wage or salary.
3. The leave shall be reduced by one day for each day of authorized absence, regardless of an award granted under workers' compensation laws.
4. When the leave overlaps into the next fiscal year, the employee is entitled to only the amount of unused leave due the employee for the same illness or injury.

Note: Pursuant to Education Code 44043, a certificated or classified employee who uses a paid leave of absence while receiving temporary disability benefits under state workers' compensation laws must endorse his/her workers' compensation check payable to the district, and the district shall then issue a salary warrant to the employee after deducting retirement contributions and other appropriate deductions (see Option 1 below). However, Education Code 44044 authorizes the district to waive this requirement, thereby allowing an employee to retain the workers' compensation check and receive a salary payment from the district with the equivalent amount of the workers' compensation check deducted (see Option 2 below).

OPTION 1: During any paid leave of absence, the employee shall endorse to the district any workers' compensation checks received on account of an industrial accident or illness. The Superintendent or designee shall then issue payment of the employee's normal wage or salary less any appropriate deductions, including, but not limited to, employee retirement contributions. (Education Code 44043)

~~**OPTION 2:** During any paid leave of absence, the employee shall retain any workers' compensation check received on account of an industrial accident or illness. The employee shall notify the Superintendent or designee that he/she has received such check. The Superintendent or designee shall then issue payment of the employee's normal wage or salary less an amount equivalent to the face amount of the workers' compensation check and other appropriate deductions, including, but not limited to, employee retirement contributions. Employee benefits shall be computed on the basis of the employee's regular wage or salary prior to the deduction of any amounts for temporary disability payments. (Education Code 44044)~~

Note: The remainder of this regulation applies to all districts.

Any employee receiving benefits under this leave shall, during periods of injury or illness, remain within California unless the Governing Board authorizes travel outside the state. (Education Code 44984, 45192)

INDUSTRIAL ACCIDENT/ILLNESS LEAVE (continued)

Note: Education Code 45192 specifies that classified employees may return to their position during the leave of absence without suffering any loss of status or benefits and that the absence will not be considered a break in service. The law does not expressly provide this benefit to certificated employees. The following paragraph extends these provisions to all employees and should be revised by districts that choose to limit these provisions to classified employees. If the district chooses to limit these provisions to classified employees, it is recommended that the district consult legal counsel regarding potential legal risks.

Absence for industrial accident or illness shall not be considered a break in service of the employee. An employee using such leave shall retain all status and benefits to which he/she would otherwise be entitled.

(cf. 4116 - Probationary/Permanent Status)
(cf. 4154/4254/4354 - Health and Welfare Benefits)
(cf. 4216 - Probationary/Permanent Status)

Note: Education Code 45192 requires the district to notify classified employees in writing when their industrial accident or illness leave has been exhausted and to offer them an opportunity to request additional leave. Education Code 44984 authorizes certificated employees to use personal illness and injury leave upon expiration of the industrial accident or illness leave, but does not specifically require notification of the employee. The following paragraph extends this notification to all employees and should be revised by districts that choose to limit such notification to classified employees. If the district chooses to limit these provisions to classified employees, it is recommended that the district consult legal counsel regarding potential legal risks.

When available industrial accident or illness leave has been exhausted, the employee shall be so notified in writing and shall be offered an opportunity to request any additional paid or unpaid leave available to the employee. (Education Code 45192)

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

Upon expiration of allowable leave for an industrial accident or illness, the employee may use personal illness and injury leave provided pursuant to Education Code 44977, 44978, 44983, or 45191, as applicable, provided that such leave, when added to any continuing workers' compensation award, does not result in a payment to the employee of more than his/her full wage or salary. (Education Code 44984, 45192)

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

If a certificated employee is unable to resume the duties of his/her position after exhausting all accumulated sick leave, including the consecutive five-month period provided by Education Code 44977, he/she shall, if not placed in another position, be placed on a reemployment list for a period of 24 months if he/she is a probationary employee or 39

INDUSTRIAL ACCIDENT/ILLNESS LEAVE (continued)

months if he/she is a permanent employee. If the employee becomes medically able to resume duties during the period of reemployment eligibility, he/she shall be returned to employment in a position for which he/she is credentialed and qualified. (Education Code 44978.1)

Note: While the Education Code allows probationary certificated employees to be placed on a 24-month reemployment list, there is no equivalent 24-month reemployment list for probationary classified employees. Pursuant to Education Code 45192, all classified employees, whether permanent or probationary, are placed on a 39-month reemployment list.

If a classified employee has exhausted all available leaves of absence, paid or unpaid, and is not medically able to resume the duties of his/her position, he/she shall, if not placed in another position, be placed on a reemployment list for a period of 39 months. If he/she becomes medically able to resume duties during the period of reemployment eligibility, he/she shall be employed in a vacant position in the class of his/her previous assignment over all other candidates except those on a reemployment list established because of lack of work or lack of funds, in which case the employee shall be listed in accordance with seniority regulations. If the employee is medically released to return to duty but fails to accept an appropriate assignment, he/she shall be dismissed. (Education Code 45192)

(cf. 4217.3 - Layoff/Rehire)

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

Legal Reference: (see next page)

INDUSTRIAL ACCIDENT/ILLNESS LEAVE (continued)

Legal Reference:

EDUCATION CODE

44043 Temporary disability

44044 Temporary disability checks; waiver of endorsement to district

44977 Salary deductions during absence from duties

44978 Provisions for certificated employee sick leave

44978.1 Inability of certificated employee to return to duty; placement in another position or on reemployment list

44983 Exception to sick leave

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LABOR CODE

3200-6002 Workers' compensation

Management Resources:

WEB SITES

Department of Industrial Relations: <http://www.dir.ca.gov>

Center USD

Administrative Regulation

Industrial Accident/Illness Leave

AR 4161.11 4361.11

Personnel

In each fiscal year, allowable leave for certificated employees for any single industrial accident or illness shall be for 60 days during which the schools of the district are in session or when the employee would otherwise have been performing work for the district.

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

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

(cf. 4157.2/4257.2/4357.2 - Ergonomics)

(cf. 4161/4261 - Leaves)

(cf. 4361 - Leaves)

Allowable industrial accident/illness leave shall not accumulate from year to year.
(Education Code 44984)

When a certificated employee is absent from his/her duties because of an industrial accident or illness: (Education Code 44984)

1. Industrial accident or illness leave shall start on the first day of absence.
2. The employee shall be paid such portion of the salary due for any month in which the absence occurs as, when added to the temporary disability indemnity under Division 4 or 4.5 of the Labor Code, will result in a payment to the employee of not more than his/her full salary.
3. Industrial accident or illness leave shall be reduced by one day for each day of authorized absence, regardless of a temporary disability indemnity award.
4. When an industrial accident or illness leave overlaps into the next fiscal year, the employee is entitled to only the amount of unused leave due the employee for the same illness or injury.

Upon expiration of allowable leave for an industrial accident or illness, the employee may use personal illness and injury leave. If the employee continues to receive temporary disability indemnity, he/she may elect to take as much of the accumulated sick leave which, when added to his/her temporary disability indemnity, will result in a payment to the employee of not more than the employee's full salary. (Education Code 44984)

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

During any paid leave of absence, the employee may endorse to the district the temporary disability indemnity checks received on account of his/her industrial accident or illness. In those cases, the district shall issue appropriate salary warrants for payment of the employee's salary, and shall deduct normal retirement, other authorized contributions, and the temporary disability indemnity, if any, actually paid to and retained by the employee for periods covered by such salary warrants. (Education Code 44984)

Any employee receiving benefits under this leave shall, during periods of injury or illness, remain within the State of California unless the Governing Board authorizes travel outside the state. (Education Code 44984)

Legal Reference:

EDUCATION CODE

44977 Salary deductions during absence from duties

44978 Provisions for certificated employee sick leave

44983 Exception to sick leave

44984 Required rules for industrial accident and illness leave of absence

Management Resources:

WEB SITES

Department of Industrial Relations: <http://www.dir.ca.gov/DIR/OS&H/DOSH/dosh1.html>

Regulation CENTER UNIFIED SCHOOL DISTRICT

approved: May 5, 1999 Antelope, California

All Personnel

AR 4161.8(a)

4261.8

FAMILY CARE AND MEDICAL LEAVE

4361.8

Note: The following **optional** administrative regulation is subject to collective bargaining agreements. Any subject covered by this administrative regulation should be deleted if already addressed in the district's collective bargaining agreements.

Both federal and state law provide for family care and medical leave (29 USC 2601-2654, the Family and Medical Leave Act of 1993 (FMLA), and Government Code 12945.1-12945.2, the California Family Rights Act (CFRA)). However, these laws do not provide identical rights. In some situations the laws overlap, but in others they conflict. For example, pregnancy as a "serious health condition" is covered under FMLA but not under CFRA. Instead, under California law, a female employee who is disabled due to pregnancy, childbirth, or a related medical condition is entitled to pregnancy disability leave (PDL) pursuant to Government Code 12945. Where there is a conflict between state and federal law, the law that grants the greatest benefits generally controls. In those situations, legal counsel should be consulted as needed.

The district shall not interfere with, restrain, or deny the exercise or attempted exercise by any eligible employee of his/her right to any family care and medical leave or pregnancy disability leave (PDL) provided through the Family and Medical Leave Act (FMLA), the California Family Rights Act (CFRA), or the Fair Employment and Housing Act (FEHA), nor shall it discharge or discriminate or retaliate against any employee for his/her involvement in any inquiry or proceeding related to any leave under any of these laws or his/her opposition to or challenge of any unlawful district practice in relation to any rights granted by any of these laws. (Government Code 12945, 12945.2; 29 USC 2615)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4032 - Reasonable Accommodation)

(cf. 4033 - Lactation Accommodation)

Definitions

The words and phrases defined below shall have the same meaning throughout this administrative regulation except where a different meaning is otherwise specified.

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

Eligible employee for FMLA and CFRA purposes means an employee who has been employed with the district for at least 12 months and who has at least 1,250 hours of service with the district during the previous 12-month period. However, these requirements shall not apply when an employee applies for PDL. (Government Code 12945.2; 29 USC 2611; 29 CFR 825.110)

Employee disabled by pregnancy means a woman who, in the opinion of her health care provider, is unable because of pregnancy to perform any one or more of the essential

FAMILY CARE AND MEDICAL LEAVE (continued)

functions of her job or to perform any of them without undue risk to herself, her pregnancy's successful completion, or other persons; or who is suffering from severe "morning sickness" or needs to take time off for any pregnancy-related condition including, but not limited to, prenatal or postnatal care, bed rest, gestational diabetes, pregnancy-induced hypertension, preeclampsia, post-partum depression, childbirth, loss or end of pregnancy, or recovery from childbirth or loss or end of pregnancy. (2 CCR 7291.2)

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

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

1. Inpatient care in a hospital, hospice, or residential health care facility
2. Continuing treatment or continuing supervision by a health care provider, including one or more of the following:
 - a. A period of incapacity of more than three consecutive full days
 - b. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition
 - c. Any period of incapacity due to pregnancy or for prenatal care under FMLA
 - d. Any period of incapacity which is permanent or long term due to a condition for which treatment may not be effective
 - e. Any period of absence to receive multiple treatments, including recovery, by a health care provider

Note: Pursuant to state law (Family Code 297.5), registered domestic partners have the same rights, protections, and benefits as spouses. In re Marriage Cases, the California Supreme Court ruled that the provision in Family Code 300 which limits the official designation of marriage to a union between a man and a woman violates the equal protection clause of the state constitution.

FAMILY CARE AND MEDICAL LEAVE (continued)

In addition, in United States v. Windsor, the U.S. Supreme Court held that the federal Defense of Marriage Act (1 USC 7) which defines marriage, for purposes of benefits under federal law, as a "union between a man and a woman," constituted a deprivation of the equal liberty of persons in violation of the Fifth Amendment to the U.S. Constitution. Districts with questions about the status of benefits for registered domestic partners or spouses of same-sex marriages should consult legal counsel as appropriate.

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

Eligibility

Note: Pursuant to Government Code 12945.2 and 29 USC 2611, a district is required to grant family care and medical leave to an eligible employee for any of the reasons stated below, except where the district employs fewer than 50 employees within 75 miles of the worksite where the employee requesting the leave is employed.

The district shall grant FMLA or CFRA leave to eligible employees for any of the following reasons: (Family Code 297.5; Government Code 12945.2; 29 USC 2612; 29 CFR 825.112)

1. The birth of a child of the employee or placement of a child with the employee in connection with the employee's adoption or foster care of the child
2. To care for the employee's child, parent, or spouse with a serious health condition
3. The employee's own serious health condition that makes him/her unable to perform one or more essential functions of his/her position

Note: Pursuant to 29 CFR 825.126, as amended by 78 Fed. Reg. 25, FMLA military family leave is available to any eligible employee for a qualifying exigency while the employee's spouse, son, daughter, or parent who is a military member is on covered active duty during deployment to a foreign country. For requirements related to qualifying exigency leave, see the section "Military Family Leave Resulting from Qualifying Exigencies" below.

4. Any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a military member on covered active duty or call to covered active duty (or has been notified of an impending call or order to covered active duty)

Note: 29 CFR 825.127, as amended by 78 Fed. Reg. 25, has extended the military caregiver leave to family members of a covered veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date that the eligible employee takes FMLA leave to

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care for the veteran. For requirements related to military caregiver leave, see the section on "Military Caregiver Leave" below.

5. To care for a covered servicemember with a serious injury or illness if the employee is the spouse, child, parent, or next of kin, as defined, of the servicemember

Note: Under federal law, pregnancy as a "serious health condition" is covered as part of FMLA leave. Pursuant to 2 CCR 7297.6, however, entitlements under PDL and CFRA are separate and distinct. An employee is entitled to up to four months of PDL prior to the birth of a child and up to 12 weeks of CFRA leave following the birth of the child. Additionally, pursuant to 2 CCR 7291.4, PDL is not subject to eligibility requirements for other FMLA and CFRA leaves, such as minimum hours worked or length of service.

In addition, the district shall grant any pregnant female employee PDL during pregnancy, when she is disabled by pregnancy, childbirth, or any related medical condition. (Government Code 12945; 2 CCR 7291.4)

Terms of Leave

An eligible employee shall be entitled to a total of 12 work weeks of FMLA or CFRA leave during any 12-month period, except in the case of leave to care for a covered servicemember as provided under "Military Caregiver Leave" below. (Government Code 12945.2; 29 USC 2612)

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

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

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

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

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

Note: 2 CCR 7291.9, as amended by Register 2012, No. 48, clarifies that the four months of PDL to which an employee is entitled means the number of days or hours that the employee would normally work within the four calendar months. For a part-time employee, four months shall be calculated on a proportional basis.

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In addition, for each pregnancy, a female employee shall be entitled to PDL for the period of the disability not to exceed four months. (Government Code 12945; 2 CCR 7291.9)

Note: Leaves under CFRA and FMLA sometimes overlap and run concurrently so that total leave to which an employee is entitled would not be cumulative. For example, pursuant to Government Code 12945.2, CFRA leave for the birth of an employee's child would run concurrently with the employee's FMLA leave entitlement, thereby limiting it to 12 work weeks. However, PDL is separate and distinct from CFRA leave. Consequently, pursuant to 2 CCR 7291.13, an employee may be entitled to up to four months of PDL, followed by 12 work weeks of CFRA leave for the birth of the child (baby bonding). Determining which leaves run concurrently is a complex endeavor and districts should consult legal counsel as needed.

PDL shall run concurrently with FMLA leave for disability caused by an employee's pregnancy. At the end of the employee's FMLA leave for disability caused by pregnancy, or at the end of four months of PDL, whichever occurs first, a CFRA-eligible employee may request to take CFRA leave of up to 12 work weeks for the reason of the birth of her child, if the child has been born by this date (e.g., baby bonding), whether or not she or the child has a serious health condition or disability. To the extent allowed by law, CFRA and FMLA leaves shall run concurrently. (Government Code 12945, 12945.2; 2 CCR 7291.13, 7297.6)

Leave taken for the birth or placement of a child must be concluded within the 12-month period beginning on the date of the birth or placement of the child. Such leave does not need to be taken in one continuous period of time. The basic minimum duration of leave for the birth or placement of a child shall be two weeks. However, the district shall grant a request for leave of less than two weeks' duration on any two occasions. (2 CCR 7297.3; 29 USC 2612)

Note: The following optional paragraph is for use by districts that limit family care and medical leave related to the birth or placement of a child to a total of 12 work weeks when both parents work for the district. However, pursuant to 2 CCR 7297.1, such limit on employees' entitlement to family care and medical leave for any other qualifying purpose is prohibited.

If both parents of a child work for the district, their family care and medical leave related to the birth or placement of the child shall be limited to a combined total of 12 weeks. This restriction shall apply whether the parents are married, not married, or registered domestic partners. (Government Code 12945.2; 2 CCR 7297.1; 29 USC 2612)

Use/Substitution of Paid Leave

Note: The district may require employees (Option 1) or give employees discretion (Option 2) to substitute paid leave or other negotiated unpaid time off for the family care and medical leave, so that the paid leave or unpaid time off and the family care and medical leave would run concurrently. Paid leave may be substituted only to the extent that the employee would otherwise be eligible to take the leave. However, for

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FAMILY CARE AND MEDICAL LEAVE (continued)

leave taken under the CFRA for the employee's own serious health condition, the district can only require him/her to use accrued sick leave and cannot require the employee to use accrued vacation or personal time off.

OPTION 1: An employee shall substitute his/her accrued vacation leave, other accrued time off, and any other paid or unpaid time off negotiated with the district for any FMLA or CFRA leave not involving his/her own serious health condition or pregnancy disability. For the employee's PDL or FMLA or CFRA leave due to his/her own serious health condition, the employee shall use accrued sick leave pursuant to the collective bargaining agreement and/or Board policy and may use accrued vacation leave and other paid or unpaid time off at his/her option. (Government Code 12945, 12945.2; 2 CCR 7291.11; 29 USC 2612)

~~**OPTION 2:** During the period of PDL or any FMLA or CFRA leave, the employee may elect to use his/her accrued vacation leave, accrued sick leave, other accrued time off, or any other paid or unpaid time off negotiated with the district. (Government Code 12945, 12945.2; 2 CCR 7291.11; 29 USC 2612)~~

(cf. 4141/4241 - Collective Bargaining Agreement)

(cf. 4161/4261/4361 - Leaves)

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

(cf. 4261.1 - Personal Illness/Injury Leave)

Intermittent Leave/Reduced Work or Leave Schedule

PDL and family care and medical leave for the serious health condition of an employee or his/her child, parent, or spouse may be taken intermittently or on a reduced work or leave schedule when medically necessary, as determined by the health care provider of the person with the serious health condition. However, the district may limit leave increments to the shortest period of time that the district's payroll system uses to account for absences or use of leave, not to be greater than one hour. (2 CCR 7291.9, 7297.3; 29 USC 2612)

The district may require an employee to transfer temporarily to an available alternative position if the employee is pregnant and provides medical certification from her health care provider of the medical need for intermittent leave or leave on a reduced work or leave schedule or if the employee's need for the intermittent leave or leave on a reduced work or leave schedule is foreseeable based on his/her planned medical treatment or that of a family member. This alternative position must have equivalent pay and benefits and must better accommodate recurring periods of leave than the employee's regular job, and the employee must be qualified for the position. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced work or leave schedule. (2 CCR 7291.8, 7297.3; 29 USC 2612)

FAMILY CARE AND MEDICAL LEAVE (continued)

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

Request for Leave

Note: Pursuant to 2 CCR 7291.17 and 7297.4, an employee is required to notify the district of the need to take PDL or family care and medical leave. However, for family care and medical leave, the employee need not specifically mention CFRA or FMLA. (*Faust v. California Portland Cement Company*)

An employee shall provide at least verbal notice sufficient to make the district aware of the need to take PDL or family care and medical leave and the anticipated timing and duration of the leave. (2 CCR 7291.17, 7297.4)

For family care and medical leave, the employee need not expressly assert or mention FMLA/CFRA to satisfy this requirement; however, he/she must state the reason the leave is needed (e.g., birth of child, medical treatment). If more information is necessary to determine whether the employee is eligible for family care and medical leave, the Superintendent or designee shall inquire further and obtain the necessary details of the leave to be taken. (2 CCR 7297.4)

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

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

Note: Pursuant to 2 CCR 7297.4, the district may require an employee to provide at least 30 days advance notice of the need for family care and medical leave, if the need is foreseeable. If a district requires such advance notice from employees, then the district's notification of FMLA/CFRA rights must so specify; see section below entitled "Notifications."

Pursuant to 2 CCR 7291.17, an employee requesting PDL is required to provide the district at least 30 days advance notice if the need for PDL is foreseeable. Districts that do not require 30 days advance notice should modify the following paragraph accordingly.

When the need for the PDL or family care and medical leave is foreseeable, the employee shall provide the district with at least 30 days advance notice before the leave. The employee shall consult with the Superintendent or designee and make a reasonable effort to schedule, subject to the health care provider's approval, any planned appointment or medical treatment or supervision so as to minimize disruption to district operations. (Government Code 12945.2; 2 CCR 7291.17, 7297.4)

FAMILY CARE AND MEDICAL LEAVE (continued)

When the 30 days notice is not practicable because of a lack of knowledge of when leave will be required to begin, a change in circumstances, a medical emergency, or other good cause, the employee shall provide the district with notice as soon as practicable. (2 CCR 7291.17, 7297.4)

Certification of Health Condition

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

Within five business days of an employee's request for family care and medical leave for his/her own or his/her child's, parent's, or spouse's serious health condition, the Superintendent or designee shall request that the employee provide certification by a health care provider of the need for leave. Upon receiving the district's request, the employee shall provide the certification within 15 days, unless either the Superintendent or designee provides additional time or it is not practicable under the particular circumstances, despite the employee's diligent, good faith efforts. (2 CCR 7297.4; 29 CFR 825.305)

The certification shall include the following: (Government Code 12945.2; 2 CCR 7297.0; 29 USC 2613)

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

Note: 2 CCR 7297.0 provides that the health care provider's certification need not identify the serious health condition involved, if the leave is for the care of the employee's child, parent, or spouse.

FAMILY CARE AND MEDICAL LEAVE (continued)

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

In addition, at the employee's option, the certification may include a diagnosis identifying the serious health condition. (2 CCR 7297.0)

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

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

For PDL, the Superintendent or designee shall request that the employee provide certification by a health care provider of the need for leave at the time the employee gives notice of the need for PDL, or within two business days of giving the notice. If the need for PDL is unforeseen, the Superintendent or designee shall request the medical certification within two business days after the leave commences. The Superintendent or designee may request certification at some later date if he/she has reason to question the appropriateness of the leave or its duration. (2 CCR 7291.17)

For PDL that is foreseeable and for which at least 30 days notice has been given, the employee shall provide the medical certification before the leave begins. When this is not practicable, the employee shall provide the certification within the time frame specified by the Superintendent or designee which must be at least 15 days after the request, unless it is not practicable under the particular circumstances despite the employee's diligent, good faith efforts. (2 CCR 7291.17)

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FAMILY CARE AND MEDICAL LEAVE (continued)

Medical certification for PDL purposes shall include a statement that the employee needs to take the leave because she is disabled by pregnancy, childbirth, or a related medical condition, the date on which the employee became disabled because of pregnancy, and the estimated duration of the leave. (2 CCR 7291.17)

The Superintendent or designee shall not request any genetic information, as defined in 42 USC 2000ff, from any employee or his/her family member except as necessary to comply with a certification requirement for PDL or FMLA/CFRA leave purposes or with the prior written authorization of the employee. Any such genetic information received by the district shall be kept confidential in accordance with law. (42 USC 2000ff-1, 2000ff-5)

If additional PDL or family care and medical leave is needed when the time estimated by the health care provider expires, the district may require the employee to provide recertification in the manner specified for the leave. (Government Code 12945.2; 2 CCR 7291.17; 29 USC 2613)

Fitness for Duty Certification/Release to Return to Work

Note: The following optional section is for use by districts that choose to require a fitness-for-duty certification and may be modified to list the specific positions for which certification is required. Pursuant to Government Code 12945.2 and 29 CFR 825.312, the district may require an employee to submit a fitness-for-duty certification upon returning to work when the following two conditions are met: (1) the leave was a result of the employee's own serious health condition, and (2) the district has adopted a policy that is applied uniformly to all similarly situated employees (i.e., same occupation, same serious health condition). In addition, 2 CCR 7291.17 has similar requirements when an employee is returning to work after a PDL. However, if the district's collective bargaining agreement governs the employee's return to work, the collective bargaining agreement shall supersede any policy requirements.

Upon expiration of an employee's PDL or family care and medical leave taken for his/her own serious health condition, the employee shall present certification from the health care provider that he/she is able to resume work.

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

Note: Pursuant to 29 CFR 825.312, when the health care provider certifies that the employee is able to resume work, the district may also require the health care provider to address the employee's ability to perform the essential functions of the job. If such a requirement is imposed, then the district must provide the employee with a list of the essential functions of his/her job with the "designation notice"; see section entitled "Notifications" below.

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

FAMILY CARE AND MEDICAL LEAVE (continued)

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

Rights to Reinstatement

Note: Pursuant to Government Code 12945.2, 2 CCR 7291.10, and 29 USC 2614, an employee on PDL or family care and medical leave has the right to be reinstated to the same or a comparable position when he/she returns from such leave. However, such an employee has no greater right to reinstatement or other benefits than he/she would have if he/she had been continuously employed. In addition, in certain situations described below, the district may be relieved of the obligation to reinstate an employee.

Upon granting an employee's request for PDL or family care and medical leave, the Superintendent or designee shall guarantee to reinstate the employee in the same or a comparable position when the leave ends. (Government Code 12945.2; 2 CCR 7291.10; 29 USC 2614)

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

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

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

The district may refuse to reinstate an employee to the same position after taking PDL if, at the time the reinstatement is requested, the employee would not otherwise have been employed in that position for legitimate business reasons unrelated to the employee's PDL. (2 CCR 7291.10)

Maintenance of Benefits/Failure to Return from Leave

During the period when an employee is on PDL or family care and medical leave, he/she

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shall maintain his/her status with the district and the leave shall not constitute a break in service for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan. (Government Code 12945.2; 29 USC 2614)

For up to a maximum of four months for PDL or 12 work weeks for other family care and medical leave, the district shall continue to provide an eligible employee the group health plan coverage that was in place before he/she took the leave. The employee shall reimburse the district for premiums paid during the leave if he/she fails to return to district employment after the expiration of all available leaves and the failure is for a reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond his/her control. (Government Code 12945.2; 2 CCR 7291.11; 29 USC 2614; 29 CFR 825.213)

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

In addition, during the period when an employee is on PDL or family care and medical leave, the employee shall be entitled to continue to participate in other employee benefit plans including life insurance, short-term or long-term disability insurance, accident insurance, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as would apply to an unpaid leave taken for any other purpose. However, for purposes of pension and retirement plans, the district shall not be required to make plan payments for an employee during the leave period and the leave period shall not be counted for purposes of time accrued under the plan. (Government Code 12945.2; 2 CCR 7291.11)

Military Family Leave Resulting from Qualifying Exigencies

Note: 29 USC 2611 and 2612 authorize an eligible employee to take up to 12 work weeks of unpaid leave to attend to an "exigency" arising out of the fact that a spouse, child, or parent of the employee is on active duty or on call to active duty status in the National Guard or Reserves, or is a servicemember of the regular Armed Forces on deployment to a foreign country. 29 CFR 825.100-825.800, as amended by 78 Fed. Reg. 25, made changes to the implementation of this FMLA leave as specified in the following optional section, including in the definition of "covered military member" which, pursuant to 29 CFR 825.126, is now "military member." 29 CFR 825.126 also clarifies the meaning of "covered active duty" as it relates to servicemembers in the National Guard or Reserves.

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

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An eligible employee may take up to 12 work weeks of unpaid leave during the 12-month period established by the district while a military member is on covered active duty or call to covered active duty status for one or more qualifying exigencies. (29 USC 2612; 29 CFR 825.126)

Military member means an employee's spouse, son, daughter, or parent on covered active duty or call to covered active duty status. (29 CFR 825.126)

Covered active duty means duty during the deployment of a member of the regular Armed Forces to a foreign country or duty during the deployment of a member of the National Guard or Reserves to a foreign country under a call or order to active duty in support of a contingency operation pursuant to law. (29 USC 2611; 29 CFR 825.126)

Note: 29 CFR 825.126, as amended by 78 Fed. Reg. 25, has added parental care to the seven existing categories of "qualifying exigencies." In addition, a "qualifying exigency" includes "any other event" as agreed to by the district and the employee. As an example of such other event, the DOL's Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers lists leave to spend time with the military member either prior to or post deployment or to attend to household emergencies that would normally have been handled by the covered military member.

Qualifying exigencies include time needed to: (29 CFR 825.126)

1. Address issues arising from short notice deployment (up to seven calendar days from the date of receipt of call or order of short notice deployment)
2. Attend military events and related activities, such as any official ceremony or family assistance program related to the covered active duty or call to covered active duty status
3. Arrange childcare or attend school activities arising from the covered active duty or call to covered active duty, such as arranging for alternative child care, enrolling or transferring a child to a new school, or attending meetings
4. Make or update financial and legal arrangements to address a military member's absence
5. Attend counseling provided by someone other than a health care provider

Note: 29 CFR 825.126, as amended by 78 Fed. Reg. 25, has increased the allowable qualifying exigency leave for reason of "rest and recuperation" from five to 15 days.

FAMILY CARE AND MEDICAL LEAVE (continued)

6. Spend time (up to 15 days of leave per instance) with a military member who is on short-term, temporary, Rest and Recuperation leave during deployment
7. Attend to certain post-deployment activities, such as arrival ceremonies or reintegration briefings
8. Care for a military member's parent who is incapable of self-care when the care is necessitated by the military member's covered active duty
9. Address any other event that the employee and district agree is a qualifying exigency

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

Note: 29 CFR 825.309, as amended by 78 Fed. Reg. 25, has expanded the list of information which a district may require an employee to provide, to include a copy of the military member's Rest and Recuperation leave order or other military-issued documentation that specifies the military member's leave. In addition, the district may require the employee to provide certification of the qualifying exigency containing the information specified in 29 CFR 825.309. A form has been developed by DOL for this purpose and is available on its web site.

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

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

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

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

FAMILY CARE AND MEDICAL LEAVE (continued)

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

Military Caregiver Leave

Note: 29 USC 2612 and 29 CFR 825.127 authorize an eligible employee to take up to 26 work weeks of unpaid military caregiver leave, as defined below, during a "single 12-month period." As is the case with other FMLA leaves, this law applies to districts that employ at least 50 employees within 75 miles of the worksite where the employee requesting the leave is employed; see the section entitled "Eligibility" above.

According to the DOL's Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers, if an employee does not use the entire 26-week entitlement in a single 12-month period, unused weeks cannot be carried over into another 12-month period. However, the employee may qualify for nonmilitary FMLA leave.

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

Covered servicemember may be: (29 CFR 825.127)

1. A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list for a serious injury or illness
2. A veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran

Note: Unlike the provisions for other FMLA/CFRA leave, 29 CFR 825.127 places no age limit on the definition of "son or daughter," as detailed below. In addition, 29 CFR 825.127 defines "next of kin" of a covered servicemember in relation to military caregiver leave.

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

FAMILY CARE AND MEDICAL LEAVE (continued)

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

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

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

Note: 29 USC 2611 defines "serious injury or illness" for active members of the Armed Forces and for veterans, as provided below. Pursuant to 29 CFR 825.127, as amended by 78 Fed. Reg. 25, one of the four conditions listed in item #2 below must be present for a veteran's injury or illness to qualify as a "serious injury or illness" for the purpose of this leave.

Serious injury or illness means: (29 USC 2611; 29 CFR 825.127)

1. For a current member of the Armed Forces, an injury or illness incurred by the member in the line of duty on active duty, or that existed before the beginning of the member's active duty and was aggravated by the member's service in the line of duty while on active duty in the Armed Forces, and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating
2. For a veteran, an injury or illness incurred or aggravated by the member's service in the line of duty on active duty in the Armed Forces, including the National Guard or Reserves, that manifested itself before or after the member became a veteran and that is at least one of the following:
 - a. A continuation of a serious injury or illness incurred or aggravated while the veteran was a member of the Armed Forces and rendered him/her unable to perform the duties of his/her office, grade, rank, or rating
 - b. A physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs (VA) Service-Related Disability Rating of 50 percent or greater, based wholly or partly on that physical or mental condition
 - c. A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of one or more disabilities related to his/her military service or that would do so but for treatment received by the veteran

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FAMILY CARE AND MEDICAL LEAVE (continued)

- d. An injury, including a psychological injury, on the basis of which the veteran has been enrolled in the VA's Program of Comprehensive Assistance for Family Caregivers

Note: As is the case for other types of FMLA/CFRA leave, 29 CFR 825.302 and 825.303 require the employee, when the need for the leave is foreseeable, to provide 30 days advance notice to the district before the leave is to begin.

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

Note: 29 CFR 825.310 authorizes the district to require the employee to provide certification of the need for the leave, which is to be completed by an authorized health care provider of the covered servicemember. 29 CFR 825.310, as amended by 78 Fed. Reg. 25, has expanded the definition of "authorized health care provider" for this purpose to include health care providers listed in 29 CFR 825.125 who are not affiliated with the Department of Defense or Department of Veterans Affairs and authorizes a district to require second and third opinions from such health care providers.

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

An employee requesting leave to care for a covered servicemember with a serious injury or illness shall provide the Superintendent or designee with certification from an authorized health care provider of the servicemember that contains the information specified in 29 CFR 825.310.

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

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

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FAMILY CARE AND MEDICAL LEAVE (continued)

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

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

Notifications

Note: Both 29 CFR 825.300 and 2 CCR 7297.9 require employers to provide general notification to employees of their rights under the FMLA/CFRA as well as specific notifications when an employee has requested leave, as detailed below. 2 CCR 7291.16 contains similar notice requirements for PDL purposes. Samples of notices which describe an employee's rights are available on the web sites of the California Department of Fair Employment and Housing and the DOL.

2 CCR 7297.9 further requires that if the workforce at any facility contains 10 percent or more of persons with a primary language other than English, the posted notice of state law must be translated into the language(s) these employees speak.

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

1. **General Notice:** Information explaining the provisions of the FEHA and FMLA/CFRA and employee rights and obligations shall be posted in a conspicuous place on district premises, or electronically, and shall be included in employee handbooks. (2 CCR 7291.16, 7297.9; 29 USC 2619)

Note: Pursuant to 2 CCR 7291.17 and 7297.4, a district may require an employee, when the need for the leave is foreseeable, to provide at least 30 days advance notice before the leave is to begin; see the section entitled "Request for Leave" above. 2 CCR 7291.16 and 7297.4 specify that districts requiring such notice from employees must give them "reasonable advance notice" of their obligation and that incorporation of the requirement into the general notice satisfies the "advance notice" requirement.

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

The general notice shall also explain an employee's obligation to provide the Superintendent or designee with at least 30 days notice of the need for the leave, when the need for the leave is reasonably foreseeable. (2 CCR 7291.17, 7297.4)

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

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FAMILY CARE AND MEDICAL LEAVE (continued)

2. **Eligibility Notice:** When an employee requests leave, including PDL, or when the Superintendent or designee acquires knowledge that an employee's leave may be for an FMLA/CFRA qualifying reason, the Superintendent or designee shall, within five business days, provide notification to the employee of his/her eligibility to take such leave. (2 CCR 7291.16; 29 CFR 825.300)
3. **Rights and Responsibilities Notice:** Each time the eligibility notice is provided to an employee, the Superintendent or designee shall provide written notification explaining the specific expectations and obligations of the employee, including any consequences for a failure to meet those obligations. Such notice shall include, as appropriate: (29 CFR 825.300)
 - a. A statement that the leave may be designated and counted against the employee's annual FMLA/CFRA leave entitlement and the appropriate 12-month entitlement period, if qualifying

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

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

FAMILY CARE AND MEDICAL LEAVE (continued)

- g. The employee's potential liability for health insurance premiums paid by the district during the employee's unpaid FMLA leave should the employee not return to service after the leave

Any time the information provided in the above notice changes, the Superintendent or designee shall, within five business days of his/her receipt of an employee's first notice of need for leave, provide the employee with a written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

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

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

Note: 29 CFR 825.300 requires the designation notice to specify whether the district requires paid leave to be substituted for unpaid family care and medical leave, whether the district requires an employee to present a fitness-for-duty certification, and whether that certification must address the employee's ability to perform the essential functions of the job. See the sections entitled "Use/Substitution of Paid Leave" and "Fitness for Duty Certification/Release to Return to Work" above. The following paragraph should be revised to reflect district practice.

If the district requires paid leave to be substituted for unpaid family care and medical leave, the notice shall so specify. If the district requires an employee to present a fitness-for-duty certification that addresses the employee's ability to perform the essential functions of the job, the notice shall also specify that requirement. (29 CFR 825.300)

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

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FAMILY CARE AND MEDICAL LEAVE (continued)

Records

Note: Government Code 12946, 29 USC 2616, and 29 CFR 825.500 require districts to maintain records of, among other things, applications, dates, and personnel and employment action related to family care and medical leave. Pursuant to 42 USC 2000ff-1, any individually identifiable genetic information possessed by the district must be treated as a confidential medical record of the employee involved.

The Superintendent or designee shall maintain records pertaining to an individual employee's use of family care and medical leave in accordance with law. (Government Code 12946; 29 USC 2616; 42 USC 2000ff-1; 29 CFR 825.500)

Legal Reference: (see next page)

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FAMILY CARE AND MEDICAL LEAVE (continued)

Legal Reference:

EDUCATION CODE

44965 *Granting of leaves of absence for pregnancy and childbirth*

FAMILY CODE

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

300 *Validity of marriage*

GOVERNMENT CODE

12940 *Unlawful employment practices*

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

12945.1-12945.2 *California Family Rights Act*

12946 *Fair Employment and Housing Act: discrimination prohibited*

CODE OF REGULATIONS, TITLE 2

7291.2-7291.17 *Sex discrimination: pregnancy and related medical conditions*

7297.0-7297.11 *Family care leave*

UNITED STATES CODE, TITLE 1

7 *Definition of marriage*

UNITED STATES CODE, TITLE 29

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

UNITED STATES CODE, TITLE 42

2000ff-1-2000ff-11 *Genetic Information Nondiscrimination Act of 2008*

CODE OF FEDERAL REGULATIONS, TITLE 29

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

COURT DECISIONS

United States v. Windsor, (2013) 699 F.3d 169

Re Marriage Cases, (2008) 43 Cal.4th 757

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

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

Management Resources:

FEDERAL REGISTER

The Family and Medical Leave Act; Final Rule; February 6, 2013. Vol. 78, No. 25, pages 8903-8947

U.S. DEPARTMENT OF LABOR PUBLICATIONS

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

WEB SITES

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

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

Center USD

Administrative Regulation

Family Care And Medical Leave

AR 4161.8

Personnel

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

(cf. 4030 - Nondiscrimination in Employment)

Definitions

Any word or phrase defined below shall have the same meaning throughout this administrative regulation except where otherwise specifically defined.

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

Eligible employee means an employee who has been employed with the district for at least 12 months and who has at least 1,250 hours of service with the district during the previous 12-month period. (29 USC 2611; 29 CFR 825.110; Government Code 12945.2)

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

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

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

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

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

Eligibility

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

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

In addition to FMLA leave for disability on account of a pregnancy, childbirth, or related medical conditions pursuant to item #3 above, a female employee disabled by pregnancy, childbirth, or related medical conditions may be entitled to take leave for a reasonable

period of time, not to exceed four months. (Government Code 12945)

Terms of Leave

An eligible employee shall be entitled to a total of 12 work weeks of family care and medical leave during any 12-month period, except in the case of leave to care for a covered servicemember as provided under "Military Caregiver Leave" below. (29 USC 2612; Government Code 12945.2)

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

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

1. Leave taken to care for a registered domestic partner or a child of a domestic partner. Such leave shall count as leave under the CFRA only. (Family Code 297.5)
2. Leave taken for disability on account of pregnancy, childbirth, or related medical conditions. FMLA leave taken for these purposes shall run concurrently with the California pregnancy disability leave granted pursuant to Government Code 12945. CFRA leave related to the birth of a child shall not commence until the expiration of the pregnancy disability leave. (Government Code 12945, 12945.2; 2 CCR 7297.6)

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

(cf. 4261.1 - Personal Illness/Injury Leave)

Leave taken for the birth or placement of a child must be concluded within the 12-month period beginning on the date of the birth or placement of the child. Such leave does not need to be taken in one continuous period of time. The basic minimum duration of the leave for birth or placement of a child shall be two weeks. However, the district shall grant a request for leave of less than two weeks' duration on any two occasions. (29 USC 2612; 2 CCR 7297.3)

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

Use/Substitution of Paid Leave

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

2612; Government Code 12945.2)

(cf. 4141/4241 - Collective Bargaining Agreement)

(cf. 4161/4261/4361 - Leaves)

Intermittent Leave/Reduced Leave Schedule

Leave related to the serious health condition of the employee or his/her child, parent, or spouse may be taken intermittently or on a reduced leave schedule when medically necessary, as determined by the health care provider of the person with the serious health condition. However, the district may limit leave increments to the shortest period of time that the district's payroll system uses to account for absences or use of leave. (29 USC 2612; 2 CCR 7297.3)

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

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

Request for Leave

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

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

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

operations. (Government Code 12945.2; 2 CCR 7297.4)

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

Certification of Health Condition

At the time of the employee's request for leave for his/her own or his/her child's, parent's, or spouse's serious health condition, or within five business days of the request, the Superintendent or designee shall request that the employee provide certification by a health care provider of the need for leave. Upon receiving the district's request, the employee shall provide the certification within 15 days, unless either the Superintendent or designee provides additional time or it is not practicable under the particular circumstances, despite the employee's diligent, good faith efforts. (29 CFR 825.305; 2 CCR 7297.4)

The certification shall include the following: (29 USC 2613; Government Code 12945.2; 2 CCR 7297.0)

1. The date on which the serious health condition began
2. The probable duration of the condition
3. If the employee is requesting leave to care for a child, parent, or spouse with a serious health condition, both of the following:
 - a. Statement that the serious health condition warrants the participation of a family member to provide care during a period of the treatment or supervision of the child, parent, or spouse
 - b. Estimated amount of time the health care provider believes the employee needs to care for the child, parent, or spouse
4. If the employee is requesting leave because of his/her own serious health condition, a statement that due to the serious health condition, he/she is unable to work at all or is unable to perform one or more essential functions of his/her job
5. If the employee is requesting leave for intermittent treatment or is requesting leave on a reduced leave schedule for planned medical treatment, a statement of the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave

The Superintendent or designee shall not request any genetic information, as defined in 42 USC 2000ff, from any employee or his/her family member except as necessary to

comply with a certification requirement for FMLA/CFRA leave purposes or with the prior written authorization of the employee. Any such genetic information received by the district shall be kept confidential in accordance with law. (42 USC 2000ff-1, 2000ff-5)

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

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

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

Fitness for Duty Upon Return to Work

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

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

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

Rights to Reinstatement and Maintenance of Benefits

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

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

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

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

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

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

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

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

Military Family Leave Resulting from Qualifying Exigencies

An eligible employee may take up to 12 work weeks of unpaid leave during the 12-month period established by the district while a covered military member is on covered active duty or call to covered active duty status for one or more qualifying exigencies. (29 USC 2612)

Covered military member means an employee's spouse, son, daughter, or parent on covered active duty or call to covered active duty status. (29 CFR 825.126)

Covered active duty means duty during the deployment of a member of the regular Armed Forces to a foreign country or duty during the deployment of a member of the National Guard or Reserves to a foreign country under a call or order to active duty. (29 USC 2611)

Qualifying exigencies include time needed to: (29 CFR 825.126)

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

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

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

The employee's qualifying exigency leave may be taken on an intermittent or reduced

leave schedule basis. (29 CFR 825.302)

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

Military Caregiver Leave

The district shall grant up to a total of 26 work weeks of leave during a single 12-month period, measured forward from the first date of leave taken, to an eligible employee to care for a covered servicemember with a serious illness or injury. In order to be eligible for such

military caregiver leave, an employee must be the spouse, son, daughter, parent, or next of kin of the covered servicemember. This 26-week period is not in addition to, but rather is inclusive of, the 12 work weeks of leave that may be taken for other FMLA qualifying reasons. (29 USC 2611, 2612; 29 CFR 825.127)

Covered servicemember may be either: (29 USC 2611)

1. A member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list for a serious injury or illness
2. A veteran who, within the five years preceding his/her undergoing of medical treatment, recuperation, or therapy for a serious injury or illness, was a member of the Armed Forces, including the National Guard or Reserves

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

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

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

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

Serious injury or illness means: (29 USC 2611; 29 CFR 825.127)

1. For a member of the Armed Forces, an injury or illness incurred or aggravated by the member's service in the line of duty while on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating

2. For a veteran, an injury or illness incurred or aggravated by the member's service in the line of duty on active duty in the Armed Forces, including the National Guard or Reserves, that manifested itself before or after the member became a veteran

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

An employee requesting leave to care for a covered servicemember with a serious injury or illness shall provide the Superintendent or designee with certification from an authorized health care provider of the servicemember that contains the information specified in 29 CFR 825.310.

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

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

Notifications

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

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

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

2. Eligibility Notice: When an employee requests leave or when the Superintendent or designee acquires knowledge that an employee's leave may be for an FMLA/CFRA qualifying reason, the Superintendent or designee shall, within five business days, provide notification to the employee of his/her eligibility to take such leave. (29 CFR

825.300)

3. **Rights and Responsibilities Notice:** Each time the eligibility notice is provided to an employee, the Superintendent or designee shall provide written notification explaining the specific expectations and obligations of the employee, including any consequences for a failure to meet those obligations. Such notice shall include, as appropriate: (29 CFR 825.300)

a. A statement that the leave may be designated and counted against the employee's annual FMLA/CFRA leave entitlement and the appropriate 12-month entitlement period, if qualifying

b. Any requirements for the employee to furnish medical certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of active duty or call to active duty status and the consequences of failing to provide the certification

c. The employee's right to substitute paid leave, whether the district will require substitution of paid leave, conditions related to any substitution, and the employee's entitlement to take unpaid leave if the employee does not meet the conditions for paid leave

d. Any requirements for the employee to make any premium payments to maintain health benefits, the arrangement for making such payments, and the possible consequences of failure to make payments on a timely basis

e. If applicable, the employee's status as a "key employee," potential consequence that restoration may be denied following the FMLA leave, and explanation of the conditions required for such denial

f. The employee's right to maintenance of benefits during the leave and restoration to the same or an equivalent job upon return from leave

g. The employee's potential liability for health insurance premiums paid by the district during the employee's unpaid FMLA leave should the employee not return to service after the leave

Any time the information provided in the above notice changes, the Superintendent or designee shall, within five business days of his/her receipt of an employee's first notice of need for leave, provide the employee with a written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

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

that determination. (29 CFR 825.300)

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

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

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

Records

The Superintendent or designee shall maintain records pertaining to an individual employee's use of family care and medical leave in accordance with law. (29 USC 2616; 42 USC 2000ff-1; 29 CFR 825.500; Government Code 12946)

Legal Reference:

EDUCATION CODE

44965 Granting of leaves of absence for pregnancy and childbirth

FAMILY CODE

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

300 Validity of marriage

GOVERNMENT CODE

12940 Unlawful employment practices

12945 Pregnancy; childbirth or related medical condition; unlawful practice

12945.1-12945.2 California Family Rights Act

CODE OF REGULATIONS, TITLE 2

7291.2-7291.16 Sex discrimination: pregnancy and related medical conditions

7297.0-7297.11 Family care leave

UNITED STATES CODE, TITLE 1

7 Definition of marriage, spouse

UNITED STATES CODE, TITLE 29

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

UNITED STATES CODE, TITLE 42

2000ff-1-2000ff-11 Genetic Information Nondiscrimination Act of 2008

CODE OF FEDERAL REGULATIONS, TITLE 29

825.100-825.800 Family and Medical Leave Act of 1993

COURT DECISIONS

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

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

Management Resources:

FEDERAL REGISTER

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

U.S. DEPARTMENT OF LABOR PUBLICATIONS

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

WEB SITES

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

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

Regulation **CENTER UNIFIED SCHOOL DISTRICT**

approved: June 16, 2010 Antelope, California

NONRESIDENT FOREIGN STUDENTS

Note: The following optional administrative regulation is for use by any district that maintains grades 9-12 and which may wish to enroll a nonimmigrant foreign student who is in the United States on an F-1 visa. Pursuant to 8 USC 1184, an F-1 visa may be granted to enable a nonimmigrant student to attend public school in grades 9-12 for a maximum of one year. Pursuant to 8 CFR 214.3, any district that desires to enroll such students is required to file a petition for certification with the U.S. Department of Homeland Security's Student and Exchange Visitor Program (SEVP), using the Student Exchange Visitor Information System (SEVIS). The certification is renewable every two years. A web-based training course, "SEVIS Training for School Officials," is available on the U.S. Immigration and Customs Enforcement's web site.

This program is different from the international exchange program in which high school students from other countries are allowed into the United States to study at a sister or partner California school under the sponsorship of a government-approved agency. For information on the international exchange program, see BP/AR 6145.6 - International Exchange.

The Superintendent or designee shall, on behalf of the district, seek and obtain from the U.S. Department of Homeland Security's (DHS) Student and Exchange Visitor Program (SEVP) certification of eligibility to enroll nonimmigrant foreign students in district schools and recertification for the continuing eligibility of the district every two years. (8 CFR 214.3)

(cf. 6145.6 - International Exchange)

Note: Nonimmigrant students who are in the United States with an F-1 visa are, by definition, nonresidents. Pursuant to 8 USC 1184, such individuals are required to pay tuition in an amount equal to the unsubsidized per-student cost of providing education at the school for the period of the student's attendance. This requirement for payment of tuition may not be waived by the district and, according to the U.S. Department of State's publication, Foreign Students (F-1) in Public Schools, is applicable notwithstanding the fact that the student resides with a relative who is a U.S. citizen. Districts should make a reasonable estimate of the per-student cost of education when determining the tuition since no specific guidance has been provided for calculating the cost of attendance.

On a case-by-case basis, the Superintendent or designee may accept for admission into any of grades 9-12 any nonimmigrant foreign student with or seeking an F-1 visa. Any such student shall be admitted for a maximum of one year and shall pay the district the full, unsubsidized per-student cost of attendance at the school. (8 USC 1184)

(cf. 5111.1 - District Residency)

In determining whether to admit a student, the Superintendent or designee shall consider whether the following conditions exist: (8 CFR 214.3; 22 CFR 41.61)

1. A suitable program exists at the school the student has selected.
2. The student's English proficiency is sufficient for successful study at that school.

NONRESIDENT FOREIGN STUDENTS (continued)

3. Space is available at the school.
4. The student has provided proof of financial responsibility.

In addition to fulfilling all other requirements for school entry, the student shall submit evidence that he/she has been fully immunized in accordance with California law.

(cf. 5141.31 - Immunizations)

Note: Pursuant to 8 CFR 214.3, districts are required to comply with special recordkeeping requirements regarding nonimmigrant foreign students.

In accordance with law, the Superintendent or designee shall retain and, when required, report to DHS any records for nonimmigrant foreign students required for the operation of the SEVP. Upon request, he/she also shall furnish to DHS representatives other records maintained by the district for nonimmigrant foreign students. (8 CFR 214.3)

(cf. 5125 - Student Records)

The Superintendent or designee shall ensure that any individual dealing with enrollment of nonimmigrant foreign students is trained on the use of the Student Exchange Visitor Information System.

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

Legal Reference: (see next page)

NONRESIDENT FOREIGN STUDENTS (continued)

Legal Reference:

EDUCATION CODE

48050-48054 Nonresidents

UNITED STATES CODE, TITLE 8

1184 Foreign students

1372 Reporting requirements, nonimmigrant foreign students

CODE OF FEDERAL REGULATIONS, TITLE 8

214.3 Petition for school approval

214.4 Withdrawal of school approval

CODE OF FEDERAL REGULATIONS, TITLE 22

41.61 Students; academic and nonacademic

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES

0319.97 Amendments to F-1 Student Visa Requirements, LO: 1-97

U.S. DEPARTMENT OF STATE PUBLICATIONS

Foreign Students (F-1) in Public Schools

WEB SITES

U.S. Department of Homeland Security, Student and Exchange Visitor Program:

<http://www.ice.gov/sevis>

U.S. Department of State: http://travel.state.gov/visa/temp/types/types_1269.html#1

U.S. Immigration and Customs Enforcement: <http://www.ice.gov>

Center USD

Administrative Regulation

Nonresident Foreign Students

AR 5111.2
Students

Definitions

F-1 Visa Students: An F-1 visa student is a nonimmigrant visa category intended for use by nonresident aliens whose primary purpose for visiting the United States is to study at an academic school. (8 USC 1184)

J-1 Visa Students: A J-1 visa student is a nonimmigrant exchange student who has come to the United States to study for a specific period of time under the sponsorship of a government approved agency. (8 USC 1184)

(cf. 6145.6 - International Exchange)

Nonimmigrant foreign students may be admitted to the United States for a temporary stay for the purpose of study.

(cf. 5111.1 - District Residency)

F-1 Visa Students

On a case-by-case basis, students with or seeking an F-1 visa designation shall be accepted for admission to district schools in grades 9-12.

(cf. 6200 - Adult Education)

In determining whether to admit the student, the Superintendent or designee shall consider whether the following conditions exist: (8 CFR 214.3, 22 CFR 41.61)

1. A suitable program exists at the school the student has selected
2. The student's English proficiency is sufficient for successful study at that school
3. Space is available
4. The student has provided proof of financial responsibility

In addition, the student shall also submit evidence that he/she has been fully immunized in accordance with California law.

(cf. 5141.31 - Immunizations)

A student shall be admitted for a maximum of one year. In addition, a student granted admission under this program shall pay the district the full, unsubsidized per-student cost of attendance at the secondary school. (8 USC 1184)

Legal Reference:

EDUCATION CODE

8050-48054 Nonresidents

UNITED STATES CODE, TITLE 8

1184 Foreign students

CODE OF FEDERAL REGULATIONS, TITLE 8

214.3 Petition for school approval

214.4 Withdrawal of school approval

CODE OF FEDERAL REGULATIONS, TITLE 22

41.61 Students; academic and nonacademic

Management Resources:

CDE LEGAL ADVISORIES

0319.97 Amendments to F-1 Student Visa Requirements, LO: 1-97

Regulation CENTER UNIFIED SCHOOL DISTRICT
approved: February 25, 1998 Antelope, California

FOOD ALLERGIES/SPECIAL DIETARY NEEDS

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

The Governing Board desires to prevent students' exposure to foods to which they are allergic or intolerant and to provide for prompt and appropriate treatment in the event that a severe allergic reaction occurs at school.

The Superintendent or designee shall develop guidelines for the care of food-allergic students. Such guidelines shall include, but are not limited to, strategies for identifying students at risk for allergic reactions, avoidance measures, education of staff regarding typical symptoms, and actions to be taken in the event of a severe allergic reaction.

(cf. 3550 - Food Service/Child Nutrition Program)

(cf. 3552 - Summer Meal Program)

(cf. 3554 - Other Food Sales)

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

(cf. 5030 - Student Wellness)

(cf. 5141 - Health Care and Emergencies)

(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)

Parents/guardians shall be responsible for notifying the Superintendent or designee, in writing, regarding any food allergies or other special dietary needs of their child in accordance with administrative regulation.

(cf. 5125 - Student Records)

Note: If a student's food allergy or food intolerance substantially limits one or more major life activities, the student may be considered "disabled" in accordance with Section 504 of the federal Rehabilitation Act (29 USC 794), even if he/she does not require services pursuant to the Individuals with Disabilities Education Act (20 USC 1400-1482). For Section 504 purposes, the definitions of "disability" and "substantially limits" contained in 42 USC 12102, as amended by the Americans with Disabilities Amendments Act of 2008, require that a determination of disability be made without regard to the ameliorative effects of mitigating measures. For example, if a student has a severe allergy that is managed through allergy shots, frequent hand washing, bringing a lunch from home, or other measures, he/she may still be considered disabled under Section 504 if the allergy would substantially limit a major life activity without those mitigating measures. The district would need to evaluate the student to determine if he/she has a disability and to develop an accommodation plan if necessary. See BP/AR 6164.6 - Identification and Education Under Section 504.

The U.S. Department of Education's Office for Civil Rights (OCR), in its January 2012 [Dear Colleague Letter](#) and accompanying [Questions and Answers on ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools](#), clarifies that under the new rules, many students with allergies would be considered to have a disability because their allergies are likely to

FOOD ALLERGIES/SPECIAL DIETARY NEEDS (continued)

substantially limit the major life activities of breathing and respiratory function without mitigating measures. Furthermore, an existing individualized health care plan may be insufficient if it does not comply with current Section 504 requirements for evaluation, placement, and procedural safeguards. Some regional offices of OCR have taken the position that a Section 504 plan is required because of the inherent danger that can result from an allergic reaction.

The types of accommodations that may be considered reasonable vary depending on the individual needs of the student and the severity of the allergy. The National School Boards Association's Legal and Practical Issues Relating to Accommodating Students with Peanut Allergies cites cases in which the accommodations imposed by administrative hearing officers ranged from providing an allergy-free table in the cafeteria to banning peanuts in a classroom.

~~When a student's food allergy or food intolerance substantially limits one or more major life activities, his/her parents/guardians shall be informed of the district's obligation to evaluate the student to determine if he/she requires accommodations pursuant to Section 504 of the federal Rehabilitation Act. The student shall be evaluated in accordance with law and the procedures specified in AR 6164.6 - Identification and Education Under Section 504. If that process results in the development of a Section 504 plan, the district shall provide the accommodations and/or aids and services identified in the plan.~~

~~(cf. 6145 - Extracurricular and Coextracurricular Activities)
(cf. 6164.6 - Identification and Education Under Section 504)~~

~~If a student's diet restrictions and needed services are addressed in an individualized education program (IEP), the Superintendent or designee shall ensure compliance with the IEP including any necessary food substitutions.~~

~~(cf. 6159 - Individualized Education Program)~~

Students with serious dietary needs that qualify as a disability under Section 504 of the federal Rehabilitation Act or the Individuals with Disabilities Education Act shall be provided reasonable accommodation or services, as appropriate, in accordance with his/her accommodation plan or individualized education program.

(cf. 6159 - Individualized Education Program)
(cf. 6164.6 - Identification and Education Under Section 504)

Note: Section 504 and other federal and state laws prohibit discrimination on the basis of disability. If an allergic student is determined to be "disabled" as discussed above, he/she is entitled to protection under the nondiscrimination provisions of Section 504, even if he/she does not need any special education or related services as a result of the allergy. In addition, Education Code 234.1 requires districts to adopt a process for receiving and investigating student complaints involving discrimination, harassment, intimidation, and bullying based on specified characteristics, including disability; see AR 1312.3 - Uniform Complaint Procedures.

Students shall not be excluded from school activities nor otherwise discriminated against, harassed, intimidated, or bullied because of their food allergy.

FOOD ALLERGIES/SPECIAL DIETARY NEEDS (continued)

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

(cf. 5131.2 - Bullying)

(cf. 5145.3 - Nondiscrimination/Harassment)

Any complaint of alleged noncompliance with this policy shall be addressed through appropriate district complaint procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 3555 - Nutrition Program Compliance)

The district's food services program may, but is not required to, accommodate individual student preferences or diets that are not supported by a statement from the student's health care provider.

Legal Reference: (see next page)

FOOD ALLERGIES/SPECIAL DIETARY NEEDS (continued)

Legal Reference:

EDUCATION CODE

234.1 *Prohibition against discrimination, harassment, intimidation, and bullying*

49407 *Liability for treatment*

49408 *Emergency information*

49414 *Emergency epinephrine auto-injectors*

49423 *Administration of prescribed medication for student*

CODE OF REGULATIONS, TITLE 5

600-611 *Administering medication to students*

15562 *Reimbursement for meals, substitutions*

UNITED STATES CODE, TITLE 20

1232g *Family Educational Rights and Privacy Act of 1974*

1400-1482 *Individuals with Disabilities Education Act*

UNITED STATES CODE, TITLE 29

701-795a *Rehabilitation Act, including:*

794 *Rehabilitation Act of 1973, Section 504*

UNITED STATES CODE, TITLE 42

1751-1769h *National School Lunch Program*

1771-1791 *Child nutrition, especially:*

1773 *School Breakfast Program*

12101-12213 *Americans with Disabilities Act*

CODE OF FEDERAL REGULATIONS, TITLE 7

210.1-210.31 *National School Lunch Program*

220.1-220.21 *National School Breakfast Program*

225.16 *Meal programs, individual substitutions*

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Training Standards for the Administration of Epinephrine Auto-Injectors, December 2004

FOOD ALLERGY RESEARCH AND EDUCATION PUBLICATIONS

School Guidelines for Managing Students with Food Allergies

NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS

Legal and Practical Issues Relating to Accommodating Students with Peanut Allergies, Inquiry and Analysis, April 2009

U.S. DEPARTMENT OF AGRICULTURE PUBLICATIONS

Accommodating Children with Special Dietary Needs in the School Nutrition Programs: Guidance for School Food Service Staff, 2001

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

Dear Colleague Letter and Questions and Answers on ADA Amendments Act of 2008 for Students with Disabilities Attending Public Elementary and Secondary Schools, January 2012

WEB SITES

California Department of Education, Health Services: <http://www.cde.ca.gov/ls/he/hn>

Food Allergy Research and Education: <http://www.foodallergy.org>

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

U.S. Department of Agriculture: <http://www.fns.usda.gov>

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

Center USD

Board Policy

Food Allergies/Special Dietary Needs

BP 5141.27

Students

The Governing Board desires to prevent exposure of students to foods to which they are allergic and to provide for prompt and appropriate treatment in the event that a severe allergic reaction occurs at school.

The Superintendent or designee shall develop guidelines for the care of food-allergic students. Such guidelines shall include, but not be limited to, strategies for identifying students at risk for allergic reactions, avoidance measures and other means to manage allergies, education of staff regarding typical symptoms, and actions to be taken in the event of a severe allergic reaction.

(cf. 3550 - Food Service/Child Nutrition Program)

(cf. 3554 - Other Food Sales)

(cf. 5030 - Student Wellness)

(cf. 5141 - Health Care and Emergencies)

(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)

Parents/guardians shall be responsible for notifying the Superintendent or designee, in writing, regarding any food allergies or other special dietary needs of their child in accordance with administrative regulation.

(cf. 5125 - Student Records)

Students with serious dietary needs that qualify as a disability under Section 504 of the federal Rehabilitation Act or the Individuals with Disabilities Education Act shall be provided reasonable accommodation or services, as appropriate, in accordance with his/her accommodation plan or individualized education program.

(cf. 6159 - Individualized Education Program)

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

Students shall not be excluded from school activities based solely on their food allergy.

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

Legal Reference:

EDUCATION CODE

49407 Liability for treatment
49408 Emergency information
49414 Emergency epinephrine auto-injectors
49423 Administration of prescribed medication for student
CODE OF REGULATIONS, TITLE 5
600-611 Administering medication to students
15562 Reimbursement for meals, substitutions
UNITED STATES CODE, TITLE 20
1232g Family Educational Rights and Privacy Act of 1974
1400-1482 Individuals with Disabilities Education Act
UNITED STATES CODE, TITLE 29
701-795a Rehabilitation Act, including:
794 Rehabilitation Act of 1973, Section 504
UNITED STATES CODE, TITLE 42
1751-1769h National School Lunch Program
1771-1791 Child nutrition, especially:
1773 School Breakfast Program
CODE OF FEDERAL REGULATIONS, TITLE 7
210.1-210.31 National School Lunch Program
220.1-220.21 National School Breakfast Program
225.16 Meal programs, individual substitutions

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Training Standards for the Administration of Epinephrine Auto-Injectors, December 2004

FOOD ALLERGY AND ANAPHYLAXIS NETWORK (FAAN) PUBLICATIONS

School Guidelines for Managing Students with Food Allergies

U.S. DEPARTMENT OF AGRICULTURE PUBLICATIONS

Accommodating Children with Special Dietary Needs in the School Nutrition Programs:

Guidance for School Food Service Staff, Fall 2001

WEB SITES

American Dietetic Association: <http://www.eatright.org>

American School Food Service Association: <http://www.asfsa.org>

California Department of Education, Health Services and School Nursing:

<http://www.cde.ca.gov/ls/he/hn>

Food Allergy and Anaphylaxis Network: <http://www.foodallergy.org>

International Food Information Council: <http://ific.org>

National School Boards Association, School Health Programs: <http://www.nsba.org>

U.S. Department of Agriculture: <http://www.fns.usda.gov>

Policy CENTER UNIFIED SCHOOL DISTRICT

adopted: June 20, 2007 Antelope, California

FOOD ALLERGIES/SPECIAL DIETARY NEEDS

Definitions

Special dietary needs include food intolerances, allergies, and other medical needs that may require avoidance of specific foods.

Food allergies are abnormal responses of the body's immune system to certain foods or ingredients.

Anaphylaxis is a potentially life-threatening hypersensitivity to a substance and may be caused by a food allergy. Symptoms may include shortness of breath, wheezing, difficulty breathing, difficulty talking or swallowing, hives, itching, swelling, shock, or asthma. (Education Code 49414)

In severe cases, anaphylaxis may result in lowered blood pressure, loss of consciousness, or even death. Symptoms typically appear immediately after exposure to a certain food or substance but in rare cases may occur after a few hours.

Epinephrine auto-injector is a disposable drug delivery system with a spring-activated concealed needle that is designed for emergency administration of epinephrine to persons suffering a potentially fatal reaction to anaphylaxis. (Education Code 49414)

Notification by Parent/Guardian

If their child has a known food allergy, the parents/guardians shall notify the Superintendent or designee, in writing, and provide written medical documentation, signed by a physician, that describes the nature of the student's condition, instructions, and necessary medications. If the food allergy requires food substitutions or modifications in school meals, the written statement shall also describe the specific foods to be restricted and the foods that should be substituted.

Prevention

To minimize students' exposure to foods to which they are allergic, the Superintendent or designee shall, at a minimum, implement the following preventive measures:

1. Notification to District Staff

When notified by the parent/guardian that a student has a food allergy, the Superintendent or designee shall inform the student's principal, teacher(s), bus driver, school nurse, coach, substitute teacher, and/or any other personnel responsible for supervising the student.

The principal or designee shall notify substitute staff of any students with known food allergies and the school's response plan.

(cf. 5125 - Student Records)

2. Food Services

The district's food services program shall make food substitutions in breakfasts, lunches, and after-school snacks when students are considered to have a disability under Section 504 of the federal Rehabilitation Act of 1973 that restricts their diet and when a ~~physician~~ health care provider has signed a statement of need that includes recommended alternate foods. (7 CFR 210.10, 220.8)

(cf. 3550 - Food Service/Child Nutrition Program)

(cf. 3554 - Other Food Sales)

(cf. 5030 - Student Wellness)

Substitutions may be made on a case-by-case basis for students who do not have a disability under Section 504 but who cannot consume the regular breakfast, lunch, or after-school snack because of medical or other special dietary needs, when supported by a statement of need signed by a ~~recognized medical authority~~ health care provider. (7 CFR 210.10, 220.8, 225.16)

The district's food services staff shall check food labels or specifications to ensure that foods do not contain traces of substances to which the student is allergic.

Under no circumstances shall food services staff prescribe nutritional requirements or revise a diet order prescribed by a physician.

Food substitutions shall not result in any additional cost to the student.

3. Class Parties/School Activities

Without identifying the student, the principal or teacher may notify parents/guardians of other students in the class that a student is allergic to a specific food and may request that the food not be provided at class parties or other school events.

Whenever the ingredients in any food served at class parties or other school activities are unknown, the student shall be encouraged to avoid the food.

4. Sanitation and Cleaning

To avoid spreading allergens, cafeteria tables and classroom surfaces shall be cleaned with a fresh cloth or disposable paper towels and cleaning products known to effectively remove food proteins, excluding waterless cleaners or instant hand sanitizers that do not involve a wet-wash step. Cross-contact from a sponge or cloth used to clean allergen-containing tabletops shall be avoided.

Staff shall use and promote hand-washing using soap and water before and after food handling.

Students shall be notified that exchanging meals or utensils is prohibited.

5. Professional Development

Schoolwide professional development shall be provided to appropriate staff on the identification and management of food allergies, including avoidance measures, typical symptoms, the proper use of epinephrine auto-injectors, documentation and storage of medication, and emergency drills.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

6. Supervision of Students

When available, staff who are trained and knowledgeable about symptoms of anaphylaxis and actions to take in an emergency shall provide supervision in the classroom and cafeteria and on the playground whenever students known to have a food allergy are on school grounds.

7. Health Education

The district's health education curriculum may include instruction on food allergies in order to assist food-allergic students in taking responsibility for monitoring their diet and to teach other students about the dangers of sharing foods or utensils with others.

(cf. 6142.8 - Comprehensive Health Education)

Emergency Response

Epinephrine auto-injectors or other medicine provided for use in the event of an anaphylactic shock reaction shall be stored and used in accordance with law and BP/AR 5141.21 - Administering Medication and Monitoring Health Conditions.

(cf. 4119.43 - Universal Precautions)

(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)

In addition, staff shall call 911 and seek immediate medical attention for a student experiencing an anaphylactic shock reaction.

(cf. 5141 - Health Care and Emergencies)

As soon as possible, school staff shall contact the student's parents/guardians or other person identified as an emergency contact.

When a student with a known allergy will be off school grounds, such as on a field trip, he/she shall be accompanied by a kit containing at least two doses of epinephrine, other medications as noted by the student's health care provider, and, as appropriate, the student's individualized food allergy plan.

Regulation
approved:

CSBA MANUAL MAINTENANCE SERVICE
August 2013

Center USD

Administrative Regulation

Food Allergies/Special Dietary Needs

AR 5141.27
Students

Definitions

Special dietary needs include food intolerances, allergies, and other medical needs that may require avoidance of specific foods.

Food allergies are abnormal responses of the body's immune system to certain foods or ingredients.

Anaphylaxis is a potentially life-threatening hypersensitivity to a substance and may be caused by a food allergy. Symptoms may include shortness of breath, wheezing, difficulty breathing, difficulty talking or swallowing, hives, itching, swelling, shock, or asthma. (Education Code 49414)

In severe cases, anaphylaxis may result in lowered blood pressure, loss of consciousness, or even death. Symptoms typically appear immediately after exposure to a certain food or substance but in rare cases may occur after a few hours.

Epinephrine auto-injector is a disposable drug delivery system with a spring-activated concealed needle that is designed for emergency administration of epinephrine to persons suffering a potentially fatal reaction to anaphylaxis. (Education Code 49414)

Notification by Parent/Guardian

If their child has a known food allergy, the parents/guardians shall notify the Superintendent or designee, in writing, and provide written medical documentation, signed by a physician, that describes the nature of the student's condition, instructions, and necessary medications. If the food allergy requires food substitutions or modifications in school meals, the written statement shall also describe the specific foods to be restricted and the foods that should be substituted.

Prevention

To minimize students' exposure to foods to which they are allergic, the Superintendent or designee shall, at a minimum, implement the following preventive measures:

1. Notification to District Staff

When notified by the parent/guardian that a student has a food allergy, the Superintendent or designee shall inform the student's principal, teacher(s), bus driver, school nurse, coach, substitute teacher, and/or any other personnel responsible for supervising the student.

The principal or designee shall notify substitute staff of any students with known food allergies and the school's response plan.

(cf. 5125 - Student Records)

2. Food Services

The district's food services program shall make food substitutions in breakfasts, lunches, and after-school snacks when students are considered to have a disability under Section 504 of the federal Rehabilitation Act of 1973 that restricts their diet and when a physician has signed a statement of need that includes recommended alternate foods. (7 CFR 210.10, 220.8)

(cf. 3550 - Food Service/Child Nutrition Program)

(cf. 3554 - Other Food Sales)

(cf. 5030 - Student Wellness)

Substitutions may be made on a case-by-case basis for students who do not have a disability under Section 504 but who cannot consume the regular breakfast, lunch, or after-school snack because of medical or other special dietary needs, when supported by a statement of need signed by a recognized medical authority. (7 CFR 210.10, 220.8, 225.16)

The district's food services staff shall check food labels or specifications to ensure that foods do not contain traces of substances to which the student is allergic.

Under no circumstances shall food services staff prescribe nutritional requirements or revise a diet order prescribed by a physician.

Food substitutions shall not result in any additional cost to the student.

3. Class Parties/School Activities

Without identifying the student, the principal or teacher may notify parents/guardians of other students in the class that a student is allergic to a specific food and may request that the food not be provided at class parties or other school events.

Whenever the ingredients in any food served at class parties or other school activities are unknown, the student shall be encouraged to avoid the food.

4. Sanitation and Cleaning

To avoid spreading allergens, cafeteria tables and classroom surfaces shall be cleaned with a fresh cloth or disposable paper towels and cleaning products known to effectively remove food proteins, excluding waterless cleaners or instant hand sanitizers that do not involve a wet-wash step. Cross-contact from a sponge or cloth used to clean allergen-containing tabletops shall be avoided.

Staff shall use and promote hand-washing using soap and water before and after food handling.

Students shall be notified that exchanging meals or utensils is prohibited.

5. Professional Development

Schoolwide professional development shall be provided to appropriate staff on the identification and management of food allergies, including avoidance measures, typical symptoms, the proper use of epinephrine auto-injectors, documentation and storage of medication, and emergency drills.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

6. Supervision of Students

Staff who are trained and knowledgeable about symptoms of anaphylaxis and actions to take in an emergency shall provide supervision in the classroom and cafeteria and on the playground whenever students known to have a food allergy are on school grounds.

7. Health Education

The district's health education curriculum may include instruction on food allergies in order to assist food-allergic students in taking responsibility for monitoring their diet and to teach other students about the dangers of sharing foods or utensils with others.

(cf. 6142.8 - Comprehensive Health Education)

Emergency Response

Epinephrine auto-injectors or other medicine provided for use in the event of an anaphylactic shock reaction shall be stored and used in accordance with law and BP/AR 5141.21 - Administering Medication and Monitoring Health Conditions.

(cf. 4119.43 - Universal Precautions)

(cf. 5141.21 - Administering Medication and Monitoring Health Conditions)

In addition, staff shall call 911 and seek immediate medical attention for a student experiencing an anaphylactic shock reaction.

(cf. 5141 - Health Care and Emergencies)

As soon as possible, school staff shall contact the student's parents/guardians or other person identified as an emergency contact.

Regulation CENTER UNIFIED SCHOOL DISTRICT
approved: June 20, 2007 Antelope, California

YEAR-ROUND SCHEDULES

Note: The following **optional** policy is for use by districts that operate or are considering the establishment of a year-round calendar in one or more schools, as authorized by Education Code 37610. Like schools on traditional calendar, year-round schools can have 180 days of instruction. However, they maintain a different pattern of instruction and vacations than schools on traditional calendar. While traditional calendar schools have nine months of instruction and three months of vacation during the summer, year-round schools operate on shorter blocks of time for instruction and vacation, such as 60 days of instruction followed by 20 days of vacation. Some year-round schools operate a "multitrack" plan as defined in Education Code 17017.7. Such a program is designed to increase the enrollment capacity of the school by dividing the student body and staff into groups or tracks (usually three to five groups) and rotating attendance so that, at any time during the school year, at least one group or track is on vacation while the other groups are attending school.

Pursuant to Education Code 37693, the multitrack year-round program whereby a school operates on a three-track year-round calendar, with each track offering as few as 163 days of instruction per school year (Concept 6 program), has been eliminated.

The Governing Board believes that a year-round school schedule could benefit the district and its students by providing continuous instruction and reducing learning loss in students over extended vacations, allowing timely interventions to improve academic achievement, and alleviating overcrowding in schools through efficient use of school facilities. The Board shall consider the feasibility of establishing year-round schedules based on current and projected enrollments, facilities needs, and instructional needs.

(cf. 6111 - School Calendar)

(cf. 7110 - Facilities Master Plan)

Before approving a year-round program in any district school, the Board shall consult in good faith, in an effort to reach agreement with certificated and classified employees of the school, parents/guardians of students who would be affected by the change, and the community at large. Such consultation shall include at least one public hearing. (Education Code 37616)

(cf. 0420 - School Plans/Site Councils)

(cf. 4143/4243 - Negotiations/Consultation)

(cf. 9320 - Meetings and Notices)

When the Board is considering a year-round schedule for any school, the Superintendent or designee shall submit to the Board a comprehensive proposal that, at a minimum, shall address the schedule to be operated, the number of tracks the school will have, any needed facilities modifications, a communications system for notifying off-track families of school activities and developments, and how the ethnic and socioeconomic composition of the school will be maintained within each track.

If the Board determines to operate a year-round program in a manner that would require any student to enroll, the Superintendent or designee shall publish, not later than November 1 of

YEAR-ROUND SCHEDULES (continued)

the school year preceding the commencement of the program, notice of the district's intention to operate the program. Such notice shall be published in a newspaper of general circulation within the district, or if there is no such newspaper, then in any newspaper of general circulation that is regularly circulated in the district. The notice shall be published once each week for three successive weeks or, if the newspaper is regularly published once a week or more often, at least three times with at least five days intervening between the respective publication dates not counting the publication dates. (Education Code 37611)

(cf. 5116.1 - Intradistrict Open Enrollment)

Note: Pursuant to Education Code 37612, after the district has published the above notice, residents may request that the school not establish such a schedule by presenting a petition to the County Superintendent of Schools. This petition must be signed by at least 25 percent of the registered voters of the district and be submitted no later than December 10 of the year in which the notice is given. If the County Superintendent finds the petition to be sufficient as required by law, he/she will order a proposition to be placed upon the ballot of the appropriate election as provided in Education Code 37613. Irrespective of whether or not a petition is presented, the Board may request that an election be called and conducted.

On the Board's order, or upon a sufficient petition by the public to the County Superintendent of Schools after the above notice of intention is given by the district, an election shall be called to determine whether to permit a year-round program to be operated. (Education Code 37612)

Note: Education Code 37620 and 41420 establish 175 days of instruction as the minimum requirement to receive full average daily attendance reimbursement. Districts have the ability to increase to 180 days of instruction with longer day or year incentives pursuant to Education Code 46200-46206. The following paragraph provides for 180 days of instruction. Districts that provide fewer than 180 days should modify the following paragraph accordingly.

Each year-round school shall offer 180 days of instruction per school year, except for any school year in which the district and employee organization(s) agree to have fewer days of instruction pursuant to the authorization in Education Code 46201.2. (Education Code 37620)

(cf. 1431 - Waivers)

(cf. 6112 - School Day)

Each school operating on a year-round schedule shall be closed for all students and employees on regular school holidays. (Education Code 37619)

(cf. 6115 - Ceremonies and Observances)

YEAR-ROUND SCHEDULES (continued)

The Superintendent or designee shall annually submit a report to the Board regarding each district school operating a year-round schedule. The report shall include results of the school's academic assessments and how they compare with those of other schools, necessary facilities maintenance or repairs, and costs incurred or saved on account of operating a year-round schedule at the school.

(cf. 0500 - Accountability)

(cf. 0510 - School Accountability Report Card)

(cf. 3460 - Financial Reports and Accountability)

(cf. 3517 - Facilities Inspection)

Assignment to Year-Round Tracks

The Superintendent or designee shall establish an unbiased process for determining assignment of students to tracks based on the following criteria:

1. Students of the same family shall be placed in the same group or track unless one or more of such students are enrolled in a special education class or unless the parent/guardian requests that the students be placed in different groups. (Education Code 37617)

Note: Item #2 below lists optional criteria for assigning students to tracks and may be revised to reflect district practice.
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2. Assignment based on ability level shall be minimized except when necessary to accommodate special education needs or other specialized programs.

(cf. 6159 - Individualized Education Program)

(cf. 6172 - Gifted and Talented Student Program)

After assignment based on the above priorities, remaining students shall be chosen on a lottery basis when the number of students requesting a particular track exceeds spaces available. Second preferences shall be accommodated to the extent possible.

The Superintendent or designee shall give parents/guardians adequate notice regarding their child's schedule.

Note: The following paragraph is optional and may be modified to reflect district practice. In its <u>Year-Round Education Program Guide</u> , the California Department of Education lists an appeal process among track assignment considerations for implementing a year-round educational program.

Any parent/guardian who is dissatisfied with the track assignment of his/her child may appeal the assignment to the Superintendent or designee within five business days, stating

YEAR-ROUND SCHEDULES (continued)

why a different track is more appropriate for his/her child. The Superintendent or designee shall respond to the parent/guardian within five business days. The Superintendent's decision shall be final.

Once students are assigned to a track, priority shall be placed on keeping students on the same track each year unless the parent/guardian requests a change.

Legal Reference:

EDUCATION CODE

17017.5 Approval of applications; year-round education program

17017.6 Substantial enrollment, high school districts

17017.7 Priority for funding new construction

17071.40 Exemption from increase in school building capacity

17088.3 Qualifications for lease; submission of year-round multitrack educational program study

37202 Equity length of term, exceptions

37220-37223 Saturdays and holidays

37600-37644 Continuous school programs

37670-37672 Multi-track year round scheduling

41420 Minimum number of instructional days per year

42250.1 Funding for air conditioning

46200-46206 Incentives for longer instructional day and year

CODE OF REGULATIONS, TITLE 5

855 Testing period

884 Primary language testing period

14030 School housing standards for multitrack programs

Management Resources:

WEB SITES

California Department of Education, Multitrack Year-Round Education:

<http://www.cde.ca.gov/ls/fa/yr>

National Association for Year-Round Education: <http://www.nayre.org>

Center USD

Board Policy

Year-Round Schedules

BP 6117

Instruction

The Governing Board believes that a year-round school schedule can reduce loss of student learning over vacations as well as enable the district to address overcrowding in schools through the more efficient use of school facilities. The feasibility of establishing year-round schedules shall be considered as the Board monitors current and projected enrollments, facilities needs, and instructional needs.

(cf. 6111 - School Calendar)

(cf. 7110 - Facilities Master Plan)

Before approving a year-round program in any district school, the Board shall consult with certificated and classified employees of the school, parents/guardians of students who would be affected by the change, and the community at large. Such consultation shall include at least one public hearing. (Education Code 37616)

The Superintendent or designee shall develop a year-round schedule for any school selected or approved by the Board for year-round schedule. The schedule shall specify the number of tracks or groups into which students and staff shall be divided and the number and length of instructional and vacation periods.

Assignment to Year-Round Tracks

The Superintendent or designee shall establish an unbiased process for determining assignment of students to tracks based on the following criteria:

1. Students of the same family shall be placed in the same group or track unless one or more of such students are enrolled in a special education class or unless the parent/guardian requests that the students be placed in different groups. (Education Code 37617)

(cf. 6159 - Individualized Education Program)

2. Assignment based on ability level shall be minimized except when necessary to accommodate special education needs or other specialized programs.

(cf. 6172 - Gifted and Talented Student Program)

After assignment based on the above priorities, remaining students shall be chosen on a

lottery basis when the number of students requesting a particular track exceeds spaces available. Second preferences shall be accommodated to the extent possible.

The Superintendent or designee shall give parents/guardians adequate notice regarding their child's schedule.

Once students are assigned to a track, priority shall be placed on keeping students on the same track each year unless the parent/guardian requests a change.

Legal Reference:

EDUCATION CODE

17017.5 Approval of applications; year-round education program

17017.6 Substantial enrollment, high school districts

17017.7 Priority for funding new construction

17071.40 Exemption from increase in school building capacity

17088.3 Qualifications for lease; submission of year-round multitrack educational program study

37202 Equity length of term, exceptions

37220-37223 Saturdays and holidays

37600-37644 Continuous school programs

37670-37672 Multi-track year round scheduling

37680-37695 Concept 6 class scheduling

41420 Minimum number of instructional days per year

42250.1 Funding for air conditioning

42260-42269 Year-Round School Grant Program

46200-46206 Incentives for longer instructional day and year

CODE OF REGULATIONS, TITLE 5

855 Testing period

884 Primary language testing period

14030 School housing standards for multitrack programs

Management Resources:

WEB SITES

California Department of Education, Multitrack Year-Round Education:

<http://www.cde.ca.gov/ls/fa/yr>

National Association for Year-Round Education: [http:// www.nayre.org](http://www.nayre.org)

Policy CENTER UNIFIED SCHOOL DISTRICT

adopted: March 2, 2005 Antelope, California

Delete

Center USD

Administrative Regulation

Year-Round Schedules

AR 6117
Instruction

All students enrolled in a year-round program shall attend school for a minimum of 175 days during the academic year. (Education Code 37620)

(cf. 6111 - School Calendar)
(cf. 6112 - School Day)

Each school operating on a year-round schedule shall be closed for all students and employees on regular school holidays. (Education Code 37619)

(cf. 6115 - Ceremonies and Observances)

Notice of Intent to Establish Year-Round Program

If the Governing Board determines to operate a year-round program in a manner that would require any student to enroll, the Superintendent or designee shall publish, not later than November 1 of the school year preceding the commencement of the program, notice of the district's intention to operate such a program. Such notice shall be published in a newspaper of general circulation within the district, or if there is no such newspaper, then in any newspaper of general circulation that is regularly circulated in the district. The notice shall be published once each week for three successive weeks or, if the newspaper is regularly published once a week or more often, at least three times with at least five days intervening between the respective publication dates not counting the publication dates. (Education Code 37611)

(cf. 5116.1 - Intradistrict Open Enrollment)

Regulation CENTER UNIFIED SCHOOL DISTRICT
approved: March 2, 2005 Antelope, California

USE OF COPYRIGHTED MATERIALS

Note: 17 USC 106 grants a copyright owner the exclusive rights to reproduce, distribute, make derivative works of, publicly perform, or publicly display the copyrighted work or to authorize others to do so. The district should be aware that materials subject to copyright protection need not be registered with the U.S. Copyright Office to be subject to federal intellectual property protection.

However, pursuant to 17 USC 107, "fair use" (i.e., the reproduction of limited portions of copyrighted materials without the copyright owner's permission) is allowed for such purposes as criticism, comment, news reporting, teaching, scholarship, or research. Factors to be included in determining whether a particular use constitutes "fair use" include: (1) the purpose and character of the use, including whether the use is of a commercial nature or is for nonprofit educational purposes; (2) the nature of the copyrighted work; (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and (4) the effect of the use upon the potential market for or value of the copyrighted work. In Campbell v. Acuff-Rose Music, Inc. and Cambridge University Press et al. v. Becker et al., the courts reaffirmed that the four factors must be weighed together, not in isolation, on a case-by-case basis and that 17 USC 107 does not exclude consideration of other factors.

Other exceptions exist for schools, including library reproduction and archiving (17 USC 108); first sale (17 USC 109); and classroom performance, display, and distance education (17 USC 110). In addition, materials that are in the "public domain" (i.e., materials that are ineligible for copyright or have an expired copyright) may be freely used. Determination of whether a material is in the public domain depends on the date of the original copyright and other factors; see the U.S. Copyright Office web site and University of California Copyright Education web site.

Because of the complexity of these laws, the district should consult with legal counsel as necessary.

The Governing Board recognizes that district staff and students may use a variety of copyrighted materials in the educational program and other district operations. When such materials have not been purchased by the district for the intended use, the Board expects staff and students to respect the protections afforded by federal law to the copyright owners of those materials and respect any limitations by the copyright holder to the license of such materials.

(cf. 1113 - District and School Web Sites)
(cf. 1114 - District-Sponsored Social Media)
(cf. 4040 - Employee Use of Technology)
(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4132/4232/4332 - Publication or Creation of Materials)
(cf. 5131.9 - Academic Honesty)
(cf. 6141 - Curriculum Development and Evaluation)
(cf. 6161.1 - Selection and Evaluation of Instructional Materials)
(cf. 6161.11 - Supplementary Instructional Materials)
(cf. 6163.1 - Library Media Centers)

Note: Pursuant to 17 USC 102, copyright protection exists for works in the categories listed below and applies to works in "any tangible medium of expression, now known or later developed." Thus, most works available on the Internet or distributed electronically are protected by copyright, including images, text, logos, software, sounds, movie clips, email, and postings to newsgroups. Like other works, material found on the Internet may not be copied unless permission is given by the copyright holder or the use conforms to a recognized exception, such as "fair use" as described above.

USE OF COPYRIGHTED MATERIALS (continued)

Any literary, musical, dramatic, choreographic, pictorial, graphic, sculptural, audiovisual or motion picture, sound, architectural, or other original work shall be assumed to be a copyrighted work, regardless of whether the work appears in print, audio, video, electronic, or other fixed and tangible form.

Before reproducing a copyrighted material for instructional or other district purposes, a staff member shall determine if the material is in the public domain or if the intended use of the material meets the criteria for fair use or another exception pursuant to 17 USC 107-122. If the material is not in the public domain or no recognized exception applies, the staff member shall seek permission of the copyright holder before using the material.

The Superintendent or designee shall inform staff that inclusion of an attribution citing the author and source of a copyrighted material does not absolve the staff member from the responsibility to either obtain permission or satisfy criteria for fair use or another exception.

If a staff member is uncertain as to whether the intended use of the material meets the criteria for fair use or another exception, he/she shall take the safest course and seek permission from the copyright holder to use the material or, if it is impracticable to obtain permission, shall contact the Superintendent or designee for clarification and assistance.

Students shall not copy or distribute copyrighted works to others. Staff members shall take reasonable precautions to prevent copying or the use of unauthorized copies on school equipment.

(cf. 3300 - Expenditures and Purchases)

(cf. 3312 - Contracts)

(cf. 6163.4 - Student Use of Technology)

Note: The following optional paragraph may be revised to reflect district practice. Among the factors considered by the court in Cambridge University Press et al. v. Becker et al. was the extent to which faculty had been trained in implementation of the university's copyright policy. Although the university had offered a one-hour training, it was perceived as voluntary and some faculty who were later accused of copyright infringement had not attended the session.

The Superintendent or designee shall ensure that staff and students receive information and training about copyright laws and the penalties for violating such laws.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Legal Reference: (see next page)

USE OF COPYRIGHTED MATERIALS (continued)

Legal Reference:

EDUCATION CODE

35182 Computer software

UNITED STATES CODE, TITLE 17

101-122 Subject matter and scope of copyright, especially:

102 Definitions

106 Copyright protection

107 Fair use of copyrighted works

110 Limitations on exclusive rights: Exemption of certain performances and displays

504 Penalties for copyright infringement

COURT DECISIONS

Cambridge University Press et al. v. Becker et al., (N.D. Ga. 2012) 863 F.Supp.2d 1190

Campbell v. Acuff-Rose Music, Inc., (1994) 510 U.S. 569

Marcus v. Rowley, (9th Cir., 1982) 695 F.2d 1171

Management Resources:

NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS

Copyright Law: Do Schools Need a License to Show a Movie?, *School Law Review*, July 2010

U.S. COPYRIGHT OFFICE PUBLICATIONS

Circular 21: Reproduction of Copyrighted Works by Educators and Librarians, rev. 2009

Circular 22: How to Investigate the Copyright Status of a Work, rev. 2013

Circular 23: The Copyright Card Catalog and the Online Files of the Copyright Office, rev. 2012

WEB SITES

Copyright Society of the USA: <http://www.csusa.org>

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

University of California, Copyright Education:

<http://copyright.universityofcalifornia.edu/usingcopyrightedworks.html>

U.S. Copyright Office: <http://www.copyright.gov>

Center USD

Board Policy

Use Of Copyrighted Materials

BP 6162.6

Instruction

The Governing Board recognizes the importance of ensuring that the district complies with federal law regarding copyrights. District staff and students are expected to maintain the highest ethical standards in using copyrighted materials.

(cf. 1113 - District and School Web Sites)

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

(cf. 6163.1 - Library Media Centers)

When selecting appropriate supplementary instructional materials, it is each staff member's responsibility to adhere to the provisions of federal copyright law, Board policy, and administrative regulation. The district shall not be responsible for any violation of copyright laws by its staff or students. If a staff member is uncertain as to whether reproducing or using copyrighted material complies with the law, he/she shall contact the Superintendent or designee for clarification and assistance. At no time shall it be necessary for a district employee to violate copyright laws in order to perform his/her duties.

(cf. 4040 - Employee Use of Technology)

(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)

(cf. 6161 - Equipment, Books and Materials)

(cf. 6161.11 - Supplementary Instructional Materials)

The Superintendent or designee shall ensure that the district observes all publisher licensing agreements between vendors and the district, including monitoring the number of users

permitted by an agreement. Unless the applicable licensing agreement authorizes multiple users of a single program, the district shall not make multiple copies of a computer program or software. Staff members shall take reasonable precautions to prevent copying or the use of unauthorized copies on school equipment.

(cf. 0440 - District Technology Plan)

(cf. 3300 - Expenditures and Purchases)

(cf. 3312 - Contracts)

(cf. 6163.4 - Student Use of Technology)

The legal, ethical and practical problems caused by plagiarism should be taught in all of the schools in Center Unified School District.

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

Legal Reference:

EDUCATION CODE

35182 Computer software

UNITED STATES CODE, TITLE 17

101-122 Subject matter and scope of copyright, especially:

102 Definitions

107 Fair use

110 Limitations on exclusive rights: Exemption of certain performances and displays

COURT DECISIONS

Marcus v. Rowley, (9th Cir., 1982) 695 F.2d 1171

Management Resources:

U.S. COPYRIGHT OFFICE PUBLICATIONS

Circular 21: Reproduction of Copyrighted Works by Educators and Librarians, 1995

WEB SITES

Copyright Clearance Center: <http://www.copyright.com>

Copyright Society of the USA: <http://www.csusa.org>

U.S. Copyright Office: <http://www.copyright.gov>

Policy CENTER UNIFIED SCHOOL DISTRICT

adopted: October 15, 2008 Antelope, California

USE OF COPYRIGHTED MATERIALS

Note: Pursuant to 17 USC 101-122, district staff must seek permission from the copyright owner to reproduce and distribute a copyrighted work, except when the material is in the public domain or the use meets the criteria for an exception specified in 17 USC 107-122. Exceptions applicable to schools include "fair use" (17 USC 107); library reproduction and archiving (17 USC 108); first sale (17 USC 109); and classroom performance, display, and distance education (17 USC 110).

Prior to reproducing, distributing, displaying, posting, performing, or otherwise using a copyrighted material for an instructional purpose or in the course of other district business, district staff shall determine whether it is necessary to request permission of the copyright holder. Unless the staff member is reasonably certain that the material is in the public domain or the intended use meets the criteria for an exception specified in 17 USC 107-122 and this administrative regulation, he/she shall either obtain permission from the copyright holder or avoid use of the material. In addition, permission of the copyright holder shall be requested whenever district staff intend to publicly disseminate a copyrighted work, such as by posting on the district or school web site or using another method of communications accessible to the public.

(cf. 1113 - District and School Web Sites)
(cf. 1114 - District-Sponsored Social Media)
(cf. 4040 - Employee Use of Technology)
(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4132/4232/4332 - Publication or Creation of Materials)
(cf. 5131.9 - Academic Honesty)
(cf. 6141 - Curriculum Development and Evaluation)
(cf. 6161.1 - Selection and Evaluation of Instructional Materials)
(cf. 6161.11 - Supplementary Instructional Materials)
(cf. 6163.1 - Library Media Centers)

Any reproduction or other use of a copyrighted work shall include the copyright notice.

District staff shall not reproduce and distribute copyrighted works of any type in any of the following circumstances:

1. When the copyrighted work is a "consumable" work such as a workbook, standardized test, answer sheet, or similar material
2. To substitute for the purchase of the work
3. To create, replace, or substitute for anthologies or collective works

Request for Permission to Use Copyrighted Material

Note: Determining the owner of a copyright can sometimes be difficult because the author or creator of a work is not required to register a copyright or affix a copyright notice to the work. Once a work is created and fixed in a tangible form, it is protected by federal copyright law. To find the holder of a copyright, it may be necessary to conduct a search through the U.S. Copyright Office or request information from the author or publisher of the work. For information about copyright searches, see U.S. Copyright Office publications Circular 22: How to Investigate and Copyright Status of a Work and Circular 23: The Copyright Card Catalog and the Online Files of the Copyright Office.

USE OF COPYRIGHTED MATERIALS (continued)

As necessary, district staff desiring to use a copyrighted material shall identify and contact the copyright holder to request permission to use the material. The request shall include the following information:

1. Title, author(s), editor(s) or publisher, producer(s) or distributor
2. Edition, copyright, and/or production year
3. Exact amount of material to be used, such as the number of lines, pages, or chapters or percentage of the work
4. Nature of the use, such as the course in which it will be used, the grade level of the students, the number of students, and the frequency of use
5. How the material will be reproduced and distributed

If the copyright holder requires a fee to grant permission, district staff shall seek approval from the Superintendent or designee prior to incurring the cost.

Criteria for Fair Use

Note: Pursuant to 17 USC 107, limited portions of copyrighted materials may be reproduced without the copyright owner's permission when the intended use meets the criteria of "fair use." In determining whether the use of a copyrighted material is fair use, the courts have weighed together all four factors specified in 17 USC 107, as described in the following section. Courts have concluded that no individual factor is sufficient by itself; rather, the determination of fair use requires a complex analysis of the interaction of all four factors. District legal counsel should be consulted as needed.

In considering whether a copyrighted work may be used without the copyright holder's permission on the grounds that the intended use is "fair use" pursuant to 17 USC 107, including reproduction in copies, phonorecords, or any other reproductive form for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, district staff shall consider all of the following factors: (17 USC 107)

Note: Although nonprofit educational purposes are granted consideration in determining fair use pursuant to 17 USC 107 (item #1 below), the U.S. Supreme Court in Campbell v. Acuff-Rose Music, Inc., emphasized that a nonprofit educational purpose alone does not automatically ensure fair use.

1. The purpose and character of the use, including whether the use is of a commercial nature or for nonprofit educational purposes

USE OF COPYRIGHTED MATERIALS (continued)

Note: In weighing the impact of the nature of the copyrighted work (item #2 below), the court in Campbell v. Acuff-Rose Music, Inc. noted that the more creative a work (e.g., fiction), the more protection from copying it should be accorded, whereas more informational or functional works should, as a general rule, receive less protection.

2. The nature of the copyrighted work

Note: The third factor specified in 17 USC 107, as provided in item #3 below, requires consideration of both the amount copied in relation to the overall work and whether the excerpt is a "critical part" of the work. The court in Cambridge University Press et al. v. Becker et al. concluded that copying of no more than 10 percent of the pages in the book, when almost none of those pages bore a close relationship to the book as a whole, was permissible under the third factor of fair use.

3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole

Note: Pursuant to 17 USC 107, any fair use of the copyrighted work based on items #1-3 above must be balanced with the financial harm that the use would have on the potential market or value of the work. In Cambridge University Press et al. v. Becker et al., the court held that an identical copy of the work, especially a larger excerpt, is more likely to substitute for the work and reduce its value, whereas a 10 percent excerpt would not substitute for the original no matter how many copies were made. In this case, it was found that materials were used under carefully monitored circumstances, with a password required for digital access and access being terminated at the end of the semester, thereby reducing the risk of the materials being exposed to persons other than the students in the class.

4. The effect of the use upon the potential market for or value of the copyrighted work

Note: Although fair use cannot be determined solely on the basis of the number of words, pages, or chapters reproduced or the percentage of the excerpt in relation to the whole (item #3 above), stakeholder groups have agreed upon some nonbinding minimum guidelines which are included in the U.S. Copyright Office's Circular 21: Reproduction of Copyrighted Works by Educators and Librarians, available on its web site. The remainder of this administrative regulation reflects these guidelines; however, district staff must consider all four factors specified in 17 USC 107 prior to using a copyrighted material without permission.

Any determination of fair use shall weigh together all the factors specified in items #1-4 above in addition to any applicable guidelines presented in this administrative regulation for specific types of copyrighted works.

Guidelines for Copying Text

Note: The following section reflects nonbinding guidelines included in the U.S. Copyright Office's Circular 21: Reproduction of Copyrighted Works by Educators and Librarians. Although the guidelines do not address the use of copyrighted works available on the Internet or through other technological resources, it is generally accepted that the use of such copyrighted works would follow the same guidelines established for other fixed and tangible works. Thus, the following section applies to any copyrighted text regardless of its source or format. The district should consult legal counsel as necessary.

USE OF COPYRIGHTED MATERIALS (continued)

Staff may reproduce text from a copyrighted work from a printed resource, the Internet, or other source, without permission from the copyright holder, under the following conditions:

1. A single copy of a chapter of a book, article from a periodical or newspaper, short story, short essay, short poem, chart, graph, diagram, drawing, cartoon, or picture may be made by or for a teacher for his/her scholarly research or use in teaching or preparation to teach a class.
2. Multiple copies, not to exceed one copy per student in a course, may be made by or for a teacher for classroom use or discussion, provided that:
 - a. The amount to be copied does not exceed:
 - (1) 250 words for a complete poem or excerpt from a poem
 - (2) 2,500 words for a complete article, story, or essay
 - (3) 1,000 words or 10 percent of the whole (with a minimum of 500 words), whichever is less, for an excerpt from a larger prose work
 - (4) One illustration (e.g., chart, graph, diagram, cartoon, or picture) per book or periodical issue
 - b. The copying is for only one course in the school.
 - c. With the exception of newspapers and other news periodicals, not more than one work is copied from the same author per term, not more than three works are copied from the same collective work or periodical volume per term, and there are no more than nine instances of multiple copying per course per term.
 - d. A delay to request permission from the copyright holder would preclude the most effective instructional use of the material.

Guidelines for Reproducing Sheet and Recorded Music

Note: The following section reflects nonbinding guidelines included in the U.S. Copyright Office's Circular 21: Reproduction of Copyrighted Works by Educators and Librarians.

District staff may reproduce sheet music and recorded music without permission from the copyright holder under the following conditions:

USE OF COPYRIGHTED MATERIALS (continued)

1. Emergency copies may be made when purchased copies needed for an imminent performance are not available, provided that replacement copies shall be purchased in due course.
2. Single or multiple copies of excerpts of works may be made for academic purposes other than performances, provided that the excerpt does not constitute an entire performable unit (e.g., a section, movement, or aria), no more than 10 percent of the total work is used, and the number of copies made does not exceed one per student.
3. Printed copies that have been purchased may be edited or simplified provided that the character of the work is not distorted and lyrics are not added or altered.
4. A single copy of a recorded performance by students may be made for evaluation or rehearsal purposes.
5. A single copy of recordings of copyrighted music owned by the district or individual teacher may be made for the purpose of constructing exercises or examinations.

Guidelines for Performing or Displaying Copyrighted Works

<p>Note: Pursuant to 17 USC 101, the holder of a copyright for a motion picture or other audiovisual work retains exclusive rights for public performances of the work (i.e., exhibitions outside of one's home to a normal circle of family and social acquaintances), except that 17 USC 110 provides an exception for performance or display of the work in face-to-face instruction. In such circumstances, it is not necessary to conduct an analysis of fair use nor obtain permission of the copyright holder. Pursuant to 17 USC 110, this exception only applies if the district (1) institutes a policy regarding copyright; (2) provides informational materials on federal copyright laws to students, teachers, and other relevant staff; and (3) provides notice to students that materials used in connection with the course may be subject to copyright protection.</p>
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In the course of face-to-face instruction in a classroom or similar place devoted to instruction, teachers or students may recite, render, play, dance, act, or show a copyrighted work either directly or by means of any device or process or, in the case of a motion picture or other audiovisual work, show its images in any sequence or to make the sounds accompanying it audible, provided that: (17 USC 101, 110)

1. The performance or display is given by means of a lawfully obtained copy of the work.
2. The performance or display is made by, at the direction of, or under the actual supervision of a teacher as an integral part of a class session.
3. The performance or display is directly related and of material assistance to the teaching content of the transmission.

USE OF COPYRIGHTED MATERIALS (continued)

4. The transmission is limited to students enrolled in the course or to Governing Board members or employees as part of their official duties or employment.
5. If the work is to be digitally transmitted, the district has applied technological protections that reasonably prevent retention of the work in accessible form for longer than the class session and the unauthorized further dissemination of the work.

Note: 17 USC 110 addresses reasonable pedagogical purposes for showing films or other audiovisual works. According to the National School Boards Association's publication Copyright Law: Do Schools Need a License to Show a Movie?, any use of a motion picture outside the curriculum (e.g., to reward students for good behavior or to host a movie night to encourage parent and community engagement) does not meet the above criteria and therefore would require the school to obtain a special viewing license. The publication also presents information about how to obtain a one-time license or a blanket license for showing an unlimited number of movies.

Any use of a motion picture or other audiovisual work outside the curriculum, such as for entertainment, a school or class reward, or a fundraiser, shall require permission from the copyright holder or a special viewing license.

Guidelines for Recording Broadcast Programming

Note: The following section reflects nonbinding guidelines included in the U.S. Copyright Office's Circular 21: Reproduction of Copyrighted Works by Educators and Librarians for fair use of off-air recording of free television programming. Although the guidelines do not address radio broadcasts, it may be assumed that similar guidelines would apply. Legal counsel should be consulted as necessary.

Teachers may make recordings of television programs for use in a classroom for educational purposes under the following conditions:

1. Only programs provided to the public free of charge may be recorded and shown. Any use of programming from paid television services shall require permission of the copyright holder.
2. The recording may be shown only during the first 10 consecutive school days after it is made. It may be used once by an individual teacher in the course of relevant teaching activities and may be repeated once only when instructional reinforcement is necessary.
3. A limited number of copies may be reproduced from each recording to meet the legitimate needs of the teacher. Each copy shall be subject to all the provisions governing the original recording.

USE OF COPYRIGHTED MATERIALS (continued)

4. The recording may be retained for 45 calendar days after it is made and then shall be erased or destroyed. However, after the first 10 consecutive school days, the recording may only be used for purposes of determining whether or not to include the broadcast program in the teaching curriculum. If the teacher decides to keep the program for use in the curriculum, he/she shall request permission from the copyright owner.
5. Off-air recordings need not be used in their entirety, but the content of recorded programs may not be altered.

Guidelines for Copying Computer Programs or Software

District staff shall observe all licensing agreements between vendors and the district, including monitoring the number of users permitted by an agreement. Unless the applicable licensing agreement authorizes multiple users of a single computer program or software, the district shall not make multiple copies.

Copies of district-owned software may be made under either of the following conditions: (17 USC 117)

1. The copy is needed as an essential step in using the computer program with a particular machine.
2. The copy is used for archival or "backup" purposes only. This copy may be held only as a file copy and must be destroyed in the event that continued possession of the program ceases to be rightful, unless the copyright owner authorizes its sale, lease, or transfer as part of the sale, lease, or transfer of the original program.

Center USD

Administrative Regulation

Use Of Copyrighted Materials

AR 6162.6
Instruction

When an employee is reproducing someone else's work, he or she shall first determine whether the copying is permitted by law. If the copying is not fall within the "fair use" provisions of the U.S. Copyright Act, the employee shall obtain written permission to reproduce the material from the copyright holders in the manner described below.

Requests for permission to use copyrighted materials shall include the following information (See sample form letter at the end of this AR):

1. Title, author(s), editor(s) or publisher, producer(s) or distributor.
2. Edition, copyright and/or production year.
3. Exact amount of material to be used (e.g., chapter, lines, running times, scenes, and so forth).
4. Reference in the letter to the initial contact and the name of the person contacted if the initial contact was made by phone.
5. Nature of the use (i.e., how many times, when and with whom the material will be used).
6. Number of copies to be made.
7. How the material will be produced.

Materials which are clearly in the public domain may be copied in accordance with the U.S. Copyright Act. However, it should be noted that as a result of the entry of the United States into an international treaty called the Berne Convention, works published for the first time on or after March 1, 1989, do not have to carry the notice of copyright (i.e., Copyright Holder's Name and Year of Publication) to be protected under the provisions of the U.S. Copyright Act. The safest and most ethical course of action is to secure permission to reproduce any borrowed material unless a statement on the material itself excuses the user from securing such permission or unless the U.S. Copyright Act grants exclusion. The following guidelines specify which uses are permitted and which are prohibited in the use of (1) printed material; (2) sheet and recorded music; (3) audio recordings, including records, disks and tapes; (4) films, videotapes, filmstrips, overhead transparencies, or slide programs; (5) off-the-air taping (radio and television); (7)

computer software; and (8) works by libraries.

Permitted Uses:

1. **Single Copies.** An individual educator may make single copies of the following:
 - a. A chapter from a book.
 - b. An article from a periodical or newspaper.
 - c. A short story, short essay, or short poem, whether or not from a collective work.
 - d. A chart, graph, diagram, drawing, cartoon or a picture from a book, magazine or newspaper.
2. **Multiple Copies.** An individual educator may make multiple copies for classroom use (not to exceed one copy per student in a course) of the following:
 - a. A complete poem if less than 250 words.
 - b. An excerpt from a longer poem, but not to exceed 250 words and not to exceed two printed pages in length. (For example, it is not permissible to reproduce more than two printed pages of an illustrated poem without permission.)
 - c. A complete article, story or essay of less than 2,500 words.
 - d. An excerpt from a larger prose work not to exceed 10 percent of the whole or 1,000 words, whichever is less.
 - e. One chart, graph, diagram, cartoon or picture per book or per issue of a periodical.

NOTE: All permitted copying must bear an appropriate reference (e.g., author, title, date, source, and so forth). Also, the copying must be at the "instance and inspiration" of the individual teacher; and the inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness must be "so close in time that it would be unreasonable to expect a timely reply to a request for permission."

Prohibited Uses:

An individual educator cannot do the following:

1. Copy more than one work or two excerpts from a single author during one class term.

2. Copy more than three works from a collective work or periodical volume during one class term.
3. Reproduce more than nine sets of multiple copies for distribution to students in one class term.
4. Copy to create or replace or substitute for anthologies or collective works.
5. Copy "consumable" works, such as workbooks, exercises, standardized tests, answer sheets, and so forth.
6. Copy the same work from term to term.
7. Copy the same material for more than one course being offered in the school.

Permitted Uses:

An individual educator may duplicate:

1. Emergency copies for an imminent performance, provided that copies of the sheet music or recorded music are purchased in a timely manner to replace the emergency copies.
2. For academic purposes other than performances, single or multiple copies (one per student) of excerpts not constituting an entire performance unit or more than 10 percent of the total work.
3. Edited or simplified purchased sheet music, provided that the fundamental character of the work is not distorted; that lyrics, if any, are not altered; and that lyrics are not added.
4. A single copy of a recorded performance by students that is to be retained by the institution or individual teacher for evaluation or rehearsal purposes.
5. A single copy of recordings of copyrighted music owned by the institution or a teacher for constructing aural exercises or examinations and retained for that purpose.

Prohibited Uses:

An individual educator cannot duplicate:

1. In order to replace or substitute for anthologies, compilations, or collective works.
2. From works intended to be "consumable," such as workbooks, exercises, standardized tests, and answer sheets.

3. For purposes of performance, except as noted in an emergency (see #1 above).
4. To substitute for the purchase of music.
5. Without inclusion of copyright notice on the copy.

Guidelines for the Use of Audio Recordings-Records, Disks and Tapes

Permitted Uses:

An individual educator may:

1. For academic purposes other than performance, make a single copy of a sound recording for a student, provided that the portion does not comprise a part of the whole which would constitute a performable unit and in no case more than 10 percent of the whole work. This copy can be used only in the educational context in which it was made and may not be sold or performed for profit.
2. Make a single copy of recordings of performances by students for evaluation or rehearsal purposes, which may be retained by the educational institution or individual teachers for such purposes.
3. Make a single copy of the sound recording of copyrighted music or a portion thereof from sound recordings owned by an educational institution or an individual teacher for the purposes of constructing aural exercises or examinations and which may be retained by the educational institution or individual teacher for such purposes.

Prohibited Uses:

An individual educator cannot:

1. Duplicate audio recordings unless reproduction rights were given at the time of purchase.
2. Reproduce music works or convert to another format (e.g., record to tape) unless prior written permission is secured.

NOTE: Answers to questions pertaining to making multiple copies of sound recordings should be obtained in writing from the person or agency holding the copyright.

Guidelines for the Use of Films, Videotapes, Filmstrips, Overhead Transparencies, and Slide Programs

Permitted Uses:

An individual educator may:

1. Allow a student to make a single copy of a small portion of a copyrighted film, videotape, or filmstrip for legitimate scholarly or research purposes if the material is owned by the school that the student is attending.
2. Duplicate a single copy of a small portion of a film or filmstrip for scholarly or teaching purposes.
3. Create a slide or overhead transparency series from multiple sources as long as creation does not exceed 10 percent of the photographs from one source (books, magazine, filmstrip, and so forth) unless the source forbids photographic reproduction.
3. Excerpt sections of a film for a local videotape (not to be shown over cable) if excerpting does not exceed 10 percent of the total nor the "essence" of the work.
4. Reproduce selected slides from a series if reproduction does not exceed 10 percent of total and does not excerpt "the essence" of the original work.

Prohibited Uses:

An individual educator cannot:

1. Reproduce an audiovisual work in its entirety.
2. Convert one media format to another (e.g., film to videotape) unless prior written permission is secured.
3. Copy any portion of a film, videotape, or filmstrip sent to the school for preview or rent, or owned by another school or institution, without the express written permission of the copyright holder. This includes any material borrowed by the site or sent to the site for preview.

NOTE: The copyright of a film or videotape governs the performance (showing) as well as the copying of it. It is permissible to show a film to students using closed circuit television if the system is confined to one building. Showing a film or videotape via closed circuit television outside the building is not permitted.

Guidelines for the Use of Television-Off-the-Air Taping

Permitted Uses:

Individual educators may:

1. Record a broadcast program off-air simultaneously with broadcast transmission, including simultaneous cable retransmission, and retain the recording for a period not to exceed the first 45 consecutive calendar days after the date of the broadcast. At the

conclusion of the retention period, all off-air recordings shall be erased or destroyed immediately. Broadcast programs are television programs transmitted for reception by the general public without charge. Individuals who wish to retain programs beyond the 45-day period need to obtain written approval of appropriate copyright holders.

2. Use off-air recordings once for each class in the course of relevant teaching activities during the first 10 consecutive school days in the 45-day retention period and repeat once only when instructional reinforcement is necessary. These recordings may be shown in classrooms and similar places devoted to instruction within a single building, cluster, or campus, as well as in the homes of students receiving formalized home instruction.

3. After the first 10 consecutive school days, use off-air recordings to the end of the 45-calendar-day retention period for evaluation purposes only (i.e., to determine whether the broadcast program should be purchased for the curriculum). The program may not be used for student exhibition or any other nonevaluation purpose without written authorization.

4. Request that off-air recording be made for fair use. This recording can be made only at the request of, and for use by, individual teachers; it cannot be recorded in anticipation of an educator's request. A limited number of additional copies may be reproduced from each off-air recording to meet the legitimate needs of teachers under these guidelines. Each such additional copy shall be subject to all provisions governing the original recording. No broadcast program may be recorded off-air more than once at the request of the same teacher, regardless of the number of times the program may be broadcast.

5. Request that a library record and retain for research purposes commercial television news programs from local, regional, or national networks; interviews concerning current events; and on-the-spot coverage of news events. However, documentary, magazine-format, and public affairs broadcasts are not included in the definition of daily newscasts of major events of the day.

NOTE: Regional providers of instructional programming in California purchase off-the-air duplication rights on the behalf of the schools they serve. Regional instructional television (ITV) agencies should be consulted for clarification in the use of these programs. SEE *Cable in the Classroom*, a publication of Sacramento Cable.

Prohibited Uses:

Individual educators cannot:

1. Tape off-air programs in anticipation of an educator's requests.
2. Request that a broadcast program be recorded off-air more than once for the same educator, regardless of the number of times the program may be broadcast.

3. Use the recording for instruction after ten consecutive school days.
4. Hold the recording for weeks or indefinitely because (1) units needing the program concepts are not taught within the 10-day use period; (2) an interruption or technical problems delayed its use; or (3) another teacher wishes to use it, or any other supposedly "legitimate" educational reason.
5. Record programs off-air without written permission from the author/producer/distributor when a special notice is provided specifically prohibiting reproduction of any kind.
6. Alter off-air programs from their original content. Broadcast recordings may not be physically or electronically combined or merged to constitute teaching anthologies or compilations.

NOTE: The copying or use of subscription programs transmitted via subscription television cable services, such as HBO, AMC or Showtime, is illegal. Such programs are licensed for private home use only and cannot be used in public schools. "Pay" programs received via satellite dish are subject to these guidelines. SEE *Cable in the Classroom*, a publication of Sacramento Cable Television.

Guidelines for the Use of Radio - Off-the-Air Taping

Permitted Uses:

Individual educators may:

1. Allow a student to make a single copy of a small portion of a copyrighted radio program for legitimate scholarly or research purposes. Such a copy may not be sold or performed for profit.
2. Copy radio broadcasts consistent with fair use guidelines established for off-air videotaping for use in face-to-face instruction. Contractual rights may entitle an individual to retain/use educational programs (i.e., those aired over national Public Radio, Public Broadcasting, and so forth) beyond the fair use period. Rights to extend the 10-day use period or the 45-day retention/evaluation period should be obtained in writing from the agency or individual holding distribution rights. Retention (not use) of recorded programs is permitted until additional use rights are established.

Guidelines for the Rental, Purchase, and Use of Videotapes

Permitted Uses:

Unless precluded by county or district policy, individual educators may:

1. Use purchased or rented videotapes (e.g., feature films) as part of asystematic course of instruction. Such use shall be for face-to-face instruction and must take place in a classroom or similar area devoted to instruction.
2. Use only lawfully made videotapes.

Prohibited Uses:

Individual educators cannot:

1. Use rented or purchased videotapes where a written contract specifically prohibits such use in a classroom or face-to-face teaching situation.

See "Educational Performances and Displays" later in this document for more information on the use of videotapes.

NOTE: In addition to this policy and administrative regulation, employees should refer to Board Policy and Administrative Regulation 6162.1 which further describe how films, videos and television are to be used with students in the Center Unified School District.

Guidelines for the Use of Computer Software

Permitted Uses:

The 1976 U.S. Copyright Act and its 1980 amendments remain vague in some areas of software use and its application to education. When the law itself is vague, software licenses tend to be much more specific. It is therefore imperative that educators read the software's copyright statement and understand the licensing restrictions printed there. Generally, however, individual educators may:

1. Make a copy of an original computer program for the purpose of maintaining the availability of the program should it be damaged during use. Either the copy or the original may be retained in archives. Only one, either the original or the copy, may be used at any one time.
2. make a copy of a program as an essential step in using the computer program as long as it is used in conjunction with the machine and in no other manner.
3. Make a new copy from the archival program in the event the program in use is damaged or destroyed.

Prohibited Uses:

An individual teacher cannot:

1. Load the contents of one disk into multiple computers for use at the same time in the absence of a license permitting the user to do so.
2. Load the contents of one disk into local network or disk-sharing systems in the absence of a license permitting the user to do so.
3. Make or use illegal copies of copyrighted programs on school equipment.
4. Allow any student to surreptitiously or illegally duplicate computer software or access any data base or electronic bulletin board.

NOTE: No employee of the county or district shall surreptitiously or illegally access any data base or electronic bulletin board.

Guidelines for the Reproduction of Works for Libraries

The copyright law imposes extensive restrictions on the reproduction of works for school libraries. Systematic duplication of multiple copies is forbidden by law, with the exceptions noted below:

Permitted Uses:

A librarian may:

1. Arrange for interlibrary loans of photocopies of works requested by users, provided that the copying is not done to substitute for subscriptions to or purchase of a work.
2. Within any calendar year, make for a requesting entity five copies of any article or articles published in a given periodical within the last five years prior to the date of the request for the material.
3. Make single copies of articles or phonorecords or excerpts of longer works for a student making a request, provided the material becomes the property of the students for private study, scholarship, or research.
5. Make a copy of an unpublished work for purposes of preservation, of a published work to replace a damaged copy, and of an out-of-print work that cannot be obtained at a fair price.
6. Make off-the air tape recordings of daily television news broadcasts for limited distribution to researchers and scholars for research purposes.
7. Selectively make a copy for purposes of preservation or security, in accordance with the provisions of fair use, of a musical work, pictorial, graphic, sculptural work, motion picture, or other audiovisual work if the current copy owned by the library is

damaged, deteriorated, lost or stolen; and it has been determined that an unused copy cannot be obtained at a fair price.

Prohibited Uses:

A librarian cannot:

- 1. Make copies for students if there is reason to suspect that students have been instructed to obtain copies individually.**
- 2. Copy without including a notice of copyright on the reproduced material.**

**Regulation
approved: August 2, 1995**

**CENTER UNIFIED SCHOOL DISTRICT
Antelope, California**

PUBLIC STATEMENTS

Note: Pursuant to Government Code 54960, the district attorney or any interested person can sue the Governing Board in order to stop or prevent violations of the Brown Act or to determine whether any Board rule or action which penalizes or otherwise discourages the expression of one or more of its members is valid or invalid under law. The following **optional** bylaw may be modified as appropriate.

The Governing Board recognizes the responsibility of Board members in their role as community leaders to participate in public discourse on matters of civic or community interest, including those involving the district, and their right to freely express their personal views. However, to ensure communication of a consistent, unified message regarding district issues, Board members are expected to respect the authority of the Board to choose its representatives to communicate its positions and to abide by established protocols.

Note: Many districts designate the Board president and/or Superintendent to communicate with the public on behalf of the district. Any district that has designated another position for this responsibility may revise the following paragraph to reflect district practice.

All public statements authorized to be made on behalf of the Board shall be made by the Board president or, if appropriate, by the Superintendent or other designated representative.

(cf. 2110 - Superintendent Responsibilities and Duties)

(cf. 9121 - President)

(cf. 9200 - Limits of Board Member Authority)

When speaking for the district, the Board encourages its spokespersons to exercise restraint and tact and to communicate the message in a manner that promotes public confidence in the Board's leadership.

Board spokespersons shall not disclose confidential information or information received in closed session except when authorized by a majority of the Board. (Government Code 54963)

(cf. 9005 - Governance Standards)

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

When speaking to community groups, members of the public, or the media, individual Board members should recognize that their statements may be perceived as reflecting the views and positions of the Board. Board members have a responsibility to identify personal viewpoints as such and not as the viewpoint of the Board.

(cf. 1100 - Communication with the Public)

(cf. 1112 - Media Relations)

In addition, the Board encourages members who participate on social networking sites, blogs, or other discussion or informational sites to conduct themselves in a respectful, courteous,

PUBLIC STATEMENTS

and professional manner and to model good behavior for district students and the community. Such electronic communications are subject to the same standards and protocols established for other forms of communication, and the disclosure requirements of the California Public Records Act may likewise apply to them.

(cf. 1113 - District and School Web Sites)
(cf. 1114 - District-Sponsored Social Media)
(cf. 1340 - Access to District Records)
(cf. 9012 - Board Member Electronic Communications)

Before voting on any issue, all Board members shall be encouraged to present whatever evidence they may feel important to the matter at hand. The Board shall fully consider the implications and relevancy of all information so presented. All opinions, reactions and positions shall be openly discussed, so that each member may understand all aspects of the issue before the Board makes its decision.

Once a Board decision has been reached, all Board members shall support that decision until amended or rescinded by Board action. Any Board member who disagrees with any specific Board action, has a right to voice his/her own views.

No member of the Board shall release information from a closed session.

Legal Reference:

EDUCATION CODE

35010 Control of district; prescription and enforcement of rules

GOVERNMENT CODE

6250-6270 California Public Records Act

54960 Actions to stop or prevent violation of meeting provisions

54963 Confidential information in closed session

Management Resources:

WEB SITES

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

Center USD

Board Bylaw

Public Statements

BB 9010

Board Bylaws

All public statements in the name of the Governing Board shall be issued by the Board president or, if appropriate, by the Superintendent or designee at the direction of the Board president. No individual Board member shall make public statements in the name of the Board.

Before voting on any issue, all Board members shall be encouraged to present whatever evidence they may feel important to the matter at hand. The Board shall fully consider the implications and relevancy of all information so presented. All opinions, reactions and positions shall be openly discussed, so that each member may understand all aspects of the issue before the Board makes its decision.

Once a Board decision has been reached, all Board members shall support that decision until amended or rescinded by Board action. Any Board member who disagrees with any specific Board action, has a right to voice his/her own views.

No member of the Board shall release information from a closed session.

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

Legal Reference:

EDUCATION CODE

35010 - Control of district; prescription and enforcement of rules

Bylaw

adopted: October 26, 1994

CENTER UNIFIED SCHOOL DISTRICT

Antelope, California

REMUNERATION, REIMBURSEMENT AND OTHER BENEFITS

Compensation

Note: Education Code 35120 authorizes Governing Board members to receive compensation for their services, with a maximum amount prescribed based on the district's average daily attendance (ADA) for the prior school year.

The district should select the appropriate option below. If the Board selects Option 1, it may, at its discretion, revise the paragraph to reflect the maximum amount applicable to its ADA. If the Board elects to receive less than the maximum amount provided in law, it should select Option 2 and specify the amount.

OPTION 1: Each member of the Governing Board may receive the maximum monthly compensation as provided for in Education Code 35120.

~~**OPTION 2:** Each member of the Governing Board may receive a monthly compensation of \$ _____. (Education Code 35120)~~

~~**OPTION 3:** The members of the Governing Board view their Board service as a voluntary contribution to the community and elect not to receive the compensation to which they are entitled pursuant to Education Code 35120.~~

Note: The remainder of this section is for use by districts that selected Option 1 or 2 above.

On an annual basis, the Board may increase the compensation of Board members beyond the limit delineated in Education Code 35120 in an amount not to exceed five percent based on the present monthly rate of compensation. (Education Code 35120)

Board members are not required to accept payment for meetings attended.

Any member who does not attend all Board meetings during the month is eligible to receive only a percentage of the monthly compensation equal to the percentage of meetings he/she attended, unless otherwise authorized by the Board in accordance with law. (Education Code 35120)

Note: Pursuant to Education Code 35120, the Board may adopt a resolution authorizing a Board member to be compensated for meetings he/she missed under specified circumstances. See the accompanying exhibit for a sample resolution.

A member may be compensated for meetings he/she missed when the Board, by resolution, finds that he/she was performing designated services for the district at the time of the meeting or that he/she was absent because of illness, jury duty, or a hardship deemed acceptable by the Board. (Education Code 35120)

Student Board members shall receive no compensation for meetings attended. (Education Code 35012)

REMUNERATION, REIMBURSEMENT AND OTHER BENEFITS (continued)

(cf. 9150 - Student Board Members)

Note: The following optional paragraph is for use by any board whose quorum also serves as another legislative body that receives additional compensation. Pursuant to Government Code 54952.3, the disclosure requirements described below are not applicable if the compensation of the legislative body is set by statute.

~~Whenever a quorum of Board members serves as another legislative body which will meet simultaneously or in serial order to a Board meeting, the Board clerk or a member of the Board shall verbally announce the amount of any additional compensation or stipend that each member will be entitled to receive as a result of convening the simultaneous or serial meeting. (Government Code 54952.3)~~

Reimbursement of Expenses

Note: The district is allowed to reimburse Board members for expenses incurred when performing district business. Pursuant to Government Code 8314, it is unlawful for any elected official to use or permit others to use public resources for personal purposes which are not authorized by law. As defined, "personal purposes" include activities for personal enjoyment, private gain or advantage, or an outside endeavor not related to agency business, but do not include the incidental and minimal use of public resources (e.g., equipment or office space) for personal purposes, including an occasional telephone call.

Board members shall be reimbursed for actual and necessary expenses incurred when performing authorized services for the district. Expenses for travel, telephone, business meals, or other authorized purposes shall be in accordance with policies established for district personnel and at the same rate of reimbursement.

(cf. 1160 - Political Processes)

(cf. 3100 - Budget)

(cf. 3350 - Travel Expenses)

(cf. 3513.1 - Cellular Phone Reimbursement)

Note: Education Code 35044 authorizes reimbursement for Board members for travel expenses incurred when performing services directed by the Board. If the district wishes to require prior Board approval for travel and/or for certain kinds of trips (e.g., out-of-state travel), it should modify the following paragraph accordingly.

Board members shall be reimbursed for travel expenses incurred when performing services directed by the Board. (Education Code 35044)

(cf. 9240 - Board Development)

Note: The remainder of this section is optional and may be revised to reflect district practice.

REMUNERATION, REIMBURSEMENT AND OTHER BENEFITS (continued)

Authorized purposes may include, but are not limited to, attendance at educational seminars or conferences designed to improve Board members' skills and knowledge; participation in regional, state, or national organizations whose activities affect the district's interests; attendance at district or community events; and meetings with state or federal officials on issues of community concern.

Personal expenses shall be the responsibility of individual Board members. Personal expenses include, but are not limited to, the personal portion of any trip, tips or gratuities, alcohol, entertainment, laundry, expenses of any family member who is accompanying the Board member on district-related business, personal use of an automobile, and personal losses and traffic violation fees incurred while on district business.

Any questions regarding the propriety of a particular type of expense should be resolved by the Superintendent or designee before the expense is incurred.

Note: The following optional paragraph should be deleted if the district does not issue credit cards to Board members. A policy statement issued by the Institute for Local Government, although primarily applicable to city and county governments, indicates that many local agencies have decided not to issue credit cards to local officials because of the potential for confusing an agency credit card with a personal card and the negative consequences of personal use of an agency card.

~~Board members may use district issued credit cards while on official district business and consistent with the limits established for district personnel. Personal expenses shall not be charged on a district issued credit card, even if the Board member intends to subsequently reimburse the district for the personal charges.~~

Health and Welfare Benefits for Current Board Members

Note: The following section is optional. The district has the option of providing health and welfare benefits to Board members pursuant to Government Code 53201 and 53205 and has flexibility in selecting the types of coverage and the methods of payment for such coverage. Pursuant to Government Code 53200, health and welfare benefits may include, but are not limited to, hospital, medical, surgical, dental, disability, group life, legal expense, and income protection insurance or benefits. However, Internal Revenue Service Publication 571 indicates that, as elected officials, Board members are not eligible to participate in district programs for the purchase of tax sheltered annuities pursuant to 26 USC 403 and 26 CFR 1.403(b)-2.

Pursuant to Government Code 53208.5, the health and welfare benefits of a Board member can be no greater than that received by nonsafety employees of the district or, if the district has different benefit structures, no greater than the most generous schedule of benefits being received by any category of nonsafety employees. Nonsafety employees are those employees not otherwise included in Government Code 20420-20445 defining "safety members" for purposes of membership in the Public Employees' Retirement System. Government Code 53208.5 also provides that Board members shall not be eligible to accrue multiple health and welfare benefits from two or more public agencies for concurrent service, unless the Board member serves as a regular full-time employee in a separate public agency.

Government Code 53202 authorizes the district to contract with one or more insurers, health service

REMUNERATION, REIMBURSEMENT AND OTHER BENEFITS (continued)

organizations, or legal service organizations for health and welfare benefits. Alternatively, the district may approve an existing health care arrangement between a Board member and an insurer or health care provider. In 83 Ops.Cal.Atty.Gen. 124 (2000), the Attorney General opined that, if the district chooses to approve such an arrangement, the district may pay for this benefit by way of reimbursement to the Board member who has paid for the benefit instead of direct district payment to the insurer. However, according to the Attorney General, a district may not make cash payments to Board members in lieu of providing them with health insurance benefits.

Board members may participate in the health and welfare benefits program provided for district employees.

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

Health and welfare benefits for Board members shall be no greater than that received by the district's nonsafety employees with the most generous schedule of benefits. (Government Code 53208.5)

Note: The district may choose and/or revise any of the following options to reflect district practice.

OPTION 1: The district shall pay the premiums required for Board members electing to participate in the district health and welfare benefits program to the same extent that it pays for district employees.

~~**OPTION 2:** Board members who elect to participate shall pay the full cost of premiums.~~

~~**OPTION 3:** The district shall pay \$_____ as a reimbursement for costs of approved health plans that have been paid by Board members.~~

Note: The following optional paragraph is for use by districts that choose to pay all or a portion of premiums, dues, or other charges for health and welfare benefits for a Board member's spouse or dependent children, as authorized by Government Code 53205.1. The district may revise the paragraph to specify a different portion of payment.

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 benefits under state law to spouses of Board members, the same coverage must be provided to registered domestic partners.

Pursuant to Health and Safety Code 1373 and Insurance Code 10277, the age at which a person ceases to be a dependent child is age 26 years or higher as specified in the health plan, unless otherwise provided under a plan that qualifies as a grandfathered plan pursuant to 42 USC 18011. In addition, a health services plan or insurer is required 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. Health and Safety Code 1373 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.

REMUNERATION, REIMBURSEMENT AND OTHER BENEFITS (continued)

Health and welfare benefits provided to Board members shall be extended at the same level to their spouse/registered domestic partner and to their eligible dependent children as specified in law and the health plan.

Health and Welfare Benefits for Former Board Members

Note: The following section is **optional**. Government Code 53201 authorizes the district to pay premiums for health and welfare benefits for former Board members under the limited circumstances described below. Any district that does not offer benefits to former Board members should delete this entire section.

Former Board members may participate in the health and welfare benefits program provided for district employees under the conditions specified below.

Note: Government Code 53208.5 provides that Board members may not receive benefits greater than those provided to district employees, as provided below. Thus, if a district's collective bargaining agreement specifies that employee eligibility for benefits terminates at age 65, then Board member benefits will also terminate at that time. Districts with such circumstances may expand the following paragraph to indicate the limits of the benefits.

Health and welfare benefits for former Board members shall be no greater than those received by district nonsafety employees with the most generous schedule of benefits. (Government Code 53208.5)

Note: Pursuant to Government Code 53201, a district may pay premiums for health and welfare benefits for former Board members only if all of the following conditions are satisfied: (1) the district paid for benefits for former Board members before January 1, 1994; (2) the former Board member served in office after January 1, 1981; (3) the former Board member's term began before January 1, 1995; and (4) the former Board member served for 12 or more years. If the district did not pay benefits for former Board members before January 1, 1994, benefits may be provided to former Board members **only** on a self-pay basis, even if a former member has served in office for the requisite amount of time.

In Thorning v. Hollister School District, the court of appeal ruled that a board policy adopted during the board member's term of office has the effect of vesting him/her with those benefits and that the board cannot subsequently unilaterally withdraw those benefits from those board members.

Option 1 below is for use only by districts that paid health and welfare benefits for former board members before January 1, 1994 and choose to continue to do so. Option 2 is for use by districts that are either ineligible to pay for such benefits because they did not pay for former board member benefits before January 1, 1994, have no qualified board members, or choose not to pay for such benefits.

Because this is a complex area of law, it is strongly recommended that the district consult with legal counsel before offering paid health benefits to former Board members.

OPTION 1: (Benefits paid by district)

~~The district shall pay the premiums for health and welfare benefits of any former Board member who served in office after January 1, 1981, began his/her term before January 1, 1995, and has served for 12 or more years. (Government Code 53201)~~

REMUNERATION, REIMBURSEMENT AND OTHER BENEFITS (continued)

Note: The following paragraph is **optional**. If the district allows Board members elected on or after January 1, 1995 to continue benefits at their own expense after leaving service, as authorized by Government Code 53201, it may revise the following paragraph to require more than one term of service at its discretion.

Any other former Board member who served at least one term may participate in the health and welfare benefits program at his/her own expense if coverage is in effect at the time he/she leaves office. (Government Code 53201)

OPTION 2: (Benefits paid by former Board member)

Note: At its discretion, the Board may revise the following paragraph to require more than one term of office.

Any former Board member leaving the Board after at least one term of office may participate in the health and welfare benefits program at his/her own expense if coverage is in effect at the time of retirement. (Government Code 53201)

Note: The following **optional** paragraph is for use by all districts. Government Code 53205.1 authorizes the district to fund health and welfare benefits for spouses and dependent children of former Board members.

Health and welfare benefits provided to a former Board member shall be extended, at his/her expense and at the same level, to his/her spouse/registered domestic partner and eligible dependent children as specified in law and the health plan.

Legal Reference:

EDUCATION CODE

33050-33053 *General waiver authority*

33362-33363 *Reimbursement of expenses for attendance at workshops*

35012 *Board members; number, election and term*

35044 *Payment of traveling expenses of representatives of board*

35120 *Compensation for services as member of governing board*

35172 *Promotional activities*

44038 *Cash deposits for transportation purchased on credit*

FAMILY CODE

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

GOVERNMENT CODE

8314 *Use of public resources*

20322 *Elective officers; election to become member*

Legal Reference continued: (see next page)

REMUNERATION, REIMBURSEMENT AND OTHER BENEFITS (continued)

Legal Reference continued:

GOVERNMENT CODE (continued)

20420-20445 *Membership in Public Employees' Retirement System; definition of safety employees*

53200-53209 *Group insurance*

54952.3 *Simultaneous or serial meetings; announcement of compensation*

HEALTH AND SAFETY CODE

1373 *Health services plan, coverage for dependent children*

INSURANCE CODE

10277-10278 *Group and individual health insurance, coverage for dependent children*

UNITED STATES CODE, TITLE 26

403 *Tax-sheltered annuities*

UNITED STATES CODE, TITLE 42

18011 *Right to maintain existing health coverage*

CODE OF FEDERAL REGULATIONS, TITLE 26

1.403(b)-2 *Tax-sheltered annuities, definition of employee*

COURT DECISIONS

Thorning v. Hollister School District, (1992) 11 Cal.App.4th 1598

Board of Education of the Palo Alto Unified School District v. Superior Court of Santa Clara County, (1979) 93 Cal.App.3d 578

ATTORNEY GENERAL OPINIONS

91 *Ops.Cal.Atty.Gen.* 37 (2008)

83 *Ops.Cal.Atty.Gen.* 124 (2000)

Management Resources:

INSTITUTE FOR LOCAL GOVERNMENT PUBLICATIONS

Sample Expense and Use of Public Resources Policy Statement, January 2006

INTERNAL REVENUE SERVICE PUBLICATIONS

Tax-Sheltered Annuity Plans (403(b) Plans) for Employees of Public Schools and Certain Tax-Exempt Organizations, Publication 571, rev. February 2013

WEB SITES

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

Institute for Local Government: <http://www.ca-ilg.org>

Internal Revenue Service: <http://www.irs.gov>

Public Employees' Retirement System: <http://www.calpers.ca.gov>

Center USD

Board Bylaw

Remuneration, Reimbursement And Other Benefits

BB 9250

Board Bylaws

Remuneration

Each member of the Governing Board may receive the monthly compensation as provided for in law.

On an annual basis, the Board may increase the compensation of Board members beyond the limit delineated in Education Code 35120 in an amount not to exceed five percent based on the present monthly rate of compensation. Any increase made pursuant to this section shall be effective upon approval by the Board. (Education Code 35120)

Board members are not required to accept payment for meetings attended.

If a member does not attend all Board meetings during the month, he/she is eligible to receive a percentage of the monthly compensation equal to the percentage of meetings attended unless otherwise authorized by the Board in accordance with law. (Education Code 35120)

A member may be paid for meetings he/she missed when the Board, by resolution, finds that he/she was performing designated services for the district at the time of the meeting or that he/she was absent because of illness, jury duty or a hardship deemed acceptable by the Board. (Education Code 35120)

Reimbursement of Expenses

Board members shall be reimbursed for traveling expenses incurred when authorized in advance by the Board. (Education Code 35044)

(cf. 9240 - Board Development)

The rate of reimbursement shall be the same rate specified for district personnel.

(cf. 3350 - Travel Expenses)

Health and Welfare Benefits

Board members may participate in the health and welfare benefits program provided for district employees.

Health and welfare benefits for Board members shall be no greater than that received by district's nonsafety employees with the most generous schedule of benefits. (Government Code 53208.5)

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

The district shall pay the cost of all premiums required for Board members electing to participate in the district health and welfare benefits program to the same extent that the district pays premiums for district staff in accordance with Government Code 53208.5.

Health and welfare benefits provided to Board members shall be extended at the same level to their spouses, dependent children under the age of 21, dependent children under the age of 25 who are full-time students at a college or university, and dependent children regardless of age who are physically or mentally incapacitated.

Benefits for Retired Board Members

Because the district did not pay health and welfare benefits for retired Board members before January 1, 1994, any former member retiring from the Board after at least one term may continue the health and welfare benefits program at his/her own expense if coverage is in effect at the time of retirement. (Government Code 53201)

The benefits authorized for retired Board members shall be extended at the same level to the retired Board member's spouse, dependent children under the age of 21, dependent children under the age of 25 who are full-time students at a college or university, and dependent children regardless of age who are physically or mentally incapacitated.

Legal Reference:

EDUCATION CODE

1090 Compensation for members and mileage allowance

33050-33053 General waiver authority

33362-33363 Reimbursement of expenses (Department of Education and CSBA workshops)

35012 Board members; number, election and term

35044 Payment of traveling expenses of representatives of board

35120 Compensation (services as member of governing board)

35172 Promotional activities

44038 Cash deposits for transportation purchased on credit

GOVERNMENT CODE

20322 Elective officers; election to become member

53200-53209 Group insurance

UNITED STATES CODE, TITLE 26

403(b) Tax-sheltered annuities

COURT DECISIONS

Thorning v. Hollister School District, (1992) 11 Cal.App.4th 1598
Board of Education of the Palo Alto Unified School District v. Superior Court of Santa
Clara County, (1979) 93 Cal.App.3d 578
ATTORNEY GENERAL OPINIONS
83 Ops.Cal.Atty.Gen. 124 (2000)

Management Resources:

WEB SITES

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

Public Employees' Retirement System: <http://www.calpers.ca.gov>

Bylaw CENTER UNIFIED SCHOOL DISTRICT
adopted: May 21, 2003 Antelope, California

Add

REMUNERATION, REIMBURSEMENT AND OTHER BENEFITS

RESOLUTION ON BOARD COMPENSATION FOR MISSED MEETINGS

Note: The following **optional** exhibit is for use by districts that offer compensation to members of the Governing Board for their service; see Options #1 and 2 in the accompanying board bylaw. Pursuant to Education Code 35120, a Board member may receive compensation for Board meetings that he/she missed if the Board makes a finding, by resolution, that one or more specified circumstances exist.

WHEREAS, the Governing Board of the Center Joint Unified School District appreciates the services provided by members of the Board and provides compensation for meeting attendance in accordance with Education Code 35120 and Board Bylaw 9250; and

WHEREAS, Education Code 35120 provides that the monthly compensation provided to Board members shall be commensurate with the percentage of meetings attended during the month unless otherwise authorized by Board resolution; and

WHEREAS, Education Code 35120 specifies limited circumstances under which the Board is authorized to compensate a Board member for meetings he/she missed; and

WHEREAS, the Board finds that (name of Board member) did not attend the Board meeting(s) on (dates) for the following reason(s): (check applicable reasons)

- ☐ Performance of other designated duties for the district during the time of the meeting
- ☐ Illness or jury duty
- ☐ Hardship deemed acceptable by the Board

NOW THEREFORE BE IT RESOLVED that the Board of the _____
School District approves full compensation of the Board member for the month of _____.

PASSED AND ADOPTED THIS _____ day of _____, _____ at a regular meeting, by the following vote:

AYES: _____ NOES: _____ ABSENT: _____

Attest:

Secretary

President

version:

August 2013

Center USD

Exhibit

Remuneration, Reimbursement, And Other Benefits

E 9250

Board Bylaws

35120. (a)(1) In any school district in which the average daily attendance for the prior school year exceeded 400,000, each member of the city board of education or the governing board of the district who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed \$2,000 per month.

(2) In any school district that is not located in a city and county, and in which the average daily attendance for the prior school year exceeded 60,000, the governing board may prescribe, as compensation for the services of each member of the board who actually attends all meetings held, a sum not to exceed \$1,500 in any month.

(3) In any school district in which the average daily attendance for the prior school year was 60,000 or less, but more than 25,000, each member of the city board of education or the governing board of the district who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed \$750 in any month.

(4) In any school district in which the average daily attendance for the prior school year was 25,000 or less, but more than 10,000, each member of the city board of education or the governing board of the district who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed \$400 in any month.

(5) In any school district in which the average daily attendance for the prior school year was 10,000 or less, but more than 1,000, each member of the city board of education or the governing board of the district who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed \$240 in any month.

(6) In any school district in which the average daily attendance for the prior school year was 1,000 or less, but more than 150, each member of the city board of education or the governing board of the district who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed \$120 in any month.

(7) In any school district in which the average daily attendance for the prior school year was less than 150, each member of the city board of education or the governing board of the district who actually attends all meetings held may receive as

compensation for his or her services a sum not to exceed \$60 per month.

(8) Any member who does not attend all meetings held in any month may receive, as compensation for his or her services, an amount not greater than the maximum amount allowed by this subdivision divided by the number of meetings held and multiplied by the number of meetings actually attended.

(9) For the purposes of providing compensation pursuant to paragraphs (1) to (7), inclusive, average daily attendance for the prior school year may be increased by a school district's percentage of excused absences reported for the 1996-97 fiscal year.

(b) The compensation of members of the governing board of a school district newly organized or reorganized shall be governed by subdivision (a). For this purpose, the total average daily attendance in all of the schools of the district in the school year in which the organization or reorganization became effective pursuant to Section 4062 shall be deemed to be the average daily attendance in the district for the prior school year.

(c) A member may be paid for any meeting when absent if the board by resolution duly adopted and included in its minutes finds that at the time of the meeting he or she is performing services outside the meeting for the school district or districts, he or she was ill or on jury duty, or the absence was due to a hardship deemed acceptable by the board.

(d) The compensation shall be a charge against the funds of the school district. If the city board of education or the governing board of the district is the governing board of more than one school district, the compensation shall be charged against and paid by the respective school districts in the same proportion as the salary of the city superintendent of schools is charged against them. Compensation shall be reduced by an amount equal to any salary or compensation paid to the members of the city board of education from any funds of the city.

ExhibitCENTER UNIFIED SCHOOL DISTRICT
version: May 5, 1999 Antelope, California