

* Excluded Adult Ed. & COE Reported
@ ROP is frozen 07/08 1358.32
***Annual ADA
Charter ADA
Includes non resident

Update Guidesheets

May 2018 Update Guidesheet

27.75

Note: Descriptions below identify revisions made to CSBA's sample board policies, administrative regulations, board bylaws, and/or exhibits. Editorial changes have also been made. Districts and county offices of education should review the sample materials and modify their own policies accordingly.

Nondiscrimination in District Programs and Activities

(BP revised) Policy updated to reflect NEW LAW (AB 699) which (1) adds immigration status to the categories of characteristics that are protected against discrimination, (2) requires parent/guardian notification of their child's right to a free public education regardless of immigration status or religious beliefs, and (3) mandates that districts adopt policy consistent with a model policy developed by the California Attorney General, which includes a statement regarding equitable services. Policy also reflects provisions of the Attorney General's model policy and NEW LAW (SB 31) which prohibit districts from compiling or assisting in the compilation of a registry based on immigration status, religion, or other specified characteristics. See BP 0410

Charter School Oversight

(E revised) Exhibit updated to reflect NEW LAWS affecting requirements for charter schools, including AB 1360 which clarifies that the charter school's admission preferences must be approved by the district board, AB 830 which repeals the high school exit examination requirement, AB 1360 which requires parental notification that parent/guardian involvement is not a requirement for enrollment at the charter school, AB 699 which requires charter schools to adopt policy consistent with the model policy on immigration enforcement developed by the California Attorney General, AB 2097 (2016) which prohibits the collection of social security numbers, AB 841 which prohibits advertising or promotion of non-nutritious foods or beverages, SB 250 which requires parental notification within 10 days of a negative meal account balance and prohibits different treatment of students with unpaid meal fees, and SB 138 which requires "very high poverty schools" to apply to provide lunch and/or breakfast free of charge to all students under a federal universal service provision. See E 0420.41

Environmental Safety

(BP/AR revised) Policy and regulation updated to reflect NEW LAW (AB 746) which provides that, if a community water system finds lead above specified levels in a school's potable water system, the district must notify parents/guardians, shut down fountains and faucets, and provide a source of drinking water to students. Policy also deletes details regarding district strategies that are duplicated in the AR. Regulation also updates material related to particulate filters in school buses and carbon monoxide detectors to reflect current law.

See BP 3514

See AR 3514

Hazardous Substances

(BP revised) Policy updated to reflect legal requirements regarding toxic art and craft supplies, formerly in BP 6161.3 - Toxic Art Supplies.

See BP 3514.1

Emergencies and Disaster Preparedness Plan

(BP/AR revised) Policy expands paragraph on the involvement of staff and community groups in plan development, consistent with U.S. Department of Education recommendation. Policy also adds training on staff responsibilities in an emergency or disaster, clarifies staff's legal obligation to serve as disaster service workers, and clarifies that board members are not considered disaster service workers. Regulation expands prevention strategies to include measures to increase the security of school facilities, expands crisis communications methods to include social media and electronic communications, and adds assembly of key information into a "crisis response box" that can be easily accessed in an emergency.

See BP 3516

See AR 3516

Transportation Routes and Services

(AR revised) Regulation updated to reflect NEW LAW (AB 1453) which authorizes districts to provide for the transportation of adult volunteers to and from educational activities. Regulation also reflects requirement to provide transportation consistent with a student's Section 504 plan, and clarifies the district's responsibility with respect to transportation for homeless students and foster youth.

See AR 3541

Employee Security

(BP/AR revised) Policy updated to add staff training on procedures for responding to an active shooter situation, condense options on pepper spray to recommend that any possession of pepper spray by employees require advance written permission, and reflect renumbering of legal cite pertaining to pepper spray. Regulation updated to clarify the reporting of an attack, assault, or threat and to modify section on pepper spray consistent with revisions to the BP.

See BP 4158/4258/4358

See AR 4158/4258/4358

Catastrophic Leave Program

(BP/AR revised) Policy and regulation substantially revised and reorganized to clarify requirements for the catastrophic leave program. Policy recommends that donated leave be placed into a pool for eligible employees rather than earmarked for particular employees, and adds notification to employees regarding the program. Regulation provides that donation of leave be made in writing to the superintendent rather than the board, encourages employees to retain sufficient leave for their own potential use, establishes a maximum amount of catastrophic leave that may be used by an individual employee, and provides that employees will be ineligible for catastrophic leave while receiving workers' compensation benefits.

See BP 4161.9/4261.9/4361.9

See AR 4161.9/4261.9/4361.9

Admission

(BP/AR revised) Policy updated to reflect state law prohibiting the collection of social security numbers or the last four digits of the social security numbers of students or their parents/guardians, unless otherwise required by law. Policy also reflects NEW LAW (AB 699) which prohibits districts from inquiring into students' citizenship or immigration status and the California Attorney General's model policy which provides that, under the limited circumstances when such information must be collected to comply with eligibility requirements for special state or federal programs, such information should be collected separately from the school enrollment process. Regulation updated to reflect a requirement of the Attorney General's model policy that prohibits districts from requiring documentation that may indicate a student's national origin or immigration status, such as a passport, to the exclusion of other permissible documentation. Regulation also reflects the authority to accept a parent/guardian affidavit as evidence of a child's age when other documentation is not available.

See BP 5111

See AR 5111

District Residency

(BP/AR revised) Policy and regulation updated to reflect NEW LAW (AB 699) which prohibits

districts from collecting information or documents regarding the citizenship or immigration status of students or their family members. Regulation also updated to reflect NEW LAWS providing that a student meets district residency requirements if the student's parent/guardian is transferring or pending transfer to a military installation within the state (SB 455), or the student's parent/guardian was a resident of California who departed the state against his/her will pursuant to a transfer by a government agency, a court order, or the federal Immigration and Nationality Act (SB 257).

See BP 5111.1

See AR 5111.1

Student Records

(BP/AR revised) Policy updated to reflect the California Attorney General's model policy, developed pursuant to NEW LAW (AB 699), which (1) prohibits districts from collecting information regarding students' citizenship or immigration status, and (2) requires district staff to receive training in the gathering and handling of sensitive student information. Policy also reflects state law limiting the collection of students' social security numbers or the last four digits of the social security numbers, and NEW LAW (SB 31) which prohibits districts from assisting in the compilation of a list, registry, or database based on students' national origin, ethnicity, or religion. Regulation updated to reflect NEW LAW (SB 233) which expands the types of records related to foster youth that must be made accessible to specified agencies, and a requirement of the Attorney General's model policy that the annual parental notification include a statement that a student's citizenship, place of birth, or national origin will not be released without parental consent or a court order.

See BP 5125

See AR 5125

Release of Directory Information

(AR/E revised) Regulation and exhibit updated to reflect the California Attorney General's model policy, developed pursuant to NEW LAW (AB 699), which requires that the annual parental notification include a statement that directory information does not include citizenship status, immigration status, place of birth, or national origin.

See AR 5125.1

See E 5125.1

Bullying

(BP revised) Policy updated to reflect NEW LAW (AB 699) which requires districts to educate students about the negative impact of bullying based on actual or perceived immigration status or religious beliefs and customs. Policy also reflects the California Attorney General's model policy developed pursuant to AB 699, which requires staff training with specified components related to

bullying prevention and response.
See BP 5131.2

Response to Immigration Enforcement

(BP/AR added) New policy and regulation reflect NEW LAW (AB 699) which mandates districts to adopt, by July 1, 2018, policy consistent with the model policy developed by the California Attorney General, including policy related to the district's response to requests by law enforcement for access to information, students, or school grounds for immigration enforcement purposes and actions to be taken in the event that a student's family member is detained or deported. Policy also reflects NEW LAW (SB 31) which prohibits districts from compiling or assisting federal government authorities with compiling a list, registry, or database based on students' national origin, ethnicity, or religion.

See BP 5145.13

See AR 5145.13

Nondiscrimination/Harassment

(BP/AR revised) Minor revisions made in policy and regulation to reflect NEW LAW (AB 699) which prohibits discrimination based on immigration status.

See BP 5145.3

See AR 5145.3

Hate-Motivated Behavior

(BP revised) Policy updated to define hate-motivated behavior and expand material related to collaboration, staff training, and enforcement of rules regarding student conduct. Policy also provides for the use of uniform complaint procedures when the behavior is determined to be based on unlawful discrimination.

See BP 5145.9

Toxic Art Supplies

(BP 6161.3 deleted) Policy deleted and key concepts incorporated into BP 3514.1 - Hazardous Substances.

Resolution No. 2018-13

Resolution Ordering Election, Requesting County Elections To Conduct The Election, Requesting Consolidation of the Election, and Specifications of the Election Order

Pacific Elementary School District

WHEREAS, pursuant to Education Code Section 5322, whenever a school district election is ordered, the governing board of the district or the board or officer authorized to make such designations shall, concurrently with or after the order of election, but not less than 123 days prior to the date set for the election in the case of an election for governing board members, or at least 88 days prior to the date of the election in the case of an election on a measure, including a bond measure, by resolution delivered to the county superintendent of schools and the officer conducting the election specify the date of the election and the purpose of the election;

WHEREAS, pursuant to Elections Code Section 10002, the governing body of any city or district may by resolution request the Board of Supervisors of the county to permit the county elections official to render specified services to the city or district relating to the conduct of an election;

WHEREAS, the resolution of the governing body of the city or district shall specify the services requested; and

WHEREAS, pursuant to Elections Code Section 10400, whenever two or more elections, including bond elections, of any legislative or congressional district, public district, city, county, or other political subdivision are called to be held on the same day, in the same territory, or in territory that is in part the same, they may be consolidated upon the order of the governing body or bodies or officer or officers calling the elections; and

WHEREAS, pursuant to Elections Code Section 10403, whenever an election called by a district, city or other political subdivision for the submission of any question, proposition, or office to be filled is to be consolidated with a statewide election, and the question, proposition, or office to be filled is to appear upon the same ballot as that provided for that statewide election, the district, city or other political subdivision shall, at least 88 days prior to the date of the election, file with the board of supervisors, and a copy with the elections official, a resolution of its governing board requesting the consolidation, and setting forth the exact form of any question, proposition, or office to be voted upon at the election, as it is to appear on the ballot. Upon such request, the

Board of Supervisors may order the consolidation; and

WHEREAS, the resolution requesting the consolidation shall be adopted and filed at the same time as the adoption of the ordinance, resolution, or order calling the election; and

WHEREAS, pursuant to Education Code Section 5342 and Elections Code Section 10400, such election for school districts may be either completely or partially consolidated;

WHEREAS, various district, county, and statewide and other political subdivision elections have been or may be called to be held on November 6, 2018;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED THAT the Governing Board/Board of Trustees of the Pacific Elementary School District hereby orders an election to be called and consolidated with any and all elections also called to be held on November 6, 2018 insofar as said elections are to be held in the same territory or in territory that is in part the same as the territory of the School District request to the Board of Supervisors of the County of Santa Cruz to order such consolidation under Elections Code Section 10400; and

BE IT FURTHER RESOLVED AND ORDERED that said School Board hereby requests the Board of Supervisors to permit the Santa Cruz County Elections Department to provide any and all services necessary for conducting the election; and

BE IT FURTHER RESOLVED AND ORDERED that pursuant to Education Code Section 5322, the authority for the specifications of the election order, the governing body of the Pacific Elementary School District hereby orders an election to be held with the following specifications:

The election shall be held on Tuesday, November 6, 2018;

[Check any of the following that apply]

☒ **BE IT FURTHER RESOLVED AND ORDERED** that the Santa Cruz County Elections Department conduct the election for the following offices on the June 7, 2016 ballot:

<u>Who is up for Election</u>	<u>Office Title</u>	<u>Term</u>	<u>District/Division (if app)</u>
Cara Napoles	Trustee	2018-22	N/A
Don Croll	Trustee	2018-22	N/A

No election will be held if there are an insufficient number of nominees.

The qualifications of a nominee of an elective officer of the school district are as follows: (insert qualifications, i.e. a registered voter in the district, trustee area, etc.)

The Candidate's Statement of Qualifications shall be limited to ☒200 words or ☐400 words and will be paid for by the ☐district or ☒candidate.

Date of last map change: _____ A current map showing the boundaries within the County of the school district and the divisions of the school district, if any, is attached.

- ☐ **BE IT FURTHER RESOLVED AND ORDERED** that the Santa Cruz County Elections Department shall conduct the election for the following MEASURE(S) to be voted on at the June 7, 2016 election:
(insert 75-word ballot question here or attach, if more than one)

BE IT FURTHER RESOLVED AND ORDERED THAT Santa Cruz County Elections Department is requested _____ to:
[Check one of the following]

- ☐ Print the attached measure text exactly as filed or indicated on the filed document in the Voter's Information Pamphlet for the June 7, 2016 election. Cost of printing and distribution of the measure text will be paid for by the city/district.
- ☐ Do NOT print the measure text in the Voter's Information Pamphlet. Instead send a copy to voters upon request, cost to be incurred by the city/district.

BE IT FURTHER RESOLVED AND ORDERED that the Santa Cruz County Elections Department is ordered that in the event of a tie vote, the candidate will be selected by (Ed. Code 5016(b)):

- ☐ Run-off election
- ☒ By lot

PASSED AND ADOPTED this 22nd day of May, 2018 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Chairperson of School Board

Attested: _____
Secretary

District Contact Form

IMPORTANT: To assist us in keeping our records up to date, please provide us with current information regarding your district. Thank you.

Contact person: _____

Title: _____

Mailing address: _____

Telephone: _____ FAX: _____

E-mail address: _____

Website: _____

Incumbent Roster

Please list the names of all of your incumbents, and the date he/she was last elected or appointed, and the term of office.

Incumbents Name

Elected/Appointed

Term of Office



Pacific Elementary School

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831-425-7002

Pacific Elementary School District

Board of Trustees Meeting
Tuesday, May 15th, 2018 @ 4:00 PM
Pacific Elementary School, Davenport, CA

Pacific School Mission Statement

Pacific School's mission is to prepare children for life through experiential learning that addresses the needs of the whole child. We create a safe and secure school environment that promotes social and academic growth and develops an enthusiasm for learning, a positive self-image, and cross-cultural understanding.

All persons are encouraged to attend and, where appropriate, to participate in, meetings of the Pacific School Board of Trustees. Persons wishing to address the Board are asked to state their names for the record. Consideration of all matters is conducted in open session except for those relating to litigation, personnel, and employee negotiations, which, by law, may be considered in executive (closed) session.

Meeting facilities are accessible to persons with disabilities. By request, alternative agenda document formats are available to persons with disabilities. To arrange an alternative agenda document format or to arrange aid or services to modify or accommodate persons with a disability to participate in a public meeting, please provide a written request to: Eric Gross, Superintendent/Principal at the Pacific School District Office at least three working days prior to any public meeting.

Board Meeting Agenda

1. OPENING PROCEDURES FOR OPEN SESSION

1.1. Call to Order 4:45 p.m.

1.2. Roll Call & Establishment of Quorum

1.2.1. Gwyne Rhabyt, Board President - Present by phone

1.2.2. Don Croll, Board Trustee - Arrived by phone 5:10 p.m.

1.2.3. Cari Napoles, Board Trustee - Present

1.3. Approval of the agenda for May 15th, 2018

1.3.1. Agenda deletions, additions, or changes of sequence

Approved with no changes. Ms. Napoles moved, Mr. Rhabyt seconded. 2 in favor, 0 opposed, 0 abstentions, 1 absence.

2. PUBLIC COMMENTS

- 2.1. For items not on the agenda, this is an opportunity for the public to address the board directly related to school business. The Board President may allot time to those wishing to speak, but no action will be taken on matters presented (EC §35145.5).
- 2.2. For items on the agenda, the public will have the opportunity to speak at the time the agenda item is discussed. Please address the Board President.

None

3. REPORTS

3.1. Superintendent Report

Grandparents tea was well-attended. The play was also well-attended and went smoothly. The fence repairs have been completed. The solar project has been rejected again by the division of state architects. It will be resubmitted. Davenport's Sargent Fiche attended the recent lockdown drill, which went well. He had a few suggestions for improvement. In the future we will practice evacuating to the fire station. We received an anonymous donation in memory of Jack Briggs for the cost a new stove for FoodLab. FEMA has sent checks for approximately \$16,000 to pay for roof repair.

3.2. Board Member Reports

The state's May revise budget had nothing unexpected.

3.3. School Site Council Report

Met last month and discussed the facilities inspection tool and the parent survey. Parent survey has 40 responses so far. They also reviewed the expulsion plan. They will meet again Thursday to discuss LCAP.

3.4. Parents Club Report

Met recently. Four new parents attended. They discussed restructuring the music program. Kristin Allen-Farmer attended the meeting and showed a video of her previous projects at other schools. Parents' Club was overall very positive about the proposed changes to the music program.

Parents' Club approved their 2018-19 budget which included increases for most budget items and eliminating the payment for the 5th/6th aide position, since the school has agreed to resume payment for that item. Fundraising associated with the play was better than expected and fundraising associated with the Human Race was worse than expected.

4. CONSENT AGENDA: These matters may be passed by one roll call motion. Board Members may remove items from the agenda for a separate discussion and vote.

- 4.1. Approval of the minutes from the Board meeting on 4/17/18
- 4.2. Approve Warrant Lists
- 4.3. COE Review of 2017-18 2nd Interim Financial Report: Positive Certification
- 4.4. Approve Comprehensive School Safety Plan
- 4.5. Approve Preschool Self-Evaluation
- 4.6. Williams Quarterly Report
- 4.7. Wish List

Approved with no changes. Ms. Napoles moved, Mr. Rhabyt seconded. 2 in favor, 0 opposed, 0 abstentions, 1 absence.

5. PUBLIC HEARINGS

5.1. Educator Effectiveness Report

Hearing opened at 4:56 p.m. There were no public comments. Hearing closed at 4:57 p.m.

6. BOARD RESOLUTIONS

6.1. Resolution 2018-11 Temporary Cash Borrowing

Approved with no changes. Ms. Napoles moved, Mr. Rhabyt seconded. 2 in favor, 0 opposed, 0 abstentions, 1 absence.

6.2. Resolution 2018-12 Student Absence Verification Method

Approved with no changes. Ms. Napoles moved, Mr. Rhabyt seconded. 2 in favor, 0 opposed, 0 abstentions, 1 absence.

7. ITEMS TO BE TRANSACTED AND/OR DISCUSSED

7.1. Summer Program for preschool, transitional kindergarten, & kindergarten students

The Board approved the program with 10 or more students. If fewer than 10 students enroll, the Board does not approve the program. Ms. Napoles moved, Mr. Rhabyt seconded. 2 in favor, 0 opposed, 0 abstentions, 1 absence.

7.2. PESD Expulsion Plan

Approved with no changes. Ms. Napoles moved, Mr. Rhabyt seconded. 2 in favor, 0 opposed, 0 abstentions, 1 absence.

7.3. Substitute pay schedule

The Board changed the teacher substitute pay schedule such that teacher substitutes make \$100 per day for short term substitute assignments. If a substitute is subbing for a single teacher for 11 or more consecutive days, their pay for day 11 onward will be \$125 per day. The long term rate of \$125 is not retroactive to the first 10 days. Ms. Napoles moved, Mr. Rhabyt seconded. 2 in favor, 0 opposed, 0 abstentions, 1 absence.

7.4. Bid to repair roof

The Board approved a bid of \$14,680 for roof repairs. Ms. Napoles moved, Mr. Rhabyt seconded. 2 in favor, 0 opposed, 1 abstention, 0 absences.

7.5. Lunch rates for 2018-19

Revenue from lunch sales is down. The Board requested more detailed information before making any decisions.

8. CLOSED SESSION

8.1. Evaluation of Superintendent/Principal

8.2. Contract Negotiation with Superintendent/Principal

8.3. Public Employee Discipline/Dismissal/Release (Section 54957.6)

8.3.1. Secretary

8.3.2. GATE/Technology Coordinator

8.3.3. Special Circumstances Instructional Assistants

8.3.4. Music Instructor

8.4. Public Employee Appointment (Section 54957)

8.4.1. Special Circumstances Instructional Assistant

8.4.2. GATE/Technology/Media Coordinator

9. REPORT OF ACTIONS TAKEN IN CLOSED SESSION

The Board approved a 1-year extension of Mr. Gross' contract. The Board acknowledged the resignations of Candace Tanner, Heather McDougal, Gennesis Gean, Lauren Cruz, Marla Stone-Lyons, Emma Burke, and Sophia Wuest. The Board approved the hires of LaNette Maioriello, Taylor Stophlet, Chyna Darby, Brenda de Jesus Acosta, and Jamaris Latoni in SCIA or aide positions, and Wendy Millette as technology/GATE coordinator.

10. UPCOMING BOARD MEETINGS: 4:00PM May 22nd, 2018, 4:00PM June 11th,
4:00PM June 18th

11. ADJOURNMENT – 5:45 p.m.

If requested, this agenda shall be made available in appropriate alternative formats to persons with a disability, as required by section 202 of the Americans with Disabilities Act (42 U.S.C. section 12132) and the federal rules and regulations implementing the Act. Individuals requesting a disability-related modification or accommodation may contact the District Office.

The board book for this meeting, including this agenda and any back-up materials, may be viewed or downloaded online: <http://www.pacificesd.org/governance.html> or may be viewed at the school: 50 Ocean St. Davenport CA 95017.

Translation Requests: Spanish language translation is available on an as-needed basis.

Solicitudes de Traducción: Traducciones del inglés al español y del español al inglés están disponibles en las sesiones de la mesa directiva.

CSBA Sample

Board Policy

Nondiscrimination In District Programs And Activities

BP 0410

Philosophy, Goals, Objectives and Comprehensive Plans

Note: Education Code 234.1 mandates districts to adopt policy and regulations to ensure that district programs and activities are free from unlawful discrimination. In accordance with various provisions of state and federal law, discrimination in education programs and activities is unlawful when it is based on certain actual or perceived characteristics of an individual. Education Code 220, as amended by AB 699 (Ch. 493, Statutes of 2017), prohibits discrimination based on race or ethnicity, nationality, immigration status, sex, sexual orientation, gender, gender identity, gender expression, religion, or any other characteristic contained in the definition of hate crimes in Penal Code 422.55. Government Code 11135 prohibits discrimination based on all the foregoing characteristics and on age, disability, and an individual's genetic information. Title VI of the Civil Rights Act of 1964 (42 USC 2000d-2000d-7) prohibits discrimination on the basis of race, color, and national origin. Title IX (20 USC 1681-1688) prohibits discrimination on the basis of sex. The Americans with Disabilities Act (ADA) (42 USC 12101-12213) and Section 504 of the Rehabilitation Act of 1973 (29 USC 794) prohibit discrimination on the basis of disability. For policy language protecting students against discrimination and harassment, see BP/AR 5145.3 - Nondiscrimination/Harassment and BP/AR 5145.7 - Sexual Harassment.

Note: Education Code 260 and 5 CCR 4900-4965 require the Governing Board to monitor district compliance with these state and federal laws. The federal laws are enforced by the Office for Civil Rights of the U.S. Department of Education, and the California Department of Education may investigate complaints regarding discrimination pursuant to 5 CCR 4600-4670.

Note: Similarly, Government Code 12940 provides protections for employees, job applicants, unpaid interns, and volunteers against unlawful discrimination and harassment. For policy language addressing these protections as they relate to volunteers, see BP 1240 - Volunteer Assistance, and in relation to employees, unpaid interns, and job applicants, see BP 4030 - Nondiscrimination in Employment.

The Governing Board is committed to providing equal opportunity for all individuals in district programs and activities. District programs, activities, and practices shall be free from unlawful discrimination, including discrimination against an individual or group based on race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, ethnicity, age, religion, marital status, pregnancy, parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information; a 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. 1240 - Volunteer Assistance)

(cf. 4030 - Nondiscrimination in Employment)
(cf. 4032 - Reasonable Accommodation)
(cf. 4033 - Lactation Accommodation)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)
(cf. 4161.8/4261.8/4361.8 - Family Care and Medical Leave)
(cf. 5131.2 - Bullying)
(cf. 5145.3 - Nondiscrimination/Harassment)
(cf. 5145.7 - Sexual Harassment)
(cf. 5145.9 - Hate-Motivated Behavior)
(cf. 5146 - Married/Pregnant/Parenting Students)
(cf. 6145 - Extracurricular and Cocurricular Activities)
(cf. 6145.2 - Athletic Competition)
(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)
(cf. 6164.6 - Identification and Education Under Section 504)
(cf. 6178 - Career Technical Education)
(cf. 6200 - Adult Education)

Note: Education Code 234.7, as added by AB 699 (Ch. 493, Statutes of 2017), mandates that districts adopt policy consistent with the California Attorney General's model policy contained in the Office of the Attorney General's publication Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues. That model policy includes statements regarding the equitable provision of services and a prohibition against the use of school resources or data for creating a registry based on specific characteristics. In addition, Government Code 8310.3, as added by SB 31 (Ch. 826, Statutes of 2017), prohibits districts from disclosing information about immigration status or religion to federal government authorities for use in the compilation of a registry for immigration enforcement or otherwise assisting in the creation of such a registry.

All individuals shall be treated equitably in the receipt of district and school services. Personally identifiable information collected in the implementation of any district program, including, but not limited to, student and family information for the free and reduced-price lunch program, transportation, or any other educational program, shall be used only for the purposes of the program, except when the Superintendent or designee authorizes its use for another purpose in accordance with law. Resources and data collected by the district shall not be used, directly or by others, to compile a list, registry, or database of individuals based on race, gender, sexual orientation, religion, ethnicity, national origin, or immigration status or any other category identified above.

(cf. 3540 - Transportation)
(cf. 3553 - Free and Reduced Price Meals)
(cf. 5145.13 - Response to Immigration Enforcement)

Note: Education Code 221.2-221.3 (the California Racial Mascot Act) declare the use of racially derogatory or discriminatory school or athletic team names, mascots, or nicknames to be contrary to an equal education and specifically prohibit public schools from using the term "Redskins" as a school or athletic team name, mascot, or nickname. The following paragraph expands this prohibition to include any racially derogatory or discriminatory athletic team name, mascot, or nickname and may be revised to reflect district practice.

District programs and activities shall be free of any racially derogatory or discriminatory school or athletic team names, mascots, or nicknames.

Note: Pursuant to Education Code 221.5, a district is required to permit a student to participate in sex-segregated school programs and activities, including athletic teams and competitions, and to use facilities consistent with the student's gender identity, regardless of his/her gender as listed on his/her educational records. See BP/AR 5145.3 - Nondiscrimination/Harassment. For further information, see CSBA's Updated Legal Guidance: Protecting Transgender and Gender Nonconforming Students Against Sex Discrimination.

The Superintendent or designee shall annually review district programs and activities to ensure the removal of any derogatory or discriminatory name, image, practice, or other barrier that may unlawfully prevent an individual or group in any of the protected categories stated above from accessing district programs and activities. He/she shall take prompt, reasonable actions to remove any identified barrier. The Superintendent or designee shall report his/her findings and recommendations to the Board after each review.

(cf. 1330 - Use of Facilities)

All allegations of unlawful discrimination in district programs and activities shall be investigated and resolved in accordance with the procedures specified in AR 1312.3 - Uniform Complaint Procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

Note: Many nondiscrimination laws and regulations contain a notification requirement. For example, pursuant to 34 CFR 104.8 and 106.9, a district that receives federal aid is required to take "continuing steps" to notify students, parents/guardians, employees, employee organizations, and applicants for admission and employment that it does not discriminate on the basis of disability or sex in its educational programs or activities. In addition, Education Code 221.61 requires districts to post specified information relating to Title IX on their web sites. To ensure consistent implementation of the laws, the same notification requirement should be adopted for all the protected categories as provided in the following paragraph.

Pursuant to 34 CFR 104.8 and 34 CFR 106.9, the Superintendent or designee shall notify students, parents/guardians, employees, employee organizations, applicants for admission and employment, and sources of referral for applicants about the district's policy on nondiscrimination and related complaint procedures. Such notification shall be included in the annual parental notification distributed pursuant to Education Code 48980 and, as applicable, in announcements, bulletins, catalogs, handbooks, application forms, or other materials distributed by the district. The notification shall also be posted on the district's web site and social media and in district schools and offices, including staff lounges, student government meeting rooms, and other prominent locations as appropriate.

(cf. 1113 - District and School Web Sites)

(cf. 1114 - District-Sponsored Social Media)

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

(cf. 5145.6 - Parental Notifications)

Note: Education Code 234.7, as added by AB 699 (Ch. 493, Statutes of 2017), requires the following notification. Information about the educational rights of all students is contained in the appendix of the Office of the Attorney General's publication Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues.

In addition, the annual parental notification shall inform parents/guardians of their children's right to a free public education regardless of immigration status or religious beliefs, including information on educational rights issued by the California Attorney General. Alternatively, such information may be provided through any other cost-effective means determined by the Superintendent or designee. (Education Code 234.7)

Note: Pursuant to Education Code 48985, when 15 percent or more of students enrolled in a school speak a single primary language other than English, all notices and reports sent to the parents/guardians of these students must also be written in the primary language and may be answered by the parent/guardian in English or the primary language. In addition, 20 USC 6311 and 6312 require that districts receiving Title I funds provide parent/guardian notices in an understandable and uniform format and, to the extent practicable, in a language that parents/guardians understand.

The district's nondiscrimination policy and related informational materials shall be published in a format that parents/guardians can understand. In addition, when 15 percent or more of a school's students speak a single primary language other than English, those materials shall be translated into that other language.

Access for Individuals with Disabilities

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

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

District programs and facilities, viewed in their entirety, shall be in compliance with the

Americans with Disabilities Act (ADA) and any implementing standards and/or regulations. When structural changes to existing district facilities are needed to provide individuals with disabilities access to programs, services, activities, or facilities, the Superintendent or designee shall develop a transition plan that sets forth the steps for completing the changes.

(cf. 6163.2 - Animals at School)
(cf. 7110 - Facilities Master Plan)
(cf. 7111 - Evaluating Existing Buildings)

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

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

Note: The U.S. Department of Education's Office for Civil Rights (OCR) has interpreted the ADA and Section 504 of the Rehabilitation Act of 1973 to include the requirement that district web sites be accessible to individuals with disabilities. See the OCR's June 2010 and May 2011 Dear Colleague Letters and BP 1113 - District and School Web Sites.

The Superintendent or designee shall ensure that the district provides appropriate auxiliary aids and services when necessary to afford individuals with disabilities equal opportunity to participate in or enjoy the benefits of a service, program, or activity. These aids and services may include, but are not limited to, qualified interpreters or readers, assistive listening devices, assistive technologies or other modifications to increase accessibility to district and school web sites, notetakers, written materials, taped text, and Braille or large-print materials. Individuals with disabilities shall notify the Superintendent or principal if they have a disability that requires special assistance or services. Reasonable notification should be given prior to a school-sponsored function, program, or meeting.

(cf. 6020 - Parent Involvement)
(cf. 9320 - Meetings and Notices)
(cf. 9322 - Agenda/Meeting Materials)

Note: Pursuant to 28 CFR 35.107, a district that has 50 or more employees is required to designate at least one employee to coordinate the district's efforts to comply with the ADA. The designated employee could be the same individual or position responsible for the district's compliance with state and federal laws and regulations governing educational programs as identified in the district's uniform complaint procedures. The following paragraph, which identifies the person or position identified in the AR 1312.3 - Uniform Complaint Procedures as the responsible employee, may be modified if the district chooses to designate another person or position.

The individual identified in AR 1312.3 - Uniform Complaint Procedures as the employee responsible for coordinating the district's response to complaints and for complying with state federal civil rights laws is hereby designated as the district's ADA coordinator. He/she shall receive and address requests for accommodation submitted by individuals with disabilities, and shall investigate and resolve complaints regarding their access to district programs, services, activities, or facilities.

(title or position)

(address)

(telephone number)

(email)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

48980 Parental notifications

48985 Notices to parents in language other than English

51007 Legislative intent: state policy

GOVERNMENT CODE

8310.3 California Religious Freedom Act

11000 Definitions

11135 Nondiscrimination in programs or activities funded by state

12900-12996 Fair Employment and Housing Act

54953.2 Brown Act compliance with Americans with Disabilities Act

PENAL CODE

422.55 Definition of hate crime

422.6 Interference with constitutional right or privilege

CODE OF REGULATIONS, TITLE 5

4600-4670 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities in Education Act

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

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

6311 State plans

6312 Local education agency plans

UNITED STATES CODE, TITLE 29

794 Section 504 of the Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 42

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

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

2000h-2000h-6 Title IX

12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act

36.303 Auxiliary aids and services

CODE OF FEDERAL REGULATIONS, TITLE 34

100.1-100.13 Nondiscrimination in federal programs, effectuating Title VI

104.1-104.39 Section 504 of the Rehabilitation Act of 1973

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

106.9 Dissemination of policy

Management Resources:

CSBA PUBLICATIONS

Updated Legal Guidance: Protecting Transgender and Gender Nonconforming Students Against Sex Discrimination, July 2016

CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATIONS

Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, April 2018

CALIFORNIA DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING PUBLICATIONS

California Law Prohibits Workplace Discrimination and Harassment

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

Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016

Dear Colleague Letter: Title IX Coordinators, April 2015

Dear Colleague Letter, May 26, 2011

Dear Colleague Letter: Harassment and Bullying, October 2010

Notice of Non-Discrimination, Fact Sheet, August 2010

Dear Colleague Letter: Electronic Book Readers, June 29, 2010

Nondiscrimination in Employment Practices in Education, August 1991

U.S. DEPARTMENT OF JUSTICE PUBLICATIONS

2010 ADA Standards for Accessible Design, September 2010

Accessibility of State and Local Government Websites to People with Disabilities, June 2003

WORLD WIDE WEB CONSORTIUM PUBLICATIONS

Web Content Accessibility Guidelines, December 2008

WEB SITES

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

California Office of the Attorney General: <http://oag.ca.gov>

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

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

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

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

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

U.S. Department of Justice, Civil Rights Division, Americans with Disabilities Act:
<http://www.ada.gov>

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

World Wide Web Consortium, Web Accessibility Initiative: <http://www.w3.org/wai>

(2/14 10/16) 5/18

CSBA Sample

Board Policy

Hazardous Substances

BP 3514.1

Business and Noninstructional Operations

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 any potentially hazardous substances used in the district's educational program and in the maintenance and operation of district facilities and equipment.

(cf. 3514 - Environmental Safety)

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

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

(cf. 5141.22 - Infectious Diseases)

(cf. 5142 - Safety)

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.

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)

***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.***

Note: 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)

Note: The following paragraph may be revised to reflect the grade levels offered by the district. Education Code 32064 prohibits the use of arts and crafts materials containing toxic substances in grades K-6, and requires that any materials with toxic substances used in grades 7-12 meet specified labeling standards that inform users of the long-term health risks and provide instructions for safe use. For additional information and a list of materials prohibited in grades K-6, see the California Office of Environmental Health Hazard Assessment publication Art and Craft Materials in Schools: Guidelines for Purchasing and Safe Use.

The Superintendent or designee shall not order or purchase for use in grades K-6 any arts and crafts materials containing a substance determined by the California Office of Environmental Health Hazard Assessment to be toxic. The Superintendent or designee shall not purchase any such toxic material for use in grades 7-12 unless it includes a warning label as specified in Education Code 32065 that identifies any toxic ingredients, warns of potential adverse health effects, and describes procedures for safe use and storage. (Education Code 32064)

Legal Reference:

EDUCATION CODE

32060-32066 Toxic art supplies in schools

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

108100-108515 California Hazardous Substances Act

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

CALIFORNIA OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT PUBLICATIONS

Art and Craft Materials in Schools: Guidelines for Purchasing and Safe Use, September 17, 2016

WEB SITES

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

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

California Office of Environmental Health Hazard Assessment: <http://www.oehha.ca.gov>

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

CSBA Sample

Board Policy

Environmental Safety

BP 3514

Business and Noninstructional Operations

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

Note: Education Code 17070.75 requires each district participating in the state's School Facility Program to have a facility inspection system to ensure that each school facility is kept in good repair. Pursuant to Education Code 17002, a facility is in "good repair" when it is maintained in a manner that ensures that it is clean, safe, and functional in accordance with criteria set forth in the Facility Inspection Tool developed by the Office of Public School Construction. See AR 3517 - Facilities Inspection. In addition, the U.S. Environmental Protection Agency (EPA) has developed the Healthy School Environments Assessment Tool (HealthySEAT), a software program designed to be customized by districts to conduct voluntary self-assessments of environmental conditions, such as chemical management, hazardous materials and waste, indoor and outdoor air quality, moisture/mold control, pest control, ultraviolet radiation, and construction/renovation of school facilities. For further information, see EPA's web site.

The Governing Board recognizes its obligation to provide a safe and healthy environment at school facilities for students, staff, and community members. The Superintendent or designee shall regularly assess school facilities to identify environmental health risks and shall develop strategies to prevent and/or mitigate environmental hazards. He/she shall consider the proven effectiveness of various options, anticipated short-term and long-term costs and/or savings to the district, and the potential impact on staff and students, including the impact on student achievement and attendance.

(cf. 0200 - Goals for the School District)
(cf. 0400 - Comprehensive Plans)
(cf. 1312.4 - Williams Uniform Complaint Procedures)
(cf. 3516 - Emergencies and Disaster Preparedness Plan)
(cf. 3516.3 - Earthquake Emergency Procedure System)
(cf. 3517 - Facilities Inspection)
(cf. 4157/4257/4357 - Employee Safety)
(cf. 5142 - Safety)
(cf. 7111 - Evaluating Existing Buildings)

Such strategies shall focus on maximizing healthy indoor air quality; monitoring the quality of outdoor air and adjusting outdoor activities as necessary; reducing exposure to vehicle emissions; minimizing exposure to lead and mercury; reducing the risk of unsafe drinking water; inspecting and properly abating asbestos; appropriately storing, using, and disposing of potentially hazardous substances; using effective least toxic pest management practices; reducing the risk of

foodborne illness; and addressing any other environmental hazards identified during facilities inspections.

(cf. 3510 - Green School Operations)
(cf. 3513.3 - Tobacco-Free Schools)
(cf. 3514.1 - Hazardous Substances)
(cf. 3514.2 - Integrated Pest Management)
(cf. 3516.5 - Emergency Schedules)
(cf. 3540 - Transportation)
(cf. 3541.1 - Transportation for School-Related Trips)
(cf. 3542 - School Bus Drivers)
(cf. 3550 - Food Service/Child Nutrition Program)
(cf. 5141.23 - Asthma Management)
(cf. 5141.7 - Sun Safety)
(cf. 5142.2 - Safe Routes to School Program)
(cf. 6142.7 - Physical Education and Activity)
(cf. 6163.2 - Animals at School)
(cf. 7150 - Site Selection and Development)

Note: Health and Safety Code 116277, as added by AB 746 (Ch. 746, Statutes of 2017), requires a community water system serving a school to test for lead in the potable water system of the school and, if the school's lead level exceeds a defined level, the district must notify parents/guardians, take immediate steps to shut down all fountains and faucets where the excess lead levels may exist, and provide a potable source of drinking water to students. Schools that have their own water supply, such as a well, are required to test for lead, copper, and other contaminants in tap water pursuant to other state and federal law and regulations, including 22 CCR 64670-64679 and 40 CFR 141.80-141.91. See the California Water Boards' "Frequently Asked Questions about Lead Testing of Drinking Water in California Schools: Updated for Assembly Bill 746/Health and Safety Code 116277." For more information in regard to lead exposure and remediation, see the accompanying administrative regulation.

In developing strategies to promote healthy school environments, the Superintendent or designee may consult and collaborate with local environmental protection agencies, health agencies, water boards, and other community organizations.

(cf. 1020 - Youth Services)

The Superintendent or designee shall provide the district's maintenance and facilities staff, bus drivers, food services staff, teachers, and other staff as appropriate with professional development regarding their responsibilities in implementing strategies to improve and maintain environmentally safe and healthy schools.

(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

The Superintendent or designee shall notify the Board, staff, parents/guardians, students, and/or governmental agencies, as appropriate, if an environmental hazard is discovered at a school site.

The notification shall provide information about the district's actions to remedy the hazard and may recommend health screening of staff and students.

(cf. 5141.6 - School Health Services)

Legal Reference:

EDUCATION CODE

17002 Definition of "good repair"

17070.75 Facilities inspection

17582 Deferred maintenance fund

17590 Asbestos abatement fund

17608-17614 Healthy Schools Act of 2000, least toxic pest management practices

32080-32081 Carbon monoxide devices

32240-32245 Lead-Safe Schools Protection Act

48980.3 Notification of pesticides

49410-49410.7 Asbestos materials containment or removal

FOOD AND AGRICULTURAL CODE

11401-12408 Pest control operations and agricultural chemicals

13180-13188 Healthy Schools Act of 2000, least toxic pest management practices

GOVERNMENT CODE

3543.2 Scope of representation; right to negotiate safety conditions

HEALTH AND SAFETY CODE

105400-105430 Indoor environmental quality

113700-114437 California Retail Food Code, sanitation and safety requirements

116277 Lead testing of potable water at schools and requirements to remedy

CODE OF REGULATIONS, TITLE 5

14010 Standards for school site selection

CODE OF REGULATIONS, TITLE 8

337-339 Hazardous substances list

340-340.2 Occupational safety and health, rights of employees

1528-1537 Construction safety orders; exposure to hazards

5139-5223 Control of hazardous substances

CODE OF REGULATIONS, TITLE 13

2025 Retrofitting of diesel school buses

2480 Vehicle idling

CODE OF REGULATIONS, TITLE 17

35001-36100 Lead abatement services

CODE OF REGULATIONS, TITLE 22

64670-64679 Lead and copper in drinking water

CODE OF REGULATIONS, TITLE 24

915.1-915.7 California Building Standards Code; carbon monoxide devices

UNITED STATES CODE, TITLE 7

136-136y Use of pesticides

UNITED STATES CODE, TITLE 15

2601-2629 Control of toxic substances

2641-2656 Asbestos Hazard Emergency Response Act

UNITED STATES CODE, TITLE 42

1758 Food safety and inspections

CODE OF FEDERAL REGULATIONS, TITLE 40

141.1-141.723 Drinking water standards

745.61-745.339 Lead-based paint standards

763.80-763.99 Asbestos-containing materials in schools

763.120-763.123 Asbestos worker protections

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Indoor Air Quality: Governing Board Actions for Creating Healthy School Environments, Policy Brief, July 2008

Asthma Management in the Schools, Policy Brief, March 2008

Food Safety Requirements, Fact Sheet, October 2007

Sun Safety in Schools, Policy Brief, July 2006

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

School Site Selection and Approval Guide, 2000

Indoor Air Quality, A Guide for Educators, 1995

CALIFORNIA DEPARTMENT OF HEALTH SERVICES PUBLICATIONS

Report to the Legislature: Lead Hazards in California's Public Elementary Schools and Child Care Facilities, April 1998

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY: AIR RESOURCES BOARD PUBLICATIONS

Facts about Truck and Bus Regulation School Bus Provisions, rev. March 22, 2011

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD PUBLICATIONS

Frequently Asked Questions about Lead Testing of Drinking Water in California Schools;

Updated for Assembly Bill 746/Health and Safety Code 116277, December 15, 2017

DIVISION OF THE STATE ARCHITECT PUBLICATIONS

K-12 Occupancy Classification and Load Factors, IR A-26, rev. April 18, 2012

U.S. ENVIRONMENTAL PROTECTION AGENCY PUBLICATIONS

A Citizen's Guide to Radon: The Guide to Protecting Yourself and Your Family from Radon, 2016

Healthy School Environments Assessment Tool, rev. 2015

Indoor Air Quality Tools for Schools, rev. 2009

Mold Remediation in Schools and Commercial Buildings, September 2008

The ABCs of Asbestos in Schools, rev. August 2003

How to Manage Asbestos in School Buildings: AHERA Designated Person's Self-Study Guide, 1996

WEB SITES

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

AirNow: <http://www.airnow.gov>

American Association of School Administrators: <http://www.aasa.org>

California Air Resources Board: <http://www.arb.ca.gov>

California Building Standards: <http://www.bsc.ca.gov/codes.aspx>

California Department of Education, Health and Safety: <http://www.cde.ca.gov/lr/fa/hs>

California Department of Pesticide Regulation: <http://www.cdpr.ca.gov>

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

California State Water Resources Control Board: <http://www.waterboards.ca.gov>

Centers for Disease Control and Prevention: <http://www.cdc.gov>
Consumer Product Safety Commission: <http://www.cpsc.gov>
National Center for Environmental Health: <http://www.cdc.gov/nceh>
Occupational Safety and Health Administration: <http://www.osha.gov>
U.S. Environmental Protection Agency: <http://www.epa.gov>

(7/01 7/08) 5/18

CSBA Sample

Board Policy

Emergencies And Disaster Preparedness Plan

BP 3516

Business and Noninstructional Operations

Note: 5 CCR 560 mandates that the Governing Board adopt policy for use by district schools in formulating individual civil defense and disaster preparedness plans.

The Governing Board recognizes that all district staff and students must be prepared to respond quickly and responsibly to emergencies, disasters, and threats of disaster. The district shall take all reasonable steps to prevent and/or mitigate the impact of a disaster on district students, staff, and schools.

Note: Education Code 32282 requires that emergency disaster procedures, including, but not limited to, earthquake emergency procedures, be incorporated into the comprehensive school safety plan. See BP/AR 0450 - Comprehensive Safety Plan and AR 3516.3 - Earthquake Emergency Procedure System. For districts with an average daily attendance (ADA) over 2,500, the comprehensive safety plan is a school-level plan developed by the school site council or school safety planning committee. Districts with an ADA of 2,500 or less may instead choose to develop a districtwide plan. The following paragraph may be revised to reflect district practice and the individuals or groups responsible for developing the disaster preparedness plan.

The Superintendent or designee shall develop and maintain a disaster preparedness plan which contains routine and emergency disaster procedures, including, but not limited to, earthquake emergency procedures, and adaptations for individuals with disabilities in accordance with the Americans with Disabilities Act. Such procedures shall be incorporated into the comprehensive school safety plan. (Education Code 32282)

(cf. 0400 - Comprehensive Plans)

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3516.3 - Earthquake Emergency Procedure System)

Note: The following optional paragraph reflects a recommendation from the U.S. Department of Education's Guide for Developing High-Quality School Emergency Operations Plans, available on its web site, and may be revised to reflect district practice.

In developing the disaster preparedness plan, the Superintendent or designee shall involve district staff at all levels, including administrators, district police or security officers, facilities managers, transportation managers, food services personnel, school psychologists, counselors, school nurses, teachers, classified employees, and public information officers. As appropriate, he/she shall also collaborate with law enforcement, fire safety officials, emergency medical services, health and mental health professionals, parents/guardians, and students.

(cf. 0420 - School Plans/Site Councils)
(cf. 1220 - Citizen Advisory Committees)
(cf. 3513.3 - District Police/Security Department)

Note: In order to be eligible for reimbursement of response-related personnel costs due to a Governor-proclaimed disaster, each district must follow the Standardized Emergency Management System (SEMS) guidelines (Government Code 8607; 19 CCR 2400-2450) to coordinate multiple-jurisdiction or multiple-agency operations. The guidelines urge districts to formally adopt policy language giving clear direction to staff to meet SEMS requirements. Districts may contact the California Governor's Office of Emergency Services (Cal OES) for more information.

Note: In addition, public agencies must comply with the National Incident Management System (NIMS). See the Federal Emergency Management Agency's publication National Incident Management System. In accordance with the State of California Emergency Plan, Cal OES is the principal coordinator for NIMS implementation statewide and will annually communicate, monitor, and implement NIMS requirements in cooperation with state and local agencies.

The plan shall comply with state-approved Standardized Emergency Management System (SEMS) guidelines established for multiple-jurisdiction or multiple-agency operations and with the National Incident Management System.

The Superintendent or designee shall provide training to employees regarding their responsibilities, including periodic drills and exercises to test and refine staff's responsiveness in the event of an emergency.

(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

Note: Pursuant to Education Code 32282, a procedure to allow the use of school facilities for mass care and welfare shelters during disasters or other emergencies must be incorporated into the comprehensive school safety plan. See AR 0450 - Comprehensive Safety Plan.

The Board shall grant the use of school buildings, grounds, and equipment to public agencies, including the American Red Cross, for mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare. The Board shall cooperate with such agencies in furnishing and maintaining whatever services the district may deem necessary to meet the community's needs. (Education Code 32282)

(cf. 1330 - Use of School Facilities)

***Note: Pursuant to Government Code 3100, all public employees are declared to be disaster service workers. As such, in the event that a local or state emergency has been proclaimed or a federal disaster declaration has been made, district staff may be directed to perform jobs other than their usual duties for periods of time exceeding their normal working hours. In those cases, their workers' compensation insurance coverage becomes the responsibility of Cal OES, but their

overtime is paid by the district. For further information, see the Cal OES publication School Emergency Response: Using SEMS at Districts and Sites.***

Note: Government Code 3100-3109 require all disaster service workers to take the oath or affirmation of allegiance to the U.S. Constitution contained in the California Constitution, Article 20, Section 3; see AR/E 4112.3/4212.3/4312.3 - Oath or Affirmation. Although Board members are required to take the same oath upon entering office (see BB 9224 - Oath or Affirmation), they are not considered disaster service workers according to the definition in Government Code 3101.

District employees are considered disaster service workers and are subject to disaster service activities assigned to them. (Government Code 3100)

(cf. 4112.3/4212.3/4312.3 - Oath or Affirmation)

(cf. 4119.3/4219.3/4319.3 - Duties of Personnel)

Legal Reference:

EDUCATION CODE

32001 Fire alarms and drills

32040 Duty to equip school with first aid kit

32280-32289 School safety plans

32290 Safety devices

39834 Operating overloaded bus

46390-46392 Emergency average daily attendance in case of disaster

49505 Natural disaster; meals for homeless students; reimbursement

CIVIL CODE

1714.5 Release from liability for disaster service workers and shelters

GOVERNMENT CODE

3100-3109 Public employees as disaster service workers; oath or affirmation

8607 Standardized emergency management system

CALIFORNIA CONSTITUTION

Article 20, Section 3 Oath or affirmation

CODE OF REGULATIONS, TITLE 5

550 Fire drills

560 Civil defense and disaster preparedness plans

CODE OF REGULATIONS, TITLE 19

2400-2450 Standardized emergency management system

UNITED STATES CODE, TITLE 42

12101-12213 Americans with Disabilities Act

Management Resources:

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Crisis Response Box, 2000

CALIFORNIA GOVERNOR'S OFFICE OF EMERGENCY SERVICES PUBLICATIONS

Active Shooter Awareness Guidance, February 2018

State of California Emergency Plan, 2017

School Emergency Response: Using SEMS at Districts and Sites, June 1998

FEDERAL EMERGENCY MANAGEMENT AGENCY PUBLICATIONS

National Incident Management System, 3rd ed., October 2017

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Guide for Developing High-Quality School Emergency Operations Plans, 2013

WEB SITES

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

American Red Cross: <http://www.redcross.org>

California Attorney General's Office: <http://oag.ca.gov>

California Department of Education, Crisis Preparedness: <http://www.cde.ca.gov/lr/ss/cp>

California Governor's Office of Emergency Services: <http://www.caloes.ca.gov>

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

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

Federal Emergency Management Agency: <http://www.fema.gov>

U.S. Department of Education, Emergency Planning:

<http://www2.ed.gov/admins/lead/safety/crisisplanning.html>

U.S. Department of Homeland Security: <http://www.dhs.gov>

(11/04 7/06) 5/18

CSBA Sample

Board Policy

Employee Security

BP 4158 4258, 4358

Personnel

Note: Pursuant to Government Code 3543.2, safety conditions in employment are a mandatory subject of collective bargaining. The following Board policy and accompanying administrative regulation are optional and may be revised to reflect district practice.

The Governing Board desires to provide a safe and orderly work environment for all employees. As part of the district's comprehensive safety plan, the Superintendent or designee shall develop strategies for protecting employees from potentially dangerous persons and situations and for providing necessary assistance and support when emergency situations occur.

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3515 - Campus Security)

(cf. 5131.4 - Student Disturbances)

Note: Code of Civil Procedure 527.8 allows the district to seek a temporary restraining order and injunction on behalf of an employee against any other individual who has subjected the employee to unlawful violence or a credible threat of violence in the workplace. In *City of San Jose v. William Garbett*, a California Court of Appeal held that a court's issuance of a temporary restraining order and injunction against a person who had verbally threatened a city official was not a violation of that person's right to free speech and right of access to a public place.

Any employee against whom violence or any threat of violence has been directed in the workplace shall notify the Superintendent or designee immediately. As appropriate, the Superintendent or designee shall initiate legal and security measures to protect the employee and others in the workplace.

Note: Education Code 48905 provides that an employee who is injured or whose property is damaged by willful misconduct of a district student under the conditions described below may request that the district pursue legal action against the student, or his/her parent/guardian pursuant to Education Code 48904. Education Code 48904 provides that a parent/guardian will be liable for damages caused by his/her minor child's willful misconduct resulting in injury to a district student, employee, or volunteer or damage to district or employee property. Also see BP 3515.4 - Recovery for Property Loss or Damage and AR 5125.2 - Withholding Grades, Diploma or Transcripts. The district should consult legal counsel when considering whether to pursue legal action.

The Superintendent or designee may pursue legal action on behalf of an employee against a student or his/her parent/guardian to recover damages to the employee or his/her property caused by the student's willful misconduct that occurred on district property, at a school or district

activity, or in retaliation for lawful acts of the employee in the performance of his/her duties.
(Education Code 48904, 48905)

(cf. 3320 - Claims and Actions Against the District)
(cf. 3515.4 - Recovery for Property Loss or Damage)
(cf. 4156.3/4256.3/4356.3 - Employee Property Reimbursement)
(cf. 5125.2 - Withholding Grades, Diploma or Transcripts)

The Superintendent or designee shall ensure that employees receive training in crisis prevention and intervention techniques in order to protect themselves and students. Staff development may include training in classroom management, effective communication techniques, procedures for responding to an active shooter situation, and crisis resolution.

(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

The Superintendent or designee also shall inform teachers, in accordance with law, of crimes and offenses committed by students who may pose a danger in the classroom. (Education Code 48201, 49079; Welfare and Institutions Code 827)

The Superintendent or designee may make available at appropriate locations, including, but not limited to, district and school offices, gyms, and classrooms, communication devices that would enable two-way communication with law enforcement and others when emergencies occur.

(cf. 5141 - Health Care and Emergencies)

Use of Pepper Spray

Note: The following section is optional and may be revised to reflect district practice. Penal Code 22810 authorizes adults, with certain exceptions, to carry an approved tear gas weapon such as pepper spray for purposes of self-defense. Penal Code 626.9 and 626.10, which prohibit the possession of weapons on school grounds, do not prohibit the possession of pepper spray on school grounds. Thus, the Governing Board may determine whether to allow or disallow with certain exceptions the possession of pepper spray on school property or at school activities. See the accompanying administrative regulation for related procedures.

Employees shall not carry or possess pepper spray on school property or at school activities, except when authorized by the Superintendent or designee for self-defense purposes. When allowed, an employee may only possess pepper spray in accordance with administrative regulations and Penal Code 22810. Any employee who is negligent or careless in the possession or handling of pepper spray shall be subject to appropriate disciplinary measures.

(cf. 4118 - Dismissal/Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Reporting of Injurious Objects

Note: The following optional section specifies actions to be taken in the event an employee becomes aware of any person who is in possession of an injurious object, and is consistent with the actions described in AR 5131.7 - Weapons and Dangerous Instruments related to student possession.

Note: Pursuant to Education Code 49334, a school employee who notifies law enforcement regarding a student or adult who is in possession of an injurious object while on school grounds or under the authority of school personnel cannot be subject to any civil or administrative proceeding, including disciplinary action, for such action.

The Board requires employees to take immediate action upon being made aware that any person is in possession of a weapon or unauthorized injurious object on school grounds or at a school-related or school-sponsored activity. The employee shall use his/her own judgment as to the potential danger involved and shall do one of the following:

1. Confiscate the object and deliver it to the principal immediately
2. Immediately notify the principal, who shall take appropriate action
3. Immediately call 911 and the principal

(cf. 3515.7 - Firearms on School Grounds)

(cf. 5131.7 - Weapons and Dangerous Instruments)

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

When informing the principal about the possession or seizure of a weapon or dangerous device, the employee shall report the name(s) of persons involved, witnesses, location, and the circumstances of any seizure.

Legal Reference:

EDUCATION CODE

32210-32212 Willful disturbance, public schools or meetings

32225-32226 Communication devices

35208 Liability insurance

35213 Reimbursement for loss, destruction or damage of school property

44014 Report of assault by pupil against school employee

44807 Duty concerning conduct of students

48201 Transfer of student records

48900-48926 Suspension or expulsion

49079 Notification to teacher; student who has engaged in acts re: grounds suspension or expulsion

49330-49335 Injurious objects

CIVIL CODE

51.7 Freedom from violence or intimidation

CODE OF CIVIL PROCEDURE

527.8 Workplace violence safety

GOVERNMENT CODE

995-996.4 Defense of public employees

3543.2 Scope of representation

PENAL CODE

71 Threatening public officers and employees and school officials

240-246.3 Assault and battery, especially:

241.3 Assault against school bus drivers

241.6 Assault on school employee including board member

243.3 Battery against school bus drivers

243.6 Battery against school employee including board member

245.5 Assault with deadly weapon against school employee including board member

290 Registration of sex offenders

601 Trespass by person making credible threat

626-626.11 School crimes

646.9 Stalking

22810 Purchase, possession, and use of tear gas

WELFARE AND INSTITUTIONS CODE

827 Juvenile court proceedings; reports; confidentiality

828.1 District police or security department, disclosure of juvenile records

COURT DECISIONS

City of San Jose v. William Garbett, (2010) 190 Cal. App. 4th 526

Management Resources:

WEB SITES

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

California Department of Education, Safe Schools and Violence Prevention Office:

<http://www.cde.ca.gov/lss/ss>

CSBA Sample

Board Policy

Catastrophic Leave Program

BP 4161.9 4261.9, 4361.9

Personnel

Note: The following policy is optional and should be revised to reflect district practice and/or collective bargaining agreements. Education Code 44043.5 authorizes the Governing Board to establish a catastrophic leave program which permits employees to donate accrued vacation and sick leave credits to other employees who experience a catastrophic personal or family illness or injury. If the district limits such donations to vacation leave only and does not allow donations of sick leave, the following policy should be revised accordingly.

The Governing Board recognizes that district employees may desire to assist other employees who have an urgent need for a leave of absence but do not have sufficient accrued leave to cover their absence. The Superintendent or designee shall establish a catastrophic leave program by which employees may donate accrued vacation and/or sick leave credits, which shall be placed into a pool for use by eligible employees.

Donations made under the catastrophic leave program shall be strictly voluntary.

The district's policy and procedures regarding catastrophic leave shall be included in the employee handbook. The Superintendent or designee may notify employees annually, or more frequently if the need arises, of the process for donating leave for this purpose.

An employee may apply to use donated leave credits in accordance with the accompanying administrative regulation when he/she has exhausted all applicable paid leaves of absence and a catastrophic illness or injury incapacitates the employee or a member of his/her family for an extended period of time. (Education Code 44043.5)

(cf. 4161/4261/4361 - Leaves)

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

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

(cf. 4261.1 - Personal Illness/Injury Leave)

Legal Reference:

EDUCATION CODE

44043.5 Catastrophic leave

44977 Salary deduction during sick leave, certificated employees

44978 Sick leave, certificated employees

44983 Compensation during leave, certificated employees

45190-45191 Sick leave and vacation, classified employees

45196 Salary deductions during sick leave, classified employees
LABOR CODE
245-249 Healthy Workplaces, Healthy Families Act

(3/92 10/98) 5/18

CSBA Sample

Board Policy

District Residency

BP 5111.1

Students

Note: Education Code 48200 requires the district to provide an education to any student who resides within the district's attendance area. Education Code 48204 specifies additional circumstances under which students will be deemed to meet the residency requirements for school attendance, including, but not limited to, parent/guardian employment within district boundaries under certain conditions and interdistrict transfers; see the accompanying administrative regulation.

Note: If the Governing Board elects to authorize investigations to verify students' residency, it is mandated to adopt policy with specified components pursuant to Education Code 48204.2. See sections "Investigation of Residency" and "Appeal of Enrollment Denial" below.

The Governing Board desires to admit all students who reside within district boundaries or who fulfill the district residency requirements through other means as allowed by law. The Superintendent or designee shall develop procedures to facilitate the receipt and verification of students' proof of residency.

(cf. 5116 - School Attendance Boundaries)

The Superintendent or designee shall annually notify parents/guardians of all existing attendance options available in the district, including, but not limited to, all options for meeting residency requirements for school attendance. (Education Code 48980)

(cf. 5116.1 - Intradistrict Open Enrollment)

(cf. 5117 - Interdistrict Attendance)

(cf. 5145.6 - Parental Notifications)

The Superintendent or designee shall require parents/guardians to provide documentation of the student's residency upon admission to a district school. A copy of the document or written statement offered as verification of residency shall be maintained in the student's mandatory permanent record. (5 CCR 432)

(cf. 5111 - Admission)

(cf. 5125 - Student Records)

***Note: In Plyler v. Doe, the U.S. Supreme Court ruled that, under the Fourteenth Amendment to the U.S. Constitution, students cannot be denied a free public education on the basis of their citizenship or immigration status, including their status as undocumented children. As discussed in a Dear Colleague Letter and fact sheet, Information on the Rights of All Children to Enroll in

School, jointly issued by the U.S. Department of Justice's Civil Rights Division and U.S. Department of Education's Office for Civil Rights, it may be a violation of federal law for districts to adopt a policy or procedure that prohibits or discourages children from enrolling in school because they or their parents/guardians are not United States citizens or are undocumented.***

Note: Consistent with this guidance, Education Code 234.7, as added by AB 699 (Ch. 493, Statutes of 2017), prohibits districts from collecting information or documents regarding citizenship or immigration status of students or their family members. See the accompanying administrative regulation and guidance provided by the California Office of the Attorney General, Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, available on its web site.

When establishing students' residency for enrollment purposes, the Superintendent or designee shall not inquire into the citizenship or immigration status of students or their family members.

(cf. 5145.13 - Response to Immigration Enforcement)

Note: When a district authorizes residency status on the basis of a parent/guardian's employment within district boundaries for at least 10 hours per school week (see section "Residency Based on Parent/Guardian Employment (Allen Bill Transfers)" in the accompanying administrative regulation), Education Code 48204 encourages the district to notify the parent/guardian in writing when admission is denied and to provide reasons for the denial. The following optional paragraph provides that written notice will be provided to parents/guardians whenever enrollment is denied on any basis related to residency and may be revised to reflect district practice.

A student's enrollment may be denied when the submitted documentation is insufficient to establish district residency. In any such case, the Superintendent or designee shall notify the parent/guardian in writing, including specific reasons for the denial.

Investigation of Residency

Note: The following section should be revised to reflect district practice. To conduct an investigation into the residency claim of a student as authorized by Education Code 48204.1, a district is mandated pursuant to Education Code 48204.2 to adopt a policy with specified components. The policy must (1) identify the circumstances under which the district may initiate an investigation, including, at a minimum, a requirement that the district is able to identify specific, articulable facts supporting the belief that the parent/guardian has provided false or unreliable evidence of residency; (2) describe the investigatory methods that may be used, including whether the district may employ the services of a private investigator; (3) require staff to make reasonable efforts to determine whether the student resides in the district before hiring a private investigator (if allowed at all); (4) prohibit surreptitious photographing or video-recording of students who are being investigated; and (5) provide for an appeals process. The district should consult legal counsel if questions arise regarding the appropriateness of efforts to verify residency.

When the Superintendent or designee reasonably believes that a student's parent/guardian has provided false or unreliable evidence of residency, he/she may make reasonable efforts to determine that the student meets district residency requirements. An investigation may be initiated when the Superintendent or designee is able to identify specific, articulable facts supporting the belief that the parent/guardian has provided false or unreliable evidence of residency. (Education Code 48204.1, 48204.2)

The Superintendent or designee may assign a trained district employee to conduct the investigation. The investigation may include the examination of records, including public records, and/or interviews of persons who may have knowledge of the student's residency.

If necessary, the Superintendent or designee may employ the services of a private investigator to conduct the investigation. Before hiring a private investigator, the Superintendent or designee shall make other reasonable efforts to determine whether the student resides in the district. (Education Code 48204.2)

The investigation shall not include the surreptitious collection of photographic or videographic images of persons or places subject to the investigation. However, the use of technology is not prohibited if done in open and public view. (Education Code 48204.2)

Any employee or contractor engaged in the investigation shall truthfully identify himself/herself as an investigator to individuals contacted or interviewed during the course of the investigation. (Education Code 48204.2)

Appeal of Enrollment Denial

Note: If the district chooses to authorize investigations into the residency claim of a student as described in the section "Investigation of Residency" above, it is mandated pursuant to Education Code 48204.2 to adopt a policy which provides for an appeals process. The timelines specified in the following section may be revised to reflect district practice.

If the Superintendent or designee, upon investigation, determines that a student does not meet district residency requirements and denies the student's enrollment in the district, he/she shall provide the student's parent/guardian an opportunity to appeal that determination. (Education Code 48204.2)

The Superintendent or designee shall send the student's parent/guardian written notice specifying the basis for the district's determination. This notice shall also inform the parent/guardian that he/she may, within 10 school days, appeal the decision and provide new evidence of residency.

The burden shall be on the parent/guardian to show why the district's determination to deny enrollment should be overruled. (Education Code 48204.2)

A student who is currently enrolled in the district shall be allowed to remain in attendance at his/her school pending the results of the appeal. A student who is not currently enrolled in the district shall not be permitted to attend any district school unless his/her appeal is successful.

***Note: The district may select and/or revise either of the following options to indicate who

will be responsible for making the final decision regarding the student's residency claim. Option 1 is for use by districts that assign a district employee other than the Superintendent to make the initial residency determination, and provides that the Superintendent will make the final decision following the appeals process. Option 2 is for use by districts in which the Superintendent is responsible for the initial residency determination, and provides that the decision may be appealed to the Board.***

OPTION 1: In an appeal to the Superintendent of a determination that district residency requirements were not met, the Superintendent shall review any evidence provided by the parent/guardian or obtained during the district's investigation and shall make a decision within 10 school days of receipt of the parent/guardian's request for the appeal. The Superintendent's decision shall be final.

OPTION 2: In an appeal of the Superintendent's determination that district residency requirements were not met, the Board shall review any evidence provided by the parent/guardian or obtained during the district's investigation and shall make a decision at its next regularly scheduled meeting following the parent/guardian's request for the appeal. The Board's decision shall be final.

Enrollment Not Requiring District Residency

Note: The following optional paragraph is for use by any district maintaining grades 9-12 that (1) has petitioned for certification from the U.S. Department of Homeland Security's Student and Exchange Visitor Program to enroll a nonimmigrant foreign student who is in the United States on an F-1 visa and/or (2) admits high school students from other countries through an international exchange program under the sponsorship of a government-approved agency. For further information about enrollment of nonresident foreign students, see AR 5111.2 - Nonresident Foreign Students, BP/AR 6145.6 - International Exchange, and CSBA's Legal Guidance Regarding International Student Exchange Placement Organizations.

When approved by the Board and the appropriate agency, the district may enroll students from other countries who are in the United States on an F-1 visa or are participating in an international exchange program under the sponsorship of a government-approved agency.

(cf. 5111.2 - Nonresident Foreign Students)
(cf. 6145.6 - International Exchange)

Note: The following optional paragraph is for use by any district adjacent to another state or foreign country from which students may commute to the district and should be revised to reflect district circumstances. Pursuant to Education Code 48050 and 48052, any district that admits such students must be reimbursed by the parents/guardians of the students or by the district of residence for the total cost of educating the student and may not include such students in computing average daily attendance for the purpose of obtaining apportionment of state funds.

The district may enroll a nonresident student living in an adjoining state or foreign country in accordance with Education Code 48050-48052.

District residency is not required for enrollment in a regional occupational center or program if there are openings in the program or class. (Education Code 52317)

(cf. 6178.2 - Regional Occupational Center/Program)

Legal Reference:

EDUCATION CODE

220 Prohibition of discrimination

234.7 Student protections relating to immigration and citizenship status

35160.5 Intradistrict open enrollment

35351 Assignment of students to particular schools

46600-46611 Interdistrict attendance permits

48050-48054 Nonresidents

48200-48208 Compulsory education law, especially:

48204 Residency requirements

48204.1-48204.4 Evidence of residency

48300-48317 Student attendance alternatives, school district of choice program

48350-48361 Open Enrollment Act transfers

48645.5 Former juvenile court school students, enrollment

48852.7 Education of homeless students; immediate enrollment

48853.5 Education of foster youth; immediate enrollment

48980 Notifications at beginning of term

52317 Regional occupational program, admission of persons including nonresidents

FAMILY CODE

6550-6552 Caregivers

GOVERNMENT CODE

6205-6210 Confidentiality of residence for victims of domestic violence

CODE OF REGULATIONS, TITLE 5

432 Retention of student records

UNITED STATES CODE, TITLE 8

1229c Immigration and Nationality Act

UNITED STATES CODE, TITLE 42

11431-11435 McKinney-Vento Homeless Assistance Act

COURT DECISIONS

Katz v. Los Gatos-Saratoga Joint Union High School District, (2004) 117 Cal.App.4th 47

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

Management Resources:

CSBA PUBLICATIONS

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

Legal Guidance Regarding International Student Exchange Placement Organizations, April 2014

CALIFORNIA ATTORNEY GENERAL'S OFFICE PUBLICATIONS

Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, April 2018

U.S. DEPARTMENT OF JUSTICE CIVIL RIGHTS DIVISION AND U.S. DEPARTMENT OF

EDUCATION OFFICE FOR CIVIL RIGHTS JOINT PUBLICATIONS

Dear Colleague Letter: School Enrollment Procedures, May 8, 2014

Fact Sheet: Information on the Rights of All Children to Enroll in School, May 8, 2014

Information on the Rights of All Children to Enroll in School: Questions and Answers for States, School Districts and Parents, May 8, 2014

WEB SITES

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

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

California Office of the Attorney General: <http://oag.ca.gov>

California Secretary of State, Safe at Home Program: <http://www.sos.ca.gov/safeathome>

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

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

(12/15 3/17) 5/18

CSBA Sample

Board Policy

Admission

BP 5111

Students

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

Note: Pursuant to Education Code 234.7, as added by AB 699 (Ch. 493, Statutes of 2017), districts are mandated to adopt policy, equivalent to a model policy developed by the California Attorney General, which prohibits the solicitation or collection of information regarding the immigration or citizenship status of students and their families, unless otherwise required by law. See the Office of the Attorney General's publication Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, available on its web site. These requirements are addressed in the following policy and BP/AR 5111.1 - District Residency.

Note: In Plyler v. Doe, the U.S. Supreme Court ruled that, under the Fourteenth Amendment to the U.S. Constitution, students cannot be denied a free public education on the basis of their citizenship or immigration status, including their status as undocumented children. As discussed in a Dear Colleague Letter and fact sheet, Information on the Rights of All Children to Enroll in School, jointly issued by the U.S. Department of Justice's Civil Rights Division and U.S. Department of Education's Office for Civil Rights, it may be a violation of federal law for districts to adopt a policy or procedure that prohibits or discourages children from enrolling in school because they or their parents/guardians are not United States citizens or are undocumented. For further discussion of these issues, see CSBA's Legal Guidance on Providing All Children Equal Access to Education, Regardless of Immigration Status. CSBA's legal guidance also includes a sample board resolution that may be used to inform students, parents/guardians, and the community of students' rights under current law to attend a district school regardless of their citizenship or immigration status.

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

Note: The following optional paragraph may be revised to reflect district practice. The district should align the application windows for various attendance options in a manner that will allow the district to meet legal requirements pertaining to admissions priorities. See BP/AR 5116.1 - Intradistrict Open Enrollment, AR 5117 - Interdistrict Attendance, and BP/AR 5118 - Open Enrollment Act Transfers for application windows applicable to those options.

The Superintendent or designee shall announce and publicize the timeline and process for registration of students at district schools. Applications for intradistrict or interdistrict enrollment shall be subject to the timelines specified in applicable Board policies and administrative regulations.

(cf. 1112 - Media Relations)
(cf. 1113 - District and School Web Sites)
(cf. 1114 - District-Sponsored Social Media)
(cf. 5116.1 - Intradistrict Open Enrollment)
(cf. 5117 - Interdistrict Attendance)
(cf. 5118 - Open Enrollment Act Transfers)

All appropriate staff shall receive training on district admission policies and procedures, including information regarding the types of documentation that can and cannot be requested.

Note: Education Code 49452.9 requires that district enrollment forms include an informational item about affordable health care options and available enrollment assistance. Pursuant to Education Code 49452.9, the district could accomplish this by developing its own informational item or using a flier developed by the California Department of Education.

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

Verification of Admission Eligibility

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

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

(cf. 5111.1 - District Residency)
(cf. 5125 - Student Records)
(cf. 5141.3 - Health Examinations)
(cf. 5141.31 - Immunizations)
(cf. 5141.32 - Health Screening for School Entry)

***Note: Although districts may require proof of residency within the district (e.g., utility or phone bill, property tax payment receipt, rental property lease agreement, etc.), they are prohibited, pursuant to Education Code 234.7, as added by AB 699 (Ch. 493, Statutes of 2017), from inquiring into the citizenship or immigration status of students and their families.

Consequently, consistent with the Attorney General's model policy, districts may not request a student's or parent/guardian's green card, visa, passport, voter registration, or other documentation that indicates citizenship status and could discourage undocumented children from enrolling in school. Also see BP/AR 5111.1 - District Residency.***

Note: In addition, pursuant to Education Code 49076.7, a district is prohibited from soliciting or collecting social security numbers or the last four digits of social security numbers of students or their parents/guardians, unless otherwise required to do so by state or federal law. One such exception is the collection of the last four digits of the social security number for the purpose of establishing eligibility for a federal benefit program. Also see BP/AR 5125 - Student Records.

The district shall not inquire into or request documentation of a student's social security number or the last four digits of the social security number or the citizenship or immigration status of the student or his/her family members. (Education Code 234.7, 49076.7)

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 5145.13 - Response to Immigration Enforcement)
(cf. 5145.3 - Nondiscrimination/Harassment)

Note: The following paragraph reflects the Attorney General's model policy developed pursuant to Education Code 234.7. Information regarding national origin (e.g., place of birth, date of entry into the United States, and date the student first attended school in the United States) may be collected only when required to comply with state or federal reporting requirements for special programs, such as language instruction programs for English learners, but should not be collected during the admission process to avoid deterring initial school enrollment of immigrant students.

However, such information may be collected when required by state or federal law or to comply with requirements for special state or federal programs. In any such situation, the information shall be collected separately from the school enrollment process and the Superintendent or designee shall explain the limited purpose for which the information is collected. Enrollment in a district school shall not be denied on the basis of any such information of the student or his/her parents/guardians obtained by the district, or the student's or parent/guardian's refusal to provide such information to the district.

Note: The following paragraph is for use by districts that maintain grades K-1. In addition to the methods specified in Education Code 48002 for documenting a child's age for admittance to kindergarten or first grade, as listed in the accompanying administrative regulation, the Governing Board is authorized to prescribe alternative means for proof of a child's age. The following paragraph may be revised to reflect any such alternative means approved by the Board. The following paragraph also reflects the Attorney General's model policy, developed pursuant to Education Code 234.7, requiring that such alternative means be available to all persons regardless of immigration status, citizenship status, or national origin.

School registration information shall list all possible means of documenting a child's age for grades K-1 as authorized by Education Code 48002 or otherwise prescribed by the Board. Any alternative document allowed by the district shall be one that all persons can obtain regardless of

immigration status, citizenship status, or national origin and shall not reveal information related to citizenship or immigrant status.

Note: State and federal law require the immediate enrollment of homeless youth (Education Code 48850, 48852.7; 42 USC 11432), foster youth (Education Code 48853.5), and former juvenile court school students (Education Code 48645.5) regardless of their ability to provide the school with records normally required for enrollment; see BP/AR 6173 - Education for Homeless Children, AR 6173.1 - Education for Foster Youth, and AR 6173.3 - Education for Juvenile Court School Students. In addition, Education Code 49701 requires the district to facilitate the enrollment of children of military families and to ensure that they are not placed at a disadvantage due to difficulty in the transfer of their records from previous school districts and/or variations in entrance or age requirements; see BP/AR 6173.2 - Education of Children of Military Families.

The Superintendent or designee shall immediately enroll a homeless student, foster youth, student who has had contact with the juvenile justice system, or a child of a military family regardless of outstanding fees or fines owed to the student's last school, lack of clothing normally required by the school, such as school uniforms, or his/her inability to produce previous academic, medical, or other records normally required for enrollment. (Education Code 48645.5, 48850, 48852.7, 48853.5, 49701; 42 USC 11432)

(cf. 6173 - Education for Homeless Children)
(cf. 6173.1 - Education for Foster Youth)
(cf. 6173.2 - Education of Children of Military Families)
(cf. 6173.3 - Education for Juvenile Court School Students)

Legal Reference:

EDUCATION CODE

234.7 Student protections relating to immigration and citizenship status
46300 Computation of average daily attendance, inclusion of kindergarten and transitional kindergarten
46600 Agreements for admission of students desiring interdistrict attendance
48000 Minimum age of admission (kindergarten)
48002 Evidence of minimum age required to enter kindergarten or first grade
48010 Minimum age of admission (first grade)
48011 Admission from kindergarten or other school; minimum age
48050-48053 Nonresidents
48200 Children between ages of 6 and 18 years (compulsory full-time education)
48350-48361 Open Enrollment Act
48645.5 Enrollment of former juvenile court school students
48850-48859 Educational placement of homeless and foster youth
49076 Access to records by persons without written consent or under judicial order
49076.7 Student records; data privacy; social security numbers
49408 Information of use in emergencies
49452.9 Health care coverage options and enrollment assistance
49700-49703 Education of children of military families

HEALTH AND SAFETY CODE

120325-120380 Education and child care facility immunization requirements

121475-121520 Tuberculosis tests for students

CODE OF REGULATIONS, TITLE 5

200 Promotion from kindergarten to first grade

201 Admission to high school

CODE OF REGULATIONS, TITLE 17

6000-6075 School attendance immunization requirements

UNITED STATES CODE, TITLE 5

552a Note Refusal to disclose social security number

UNITED STATES CODE, TITLE 42

11431-11435 McKinney-Vento Homeless Assistance Act

COURT DECISIONS

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Dear Colleague Letter: School Enrollment Procedures, May 8, 2014

Fact Sheet: Information on the Rights of All Children to Enroll in School, May 8, 2014

Information on the Rights of All Children to Enroll in School: Questions and Answers for States, School Districts and Parents, May 8, 2014

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<http://www.cde.ca.gov/ls/he/hc>

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<http://www2.ed.gov/about/offices/list/ocr>

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

CSBA Sample

Board Policy

Student Records

BP 5125

Students

Note: Student records are governed by both federal and state law (Family Educational Rights and Privacy Act (FERPA) pursuant to Education Code 49069, 5 CCR 430-433, 20 USC 1232g, and 34 CFR 99.1-99.8).

Note: Pursuant to 5 CCR 431, districts are mandated to establish policies and procedures to implement state law and regulations regarding student records, including policies and procedures which enumerate and describe the student records collected and maintained by the district, ensure security of the records, and guarantee access to authorized persons within five days of a request. Education Code 49069 mandates procedures related to parental review of student records. See the accompanying administrative regulation for additional language implementing these mandates.

Note: The privacy of online information of students in prekindergarten through grade 12 is addressed in Business and Professions Code 22580-22587, which prohibit an operator of a web site, online service or application, or mobile application from knowingly using, disclosing, or compiling the personal information of a minor for the purpose of marketing or advertising specified types of products or services; allowing a third party to use, disclose, or compile such information; or selling or disclosing specified student information or knowingly using such student information to engage in targeted advertising to students or parents/guardians or to amass a profile about a preK-12 student. Covered student information includes any personally identifiable information or materials created or provided by a student, parent/guardian, or district employee (e.g., name, contact information, educational record, discipline records, test results, health records, socioeconomic information). Pursuant to Business and Professions Code 22584 and 22586, an operator must delete data under the control of the school or district upon the request of the school or district.

The Governing Board recognizes the importance of keeping accurate, comprehensive student records as required by law. The Superintendent or designee shall establish administrative regulations governing the identification, collection, retention, and security of student records. These regulations shall ensure the rights of authorized persons to have timely access to student records while maintaining the confidentiality of student records consistent with state and federal law.

(cf. 3580 - District Records)

(cf. 4040 - Employee Use of Technology)

(cf. 5125.1 - Release of Directory Information)

(cf. 5125.3 - Challenging Student Records)

The Superintendent or designee shall designate a certificated employee to serve as custodian of records with responsibility for student records at the district level. At each school, the principal or a certificated employee shall be designated as custodian of records for students enrolled at that school. The custodian of records shall be responsible for implementing Board policy and administrative regulation regarding student records. (5 CCR 431)

Note: Pursuant to Education Code 234.7, as added by AB 699 (Ch. 493, Statutes of 2017), districts are mandated to adopt policy consistent with a model policy developed by the California Attorney General, which includes the following statement. See the Office of the Attorney General publication Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues.

All appropriate personnel shall receive training regarding district policies and procedures for gathering and handling sensitive student information.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Note: Pursuant to Education Code 49076.7, a district is prohibited from soliciting or collecting social security numbers or the last four digits of social security numbers of students or their parents/guardians, unless otherwise required to do so by state or federal law. One such exception is the collection of the last four digits of the social security number for the purpose of establishing eligibility for a federal benefit program.

The district shall not collect or solicit social security numbers or the last four digits of social security numbers of students or their parents/guardians, unless otherwise required to do so by state or federal law. (Education Code 49076.7)

Note: Education Code 234.7, as added by AB 699 (Ch. 493, Statutes of 2017), prohibits the collection of information or documents regarding the citizenship or immigration status of students or their family members, as provided below. If the district becomes aware of the citizenship or immigration status of any student, it is prohibited from disclosing that information to U.S. Immigration and Customs Enforcement, as such disclosure is not among the limited exceptions specified in law for which student records may be released without parental consent or a lawful judicial order.

Note: Pursuant to Education Code 234.7, districts are mandated to adopt the following paragraphs consistent with the model policy developed by the California Attorney General.

No information or documents regarding the citizenship or immigration status of students or their family members shall be collected, except as required by state or federal law or as required to administer a state or federally supported educational program. The Superintendent or designee shall not disclose student records to a person, agency, or organization for immigration enforcement purposes without parental consent, a court order, or a judicial subpoena. If a district employee receives such a request, he/she shall immediately report the request to the Superintendent. The Superintendent shall report the request to the Board in a timely manner that ensures the confidentiality and privacy of any potentially identifying information. (Education

Code 234.7)

(cf. 5145.13 - Response to Immigration Enforcement)

Note: The following paragraph reflects a requirement of Government Code 8310.3, as added by SB 31 (Ch. 826, Statutes of 2017).

The Superintendent or designee shall not compile a list, registry, or database based on students' national origin, ethnicity, or religious belief, practice, or affiliation, nor shall he/she disclose student information to federal government authorities for the purpose of compiling such a list, registry, or database for purposes of immigration enforcement. Such information may only be compiled or exchanged with other local, state, or federal agencies if the information is aggregated and is not personally identifiable. (Government Code 8310.3)

Student Records from Social Media

Note: The following section is optional. Pursuant to Education Code 49073.6, any district considering a program to gather information from students' social media activity, as defined, must first notify students and parents/guardians and provide an opportunity for public comment. The notification may be provided as part of the annual parental notification required pursuant to Education Code 48980. If such a program is then adopted, the district must comply with program requirements reflected in the section "Student Records from Social Media" in the accompanying administrative regulation.

Note: The district should consult legal counsel before gathering any other online information that does not meet the definition of social media in Education Code 49073.6.

The Superintendent or designee may gather and maintain information from the social media of any district student, provided that the district first notifies students and parents/guardians about the proposed program, offers an opportunity for public comment at a regularly scheduled Board meeting, and gathers only information that directly pertains to school safety or student safety. (Education Code 49073.6)

(cf. 0450 - Comprehensive Safety Plan)

(cf. 5131.2 - Bullying)

(cf. 5145.6 - Parental Notifications)

(cf. 9322 - Agenda/Meeting Materials)

(cf. 9323 - Meeting Conduct)

Contract for Digital Storage, Management, and Retrieval of Student Records

Note: Education Code 49073.1 authorizes districts to enter into a contract with a third party for the digital storage, management, and retrieval of student records and/or for software designed for this purpose. A district that chooses to enter into such a contract is mandated to adopt policy allowing such contracts and must ensure that the contract includes all the provisions specified in Education Code 49073.1. Also see BP 3312 - Contracts.

The Superintendent or designee may enter into a contract with a third party for the digital storage,

management, and retrieval of student records and/or to authorize a third party provider of digital software to access, store, and use student records, provided that the contract meets the requirements of Education Code 49073.1 and other applicable state and federal laws.

(cf. 3312 - Contracts)

Legal Reference:

EDUCATION CODE

234.7 Student protections relating to immigration and citizenship status

17604 Contracts

48201 Student records for transfer students who have been suspended/expelled

48853.5 Foster youth; placement, immunizations

48902 Notification of law enforcement of specified violations

48904-48904.3 Withholding grades, diplomas, or transcripts

48918 Rules governing expulsion procedures

48980 Parental notifications

48985 Notices in parent/guardian's primary language

49060-49079 Student records

49091.14 Parental review of curriculum

51747 Independent study

56041.5 Rights of students with disabilities

56050 Surrogate parents

56055 Foster parents

69432.9 Cal Grant program; notification of grade point average

BUSINESS AND PROFESSIONS CODE

22580-22582 Digital privacy

22584-22585 Student Online Personal Information Protection Act

22586-22587 Early Learning Personal Information Protection Act

CODE OF CIVIL PROCEDURE

1985.3 Subpoena duces tecum

FAMILY CODE

3025 Access to records by noncustodial parents

6552 Caregiver's authorization affidavit

GOVERNMENT CODE

6252-6260 Inspection of public records

HEALTH AND SAFETY CODE

120440 Immunizations; disclosure of information

PENAL CODE

245 Assault with deadly weapon

WELFARE AND INSTITUTIONS CODE

681 Truancy petitions

701 Juvenile court law

16010 Health and education records of a minor

CODE OF REGULATIONS, TITLE 5

430-438 Individual student records

16020-16027 Destruction of records of school districts

UNITED STATES CODE, TITLE 20
1232g Family Educational Rights and Privacy Act
1232h Protection of Pupil Rights Amendment
UNITED STATES CODE, TITLE 26
152 Definition of dependent child
UNITED STATES CODE, TITLE 42
11434a McKinney-Vento Homeless Assistance Act; definitions
CODE OF FEDERAL REGULATIONS, TITLE 16
Part 312 Children's Online Privacy Protection Rule
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99.1-99.67 Family Educational Rights and Privacy
300.501 Opportunity to examine records for parents of student with disability

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Final Rule and Analysis of Comments and Changes, Family Educational Rights and Privacy, December 9, 2008, Vol. 73, No. 237, pages 74806-74855

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Balancing Student Privacy and School Safety: A Guide to the Family Educational Rights and Privacy Act for Elementary and Secondary Schools, October 2007

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

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

U.S. Department of Education, Family Policy Compliance,
<http://www.ed.gov/policy/gen/guid/fpco>

CSBA Sample

Board Policy

Bullying

BP 5131.2

Students

Note: Education Code 234.1 and federal law mandate that the Governing Board adopt policy prohibiting discrimination, harassment, intimidation, retaliation, and bullying based on specified characteristics. AB 699 (Ch. 493, Statutes of 2017) amended Education Code 234.1 to include immigration status as a protected class; see BP 5145.3 - Nondiscrimination/Harassment for language fulfilling this mandate.

Note: In its October 2010 Dear Colleague Letter: Harassment and Bullying, the U.S. Department of Education Office for Civil Rights (OCR) clarified that misconduct that falls under a district's general anti-bullying policy may also trigger responsibilities under one or more federal antidiscrimination laws if the bullying is on the basis of race, color, national origin, sex, sexual orientation, gender identity or expression, age, disability, and/or another legally protected category. If so, federal law requires the district to investigate or otherwise determine what occurred and, if it finds that unlawful discrimination did occur, take prompt and effective steps reasonably calculated to end the discrimination, eliminate any hostile environment and its effects, and prevent the discrimination from recurring.

Note: In addition, OCR's August 2013 Dear Colleague Letter: Bullying of Students with Disabilities points out that any bullying of any student with disabilities that results in the student not receiving meaningful educational benefit constitutes a denial of a free appropriate public education and must be remedied under the federal Individuals with Disabilities Education Act. As necessary, the school may need to convene the student's individualized education program (IEP) team to determine whether the student's needs have changed as a result of the bullying and, if so, revise the IEP to ensure that the student continues to receive appropriate special education and related services.

Note: Thus, while this policy is intended to prevent and address all types of bullying incidents among students, school officials need to know that when "discriminatory bullying" is committed and the bullying is sufficiently serious to create a hostile educational environment for the alleged victim or to otherwise deny or limit his/her educational benefits and services, including denial of a free appropriate public education, the alleged victim must be afforded the protections specified under relevant state and/or federal law.

The Governing Board recognizes the harmful effects of bullying on student learning and school attendance and desires to provide a safe school environment that protects students from physical and emotional harm. District employees shall establish student safety as a high priority and shall not tolerate bullying of any student.

No individual or group shall, through physical, written, verbal, or other means, harass, sexually

harass, threaten, intimidate, retaliate, cyberbully, cause bodily injury to, or commit hate violence against any student or school personnel.

(cf. 5131 - Conduct)

(cf. 5136 - Gangs)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

(cf. 5145.9 - Hate-Motivated Behavior)

Note: Pursuant to Education Code 48900, the definition of "bullying" for purposes of establishing grounds for suspension or expulsion includes bullying via an electronic act such as posting of messages on social media networks and includes electronic acts that originate off campus; see the section "Discipline" below and AR 5144.1 - Suspension and Expulsion/Due Process.

Note: In addition, Penal Code 653.2 makes it a crime to distribute another person's personally identifiable information electronically with the intent to cause harassment by a third party and to threaten a person's safety or that of his/her family (e.g., placing a person's address online so that he/she receives harassing messages).

Cyberbullying includes the electronic creation or transmission of harassing communications, direct threats, or other harmful texts, sounds, or images as defined in Education Code 48900. Cyberbullying also includes breaking into another person's electronic account and assuming that person's identity in order to damage that person's reputation.

(cf. 5145.2 - Freedom of Speech/Expression)

(cf. 6163.4 - Student Use of Technology)

Note: Education Code 32282 encourages districts to include bullying prevention policies and procedures in their comprehensive safety plan; see BP 0450 - Comprehensive Safety Plan. In addition, Education Code 52060-52077 require the Board to adopt and annually update a local control and accountability plan which includes, among other specified state priorities, goals for addressing school climate; see BP/AR 0460 - Local Control and Accountability Plan. Pursuant to Education Code 52060, school climate should be measured by student suspension and expulsion rates and other local measures, including surveys of students, parents/guardians, and teachers on the sense of safety and school connectedness, as applicable.

Strategies for addressing bullying in district schools shall be developed with involvement of key stakeholders, including students, parents/guardians, and staff, and may be incorporated into the comprehensive safety plan, the local control and accountability plan, and other applicable district and school plans.

(cf. 0420 - School Plans/Site Councils)

(cf. 0450 - Comprehensive Safety Plan)

(cf. 0460 - Local Control and Accountability Plan)

(cf. 1220 - Citizen Advisory Committees)

(cf. 6020 - Parent Involvement)

Note: Because bullying is not limited to one environment, collaboration among a variety of community agencies and organizations that serve youth may be helpful in preventing and responding to bullying. For further information about building a collaborative, see CSBA's publications *Safe Schools: Strategies for Governing Boards to Ensure Student Success* and *Building Healthy Communities: A School Leader's Guide to Collaboration and Community Engagement*.

As appropriate, the Superintendent or designee may collaborate with law enforcement, courts, social services, mental health services, other agencies, and community organizations in the development and implementation of joint strategies to promote safety in schools and the community and to provide services for alleged victims and perpetrators of bullying.

(cf. 1020 - Youth Services)

Bullying Prevention

To the extent possible, district schools shall focus on the prevention of bullying by establishing clear rules for student conduct and implementing strategies to promote a positive, collaborative school climate. Students shall be informed, through student handbooks and other appropriate means, of district and school rules related to bullying, mechanisms available for reporting incidents or threats, and the consequences for engaging in bullying.

(cf. 5137 - Positive School Climate)

Note: California content standards related to student education about bullying and violence prevention (e.g., recognizing the characteristics of bullying, examining the effects of bullying on others, demonstrating what to say and do when witnessing bullying) are addressed within the health education content standards adopted by the State Board of Education.

Note: 47 USC 254 mandates districts that receive e-rate discounts to adopt a policy which addresses educating students about appropriate online behavior, including the interaction with other individuals on social networking web sites and in chat rooms, as well as providing information about cyberbullying awareness and response. See BP 6163.4 - Student Use of Technology for language implementing this mandate.

As appropriate, the district shall provide students with instruction, in the classroom or other educational settings, that promotes social-emotional learning, effective communication and conflict resolution skills, character/values education, respect for cultural and individual differences, self-esteem development, assertiveness skills, and appropriate online behavior.

(cf. 6142.8 - Comprehensive Health Education)

(cf. 6142.94 - History-Social Science Instruction)

***Note: Education Code 234.7, as added by AB 699 (Ch. 493, Statutes of 2017), requires districts to educate students about the negative impact of bullying based on actual or perceived immigration status or religious beliefs and customs. The following paragraph reflects the California Attorney General's model policy developed pursuant to Education Code 234.7, contained in the Office of the Attorney General's publication *Promoting a Safe and Secure*

Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, and has been expanded to include education about the impact of bullying based on any other individual characteristic.***

Such instruction shall also educate students about the negative impact of bullying, discrimination, intimidation, and harassment based on actual or perceived immigration status, religious beliefs and customs, or any other individual bias or prejudice.

Note: Pursuant to Education Code 234.7, as added by AB 699 (Ch. 493, Statutes of 2017), districts are mandated to adopt policy, equivalent to that developed by the Attorney General, which requires the provision of staff training with the components specified below.

The Superintendent or designee shall provide training to teachers and other school staff to raise their awareness about the legal obligation of the district and its employees to prevent discrimination, harassment, intimidation, and bullying of district students. Such training shall be designed to provide staff with the skills to:

1. Discuss the diversity of the student body and school community, including their varying immigration experiences
2. Discuss bullying prevention strategies with students, and teach students to recognize the behavior and characteristics of bullying perpetrators and victims
3. Identify the signs of bullying or harassing behavior
4. Take immediate corrective action when bullying is observed
5. Report incidents to the appropriate authorities, including law enforcement in instances of criminal behavior

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Based on an assessment of bullying incidents at school, the Superintendent or designee may increase supervision and security in areas where bullying most often occurs, such as classrooms, playgrounds, hallways, restrooms, and cafeterias.

Intervention

Students are encouraged to notify school staff when they are being bullied or suspect that another student is being victimized. In addition, the Superintendent or designee shall develop means for students to report threats or incidents confidentially and anonymously.

***Note: Although Education Code 234.1 requires the district to adopt a policy requiring school personnel who witness acts of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) against students based on the actual or perceived status of the student belonging to a protected class to take immediate steps to intervene when it is safe to do so, it is

recommended that districts apply this policy equally to all students; also see AR 5145.3 - Nondiscrimination/Harassment.***

School staff who witness an act of bullying shall immediately intervene to stop the incident when it is safe to do so. (Education Code 234.1)

When appropriate based on the severity or pervasiveness of the bullying, the Superintendent or designee shall notify the parents/guardians of victims and perpetrators and may contact law enforcement.

The Superintendent, principal, or principal's designee may refer a victim, witness, perpetrator, or other student affected by an act of bullying to a school counselor, school psychologist, social worker, child welfare attendance personnel, school nurse, or other school support service personnel for case management, counseling, and/or participation in a restorative justice program as appropriate. (Education Code 48900.9)

(cf. 6164.2 - Guidance/Counseling Services)

Reporting and Filing of Complaints

Note: The following reporting process may be revised to reflect district practice.

Any student, parent/guardian, or other individual who believes that a student has been subjected to bullying or who has witnessed bullying may report the incident to a teacher, the principal, a compliance officer, or any other available school employee. Within one business day of receiving such a report, a staff member shall notify the principal of the report, whether or not a uniform complaint is filed. In addition, any school employee who observes an incident of bullying involving a student shall, within one business day, report his/her observation to the principal or a district compliance officer, whether or not the alleged victim files a complaint.

Within two business days of receiving a report of bullying, the principal shall notify the district compliance officer identified in AR 1312.3 - Uniform Complaint Procedures.

(cf. 1312.3 - Uniform Complaint Procedures)

Note: Districts have the authority to monitor student use of the district's Internet system and to conduct individual searches of student accounts if there is reasonable suspicion that a user has violated district policy or the law; see BP/AR 5145.12 - Search and Seizure and BP/E 6163.4 - Student Use of Technology.

When the circumstances involve cyberbullying, individuals with information about the activity shall be encouraged to save and print any electronic or digital messages that they feel constitute cyberbullying and to notify a teacher, the principal, or other employee so that the matter may be investigated. When a student uses a social networking site or service to bully or harass another student, the Superintendent or designee may file a request with the networking site or service to suspend the privileges of the student and to have the material removed.

When a report of bullying is submitted, the principal or a district compliance officer shall inform

the student or parent/guardian of the right to file a formal written complaint in accordance with AR 1312.3. The student who is the alleged victim of the bullying shall be given an opportunity to describe the incident, identify witnesses who may have relevant information, and provide other evidence of bullying.

Investigation and Resolution of Complaints

Note: Pursuant to Education Code 234.1, districts are required to adopt a process for receiving and investigating complaints involving unlawful discrimination (such as discriminatory harassment, intimidation, and bullying) based on race or ethnicity, nationality, gender, sex, sexual orientation, religion, immigration status, or any characteristic contained in the definition of hate crimes in Penal Code 422.55. Pursuant to 5 CCR 4600-4633, the UCP must be used for this purpose. In addition, federal regulations require districts to adopt procedures providing for prompt and equitable resolution of complaints of unlawful discrimination (such as discriminatory harassment, intimidation, and bullying) on the basis of sex (34 CFR 106.8), disability (34 CFR 104.7 and 28 CFR 35.107), and age (34 CFR 110.25).

Note: Although some bullying incidents may not fall within the provisions of Education Code 234.1 or federal civil rights regulations, CSBA strongly recommends that districts use the UCP to investigate all bullying incidents (whether discriminatory or nondiscriminatory) to ensure consistent implementation by district staff. It is not always easy or possible for staff to know prior to an investigation whether a student was bullied because of his/her actual or perceived membership in a legally protected class. Those bullying incidents found to involve discrimination based on the results of the investigation would then be resolved using the UCP. When a bullying incident is determined to be nondiscriminatory, it should be resolved through the appropriate disciplinary process. Districts that are concerned about the capacity of a single district compliance officer to handle a possible increase in the number of UCP complaints, or that prefer to handle certain incidents at the school site level whenever possible, may designate multiple compliance officers in accordance with AR 1312.3 - Uniform Complaint Procedures.

Any complaint of bullying shall be investigated and, if determined to be discriminatory, resolved in accordance with law and the district's uniform complaint procedures specified in AR 1312.3.

If, during the investigation, it is determined that a complaint is about nondiscriminatory bullying, the principal or designee shall inform the complainant and shall take all necessary actions to resolve the complaint.

Discipline

Note: Pursuant to Education Code 48900-48900.4, "bullying" is a ground for suspension or expulsion; see AR 5144.1 - Suspension and Expulsion/Due Process.

***Note: The courts have generally upheld discipline for off-campus student conduct that poses an identifiable threat to the safety of other students, staff, or school property or presents a risk of substantial disruption of school activities, provided that the district is able to document the impact or disruption that the conduct has, or could be expected to have, on school activities (e.g., *Wynar v. Douglas County School District*, *Lavine v. Blaine School District*). The court in *J.C. v. Beverly Hills Unified School District* found that the district would be able to discipline a student for a

video recorded off campus and posted on YouTube, but that the discipline imposed on this particular student was not justified since the district did not present evidence of specific facts that led school officials to predict that the video would cause substantial disruption (e.g., the video was not violent or threatening nor did it lead to any confrontations between the students).***

Note: Consistent with these interpretations, Education Code 48900 defines bullying by means of an electronic act to include creation or transmission originating on or off the school site. Thus, for purposes of determining whether the conduct may be subject to suspension or expulsion, the act does not necessarily need to have been committed while at school, while coming to or from school, or during a school-sponsored activity. Nevertheless, the act needs to satisfy the criteria specified in the definition of "bullying" in Education Code 48900 (i.e., a severe or pervasive physical or verbal act or conduct that has or can be reasonably predicted to have the effect of placing a reasonable student in fear of harm to his/her person or property, causing a substantially detrimental effect on his/her physical or mental health, causing substantial interference with his/her academic performance, or causing substantial interference with his/her ability to participate in or benefit from school services, activities, or privileges).

Note: When the conduct does not rise to the level specified in Education Code 48900, the district may implement interventions other than suspension or expulsion to address the bullying. For further information, see CSBA's policy brief Cyberbullying: Policy Considerations for Boards. Also see BP 5131 - Conduct and BP 5145.2 - Freedom of Speech/Expression.

Note: Additionally, districts should note that, in the context of discriminatory bullying on the basis of race, color, national origin, sex, or disability, federal law and regulations require school districts to impose discipline on students, up to and including suspension and expulsion, where necessary to remedy the effects of a hostile environment and prevent the discrimination from recurring.

Corrective actions for a student who commits an act of bullying of any type may include counseling, behavioral intervention and education, and, if the behavior is severe or pervasive as defined in Education Code 48900, may include suspension or expulsion in accordance with district policies and regulations.

(cf. 5138 - Conflict Resolution/Peer Mediation)

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

(cf. 6159.4 - Behavioral Interventions for Special Education Students)

Any employee who permits or engages in bullying or retaliation related to bullying shall be subject to disciplinary action, up to and including dismissal.

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

(cf. 4119.21/4219.21/4319.21 - Professional Standards)

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

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32283.5 Bullying; online training

35181 Governing board policy on responsibilities of students

35291-35291.5 Rules

48900-48925 Suspension or expulsion

48985 Translation of notices

52060-52077 Local control and accountability plan

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647 Use of camera or other instrument to invade person's privacy; misdemeanor

647.7 Use of camera or other instrument to invade person's privacy; punishment

653.2 Electronic communication devices, threats to safety

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4600-4687 Uniform complaint procedures

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35.107 Nondiscrimination on basis of disability; complaints

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104.7 Designation of responsible employee for Section 504

106.8 Designation of responsible employee for Title IX

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Dear Colleague Letter: Harassment and Bullying, October 2010

WEB SITES

CSBA: <http://www.csba.org>
California Department of Education, Safe Schools Office: <http://www.cde.ca.gov/lr/ss>
California Office of the Attorney General: <http://oag.ca.gov>
Center on Great Teachers and Leaders: <http://gtlcenter.org>
Collaborative for Academic Social and Emotional Learning: <http://casel.org>
Common Sense Media: <http://www.common Sense Media.org>
National School Safety Center: <http://www.schoolsafety.us>
Partnership for Children and Youth: <http://www.partnerforchildren.org>
U.S. Department of Education: <http://www.ed.gov>

(10/14 7/15) 5/18

CSBA Sample

Board Policy

Nondiscrimination/Harassment

BP 5145.3

Students

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, as amended by AB 699 (Ch. 493, Statutes of 2017), which prohibits discrimination based on race, nationality, immigration status, ethnicity, gender, gender identity, gender expression, sex, sexual orientation, religion, or any other characteristic contained in the definition of hate crimes in Penal Code 422.55; Government Code 11135, which prohibits discrimination based on all the foregoing characteristics and on age, disability, and an individual's genetic information; Title VI (42 USC 2000d-2000e-17), which prohibits discrimination based on race, color, or national origin; Title IX (20 USC 1681-1688), which prohibits discrimination based on sex, gender, gender identity, pregnancy, and parental status; the Age Discrimination Act of 1975 (42 USC 6101-6107), which prohibits discrimination based on age; and Title II (20 USC 12101-12213) and Section 504 (29 USC 794), which prohibit discrimination based on disability. 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.

Note: Moreover, this sample Board policy and the accompanying administrative regulation reflect the statutory right of a transgender student to participate in sex-segregated educational programs and use facilities consistent with his/her gender identity as specified in Education Code 221.5, and best practices based on existing state and federal law. Districts with questions about the rights of transgender and gender-nonconforming students should consult legal counsel as appropriate. For more information on the rights of transgender students, see CSBA's Final Guidance Regarding Transgender Students, Privacy, and Facilities.

Note: Education Code 234.1 mandates that districts adopt policy prohibiting discrimination at school or in any school activity related to school attendance or under the authority of the district, including discriminatory harassment, intimidation, and bullying, based on the foregoing characteristics. The California Department of Education (CDE), through its Federal Program Monitoring process, reviews districts' uniform complaint procedures (UCP) and other anti-discrimination policies and practices to ensure compliance with these requirements. In addition, the U.S. Department of Education's Office for Civil Rights (OCR) is responsible for the administrative enforcement of federal laws and regulations prohibiting discrimination on the basis of race, color, national origin, sex, disability, and age in programs and activities that receive federal financial assistance from the department, and requires the adoption of nondiscrimination policies and complaint procedures.

The Governing Board desires to provide a safe school environment that allows all students equal

access and opportunities in the district's academic, extracurricular, and other educational support programs, services, and activities. The Board prohibits, at any district school or school activity, unlawful discrimination, including discriminatory harassment, intimidation, and bullying, targeted at any student by anyone, based on the student's actual or perceived race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, ethnicity, age, religion, marital status, pregnancy, parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, 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. 5145.7 - Sexual Harassment)

(cf. 5145.9 - Hate-Motivated Behavior)

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

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

Note: Education Code 234.1 prohibits unlawful discrimination in all acts related to school activity or school attendance. OCR has clarified in several publications that conduct that occurs off campus may have an adverse effect on a student at school (i.e., create a "hostile environment" for the student). When that happens, the district has an obligation to investigate and to take steps to protect the student.

This policy shall apply to all acts related to school activity or to school attendance occurring within a district school, and to acts which occur off campus or outside of school-related or school-sponsored activities but which may have an impact or create a hostile environment at school.

Unlawful discrimination, including discriminatory harassment, intimidation, or bullying, may result from physical, verbal, nonverbal, or written conduct based on any of the categories listed above. Unlawful discrimination also includes the creation of a hostile environment through prohibited conduct that is so severe, persistent, 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.

Note: In addition to the types of prohibited student conduct described above, prohibited conduct includes different treatment of students with respect to the provision of opportunities to participate in school programs or activities or the provision or receipt of educational benefits or services. See BP 0410 - Nondiscrimination in District Programs and Activities.

Unlawful discrimination also includes disparate treatment of students based on one of the categories above with respect to the provision of opportunities to participate in school programs or activities or the provision or receipt of educational benefits or services.

The Board also prohibits any form of retaliation against any individual who reports or

participates in the reporting of unlawful discrimination, files or participates in the filing of a complaint, or investigates or participates in the investigation of a complaint or report alleging unlawful discrimination. Retaliation complaints shall be investigated and resolved in the same manner as a discrimination complaint.

Note: Pursuant to Education Code 234.1 and 34 CFR 106.8, a district is required to adopt and publicize its nondiscrimination policies to the school community. The following paragraph may be modified to reflect district practice.

Note: In addition, in its October 2010 Dear Colleague Letter: Harassment and Bullying, OCR identifies training of the school community as one of the key measures for minimizing discriminatory and harassing behavior in school. See the accompanying administrative regulation for specific measures to prevent discrimination and facilitate students' access to the educational program.

The Superintendent or designee shall facilitate students' access to the educational program by publicizing the district's nondiscrimination policy and related complaint procedures to students, parents/guardians, and employees. He/she shall provide training and information on the scope and use of the policy and complaint procedures and take other measures designed to increase the school community's understanding of the requirements of law related to discrimination. The Superintendent or designee shall regularly review the implementation of the district's nondiscrimination policies and practices and, as necessary, shall take action to remove any identified barrier to student access to or participation in the district's educational program. He/she shall report his/her findings and recommendations to the Board after each review.

(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 1330 - Use of Facilities)
(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)
(cf. 6145 - Extracurricular and Cocurricular Activities)
(cf. 6145.2 - Athletic Competition)
(cf. 6164.2 - Guidance/Counseling Services)

Regardless of whether a complainant complies with the writing, timeline, and/or other formal filing requirements, all complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying, shall be investigated and prompt action taken to stop the discrimination, prevent recurrence, and address any continuing effect on students.

Note: Policies related to discrimination must be consistent with the First Amendment right 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.

Students who engage in unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, in violation of law, Board policy, or administrative regulation shall be subject to appropriate consequence or discipline, which may include suspension or expulsion when the behavior is severe or pervasive as defined in Education Code 48900.4. Any employee who permits or engages in prohibited discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, shall be subject to disciplinary action, up to and including dismissal.

(cf. 4118 - Dismissal/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)

Record-Keeping

The Superintendent or designee shall maintain a record of all reported cases of unlawful discrimination, including discriminatory harassment, intimidation, or bullying, to enable the district to monitor, address, and prevent repetitive prohibited behavior in district schools.

(cf. 3580 - District Records)

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

GOVERNMENT CODE

11135 Nondiscrimination in programs or activities funded by state

PENAL CODE

422.55 Definition of hate crime
422.6 Crimes, harassment

CODE OF REGULATIONS, TITLE 5

432 Student record

4600-4670 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
12101-12213 Title II equal opportunity for individuals with disabilities
UNITED STATES CODE, TITLE 29
794 Section 504 of Rehabilitation Act of 1973
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
6101-6107 Age Discrimination Act of 1975
CODE OF FEDERAL REGULATIONS, TITLE 28
35.107 Nondiscrimination on basis of disability; complaints
CODE OF FEDERAL REGULATIONS, TITLE 34
99.31 Disclosure of personally identifiable information
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
110.25 Prohibition of discrimination based on age
COURT DECISIONS
Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567
Flores v. Morgan Hill Unified School District, (2003) 324 F.3d 1130

Management Resources:

CSBA PUBLICATIONS

Updated Legal Guidance: Protecting Transgender and Gender Nonconforming Students Against Sex Discrimination, July 2016

CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATIONS

Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, April 2018

FIRST AMENDMENT CENTER PUBLICATIONS

Public Schools and Sexual Orientation: A First Amendment Framework for Finding Common Ground, 2006

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

Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016

Dear Colleague Letter: Title IX Coordinators, April 2015

Dear Colleague Letter: Harassment and Bullying, October 2010

Notice of Non-Discrimination, Fact Sheet, August 2010

WEB SITES

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

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

California Safe Schools Coalition: <http://www.casafeschools.org>

California Office of the Attorney General: <http://oag.ca.gov>

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>

(10/14 9/16) 5/18

CSBA Sample

Board Policy

Hate-Motivated Behavior

BP 5145.9

Students

Note: The following optional policy addresses prevention strategies for hate-motivated incidents and should be modified to reflect district practice. Elements of this policy should be integrated into existing district and school site plans, such as the local control and accountability plan, comprehensive school safety plan, and staff development plans.

The Governing Board is committed to providing a safe learning environment that protects students from discrimination, harassment, intimidation, bullying, and other behavior motivated by a person's hostility towards another person's real or perceived ethnicity, national origin, immigrant status, sex, gender, sexual orientation, religious belief, age, disability, or any other physical or cultural characteristic. The Superintendent or designee shall design strategies to promote harmonious relationships among students, prevent incidents of hate-motivated behavior to the extent possible, and address such incidents if they occur.

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

(cf. 0450 - Comprehensive Safety Plan)

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

(cf. 5131- Conduct)

(cf. 5131.2 - Bullying)

(cf. 5131.5 - Vandalism and Graffiti)

(cf. 5136 - Gangs)

(cf. 5137 - Positive School Climate)

(cf. 5141.52 - Suicide Prevention)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

Note: Hate-motivated behavior, such as an assault, physical threat, bomb threat, destruction of property, graffiti, and certain types of vandalism, may constitute a crime under state or federal law. Local law enforcement agencies and human rights commissions throughout the state have established countywide hate crimes networks aimed at responding to and preventing hate crimes. Districts can identify local hate crime resources through the California Association of Human Relations Organizations, which conducts activities designed to protect human and civil rights through networks of collaborations that reduce community tension and build intergroup relationships.

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

The Superintendent or designee shall collaborate with regional programs and community organizations to promote safe environments for youth. Such collaborative efforts shall focus on

ensuring an efficient use of district and community resources, developing effective prevention strategies and response plans, providing assistance to students affected by hate-motivated behavior, and/or educating students who have perpetrated hate-motivated acts.

(cf. 1020 - Youth Services)

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

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

(cf. 5148.2 - Before/After School Programs)

The district shall provide students with age-appropriate instruction that includes the development of social-emotional learning, promotes their understanding of and respect for human rights, diversity, and acceptance in a multicultural society, and provides strategies to manage conflicts constructively.

(cf. 5138 - Conflict Resolution/Peer Mediation)

(cf. 6142.3 - Civic Education)

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

(cf. 6142.94 - History-Social Science Instruction)

As necessary, the district shall provide counseling, guidance, and support to students who are victims of hate-motivated behavior and to students who exhibit such behavior.

(cf. 6164.2 - Guidance/Counseling Services)

The Superintendent or designee shall ensure that the rules prohibiting hate-motivated behavior and procedures for reporting a hate-motivated incident are provided to students and parents/guardians.

The Superintendent or designee shall provide staff with training on recognizing and preventing hate-motivated behavior and on effectively enforcing rules for appropriate student conduct.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

Complaint Process

Note: Pursuant to Education Code 234.1, districts are required to adopt a process for receiving and investigating complaints involving unlawful discrimination (such as discriminatory harassment, intimidation, and bullying) based on race or ethnicity, nationality, gender, sex, sexual orientation, religion, immigration status, or any characteristic contained in the definition of hate crimes in Penal Code 422.55. In addition, federal regulations require districts to adopt procedures providing for the prompt and equitable resolution of complaints of discrimination on the basis of sex (34 CFR 106.8), disability (34 CFR 104.7 and 28 CFR 35.107), and age (34 CFR 110.25). Pursuant to 5 CCR 4600-4670, uniform complaint procedures (UCP) must be used for this purpose. See BP/AR 1312.3 - Uniform Complaint Procedures.

***Note: Although some incidents of harassment, intimidation, or bullying may not fall within

the provisions of Education Code 234.1 or federal civil rights regulations, CSBA strongly recommends that districts use the UCP to investigate all incidents (whether discriminatory or nondiscriminatory) to ensure consistent implementation by district staff. It is not always easy or possible for staff to know prior to an investigation whether a student was victimized because of his/her actual or perceived membership in a legally protected class. Those incidents found to involve discrimination based on the results of the investigation would then be resolved using the UCP. When an incident is determined to be nondiscriminatory, it should be resolved through the appropriate disciplinary process.***

A student or parent/guardian who believes the student is a victim of hate-motivated behavior is strongly encouraged to report the incident to a teacher, the principal, or other staff member.

Any staff member who is notified that hate-motivated behavior has occurred, observes such behavior, or otherwise becomes aware of an incident shall immediately contact the principal or the compliance officer responsible for coordinating the district's response to complaints and complying with state and federal civil rights laws. As appropriate, he/she shall also contact law enforcement.

(cf. 3515.3 - District Police/Security Department)

(cf. 5145.11 - Questioning and Apprehension by Law Enforcement)

Any complaint of hate-motivated behavior shall be investigated and, if determined to be discriminatory, shall be resolved in accordance with law and the district's uniform complaint procedures specified in AR 1312.3 - Uniform Complaint Procedures. If, during the investigation, it is determined that a complaint is about nondiscriminatory behavior, the principal or designee shall inform the complainant and shall take all necessary actions to resolve the complaint.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

32282 School safety plans

48900.3 Suspension for hate violence

48900.4 Suspension or expulsion for threats or harassment

PENAL CODE

422.55 Definition of hate crime

422.6 Crimes, harassment

CODE OF REGULATIONS, TITLE 5

4600-4670 Uniform complaint procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

CODE OF FEDERAL REGULATIONS, TITLE 28

35.107 Nondiscrimination on basis of disability; complaints

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

110.25 Prohibition of discrimination based on age

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Bullying at School, 2003

CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATIONS

Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California K-12 Schools in Responding to Immigration Issues, April 2018

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

Dear Colleague Letter: Harassment and Bullying, October 2010

Dear Colleague Letter: Prohibited Disability Harassment, July 2000

WEB SITES

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

California Association of Human Relations Organizations: <http://www.cahro.org>

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

California Office of the Attorney General: <http://oag.ca.gov>

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

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

CSBA Sample

Board Policy

Response To Immigration Enforcement

BP 5145.13

Students

Note: Pursuant to Education Code 234.7, as added by AB 699 (Ch. 493, Statutes of 2017), districts are mandated to adopt policy consistent with a model policy developed by the California Attorney General which limits assistance with immigration enforcement at public schools. See Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, available on the web site of the Office of the Attorney General. Except as otherwise noted below, the following policy reflects the mandated policy statements. See the accompanying administrative regulation, BP 0410 - Nondiscrimination in District Programs and Activities, BP/AR 5111 - Admission, AR 5111.1 - District Residency, BP/AR 5125 - Student Records, AR/E 5125.1 - Release of Directory Information, and BP 5131.2 - Bullying for additional language fulfilling this mandate.

The Governing Board is committed to the success of all students and believes that every school site should be a safe and welcoming place for all students and their families irrespective of their citizenship or immigration status.

District staff shall not solicit or collect information or documents regarding the citizenship or immigration status of students or their family members or provide assistance with immigration enforcement at district schools, except as may be required by state and federal law. (Education Code 234.7)

(cf. 5111 - Admission)

(cf. 5111.1 - District Residency)

Note: Education Code 234.1 mandates that districts adopt policy prohibiting discrimination, harassment, intimidation, and bullying based on the actual or perceived characteristics set forth in Penal Code 422.55 and Education Code 220. As amended by AB 699 (Ch. 493, Statutes of 2017), Education Code 234.1 expressly includes immigration status among the protected categories. See BP 0410 - Nondiscrimination in District Programs and Activities and BP 5145.3 - Nondiscrimination/Harassment for language fulfilling this mandate.

No student shall be denied equal rights and opportunities nor be subjected to unlawful discrimination, harassment, intimidation, or bullying in the district's programs and activities on the basis of his/her immigration status. (Education Code 200, 220, 234.1)

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

(cf. 5131.2 - Bullying)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.9 - Hate-Motivated Behavior)

Note: Pursuant to Education Code 234.7, as added by AB 699 (Ch. 493, Statutes of 2017), the district must notify parents/guardians of their children's right to a free public education regardless of immigration status, including "Know Your Educational Rights" information as contained in the Office of the Attorney General publication Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues. Such notice may be included in the annual parental notification provided pursuant to Education Code 48980 or through any other cost-effective means. Also see BP 0410 - Nondiscrimination in District Programs and Activities.

The Superintendent or designee shall notify parents/guardians regarding their children's right to a free public education regardless of immigration status or religious beliefs and their rights related to immigration enforcement. (Education Code 234.7)

(cf. 5145.6 - Parental Notifications)

Consistent with requirements of the California Office of the Attorney General, the Superintendent or designee shall develop procedures for addressing any requests by a law enforcement officer for access to district records, school sites, or students for the purpose of immigration enforcement.

(cf. 1340 - Access to District Records)

(cf. 3580 - District Records)

(cf. 5125 - Student Records)

(cf. 5125.1 - Release of Directory Information)

Note: The following optional paragraph reflects a recommendation of the Attorney General's model policy and may be revised to reflect district practice.

Teachers, school administrators, and other school staff shall receive training regarding immigration issues, including information on responding to a request from an immigration officer to visit a school site or to have access to a student.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

The Superintendent or designee shall report to the Board in a timely manner any requests for information or access to a school site by an officer or employee of a law enforcement agency for the purpose of enforcing the immigration laws. Such notification shall be provided in a manner that ensures the confidentiality and privacy of any potentially identifying information.
(Education Code 234.7)

Legal Reference:

EDUCATION CODE

200 Educational equity

220 Prohibition of discrimination

234.1 Safe Place to Learn Act
234.7 Student protections relating to immigration and citizenship status
48204.4 Evidence of residency for school enrollment
48980 Parental notifications
48985 Notices to parents in language other than English

GOVERNMENT CODE

8310.3 California Religious Freedom Act

PENAL CODE

422.55 Definition of hate crime
627.1-627.6 Access to school premises, outsiders

UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act

COURT DECISIONS

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

Management Resources:

CSBA PUBLICATIONS

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

CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATIONS

Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, April 2018

WEB SITES

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

California Office of the Attorney General: <http://oag.ca.gov>

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

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

California Department of Justice: <http://www.justice.gov>

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

U.S. Immigration and Customs Enforcement: <http://www.ice.gov>

U.S. Immigration and Customs Enforcement, Online Detainee Locator System:
<http://locator.ice.gov/odls>

CSBA Sample

Exhibit

Charter School Oversight

E 0420.41

Philosophy, Goals, Objectives and Comprehensive Plans

REQUIREMENTS FOR CHARTER SCHOOLS

Note: Pursuant to Education Code 47610, charter schools are exempt from Education Code provisions governing school districts unless otherwise specified in law. The following Exhibit lists some, but not necessarily all, legal requirements that apply to charter schools and may be used by districts to monitor a charter school's compliance with law. Violation of any law may subject the charter school to revocation pursuant to Education Code 47607; see BP 0420.43 - Charter School Revocation.

Charter schools shall be subject to the terms of their charters, any memorandum of understanding with their chartering authority, and other legal requirements that are expressly applicable to charter schools, including, but not limited to, requirements that each charter school:

1. Be nonsectarian in its programs, admission policies, employment practices, and all other operations (Education Code 47605)
2. Not discriminate against any student on the basis of the characteristics listed in Education Code 220 (Education Code 47605)
3. Not charge tuition (Education Code 47605)

Note: Education Code 47605 specifically prohibits a charter school from charging tuition, but does not mention fees or other charges. As clarified in the California Department of Education's (CDE) advisory Pupil Fees, Deposits, and Other Charges, because charter schools are subject to the California Constitution, the free school guarantee of the California Constitution, Article 9, Section 5, applies to charter schools. Charter schools may only charge fees which are explicitly authorized by law for charter schools. For example, charter schools may charge fees for meals and field trips pursuant to Education Code 35330, 38082, and 38084 because those provisions apply to charter schools, but charter schools may not necessarily charge other fees authorized by law for school districts.

4. Not charge student fees for any activity that is an integral component of the educational program, except as authorized by those Education Code provisions that explicitly apply to charter schools
5. Adhere to all laws establishing the minimum age for public school attendance (Education Code 47610)

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

Note: Education Code 56145 requires charter schools to serve students with disabilities in the same manner as other public schools. Pursuant to Education Code 47646, districts must ensure that each charter school that is deemed to be a public school of the district, and is not its own local educational agency (LEA) for special education purposes, receives an equitable share of special education funding and services for students with disabilities who are enrolled in the charter school.

Note: If a charter school is operating as a public school of the district for purposes of special education, the district retains responsibility and must determine how to ensure that students with disabilities receive a free appropriate public education (FAPE). However, as indicated in the California Office of Administrative Hearings ruling in Student v. Horizon Instructional Systems Charter School, a charter school operating as its own LEA for purposes of special education, including a charter school offering an independent study program, is the entity responsible for providing FAPE.

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

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

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

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

b. If the number of students who wish to attend the charter school exceeds the school's capacity, attendance shall be determined by a public random drawing, with preference extended to students currently attending the charter school and students who reside in the district, except as provided for in Education Code 47614.5. (Education Code 47605)

c. Other admission preferences may be permitted by the Governing Board of the district on an individual school basis consistent with law. (Education Code 47605)

9. Immediately enroll a homeless student, except where such enrollment would conflict with Education Code 47605(d) (Education Code 48850; 42 USC 11431-11435)

10. Comply with the requirements of Education Code 48850-48859 regarding the enrollment and placement of foster youth (Education Code 48853.5, 48859)
11. If the school offers a kindergarten program: (Education Code 48000)
 - a. Offer a transitional kindergarten (TK) program to students whose fifth birthday is from September 2 through December 2
 - b. Ensure that any credentialed teacher first assigned to teach a TK class after July 1, 2015 meets the qualifications specified in Education Code 48000 by August 1, 2020
12. Require its teachers to hold a certificate, permit, or other document issued by the Commission on Teacher Credentialing (CTC) equivalent to that which a teacher in other public schools would be required to hold (Education Code 47605)
13. Provide annual training on child abuse and neglect reporting requirements to employees and persons working on the school's behalf who are mandated reporters, within the first six weeks of each school year or within six weeks of employment (Education Code 44691)
14. Not hire any person who has been convicted of a violent or serious felony except as otherwise provided by law, and, if the school contracts with an entity for specified services, verify that any employee of that entity who will have contact with students has had a criminal background check (Education Code 44830.1, 45122.1, 45125.1)
15. Report to the CTC any change in a certificated employee's employment status (dismissal, nonreelection, resignation, suspension, unpaid administrative leave for more than 10 days, retirement, or other decision not to employ or reemploy) as a result of an allegation of misconduct or while an allegation of misconduct is pending (Education Code 44030.5)
16. Meet the requirements of Education Code 47611 regarding the State Teachers' Retirement System (Education Code 47610)
17. Meet the requirements of Government Code 3540-3549.3 related to collective bargaining in public education employment (Education Code 47611.5)
18. If the school serves students in grades 7-12, adopt a policy on suicide prevention, intervention, and postvention with specified components (Education Code 215)
19. If the school serves students in grade 9, adopt a fair, objective, and transparent mathematics placement policy with specified components (Education Code 51224.7)
20. Meet all statewide standards and conduct any statewide assessments applicable to noncharter public schools (Education Code 47605, 47612.5, 60605)
21. Grant a high school diploma to any student who completed grade 12 in the 2003-04 through 2014-15 school year and met all applicable graduation requirements other than the passage of the high school exit examination (Education Code 51413)

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

22. Offer at least the number of instructional minutes required by law for the grade levels provided by the charter school (Education Code 47612.5)

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

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

24. Identify and report to the Superintendent of Public Instruction (SPI) any portion of its average daily attendance that is generated through nonclassroom-based instruction, including, but not limited to, independent study, home study, work study, and distance and computer-based education (Education Code 47612.5, 47634.2; 5 CCR 11963.2)

25. If the school offers competitive athletics, annually post on the school's web site or on the web site of the charter operator the total enrollment of the school classified by gender, the number of students who participate in competitive athletics classified by gender, and the number of boys' and girls' teams classified by sport and by competition level (Education Code 221.9)

Note: Education Code 33479.1, 33479.3, and 49475 require charter schools that elect to conduct athletic activities to provide student athletes and their parents/guardians with information on the nature and warning signs of concussions/head injuries and sudden cardiac arrest. Such information is available on the web site of the California Interscholastic Federation.

26. If the school offers an athletic program, annually provide information sheets about concussions/head injuries and sudden cardiac arrest to athletes and their parents/guardians, which must be signed and returned to the school before the athlete initiates practice or competition. In the event that an athlete is suspected of sustaining a concussion or head injury, passes out, or faints during or immediately after participation in an athletic activity, he/she shall be immediately removed from the activity for the remainder of the day and shall not be permitted to return to the activity until he/she is evaluated by a licensed health care provider and receives written clearance to do so. (Education Code 33479-33479.5, 49475)

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

28. Notify parents/guardians of applicant students and currently enrolled students that parental involvement is not a requirement for acceptance to, or continued enrollment at, the charter school (Education Code 47605)

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

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

30. Adopt policy that is consistent with the model policy developed by the California Attorney General addressing the school's response to immigration enforcement, notify parents/guardians of their children's right to a free public education regardless of immigration status or religious beliefs, prohibit the collection of information or documents regarding the immigration status of students or their family members, and fulfill other requirements of Education Code 234.7

31. Not collect or solicit social security numbers or the last four digits of social security numbers from students or their parents/guardians unless otherwise required to do so by state or federal law (Education Code 49076.7)

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

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

34. If the school serves high school students, submit to the Student Aid Commission, for use in the Cal Grant program, the grade point average (GPA) of all students in grade 12 and verification of high school graduation or its equivalent for students who graduated in the prior academic year. However, such information shall not be submitted when students opt out or are permitted by the rules of the Student Aid Commission to provide test scores in lieu of the GPA. (Education Code 69432.9, 69432.92)

35. Develop a transportation safety plan that includes procedures to ensure that a student is not left unattended on a school bus, student activity bus, or child care motor vehicle and procedures and standards for designating an adult chaperone, other than the driver, to accompany

students on a school activity bus (Education Code 39831.3)

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

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

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

37. Provide reasonable accommodations on campus to a lactating student to express breast milk, breastfeed an infant child, or address other needs related to breastfeeding (Education Code 222)

38. Ensure the availability and proper use of emergency epinephrine auto-injectors by: (Education Code 49414)

a. Providing school nurses or other voluntary, trained personnel with at least one regular and one junior device for elementary schools and, for secondary schools, one regular device if there are no students who require a junior device

b. Distributing a notice at least once per school year to all staff requesting volunteers and describing the training that volunteers will receive

c. Providing defense and indemnification to volunteers for any and all civil liability from such administration

39. If the school chooses to make an opioid antagonist available to persons suffering, or reasonably believed to be suffering, from an opioid overdose, comply with the requirements of Education Code 49414.3, including, but not limited to, providing training to personnel who volunteer to administer the opioid antagonist

40. If the school participates in the National School Lunch and/or Breakfast program, not promote any food or beverage during the school day that does not comply with state nutritional standards pursuant to Education Code 49430-49434, and not participate in a corporate incentive program that offers free or discounted non-nutritious foods or beverages as rewards for students who reach certain academic goals (Education Code 49431.9)

41. If the school participates in the National School Lunch and/or Breakfast program, notify parents/guardians within 10 days of their child's meal account reaching a negative balance; ensure that a student with unpaid school meal fees is not shamed, treated differently, or served a meal that differs from other students; and prohibit student discipline from resulting in the denial or delay of a nutritionally adequate meal (Education Code 49557.5)

42. If the school participates in the National School Lunch and/or Breakfast program and is a

very high poverty school, as defined, apply to the California Department of Education (CDE) to provide lunch and/or breakfast free of charge to all students under a federal universal service provision (Education Code 49564)

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

44. Annually prepare and submit financial reports to the district Governing Board and the County Superintendent of Schools in accordance with the following reporting cycle:

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

b. By July 1, an update of the school's goals and the actions to achieve those goals as identified in the charter, developed using the local control and accountability plan template adopted by the State Board of Education. This report shall include a review of the progress toward the goals, an assessment of the effectiveness of the specific actions toward achieving the goals, a description of changes the school will make to the specific actions as a result of the review and assessment, and a listing and description of expenditures for the fiscal year implementing the specific actions. (Education Code 47604.33, 47606.5, 52064)

When conducting this review, the governing body of the school may consider qualitative information including, but not limited to, findings that result from any school quality reviews conducted pursuant to Education Code 52052 or any other reviews. To the extent practicable, data shall be reported in a manner consistent with how information is reported on a school accountability report card. The update shall be developed in consultation with teachers, principals, administrators, other school personnel, parents/guardians and students. (Education Code 47606.5)

c. By December 15, an interim financial report for the current fiscal year reflecting changes through October 31. (Education Code 47604.33)

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

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

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

45. Post specified information related to the prohibition against discrimination under Title IX of the Education Amendments of 1972 in a prominent and conspicuous location on the school

web site or on the web site of the charter operator (Education Code 221.61)

46. If a direct-funded charter school, adopt and implement uniform complaint procedures to resolve complaints of unlawful discrimination or alleged violation of a state or federal law or regulation governing educational programs, in accordance with 5 CCR 4600-4670 (5 CCR 4600)

47. Annually adopt a school accountability report card (Education Code 47612; California Constitution, Article 16, Section 8.5)

Note: Districts should consult with legal counsel regarding the applicability of state law other than the Education Code to charter schools.

In addition, charter schools shall comply with the state and federal constitutions, applicable federal laws, and state laws that apply to governmental agencies in general, such as the Brown Act requirements in Government Code 54950-54963 and the conflict of interest laws in Government Code 1090-1099 and 87100-91014.

(5/16 7/17) 5/18

CSBA Sample

Exhibit

Release Of Directory Information

E 5125.1

Students

Note: The following exhibit is based on a model notice prepared by the U.S. Department of Education and should be modified to reflect district practice. It has been updated to include provisions required by the California Attorney General's model policy developed pursuant to Education Code 234.7, as added by AB 699 (Ch. 493, Statutes of 2017); see the accompanying administrative regulation.

PARENT/GUARDIAN NOTICE

RELEASE OF DIRECTORY INFORMATION

The Family Educational Rights and Privacy Act (FERPA), a federal law, requires that _____(district name)_____, with certain exceptions, obtain your written consent prior to the disclosure of personally identifiable information from your child's education records. However, the district may disclose appropriately designated "directory information" without written consent, unless you have advised the district to the contrary in accordance with district procedures. The primary purpose of directory information is to allow the district to include this type of information from your child's education records in certain school and/or district publications. Examples include:

- * a playbill, showing your child's role in a drama production
- * the annual yearbook
- * honor roll or other recognition lists
- * graduation programs
- * sports activity sheets, such as for wrestling, showing weight and height of team members

Directory information, which is information that is generally not considered harmful or an invasion of privacy if released, can also be disclosed to outside organizations without a parent/guardian's prior written consent. Outside organizations include, but are not limited to, companies that manufacture class rings or publish yearbooks. In addition, two federal laws require districts receiving assistance under the Elementary and Secondary Education Act of 1965 (ESEA), as amended, to provide military recruiters, upon request, with students' names, addresses, and telephone listings, unless parents/guardians have advised the district that they do not want their child's information disclosed without their prior written consent.

If you do not want the district to disclose directory information from your child's education records without your prior written consent, you must notify the district in writing by _____(insert date)_____. The district has designated the following information as directory information:

Note: The district should modify the following list to specify those categories of information defined by the district as "directory information" in the accompanying administrative regulation. Those items the district does not intend to release as directory information should be deleted.

1. Name
2. Address
3. Telephone number
4. Email address
5. Date of birth
6. Major field of study
7. Participation in officially recognized activities and sports
8. Weight and height of athletic team members
9. Dates of attendance
10. Degrees and awards received
11. Most recent previous school attended

The district also may disclose your child's student identification number, user identification, or other unique personal identifier used to communicate in electronic systems, provided it cannot be used to access education records without a personal identification number (PIN), password, or other factor that only the authorized user knows. Your child's social security number will not be used for this purpose.

Directory information does not include your child's citizenship status, immigration status, place of birth, or any other information indicating national origin. The district will not disclose such information without your consent or a court order.