

CSBA Sample

Board Policy

High School Graduation Requirements

BP 6146.1
Instruction

***Note: The following policy is for use by districts that maintain grades 9-12. ***

***Note: AB 830 (Ch. 641, Statutes of 2017) repealed Education Code 60850-60859, thereby eliminating the California High School Exit Examination as a requirement for high school graduation. ***

The Governing Board desires to prepare all students to obtain a high school diploma so that they can take advantage of opportunities for postsecondary education and employment.

(cf. 5127 - Graduation Ceremonies and Activities)
(cf. 5147 - Dropout Prevention)
(cf. 6011 - Academic Standards)
(cf. 6143 - Courses of Study)
(cf. 6146.3 - Reciprocity of Academic Credit)

Course Requirements

***Note: Education Code 51225.3 specifies the courses that a student is required to complete in order to graduate from high school as listed in items #1-6 below. ***

***Note: Pursuant to Education Code 66204, each district that maintains a high school also is required to develop a process for submitting courses to the University of California to ensure that they align with the "a-g" course requirements for college admission. ***

To obtain a high school diploma, students shall complete at least the following courses in grades 9-12, with each course being one year unless otherwise specified:

1. Three courses in English (Education Code 51225.3)

(cf. 6142.91 - Reading/Language Arts Instruction)

2. Two courses in mathematics (Education Code 51225.3)

At least one mathematics course, or a combination of the two mathematics courses, shall meet or exceed state academic content standards for Algebra I or Mathematics I. Completion of such coursework prior to grade 9 shall satisfy the Algebra I or Mathematics I requirement, but shall not exempt a student from the requirement to complete two mathematics courses in grades 9-12. (Education Code 51224.5)

***Note: The following optional paragraph is for use only by districts that require more than two courses in mathematics for graduation and should be deleted by other districts. Pursuant to Education Code 51225.3 and 51225.35, a district that requires more than two courses in mathematics may award up to one mathematics course credit for an approved computer science course, as defined. Any such course must have been approved by the University of California as a "category c" (mathematics) course in the university's "a-g" course admission criteria; see BP 6143 - Courses of Study. ***

Students may be awarded up to one mathematics course credit for successful completion of an approved computer science course that is classified as a "category c" course based on the "a-g" course requirements for college admission. (Education Code 51225.3, 51225.35)

(cf. 6142.92 - Mathematics Instruction)
(cf. 6152.1 - Placement in Mathematics Courses)

3. Two courses in science, including biological and physical sciences (Education Code 51225.3)

(cf. 6142.93 - Science Instruction)

4. Three courses in social studies, including United States history and geography; world history, culture, and geography; a one-semester course in American government and civics; and a one-semester course in economics (Education Code 51225.3)

(cf. 6142.3 - Civic Education)
(cf. 6142.94 - History-Social Science Instruction)

***Note: Education Code 51225.3 authorizes the Board to include a course in career technical education (CTE) as an alternative to the visual or performing arts or foreign language course requirement for high school graduation. If the Board chooses to do so, it must, at a regular Board meeting prior to allowing a CTE course as an alternative, notify parents/guardians, students, teachers, and the public of information specified in Education Code 51225.3. In addition, the information must be included in the district's annual notification to parents/guardians pursuant to Education Code 48980; see the accompanying administrative regulation. Districts that do not allow this alternative course requirement should delete references to CTE in item #5 below. ***

***Note: The CTE course may be offered through different means, including a district-operated program, regional occupational center or program, or county office of education program pursuant to a joint powers agreement. See BP/AR 6178 - Career Technical Education and BP 6178.2 - Regional Occupational Center/Program for program details pertaining to CTE. ***

5. One course in visual or performing arts, foreign language, including American Sign Language, or career technical education (CTE) (Education Code 51225.3)

To be counted towards meeting graduation requirements, a CTE course shall be aligned to the CTE model curriculum standards and framework adopted by the State Board of Education.

(cf. 6142.2 - World/Foreign Language Instruction)
(cf. 6142.6 - Visual and Performing Arts Education)
(cf. 6178 - Career Technical Education)
(cf. 6178.2 - Regional Occupational Center/Program)

6. Two courses in physical education, unless the student has been otherwise exempted pursuant to other sections of the Education Code (Education Code 51225.3)

(cf. 6142.7 - Physical Education and Activity)

***Note: Pursuant to Education Code 51225.3, the Board may prescribe additional coursework (e.g., health education, service learning) or other requirements (e.g., portfolios or senior projects) that district students must complete in order to obtain a diploma. If the Board does so, such courses or projects should be listed below. ***

***Note: If the district requires a course in health education for graduation, Education Code 51225.36 requires that the district include instruction in sexual harassment and violence, including, but not limited to, information on the affirmative consent standard pursuant to Education Code 67386. Also see AR 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction. In addition, pursuant to Education Code 51225.6, a district that requires a course in health education for graduation is required to include instruction in compression-only cardiopulmonary resuscitation beginning in the 2018-19 school year. See AR 6143 - Courses of Study. ***

(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)
(cf. 6142.4 - Service Learning/Community Service Classes)
(cf. 6142.8 - Comprehensive Health Education)

***Note: Education Code 51225.3 requires the Board to adopt alternative means for students to complete the prescribed course of study; see BP/AR 6146.11 - Alternative Credits Toward Graduation. ***

Because the prescribed course of study may not accommodate the needs of some students, the Board shall provide alternative means for the completion of prescribed courses in accordance with law.

(cf. 6146.11 - Alternative Credits Toward Graduation)
(cf. 6146.2 - Certificate of Proficiency/High School Equivalency)
(cf. 6146.4 - Differential Graduation and Competency Standards for Students with Disabilities)

Exemptions and Waivers

***Note: Education Code 51225.1 requires the district to exempt from any district-adopted graduation requirements a foster youth, homeless student, former juvenile court school student, or, as amended by AB 365 (Ch. 739, Statutes of 2017), child of a military family, who transfers into the district or between district high schools any time after completing his/her second year of high school. This exemption does not apply if the Superintendent or designee makes a finding that the student is reasonably able to complete the requirements in time to graduate by the end of his/her fourth year of high school. Also see AR 6173 - Education for Homeless Children, AR 6173.1 - Education for Foster Youth, AR 6173.2 - Education of Children of Military Families, and AR 6173.3 - Education for Juvenile Court School Students. ***

***Note: Pursuant to Education Code 51225.1, within 30 calendar days of the transfer of a foster youth, homeless student, former juvenile court school student, or child of a military family, the district is required to provide notice to the student of the availability of the exemption and whether the student qualifies for it. If the district fails to provide that notification, the student will be eligible for the exemption once notified, even if the notification is received after the termination of the court's jurisdiction over the foster youth or former juvenile court school student, after the homeless student ceases to be homeless, or after the student no longer meets the definition of a child of a military family, as applicable. ***

***Note: Education Code 51225.1 also provides that, if an exempted student completes the statewide coursework requirements before the end of his/her fourth year of high school, the district or a district school must not require or request that he/she graduate before the end of his/her fourth year of high school. ***

***Note: Any complaint alleging the district's failure to comply with the requirements of Education Code 51225.1 may be filed using the district's uniform complaint procedures pursuant to 5 CCR 4600-4687; see BP/AR 1312.3 - Uniform Complaint Procedures. ***

A foster youth, homeless student, former juvenile court school student, or child of a military family who transfers into the district any time after completing his/her second year of high school shall be required to complete all graduation requirements specified in Education Code 51225.3 but shall be exempt from any additional district-adopted graduation requirements, unless the Superintendent or designee makes a finding that the student is reasonably able to complete the requirements in time to graduate by the end of his/her fourth year of high school. Within 30 days of the transfer, any such student shall be notified of the availability of the exemption and whether he/she qualifies for it. (Education Code 51225.1)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 5145.6 - Parental Notifications)

(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)

Retroactive Diplomas

***Note: Education Code 51413, as added by AB 830 (Ch. 641, Statutes of 2017), retains and

renumbers the requirement to grant a diploma to students who previously met all applicable graduation requirements other than the requirement to pass the high school exit examination. ***

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 shall be granted a high school diploma. (Education Code 51413)

***Note: The following section is optional. ***

The district may retroactively grant a high school diploma to a former student who was interned by order of the federal government during World War II or who is an honorably discharged veteran of World War II, the Korean War, or the Vietnam War, provided that he/she was enrolled in a district school immediately preceding the internment or military service and he/she did not receive a diploma because his/her education was interrupted due to the internment or military service. A deceased former student who satisfies these conditions may be granted a retroactive diploma to be received by his/her next of kin. (Education Code 51430)

In addition, the district may grant a diploma to a veteran who entered the military service of the United States while he/she was a district student in grade 12 and who had completed the first half of the work required for grade 12. (Education Code 51440)

Legal Reference:

EDUCATION CODE

- 47612 Enrollment in charter school
- 48200 Compulsory attendance
- 48412 Certificate of proficiency
- 48430 Continuation education schools and classes
- 48645.5 Acceptance of coursework
- 48980 Required notification at beginning of term
- 49701 Interstate Compact on Educational Opportunity for Military Children
- 51224 Skills and knowledge required for adult life
- 51224.5 Algebra instruction
- 51225.1 Exemption from district graduation requirements
- 51225.2 Pupil in foster care defined; acceptance of coursework, credits, retaking of course
- 51225.3 High school graduation
- 51225.35 Mathematics course requirements; computer science
- 51225.36 Instruction in sexual harassment and violence; districts that require health education for graduation
- 51225.5 Honorary diplomas; foreign exchange students
- 51225.6 Compression-only cardiopulmonary resuscitation
- 51228 Graduation requirements
- 51240-51246 Exemptions from requirements
- 51250-51251 Assistance to military dependents
- 51410-51413 Diplomas
- 51420-51427 High school equivalency certificates
- 51430 Retroactive high school diplomas

51440 Retroactive high school diplomas
51450-51455 Golden State Seal Merit Diploma
51745 Independent study restrictions
56390-56392 Recognition for educational achievement, special education
66204 Certification of high school courses as meeting university admissions criteria
67386 Student safety; affirmative consent standard
CODE OF REGULATIONS, TITLE 5
1600-1651 Graduation of students from grade 12 and credit toward graduation
4600-4687 Uniform complaint procedures
COURT DECISIONS
O'Connell v. Superior Court (Valenzuela), (2006) 141 Cal.App.4th 1452

Management Resources:

WEB SITES

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

California Department of Education, High School: <http://www.cde.ca.gov/ci/gs/hs>

University of California, List of Approved a-g Courses:

<http://www.universityofcalifornia.edu/admissions/freshman/requirements>

(12/15 12/16) 12/17

Update Guidesheets

December 2017 Update Guidesheet

27.25

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.

Charter School Authorization

(BP/AR revised) Policy updated to delete material regarding the conversion of a low-performing school into a charter school when petitioned by parents/guardians under the Parent Empowerment Act, and to add requirement that accountability measures in an approved charter include student outcomes aligned with state priorities in the local control and accountability plan. Regulation updated to reflect NEW LAW (AB 1360) which provides that a charter petition may include admission preferences, including, but not limited to, priority for siblings of admitted or enrolled students and children of the school's staff and founders, provided that the admission preferences are approved by the district board, are nondiscriminatory, and do not require parent/guardian volunteer hours. Regulation also reflects requirement of AB 1360 that suspension/expulsion procedures included in the charter petition specify how the school will comply with due process requirements.

See BP 0420.4

See AR 0420.4

Advertising and Promotion

(BP revised) Policy updated to reflect NEW LAW (AB 841) which prohibits advertising of foods or beverages during the school day, including participation in a corporate incentive program that rewards students with free or discounted foods or beverages, unless the food or beverage complies with nutritional standards. Policy also clarifies court decisions regarding advertisements containing religious viewpoints.

See BP 1325

Budget

(BP revised) Policy updated to reflect NEW LAW (SB 751) which provides that, if the amount of monies in the state Public School System Stabilization Account is three percent or more of the combined total of general fund revenues appropriated for school districts and allocated local proceeds of taxes, the district's combined assigned or unassigned ending general fund balance must not exceed 10 percent of those funds in the immediately following fiscal year, unless the district is a basic aid district, is a district with average daily attendance of 2,500 or less, or is exempted by the county superintendent of schools under extraordinary fiscal circumstances.
See BP 3100

Firearms on School Grounds

(BP revised; E 3515.7 deleted) Policy updated to reflect NEW LAW (AB 424) which eliminates the authority of the superintendent or designee to permit a person with a concealed weapons permit to possess a firearm on school grounds. Exhibits deleted as they applied to the possession of firearms on school grounds and are now unnecessary.
See BP 3515.7

Facilities Inspection

(BP 3517 deleted; AR added) Policy deleted and contents moved to AR. Regulation expanded to more directly reflect law regarding the conditions that must be inspected pursuant to the Office of Public School Construction's facilities inspection tool. Regulation reflects NEW LAW (AB 10) which requires a school that serves any of grades 6-12 and is a high-poverty school, as defined, to stock 50 percent of its restrooms with feminine hygiene products and to make such products available free of charge to students. Regulation also adds recommendation for lead testing and describes the circumstances under which drinking water is required to be tested for lead, including a requirement of NEW LAW (AB 746) for testing of school buildings constructed before January 1, 2010.
See AR 3517

Professional Standards

(BP revised) Policy updated to reflect NEW LAW (AB 500) which requires any district that has an employee code of conduct addressing employee interactions with students to post that section of its code of conduct on each school's web site (or on the district web site if a school does not maintain one) and to provide it to parents/guardians at the beginning of the school year.
See BP 4119.21/4219.21/4319.21

Complaints

(AR revised) Regulation updated to delete outdated reference to the use of Williams uniform complaint procedures for complaints alleging the failure to provide intensive instruction to students who did not pass the high school exit exam by the end of grade 12. Regulation reorganized to clarify circumstances that require the use of an alternate complaint procedure.

See AR 4144/4244/4344

Classified Personnel

(BP/AR revised) Policy updated to add material formerly in AR regarding the employment of substitute or short-term employees and to clarify that the length of service of a short-term employee must be no longer than 195 days per year. Regulation updated to reflect NEW LAW (AB 670) which makes playground aide positions part of the classified service in non-merit system districts.

See BP 4200

See AR 4200

Discipline

(BP revised) Policy updated to reflect NEW LAW (SB 250) which requires districts to ensure that any discipline imposed on a student does not result in the denial or delay of a nutritionally adequate meal to the student.

See BP 5144

Suspension and Expulsion/Due Process

(BP/AR revised) Policy updated to add homeless students as one of the numerically significant student subgroups for whom the district must monitor suspension/expulsion data, and to add board review of disaggregated suspension/expulsion data for the purpose of identifying any disparities in the imposition of discipline. Updated regulation revises the grounds for suspension and expulsion to more directly reflect law which separates out aiding or abetting a crime of physical violence from causing, attempting to cause, or threatening physical violence. Regulation also adds definition of cyber sexual bullying as a ground for suspension/expulsion and reflects NEW LAW (AB 667) which requires a student to be informed, during the informal conference required prior to suspension, of the other means of correction that were attempted before suspension.

See BP 5144.1

See AR 5144.1

Before/After School Programs

(AR revised) Regulation updated to reflect NEW LAW (AB 830) which deletes the requirement that a program operating under the 21st Century High School After School Safety and Enrichment for Teens Program (ASSETs) include preparation for the high school exit exam, as that exam has been eliminated.
See AR 5148.2

High School Graduation Requirements

(BP revised) Policy updated to reflect NEW LAW (AB 830) which repeals the requirement to pass the high school exit exam as a condition of graduation and NEW LAW (AB 365) which exempts children of military families from locally established graduation requirements under certain conditions.
See BP 6146.1

High School Exit Examination

(BP 6162.52 deleted/AR 6162.52 deleted/E 6162.52 deleted) Policy, regulation, and exhibits deleted since NEW LAW (AB 830) repeals the requirement to pass the high school exit exam as a condition of graduation.

Student Board Members

(BB revised) Bylaw updated to reflect NEW LAW (AB 261 and SB 468) which eliminates the requirement that students petition in order to receive preferential voting rights for student board members. Bylaw also reflects requirement of SB 468 that the district provide student board members with materials and briefings, except those related to closed session, at the same time as other board members.
See BB 9150

CSBA Sample

Administrative Regulation

Charter School Authorization

AR 0420.4

Philosophy, Goals, Objectives and Comprehensive Plans

***Note: The following administrative regulation is optional. ***

Petition Signatures

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

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

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

(cf. 4116 - Probationary/Permanent Status)

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

Advisory Committee

***Note: The following optional section may be revised to reflect district practice. CSBA's publication Charter Schools: A Guide for Governance Teams suggests that a petition review team is one method that a district may use to obtain input on proposed charters. Such a committee might include representatives of the district's human resources, fiscal services, risk management, student services, curriculum, special education, facilities, and other departments. ***

At his/her discretion, the Superintendent or designee may establish a staff advisory committee to evaluate the completeness of a charter petition based on the requirements in Education Code 47605 and to identify any concerns that should be addressed by the petitioners.

(cf. 2230 - Representative and Deliberative Groups)

Components of Charter Petition

***Note: CSBA's publication Charter Schools: A Guide for Governance Teams recommends specific content that would constitute a reasonably comprehensive description of each component listed in items #1-16 below, as well as recommendations for additional content that may be requested, but not required, of the petitioners (e.g., school calendar, transportation arrangements, a sample of the curriculum and instructional materials). ***

The charter petition shall include affirmations that the charter school will be nonsectarian in its programs, admission policies, employment practices, and operations; not charge tuition; and not discriminate against a student on the basis of characteristics listed in Education Code 220. It shall also contain reasonably comprehensive descriptions of: (Education Code 47605, 47611.5)

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

***Note: Education Code 47605 requires the charter petition to include annual goals for all students and for each numerically significant subgroup of students, as defined, and specific actions to achieve those goals as described in Education Code 52060. Pursuant to Education Code 52052, a numerically significant subgroup includes ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students, when there are at least 30 students in the subgroup (or at least 15 foster youth or homeless students) in the school. For schools with 11-99 students, numerically significant student subgroups are defined by the Superintendent of Public Instruction with approval by the State Board of Education (SBE). ***

***Note: Education Code 47605 requires that these annual goals be aligned with eight state priorities related to (1) the degree to which teachers are appropriately assigned and fully credentialed, students have sufficient access to standards-based instructional materials, and facilities are maintained in good repair; (2) implementation of and student access to state academic content and performance standards; (3) parent/guardian involvement; (4) student achievement; (5) student engagement; (6) school climate; (7) student access to and enrollment in a broad course of study, including programs and services provided to benefit low-income students, English learners, and/or foster youth (i.e., "unduplicated students" for purposes of the local control funding formula); and (8) student outcomes in the specified course of study. See BP/AR 0460 - Local Control and Accountability Plan. ***

***Note: Unlike districts, charter schools are exempt from the requirements to solicit public comment, hold public hearings, and have their plans approved by the county office of education. ***

The petition shall include a description of annual goals for all students and for each numerically significant subgroup of students identified pursuant to Education Code 52052, including ethnic subgroups, socioeconomically disadvantaged students, English learners, students with

disabilities, foster youth, and homeless students. These goals shall be aligned with the state priorities listed in Education Code 52060 that apply to the grade levels served or the nature of the program operated by the charter school. The petition also shall describe specific annual actions to achieve those goals. The petition may identify additional priorities established for the proposed school, goals aligned with those priorities, and specific annual actions to achieve those goals.

(cf. 0420.41 - Charter School Oversight)
(cf. 0460 - Local Control and Accountability Plan)

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

***Note: Education Code 47605 requires that the petition identify student outcomes that the charter school intends to use, including those that address increases in student achievement both schoolwide and for all groups of students served by the charter school, as defined in Education Code 47607. Education Code 47607 defines "all groups of students served by the charter school" to mean all numerically significant subgroups of students served by the charter school, as defined in Education Code 52052. ***

2. The measurable student outcomes identified for use by the charter school. Student outcomes means the extent to which all students of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school's educational program, including outcomes that address increases in student academic achievement both schoolwide and for each numerically significant subgroup of students served by the charter school. The student outcomes shall align with the state priorities identified in Education Code 52060 that apply for the grade levels served or the nature of the program operated by the charter school.

3. The method by which student progress in meeting the identified student outcomes is to be measured. To the extent practicable, the method for measuring student outcomes for state priorities shall be consistent with the way information is reported on a school accountability report card.

(cf. 0510 - School Accountability Report Card)

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

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

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

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

***Note: Pursuant to Education Code 47605, when the number of students who wish to attend the charter school exceeds the school's capacity, attendance must be determined by a public random drawing, with admission preference extending to students who currently attend the charter school and students who reside in the district. As amended by AB 1360 (Ch. 760, Statutes of 2017), Education Code 47605 provides that admission preferences may also include, but are not limited to, siblings of students admitted or attending the charter school and children of the school's teachers, staff, and founders identified in the initial charter. Education Code 47605, as amended, requires that the priority order for preference be determined in the charter petition as provided below. ***

8. The charter school's student admission policy. The petition shall, in accordance with Education Code 47605(d), specify procedures for determining enrollment when the number of applicants exceed the school's capacity, including requirements for the use of a public random drawing, admission preferences, and priority order of preferences as required by law and subject to Board approval.

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

***Note: Education Code 47605, as amended by AB 1360 (Ch. 760, Statutes of 2017), requires the petition to contain a comprehensive description of procedures by which a student can be suspended, expelled, or otherwise removed from the school, including how the school will comply with specified federal and state constitutional due process requirements. ***

10. The procedures by which students can be suspended or expelled for disciplinary reasons or otherwise involuntarily removed for any reason, including an explanation of how the charter school will comply with federal and state constitutional procedural and substantive due process requirements as specified in Education Code 47605(b). Such procedures shall also include processes by which the charter school will notify the superintendent of a district and request to be notified by a district about a student when the circumstances specified in Education Code 47605(d) exist.

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

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

13. A description of the rights of any district employee upon leaving district employment to work in the charter school and of any rights of return to the district after employment at the charter school.

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

***Note: Education Code 47605 requires charter petitions to contain the declaration specified in item #15 below regarding responsibilities for collective bargaining. If the charter school is not deemed the public school employer for purposes of collective bargaining under Government Code 3540-3549.3, the district where the charter school is located shall be deemed the public school employer for these purposes, pursuant to Education Code 47611.5. Education Code 47611.5 further provides that, if the charter does not specify that the charter school shall comply with laws and regulations governing tenure or a merit or civil service system, the scope of representation for that charter school shall also include discipline and dismissal of charter school employees. ***

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

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

16. The procedures to be used if the charter school closes, including, but not limited to: (5 CCR 11962)

a. Designation of a responsible entity to conduct closure-related activities

b. Notification to parents/guardians, the Board, the county office of education, the special education local plan area in which the school participates, the retirement systems in which the school's employees participate, and the California Department of Education, providing at least the following information:

(1) The effective date of the closure

(2) The name(s) and contact information of the person(s) to whom reasonable inquiries may be made regarding the closure

(3) The students' districts of residence

(4) The manner in which parents/guardians may obtain copies of student records, including specific information on completed courses and credits that meet graduation requirements

c. Provision of a list of students at each grade level, the classes they have completed, and their districts of residence to the responsible entity designated in accordance with item #16a above

- d. Transfer and maintenance of all student records, all state assessment results, and any special education records to the custody of the responsible entity designated in accordance with item #16a above, except for records and/or assessment results that the charter may require to be transferred to a different entity
- e. Transfer and maintenance of personnel records in accordance with applicable law
- f. Completion of an independent final audit within six months after the closure of the school that includes an accounting of all financial assets and liabilities pursuant to 5 CCR 11962 and an assessment of the disposition of any restricted funds received by or due to the school
- g. Disposal of any net assets remaining after all liabilities of the school have been paid or otherwise addressed pursuant to 5 CCR 11962
- h. Completion and filing of any annual reports required pursuant to Education Code 47604.33
- i. Identification of funding for the activities identified in item #16a-h above

***Note: Education Code 47605 requires that petitioners provide to the Governing Board the information listed in items #1-4 below. The Board may require additional information. ***

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

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

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

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

Location of Charter School

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

***Note: The Attorney General has opined, in 89 Ops.Cal.Atty.Gen. 166 (2006), that online charter schools are subject to the restrictions and conditions placed upon independent study programs, including the requirement that students reside in the charter school's home county or an adjacent county. ***

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

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

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

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

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

CSBA Sample

Administrative Regulation

Facilities Inspection

AR 3517

Business and Noninstructional Operations

***Note: As part of the Williams litigation settlement, Education Code 17070.75 requires that each school district participating in the state's School Facility Program have a facility inspection system in place for all schools to ensure that school facilities are kept in good repair. Education Code 17002 defines "good repair" to mean that the facility is maintained in a manner that ensures that it is clean, safe, and functional as determined pursuant to the Facility Inspection Tool (FIT) developed by the Office of Public School Construction (OPSC) or a local evaluation instrument that uses the same criteria. ***

The Superintendent or designee shall inspect school facilities to ensure that they are maintained in good repair. At a minimum, he/she shall assess those facility conditions specified on the facilities inspection tool developed by the Office of Public School Construction, including, but not limited to, the following: (Education Code 17002, 35292.5)

1. Gas Leaks: Gas systems and pipes appear and smell safe, functional, and free of leaks.
2. Mechanical Systems: Heating, ventilation, and air conditioning systems, as applicable, are functional and unobstructed; appear to supply an adequate amount of air to all classrooms, work spaces, and facilities; and maintain interior temperatures within normally acceptable ranges.
3. Windows and Doors: Windows and doors are intact, functional, and open, close, and lock as designed, unless there is a valid reason they should not function as designed.
4. Fences and Gates: Fences and gates are intact, functional, and free of holes and other conditions that could present a safety hazard to students, staff, or others. Locks and other security hardware function as designed.
5. Interior Surfaces (walls, floors, ceilings): Interior surfaces are free of safety hazards from tears, holes, missing floor and ceiling tiles, torn carpet, water damage, or other cause. Ceiling tiles are intact. Surfaces display no evidence of mold or mildew.
6. Hazardous Materials: Hazardous and flammable materials are stored properly. No evidence of peeling, chipping, or cracking paint is apparent. No indicators of mold, mildew, or asbestos exposure are evident. There does not appear to be evidence of hazardous materials that may pose a threat to the health and safety of students or staff.

(cf. 3514 - Environmental Safety)

7. Structures: Posts, beams, supports for portable classrooms and ramps, and other structures

appear intact, secure, and functional as designed. Ceilings and floors are not sloping or sagging beyond their intended design. There is no visible evidence of severe cracks, dry rot, mold, or damage that undermines structural components.

8. Fire Safety and Emergency Equipment: Fire sprinklers, fire extinguishers, emergency alarm systems, and all emergency equipment and systems appear to be functioning properly. Fire alarm pull stations are clearly visible. Fire extinguishers are current and placed in all required areas, including every classroom and assembly area. Emergency exits are clearly marked and unobstructed.

9. Electrical Systems: Electrical systems, components, and equipment, including switches, junction boxes, panels, wiring, outlets, and light fixtures, are securely enclosed, properly covered and guarded from student access, and appear to be working properly.

10. Lighting: Interior and exterior lighting appears to be adequate and working properly. Lights do not flicker, dim, or malfunction, and there is no unusual hum or noise from light fixtures.

11. Pest/Vermin Infestation: No visible or odorous indicators of pest or vermin infestation are evident.

12. Drinking Fountains: Interior and exterior drinking fountains are functional, accessible, and free of leaks. Drinking water pressure is adequate. Fountain water is clear and without unusual taste or odor, and moss, mold, or excessive staining is not evident.

13. Restrooms: Restrooms are fully operational, maintained and cleaned regularly, and stocked at all times with supplies (including toilet paper, soap, and paper towels or functional hand dryers) in accordance with Education Code 35292.5. The school keeps all restrooms open during school hours when students are not in classes and keeps a sufficient number of restrooms open during school hours when students are in classes, except when necessary to temporarily close a restroom for student safety or to repair the facility.

***Note: Although not reflected on the FIT, Education Code 35292.6, as added by AB 10 (Ch. 687, Statutes of 2017), requires a school that serves any of grades 6-12 and meets a 40 percent student poverty threshold, as defined in 20 USC 6314, to stock 50 percent of the school's restrooms with feminine hygiene products for use in connection with the menstrual cycle, and to not charge students for such products. The following paragraph may be revised to reflect the grade levels served by the district. ***

In addition, in a school serving any of grades 6-12 in which 40 percent or more of the students in the school or school attendance area are from low-income families, at least 50 percent of the school's restrooms are stocked with feminine hygiene products, for which students are not charged. (Education Code 35292.6; 20 USC 6314)

14. Sewers: The sanitary sewer system controls odors as designed, displays no signs of stoppage, backup, or flooding in school facilities or on school grounds, and appears to be functioning properly.

15. Roofs: Roofs, gutters, roof drains, and downspouts appear to be functioning properly and are free of visible damage and evidence of disrepair when observed from the ground from inside and outside the building.

16. Drainage: School grounds do not exhibit signs of drainage problems, such as visible evidence of flooded areas, eroded soil, water damage to asphalt playgrounds or parking areas, or clogged storm drain inlets.

17. Playground/School Grounds: Playground equipment (exterior fixtures, seating, tables, and equipment), school grounds, fields, walkways, and parking lot surfaces are functional and free of significant cracks, trip hazards, holes, deterioration that affects functionality or safety, and other health and safety hazards.

18. Overall Cleanliness: School grounds, buildings, common areas, and individual rooms appear to have been cleaned regularly and are free of accumulated refuse and unabated graffiti. Restrooms, drinking fountains, and food preparation or serving areas appear to have been cleaned each day that school is in session.

***Note: Although the FIT does not specifically require districts to test for the presence of lead in drinking water, soil, and painted surfaces, such testing is recommended by the U.S. Environmental Protection Agency due to the health risks posed by lead exposure, especially for young children. Schools and child care facilities that maintain their own public water systems must test for lead pursuant to the Safe Drinking Water Act (42 USC 300f-300j-27). In addition, Health and Safety Code 116277, as amended by AB 746 (Ch. 746, Statutes of 2017), requires a community water system that serves a school with a building constructed before January 1, 2010 to test for lead in the drinking water system before January 1, 2019. If the school's lead level exceeds specified levels, the district must notify the parents/guardians of students at that school and take immediate steps to shut down all fountains and faucets where excess lead levels may exist. See AR 3514 - Environmental Safety for further information about lead testing and abatement in schools. ***

In addition, to ensure the health and safety of students, the Superintendent or designee shall provide for the testing of drinking water on campus and of the soil and painted surfaces of school facilities for the presence of lead and/or other harmful substances, in accordance with state and federal standards.

The Superintendent or designee shall ensure that any necessary repairs or removal of hazards identified during the inspection are made in a timely and expeditious manner.

An assessment of the safety, cleanliness, and adequacy of school facilities, including any needed maintenance to ensure good repair as defined in Education Code 17002, shall be reported on the school accountability report card. (Education Code 33126)

(cf. 0510 - School Accountability Report Card)

***Note: Education Code 35186 provides that the Williams uniform complaint procedures should be used for any complaint alleging a school facility condition that poses an emergency or urgent threat, as defined in Education Code 17592.72, or any complaint that a school restroom is

not clean, maintained, or kept open, as defined in Education Code 35292.5. See/E AR 1312/4 - Williams Uniform Complaint Procedures. ***

Any complaint alleging a school facility condition that poses an emergency or urgent threat to the health or safety of students or staff, or alleging that a school restroom is not clean, maintained, or kept open, shall be addressed in accordance with AR 1312.4 - Williams Uniform Complaint Procedures.

(cf. 1312.4 - Williams Uniform Complaint Procedures)

***Note: Education Code 1240 requires the County Superintendent of Schools to visit low-performing schools to determine (1) the status of any facility condition that may create an emergency or urgent threat to the health or safety of students or staff and (2) the accuracy of data reported on the school accountability report card with respect to the safety, cleanliness, and adequacy of school facilities. Education Code 1240 requires that the County Superintendent provide a quarterly report to the Board on the results of any county office visit. Education Code 1240 provides that, if the County Superintendent determines that a facility condition poses an emergency or urgent threat, he/she may return to the school to verify repairs and/or prepare a report that identifies areas of noncompliance if the district has not provided evidence that the repairs will be made within 30 days or, for major repairs, in a timely manner. The County Superintendent may then present the report to the Board at a public meeting and post the report on the county office's web site. ***

The Superintendent or designee shall provide the Board with regular reports regarding the district's facility inspection program and updates of any visits to district schools by the County Superintendent of Schools.

Legal Reference:

EDUCATION CODE

1240 County superintendent of schools, duties

17002 Definitions

17070.10-17077.10 Leroy F. Greene School Facilities Act of 1998

17565-17591 Property maintenance and control

17592.72 Urgent or emergency repairs, School Facility Emergency Repair Account

33126 School accountability report card

35186 Williams uniform complaint procedure

35292.5-35292.6 School maintenance

HEALTH AND SAFETY CODE

116277 Lead testing in drinking water

CODE OF REGULATIONS, TITLE 2

1859.300-1859.330 Emergency Repair Program

UNITED STATES CODE, TITLE 20

6314 Title I schoolwide program

UNITED STATES CODE, TITLE 42

300f-300j-27 Safe Drinking Water Act

Management Resources:

COALITION OF ADEQUATE SCHOOL HOUSING PUBLICATIONS

Facility Inspection Tool Guidebook, February 2008

STATE ALLOCATION BOARD, OFFICE OF PUBLIC SCHOOL CONSTRUCTION
PUBLICATIONS

Facility Inspection Tool: School Facility Conditions Evaluation

WEB SITES

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

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

California Department of Education, Williams Case: <http://www.cde.ca.gov/eo/ce/wc/index.asp>

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

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

U.S. Environmental Protection Agency: <http://www.epa.gov>

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CSBA Sample

Administrative Regulation

Complaints

AR 4144 4244, 4344

Personnel

***Note: The following administrative regulation is optional. Government Code 53296-53299 grant district employees and job applicants the right to file a "whistleblower" complaint regarding issues specified below. Pursuant to Education Code 44112-44113, the district is prohibited from retaliating against, or otherwise interfering with, an employee for exercising his/her right to file such a complaint. See BP 4119.1/4219.1/4319.1 - Civil and Legal Rights. ***

The procedure specified in this administrative regulation shall be used to investigate and resolve any complaint by an employee alleging misapplication of the district's policies, regulations, rules, or procedures or for "whistleblower" complaints by an employee or job applicant regarding an improper district activity including, but not limited to, an allegation of gross mismanagement, a significant waste of funds, an abuse of authority, or a specific danger to public health or safety.

(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)

***Note: Any of the timelines in the following procedure may be modified to reflect district practice. ***

Any of the time limits specified in the following procedure may be extended by written agreement between the district and complainant.

Step 1: Informal Complaint Process

Prior to instituting a formal, written complaint, the employee shall first discuss the issue with his/her supervisor or the principal of the school where the alleged act took place. Formal complaint procedures shall not be initiated until the employee has first attempted to resolve the complaint informally.

Step 2: Site Level Formal Complaint Process

***Note: Pursuant to Government Code 53297, an employee has the right to file a "whistleblower" complaint within 60 days of the date of the act or event that is the subject of the complaint. The following paragraph establishes a 60-day limit for all complaints filed pursuant to this procedure. Districts that choose to create a separate timeline for complaints not covered by Government Code 53297 (non-whistleblower complaints) should modify the following section accordingly. ***

If a complaint has not been satisfactorily resolved through the informal process in Step 1, the complainant may file a written complaint with his/her immediate supervisor or principal within

60 days of the act or event which is the subject of the complaint. If an employee fails to file a written complaint within 60 days, the complaint shall be considered resolved on the basis of the preceding step.

In the written complaint, the employee shall specify the nature of the problem, including names, dates, locations, witnesses, the remedy sought by the employee, and a description of informal efforts to resolve the issue.

Within 10 working days of receiving the complaint, the immediate supervisor or principal shall conduct any necessary investigation and meet with the complainant in an effort to resolve the complaint. Within five working days after the meeting, he/she shall prepare and send a written response to the complainant.

Step 3: District Level Appeal

If a complaint has not been satisfactorily resolved at Step 2, the complainant may file the written complaint with the Superintendent or designee within five working days of receiving the written response from the immediate supervisor or the principal. The complainant shall include all information presented to the immediate supervisor or principal at Step 2.

Within 10 working days of receiving the complaint, the Superintendent or designee shall conduct any necessary investigation, including reviewing the investigation and written response by the immediate supervisor or principal at Step 2, and shall meet with the complainant in an effort to resolve the complaint. Within five working days after the meeting, he/she shall prepare and send a written response to the complainant.

Step 4: Appeal to the Governing Board

If a complaint has not been satisfactorily resolved at Step 3, the complainant may file a written appeal to the Board within five working days of receiving the Superintendent or designee's response. All information presented at Steps 1, 2, and 3 shall be included with the appeal, and the Superintendent or designee shall submit to the Board a written report describing attempts to resolve the complaint and the district's response.

***Note: Government Code 54957 authorizes the Board to meet in closed session regarding certain personnel matters. However, when the Board is discussing specific "complaints or charges" against an employee, that employee must be given at least 24-hour written notice of the meeting and he/she may request the matter be heard in open session. See BB 9321 - Closed Session Purposes and Agendas. ***

The Board may uphold the findings by the Superintendent or designee without hearing the complaint or the Board may hear the complaint at a regular or special Board meeting. The hearing shall be held in closed session if the complaint relates to matters that may be addressed in closed session in accordance with law.

(cf. 9321 - Closed Session Purposes and Agendas)

The Board shall make its decision within 30 days of the hearing and shall send its decision to all

concerned parties. The Board's decision shall be final.

Alternate Procedures

Complaints alleging unlawful discrimination on any basis specified in the district's nondiscrimination policies, including complaints of sexual harassment, shall be resolved in accordance with the district's procedure in BP/AR 4030 - Nondiscrimination in Employment.

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

(cf. 4030 - Nondiscrimination in Employment)

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

Complaints regarding unlawful discrimination in district programs or the district's failure to comply with state or federal laws regarding educational programs shall be resolved in accordance with BP/AR 1312.3 - Uniform Complaint Procedures. Complaints regarding sufficiency of textbook materials, teacher vacancy or misassignment, or an urgent or emergency facility condition shall be resolved in accordance with AR 1312.4 - Williams Uniform Complaint Procedures. (Education Code 35186; 5 CCR 4621)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

For complaints regarding working conditions or other subjects of negotiation, the employee shall use the grievance procedure specified in the applicable collective bargaining agreement.

(6/90 3/08) 12/17

CSBA Sample

Administrative Regulation

Classified Personnel

AR 4200
Personnel

Exemption from Classified Service

***Note: Education Code provisions related to exemption from the classified service vary depending on whether or not the district has incorporated the merit system pursuant to Education Code 45220-45320. The district should select the appropriate option below. ***

OPTION 1: Districts Not Incorporating the Merit System

***Note: Pursuant to Education Code 45103, all positions not requiring certification qualifications are part of the classified service, unless specifically exempted by law. AB 670 (Ch. 582, Statutes of 2017) amended Education Code 45103 to eliminate the exemption for part-time playground positions, thereby making such positions a part of the classified service. ***

Individuals hired solely for the following purposes are exempt from the classified service:
(Education Code 45103)

1. Substitute or short-term employees who are employed and paid for fewer than 195 work days per year, including holidays, sick leave, vacation, and other leaves of absences, irrespective of the number of hours worked per day
2. Apprentices and professional experts employed on a temporary basis for a specific project regardless of length of employment
3. Full-time students employed part time
4. Part-time students employed part time in any college work study program, or in a work experience education program conducted by a community college district, and which is financed by state or federal funds

OPTION 2: Merit System Districts

Individuals hired solely for the following purposes are exempt from the classified service:
(Education Code 45256, 45258)

***Note: Although AB 670 (Ch. 582, Statutes of 2017) amended Education Code 45103 to eliminate the exemption of part-time playground positions from the classified service in non-merit system districts, as described in Option 1 above, part-time playground positions continue to be exempt from classified service in merit system districts pursuant to Education

Code 45256. ***

1. Part-time playground positions (noon duty aides), when the employees are not otherwise employed in classified positions in the district
2. Apprentices
3. Professional experts employed on a temporary basis for a specific project
4. Full-time students employed part time
5. Part-time students employed part time in any college work study program, or in a work experience education program conducted by a community college district pursuant to Education Code 51760 et seq. and which is financed by state or federal funds
6. Positions established for the employment of community representatives in advisory or consulting capacities for not more than 90 work days or 720 hours in a fiscal year, provided the authorized duties are not those normally assigned to a class of positions in the classified service, are approved by the personnel commission in advance of employment, and a regular classified district employee does not receive a concurrent appointment to such a position

***Note: The following paragraph is for use by all districts. Pursuant to Education Code 45106, persons hired solely for purposes which are exempted from the classified service are subject to the requirements of Education Code 45122-45125 and 49406 as described below. Education Code 45106 mandates the Governing Board, by rule or regulation, to provide for the implementation of this law. ***

Persons hired solely for purposes which are exempted from the classified service shall nevertheless fulfill the obligations of classified employees related to physical examinations pursuant to Education Code 45122, fingerprinting pursuant to Education Code 45125, and tuberculosis tests pursuant to Education Code 49406. (Education Code 45106)

(cf. 4112.4/4212.4/4312.4 - Health Examinations)
(cf. 4112.5/4212.5/4312.5 - Criminal Record Check)
(cf. 4212 - Appointment and Conditions of Employment)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

Restricted Positions

***Note: The following section is for use by either merit system or non-merit system districts that have established "restricted" positions, pursuant to Education Code 45105 or 45108, which are available only to persons in low-income groups or residing in specific areas of the community. ***

Persons employed in restricted positions shall be classified employees for all purposes except that they shall not be subject to the provisions of Education Code 45272 and 45273 related to promotional examinations and the filling of vacancies, and shall not acquire permanent status or seniority credit. They shall be eligible for promotion into the regular classified service only after

completing six months of satisfactory service, and only upon the subsequent satisfactory completion of the qualifying examinations required of all other persons serving in the same class in the regular classified service. (Education Code 45105, 45108)

(10/96 11/02) 12/17

CSBA Sample

Administrative Regulation

Suspension And Expulsion/Due Process

AR 5144.1

Students

***Note: CSBA recommends that this administrative regulation be approved by the Governing Board, regardless of district practice. ***

***Note: Education Code 35291 requires the Board to adopt rules and regulations, which are not inconsistent with law or rules adopted by the State Board of Education, for the government and discipline of the schools under its jurisdiction. In addition, Education Code 48918 and 48918.5 mandate that districts adopt rules concerning the due process rights of students in expulsion situations, and Education Code 48916 mandates procedures for filing and processing requests for readmission. Specific language complying with these mandates is included throughout this administrative regulation. ***

***Note: The acts for which students may be suspended or expelled are specified in law and in the sections below titled "Grounds for Suspension and Expulsion: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12." The Board does not have authority to add to those enumerated acts. However, the Board has authority to prohibit suspension or expulsion for certain acts for which suspension or expulsion is permissible rather than mandatory. The Board may consider limiting the use of suspension and expulsion for such offenses as part of the district plan to address school climate within the local control and accountability plan required pursuant to Education Code 52060. In addition, pursuant to Education Code 48900.5, a district is not authorized to suspend a student for certain specified violations unless other means of correction have failed to bring about proper conduct. ***

Definitions

Suspension means removal of a student from ongoing instruction for adjustment purposes. However, suspension does not mean any of the following: (Education Code 48925)

1. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Governing Board for students of the same grade level
2. Referral to a certificated employee designated by the principal to advise students
3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code 48910

Expulsion means removal of a student from the immediate supervision and control or the general

supervision of school personnel. (Education Code 48925)

Notice of Regulations

At the beginning of each school year, the principal of each school shall ensure that all students and parents/guardians are notified in writing of all school rules related to discipline, including suspension and expulsion. (Education Code 35291, 48900.1, 48980)

(cf. 5144 - Discipline)

(cf. 5145.6 - Parental Notifications)

Grounds for Suspension and Expulsion: Grades K-12

Acts for which a student, including a student with disabilities, may be suspended or expelled shall be only those specified as follows:

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

1. Caused, attempted to cause, or threatened to cause physical injury to another person; willfully used force or violence upon another person, except in self-defense; or committed as an aider or abettor, as adjudged by a juvenile court, a crime of physical violence in which the victim suffered great or serious bodily injury (Education Code 48900(a) and (t))

***Note: The Attorney General, in 80 Ops.Cal.Atty.Gen. 91 (1997), determined that a student may be expelled for "possession" of a firearm if the student knowingly and voluntarily had direct control over the firearm. The only exceptions are when the student has permission from school officials to possess the firearm (pursuant to Education Code 48900 and 48915) or when the possession is brief and solely for the purpose of disposing of the firearm, such as handing it to school officials. Note that "firearm" does not include "imitation firearm" which is listed separately in item #12 below. See BP 5131.7 - Weapons and Dangerous Instruments. ***

***Note: Pursuant to Penal Code 417.27, students are prohibited from possessing a laser pointer on school premises, except for a valid instructional or other school-related purpose. See BP 5131 - Conduct. ***

2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence (Education Code 48900(b))

(cf. 5131 - Conduct)

(cf. 5131.7 - Weapons and Dangerous Instruments)

3. Unlawfully possessed, used, sold, otherwise furnished, or was under the influence of any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind (Education Code 48900(c))

(cf. 3513.4 - Drug and Alcohol Free Schools)

(cf. 5131.6 - Alcohol and Other Drugs)

4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented same as such controlled substance, alcoholic beverage, or intoxicant (Education Code 48900(d))
5. Committed or attempted to commit robbery or extortion (Education Code 48900(e))
6. Caused or attempted to cause damage to school property or private property (Education Code 48900(f))
7. Stole or attempted to steal school property or private property (Education Code 48900(g))
8. Possessed or used tobacco or products containing tobacco or nicotine products, including, but not limited to, cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel, except that this restriction shall not prohibit a student from using or possessing his/her own prescription products (Education Code 48900(h))

(cf. 5131.62 - Tobacco)

9. Committed an obscene act or engaged in habitual profanity or vulgarity (Education Code 48900(i))
10. Unlawfully possessed, offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5 (Education Code 48900(j))
11. Knowingly received stolen school property or private property (Education Code 48900(l))
12. Possessed an imitation firearm (Education Code 48900(m))

Imitation firearm means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm. (Education Code 48900(m))
13. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committed a sexual battery as defined in Penal Code 243.4 (Education Code 48900(n))
14. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness (Education Code 48900(o))
15. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma (Education Code 48900(p))
16. Engaged in, or attempted to engage in, hazing (Education Code 48900(q))

Hazing means a method of initiation or pre-initiation into a student organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. Hazing does not include athletic events or school-sanctioned events. (Education Code 48900(q))

***Note: Education Code 48900(r) defines "bullying" as "any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of electronic act," which is directed toward a student and which would have serious detrimental consequences upon a reasonable student. Pursuant to Education Code 48900, a student may be disciplined for bullying by means of an electronic act even when the act originated off campus. See also BP 5131.2 - Bullying. ***

17. Engaged in an act of bullying (Education Code 48900(r))

Bullying means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, directed toward one or more students that has or can reasonably be predicted to have the effect of placing a reasonable student in fear of harm to himself/herself or his/her property; cause the student to experience a substantially detrimental effect on his/her physical or mental health; or cause the student to experience substantial interferences with his/her academic performance or ability to participate in or benefit from the services, activities, or privileges provided by a school. (Education Code 48900(r))

***Note: "Bullying" also would include any act of sexual harassment, hate violence, or harassment, threat, or intimidation committed by a student at any grade level, as set forth in Education Code 48900.2, 48900.3, or 48900.4, when the act results in harm to a reasonable student as specified in the above paragraph. However, when bullying is found under these circumstances, students below grade 4 may be disciplined for the "bullying" but not for the underlying act of sexual harassment, hate violence, or harassment, threat, or intimidation as specified below in items #1-3 of "Additional Grounds for Suspension and Expulsion: Grades 4-12." ***

Bullying includes any act of sexual harassment, hate violence, or harassment, threat, or intimidation, as defined in Education Code 48900.2, 48900.3, or 48900.4 and below in items #1-3 of "Additional Grounds for Suspension and Expulsion: Grades 4-12," that has any of the effects described above on a reasonable student.

***Note: AB 2536 (Ch. 419, Statutes of 2016) amended Education Code 48900(r) to include an act of cyber sexual bullying, as defined, as an act of bullying for which a student may be suspended or expelled from school. ***

Bullying also includes an act of cyber sexual bullying by a student through the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording that depicts a nude, semi-nude, or sexually explicit photograph or other visual recording of an identifiable minor, when such dissemination is to another student or to school personnel by means of an electronic act and has or can be reasonably predicted to have one or more of the

effects of bullying described above. Cyber sexual bullying does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.

Electronic act means the creation or transmission originated on or off the school site by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication including, but not limited to: (Education Code 48900(r))

- a. A message, text, sound, video, or image
- b. A post on a social network Internet web site, including, but not limited to, posting to or creating a burn page or creating a credible impersonation or false profile for the purpose of causing a reasonable student any of the effects of bullying described above.

Reasonable student means a student, including, but not limited to, a student who has been identified as a student with a disability, who exercises average care, skill, and judgment in conduct for a person of his/her age, or for a person of his/her age with his/her disability. (Education Code 48900(r))

(cf. 1114 - District-Sponsored Social Media)

(cf. 5131.2 - Bullying)

(cf. 6163.4 - Student Use of Technology)

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

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

***Note: Education Code 48900(t) allows for the suspension, but not expulsion, of a student who "aids or abets," as defined in Penal Code 31, the infliction or attempted infliction of physical injury to another person. The term "aiding or abetting," is a complex legal term and requires that, at the time he/she committed the crime, the aider or abettor was aware of the crime and specifically intended to commit the crime. Because of the complexities of criminal law, legal counsel should be consulted as appropriate. ***

***Note: Pursuant to Education Code 48900(t), any student who aids or abets a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury is subject to suspension or expulsion as provided in item #1 above. ***

18. Aided or abetted the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31 (Education Code 48900(t))

19. Made terrorist threats against school officials and/or school property (Education Code 48900.7)

A terrorist threat includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person or property damage in excess of \$1,000, with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out. (Education Code 48900.7)

Additional Grounds for Suspension and Expulsion: Grades 4-12

***Note: The following section applies only to students in grades 4-12 and may be revised to reflect grade levels offered by the district. ***

***Note: Pursuant to Education Code 48900(k), except as otherwise provided in Education Code 48910, students in grades K-3 must not be suspended for disruption of school activities or willful defiance of school authority, and students in grades K-12 must not be expelled on these grounds. Since districts are authorized but not required to suspend students in grades 4-12 based on these grounds, a district may choose, consistent with Option 2 in the accompanying Board policy, to prohibit the use of these reasons for suspending its students. Any district that chooses to do so should delete the following paragraph. ***

***Note: None of the prohibitions or restrictions in Education Code 48900(k) affect a teacher's authority to remove a student from class for one day pursuant to Education Code 48910. ***

Any student in grades 4-12 may be suspended, but not expelled, for disrupting school activities or otherwise willfully defying the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties.
(Education Code 48900(k))

(cf. 5131.4 - Student Disturbances)

***Note: As discussed in item #17 of "Grounds for Suspension and Expulsion: Grades K-12" above, although Education Code 48900(r) defines bullying to include acts involving items #1-3 below, Education Code 48900.2-48900.4 provide that only students in grades 4-12 may be suspended or expelled for the individual acts that constitute sexual harassment, hate violence, and harassment. The interplay between "bullying" and items #1-3 can raise complex legal issues. Districts should consult legal counsel as appropriate. ***

A student in grades 4-12 shall be subject to suspension or recommendation for expulsion when it is determined that he/she:

1. Committed sexual harassment as defined in Education Code 212.5 (Education Code 48900.2)

Sexual harassment means conduct which, when considered from the perspective of a reasonable person of the same gender as the victim, is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment. (Education Code 212.5, 48900.2)

(cf. 5145.7 - Sexual Harassment)

2. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code 233 (Education Code 48900.3)

Hate violence means any act punishable under Penal Code 422.6, 422.7, or 422.75. Such acts include injuring or intimidating a victim, interfering with the exercise of a victim's civil rights, or

damaging a victim's property because of the victim's race, ethnicity, religion, nationality, disability, gender, gender identity, gender expression, or sexual orientation; a perception of the presence of any of those characteristics in the victim; or the victim's association with a person or group with one or more of those actual or perceived characteristics. (Education Code 233; Penal Code 422.55)

(cf. 5145.9 - Hate-Motivated Behavior)

3. Intentionally engaged in harassment, threats, or intimidation against district personnel or students that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of school personnel or students by creating an intimidating or hostile educational environment (Education Code 48900.4)

(cf. 5145.3 - Nondiscrimination/Harassment)

Suspension from Class by a Teacher

***Note: The following section is optional and may be revised to reflect district practice. While Education Code 48900(k) prohibits a district from suspending students in grades K-3 for disruption or willful defiance, it still allows for a teacher to suspend a K-3 student on these grounds. ***

A teacher may suspend a student, including a grade K-3 student, from class for the remainder of the day and the following day for disruption, willful defiance, or any of the other acts specified in Education Code 48900 and listed as items #1-18 under "Grounds for Suspension and Expulsion: Grades K-12" above. (Education Code 48910)

When suspending a student from class, the teacher shall immediately report this action to the principal or designee and send the student to the principal or designee for appropriate action. If that action requires the continuing presence of the student at school, he/she shall be appropriately supervised during the class periods from which he/she has been suspended. (Education Code 48910)

As soon as possible after the teacher decides to suspend the student, he/she shall ask the student's parent/guardian to attend a parent-teacher conference regarding the suspension. A counselor or psychologist may attend the conference if it is practicable, and a school administrator shall attend if either the parent/guardian or teacher so requests. (Education Code 48910)

A student suspended from class shall not be returned to class during the period of the suspension without the approval of the teacher of the class and the principal or designee. (Education Code 48910)

A student suspended from class shall not be placed in another regular class during the period of suspension. However, a student assigned to more than one class per day may continue to attend other regular classes except those held at the same time as the class from which he/she was suspended. (Education Code 48910)

The teacher of any class from which a student is suspended may require the student to complete any assignments and tests missed during the removal. (Education Code 48913)

Suspension by Superintendent, Principal or Principal's Designee

To implement disciplinary procedures at a school site, the principal may, in writing, designate as the principal's designee another administrator or, if the principal is the only administrator at the school site, a certificated employee. As necessary, the principal may, in writing, also designate another administrator or certificated employee as the secondary designee to assist with disciplinary procedures when the principal and the principal's primary designee are absent from the school site.

The Superintendent, principal, or designee shall immediately suspend any student found at school or at a school activity to have committed any of the acts listed in the Board policy under "Authority to Expel" and for which he/she is required to recommend expulsion. (Education Code 48915(c))

***Note: Education Code 48900.5 limits situations warranting suspension for a first offense to when the violation involves Education Code 48900(a)-(e) or the student's presence causes a danger to persons. ***

The Superintendent, principal, or designee may impose a suspension for a first offense if he/she determines that the student violated any of items #1-5 listed under "Grounds for Suspension and Expulsion: Grades K-12" above or if the student's presence causes a danger to persons. (Education Code 48900.5)

***Note: Pursuant to Education Code 48900 and 48915, except for certain egregious acts or offenses for which suspension is permissible or mandatory, as specified above pursuant to Education Code 48915(a) or (c), the Superintendent or principal is authorized to use his/her discretion to provide an alternative, age-appropriate disciplinary measure that is tailored to correct a student's specific misbehavior. In addition, the U.S. Department of Justice's Civil Rights Division (DOJ) and the U.S. Department of Education's Office for Civil Rights (OCR), in their joint January 2014 Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, recommend that effective alternatives to suspension and expulsion be implemented for correcting student misbehavior. For a list of appropriate alternatives, see AR 5144 - Discipline. ***

For all other offenses, a student may be suspended only when the Superintendent or principal has determined that other means of correction have failed to bring about proper conduct. (Education Code 48900.5)

When other means of correction are implemented prior to imposing suspension or supervised suspension upon a student, the Superintendent, principal, or designee shall document the other means of correction used and retain the documentation in the student's record. (Education Code 48900.5)

(cf. 5125 - Student Records)

Length of Suspension

The Superintendent, principal, or designee may suspend a student from school for not more than five consecutive school days. (Education Code 48911)

A student may be suspended from school for not more than 20 school days in any school year. However, if a student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class for the purpose of adjustment, he/she may be suspended for not more than 30 school days in a school year. The district may count suspensions that occur while a student is enrolled in another school district toward the maximum number of days for which the student may be suspended in any school year. (Education Code 48903, 48911, 48912)

(cf. 6184 - Continuation Education)

These restrictions on the number of days of suspension shall not apply when the suspension is extended pending an expulsion. (Education Code 48911)

Due Process Procedures for Suspension

Suspensions shall be imposed in accordance with the following procedures:

***Note: Pursuant to Education Code 48911, before a student is suspended by the Superintendent, principal, or designee, an informal conference must be held with the student and, when practicable, the teacher, supervisor, or other school employee who referred the student to the principal. AB 667 (Ch. 445, Statutes of 2017) amended Education Code 48911 to require that a student be informed during this informal conference of other means of correction that were attempted before the suspension. ***

1. Informal Conference: Suspension shall be preceded by an informal conference conducted by the Superintendent, principal, or designee with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action, including the other means of correction that were attempted before the suspension as required pursuant to Education Code 48900.5, and the evidence against him/her, and shall be given the opportunity to present his/her version and evidence in support of his/her defense. (Education Code 48911)

This conference may be omitted if the Superintendent, principal, or designee determines that an emergency situation exists involving a clear and present danger to the lives, safety, or health of students or school personnel. If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of the conference and the conference shall be held within two school days, unless the student waives his/her right to it or is physically unable to attend for any reason. In such a case, the conference shall be held as soon as the student is physically able to return to school. (Education Code 48911)

***Note: Item #2 below should be revised to reflect the district's processing and reporting procedures. ***

2. Administrative Actions: All requests for student suspension are to be processed by the principal or designee. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee. (Education Code 48911)

3. Notice to Parents/Guardians: At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall also be notified in writing of the suspension. (Education Code 48911)

This notice shall state the specific offense committed by the student. (Education Code 48900.8)

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

In addition, the notice may state the date and time when the student may return to school.

4. Parent/Guardian Conference: Whenever a student is suspended, school officials may request a meeting with the parent/guardian to discuss the cause(s) and duration of the suspension, the school policy involved, and any other pertinent matter. (Education Code 48914)

If school officials request to meet with the parent/guardian, the notice may state that the law requires the parent/guardian to respond to such requests without delay. However, no penalties may be imposed on the student for the failure of the parent/guardian to attend such a conference. The student may not be denied reinstatement solely because the parent/guardian failed to attend the conference. (Education Code 48911)

5. Extension of Suspension: If the Board is considering the expulsion of a suspended student from any school or the suspension of a student for the balance of the semester from continuation school, the Superintendent or designee may, in writing, extend the suspension until such time as the Board has made a decision, provided the following requirements are followed: (Education Code 48911)

a. The extension of the original period of suspension is preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard. This conference may be held in conjunction with a meeting requested by the student or parent/guardian to challenge the original suspension.

b. The Superintendent or designee determines, following a meeting in which the student and the student's parent/guardian were invited to participate, that the student's presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process. (Education Code 48911)

***Note: When the student being considered for expulsion is a foster youth, Education Code 48911 and 48918.1 require the district to invite the student's attorney and an appropriate county child welfare agency representative to the meeting specified above. To ensure such invitation, the following paragraph provides that the district liaison for foster youth be notified. However, any district that has designated another position to carry out this responsibility may modify the

paragraph to specify that position. For designation of the liaison for foster youth, see AR 6173.1 - Education for Foster Youth. ***

c. If the student involved is a foster youth, the Superintendent or designee shall notify the district liaison for foster youth of the need to invite the student's attorney and a representative of the appropriate county child welfare agency to attend the meeting. (Education Code 48853.5, 48911, 48918.1)

(cf. 6173.1 - Education for Foster Youth)

***Note: Pursuant to Education Code 48918.1, the district's liaison for homeless students must be notified when the student being considered for expulsion is a homeless student. See the section below titled "Additional Notice of Expulsion Hearing for Foster Youth and Homeless Students." ***

d. If the student involved is a homeless child or youth, the Superintendent or designee shall notify the district liaison for homeless students. (Education Code 48918.1)

(cf. 6173 - Education for Homeless Children)

***Note: The following optional paragraph may be revised to reflect district practice. Since Education Code 48900 and 48900.5 require a district, under certain circumstances, to use alternative disciplinary measures prior to imposing suspension, including supervised suspension, the district may, as necessary, provide services that would address the student's specific misbehavior along with the suspension program. For example, the district may require the student to enroll in a program that teaches prosocial behavior or anger management even while the student is suspended. ***

In lieu of or in addition to suspending a student, the Superintendent, principal, or designee may provide services or require the student to participate in an alternative disciplinary program designed to correct his/her behavior and keep him/her in school.

Suspension by the Board

***Note: The following optional section reflects the Board's authority to suspend students from school pursuant to Education Code 48912. In practice, it is impractical for boards to directly exercise this authority since circumstances warranting suspension usually require quick and sometimes immediate action which may not be possible for a board due to legal requirements for taking board actions, such as having a meeting. ***

The Board may suspend a student for any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12" above and within the limits specified under "Suspension by Superintendent, Principal, or Designee" above. (Education Code 48912)

The Board may suspend a student enrolled in a continuation school or class for a period not longer than the remainder of the semester. The suspension shall meet the requirements of Education Code 48915. (Education Code 48912.5)

When the Board is considering a suspension, disciplinary action, or any other action (except expulsion) against any student, it shall hold a closed session if a public hearing would lead to disclosure of information violating a student's right to privacy under Education Code 49073-49079. (Education Code 35146, 48912)

(cf. 9321 - Closed Session Purposes and Agendas)

The Board shall provide the student and his/her parent/guardian with written notice of the closed session by registered or certified mail or personal service. Upon receiving this notice, the student or parent/guardian may request a public meeting, and this request shall be granted if made in writing within 48 hours after receipt of the Board's notice. However, any discussion that conflicts with any other student's right to privacy still shall be held in closed session. (Education Code 35146, 48912)

On-Campus Suspension

***Note: The following optional section is for use by any district establishing an on-campus suspension program pursuant to Education Code 48911.1. However, pursuant to Education Code 48900.5, such a district is required to use other means of correcting a student's behavior before imposing a supervised suspension, unless such a supervised suspension is otherwise permitted by law for a student's first offense. Use of a supervised suspension classroom program does not in any way limit the district's ability to transfer a student to an opportunity school or class or a continuation education school or class in accordance with law. ***

A student for whom an expulsion action has not been initiated and who poses no imminent danger or threat to the school, students, or staff may be assigned to on-campus suspension in a separate classroom, building, or site for the entire period of suspension. The following conditions shall apply: (Education Code 48911.1)

1. The on-campus suspension classroom shall be staffed in accordance with law.
2. The student shall have access to appropriate counseling services.
3. The on-campus suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.
4. The student shall be responsible for contacting his/her teacher(s) to receive assignments to be completed in the supervised suspension classroom. The teacher(s) shall provide all assignments and tests that the student will miss while suspended. If no such work is assigned, the person supervising the suspension classroom shall assign schoolwork.

At the time a student is assigned to an on-campus suspension classroom, the principal or designee shall notify the student's parent/guardian in person or by telephone. When the assignment is for longer than one class period, this notification may be made in writing. (Education Code 48911.1)

Superintendent or Principal's Authority to Recommend Expulsion

Unless the Superintendent or principal determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct, he/she shall recommend a student's expulsion for any of the following acts: (Education Code 48915)

1. Causing serious physical injury to another person, except in self-defense
2. Possession of any knife or other dangerous object of no reasonable use to the student
3. Unlawful possession of any controlled substance as listed in Health and Safety Code 11053-11058, except for (a) the first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis, or (b) the student's possession of over-the-counter medication for his/her use or other medication prescribed for him/her by a physician
4. Robbery or extortion
5. Assault or battery, as defined in Penal Code 240 and 242, upon any school employee

In determining whether or not to recommend the expulsion of a student, the Superintendent, principal, or designee shall act as quickly as possible to ensure that the student does not lose instructional time. (Education Code 48915)

Student's Right to Expulsion Hearing

***Note: Education Code 48918 mandates that the Board establish rules and regulations governing procedures for the expulsion of students. The timelines of Education Code 48918 must be strictly followed; failure to do so may result in loss of the district's power to act (*Garcia v. Los Angeles Board of Education*). In calculating timelines, the district should also be aware of the difference between the calculation of "school days" and "calendar days" under Education Code 48918. ***

Any student recommended for expulsion shall be entitled to a hearing to determine whether he/she should be expelled. The hearing shall be held within 30 school days after the Superintendent, principal, or designee determines that the student has committed the act(s) that form the basis for the expulsion recommendation. (Education Code 48918(a))

The student is entitled to at least one postponement of an expulsion hearing for a period of not more than 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the Board's discretion. (Education Code 48918(a))

If the Board finds it impractical during the regular school year to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held. (Education Code 48918(a))

If the Board finds it impractical to comply with the time requirements of the expulsion hearing

due to a summer recess of Board meetings of more than two weeks, the days during the recess shall not be counted as school days. The days not counted during the recess may not exceed 20 school days, as defined in Education Code 48925. Unless the student requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days prior to the first day of the next school year. (Education Code 48918(a))

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay. (Education Code 48918(a))

Stipulated Expulsion

***Note: The following section is optional and may be revised to reflect district practice. "Stipulated expulsion" is for districts that have adopted an expedited procedure which allows a student to waive his/her right to a pre-expulsion hearing in exchange for an agreement as to the terms of the expulsion. Such waivers are not specifically addressed in law and districts should ensure that the due process rights of students are included in the stipulated agreement and are clearly explained to them before the agreement is signed. Districts should consult legal counsel as appropriate. ***

After a determination that a student has committed an expellable offense, the Superintendent, principal, or designee shall offer the student and his/her parent/guardian the option to waive a hearing and stipulate to the expulsion or to a suspension of the expulsion under certain conditions. The offer shall be made only after the student or his/her parent/guardian has been given written notice of the expulsion hearing pursuant to Education Code 48918.

The stipulation agreement shall be in writing and shall be signed by the student and his/her parent/guardian. The stipulation agreement shall include notice of all the rights that the student is waiving, including the waiving of his/her right to have a full hearing, to appeal the expulsion to the County Board of Education, and to consult legal counsel.

A stipulated expulsion agreed to by the student and his/her parent/guardian shall be effective upon approval by the Board.

Rights of Complaining Witness

***Note: Education Code 48918.5 mandates the following rights related to the treatment of witnesses alleging acts of sexual assault or sexual battery. Other procedures related to complaining witnesses also may be added as desired by the district. Additional mandated procedures related to the rights and treatment of complaining witnesses are included where appropriate throughout this regulation. ***

An expulsion hearing involving allegations of sexual assault or sexual battery may be postponed for one school day in order to accommodate the special physical, mental, or emotional needs of a student who is the complaining witness. (Education Code 48918.5)

Whenever the Superintendent or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, he/she shall give the complaining witness a copy of the district's suspension and expulsion policy and regulation and shall advise the witness of

his/her right to: (Education Code 48918.5)

1. Receive five days' notice of his/her scheduled testimony at the hearing
2. Have up to two adult support persons of his/her choosing present at the hearing at the time he/she testifies
3. Have a closed hearing during the time he/she testifies

Whenever any allegation of sexual assault or sexual battery is made, the Superintendent or designee shall immediately advise complaining witnesses and accused students to refrain from personal or telephone contact with each other during the time when an expulsion process is pending. (Education Code 48918.5)

Written Notice of the Expulsion Hearing

***Note: Education Code 48918 mandates the Board to adopt procedures that include the following items. ***

Written notice of the expulsion hearing shall be forwarded to the student and the student's parent/guardian at least 10 calendar days before the date of the hearing. The notice shall include: (Education Code 48900.8, 48918(b))

1. The date and place of the hearing
2. A statement of the specific facts, charges, and offense upon which the proposed expulsion is based
3. A copy of district disciplinary rules which relate to the alleged violation
4. Notification of the student's or parent/guardian's obligation, pursuant to Education Code 48915.1, to provide information about the student's status in the district to any other district in which the student seeks enrollment

This obligation applies when a student is expelled for acts other than those described in Education Code 48915(a) or (c).

(cf. 5119 - Students Expelled from Other Districts)

5. The opportunity for the student or the student's parent/guardian to appear in person or be represented by legal counsel or by a nonattorney adviser

Legal counsel means an attorney or lawyer who is admitted to the practice of law in California and is an active member of the State Bar of California.

Nonattorney adviser means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case and has been selected by the student or student's parent/guardian to provide assistance at the hearing.

6. The right to inspect and obtain copies of all documents to be used at the hearing
7. The opportunity to confront and question all witnesses who testify at the hearing
8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses

Additional Notice of Expulsion Hearing for Foster Youth and Homeless Students

***Note: Prior to conducting an expulsion hearing to determine whether a foster youth should be expelled, Education Code 48918.1 requires the district to notify the student's attorney and a representative of an appropriate county child welfare agency, provided that the violation does not require a mandatory recommendation for expulsion. Pursuant to Education Code 48918.1, such additional notice must be given to the district liaison for homeless students when the student involved is a homeless child or youth and the violation does not require a mandatory recommendation for expulsion. While such a notice is not required if the offense requires a mandatory recommendation for expulsion, it is nonetheless recommended and the following section reflects this recommendation. ***

If the student facing expulsion is a foster student, the Superintendent or designee shall also send notice of the hearing to the student's attorney and a representative of an appropriate child welfare agency at least 10 days prior to the hearing. (Education Code 48918.1)

If the student facing expulsion is a homeless student, the Superintendent or designee shall also send notice of the hearing to the district liaison for homeless students at least 10 days prior to the hearing. (Education Code 48918.1)

Any notice for these purposes may be provided by the most cost-effective method possible, including by email or a telephone call. (Education Code 48918.1)

Conduct of Expulsion Hearing

***Note: Education Code 48918 mandates that the Board adopt procedures that include the following items. ***

***Note: Instead of the Board conducting an expulsion hearing, it may appoint a hearing officer or an impartial administrative panel to conduct the hearing; see section "Alternative Expulsion Hearing: Hearing Officer or Administrative Panel" below. Even if the district conducts all expulsion hearings in this manner, the requirements of Education Code 48918 pertaining to the conduct of the hearing must be met. ***

1. Closed Session: Notwithstanding Education Code 35145, the Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public meeting. If such a request is made, the meeting shall be public to the extent that privacy rights of other students are not violated. (Education Code 48918)

***Note: For the purpose of Board deliberations during the closed session described below, the presence of any person other than the Board members, including the Superintendent, necessitates allowing the presence of the parent/guardian, student, and student's counsel. ***

Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to deliberate and determine whether or not the student should be expelled. If the Board admits any other person to this closed session, the parent/guardian, the student, and the counsel of the student also shall be allowed to attend the closed session. (Education Code 48918(c))

If a hearing that involves a charge of sexual assault or sexual battery is to be conducted in public, a complaining witness shall have the right to have his/her testimony heard in closed session when testifying in public would threaten serious psychological harm to the witness and when there are no alternative procedures to avoid the threatened harm, including, but not limited to, a videotaped deposition or contemporaneous examination in another place communicated to the hearing room by closed-circuit television. (Education Code 48918(c))

2. Record of Hearing: A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made. (Education Code 48918(g))

***Note: Education Code 48918 authorizes the Board to issue subpoenas for the personal appearance of percipient witnesses at an expulsion hearing. In *Woodbury v. Dempsey*, the court held that a district's authority to determine whether to issue subpoenas is discretionary, but a district could not have a blanket policy denying the issuance of subpoenas in all cases. ***

***Note: In accordance with Code of Civil Procedure 1987, the subpoena must be served at least 10 days before the time required for attendance unless the court prescribes a shorter time. Unless they are parties to the hearing or are district or government employees, witnesses who appear pursuant to a subpoena receive fees equal to those prescribed for witnesses in civil actions in a superior court, and all witnesses other than the parties to the hearing receive mileage; these fees and mileage must be paid by the party requesting the subpoena. ***

3. Subpoenas: Before commencing a student expulsion hearing, the Board may issue subpoenas, at the request of either the student or the Superintendent or designee, for the personal appearance at the hearing of any person who actually witnessed the action that gave rise to the recommendation for expulsion. After the hearing has commenced, the Board or the hearing officer or administrative panel may issue such subpoenas at the request of the student or the County Superintendent of Schools or designee. All subpoenas shall be issued in accordance with Code of Civil Procedure 1985-1985.2 and enforced in accordance with Government Code 11455.20. (Education Code 48918(i))

Any objection raised by the student or the Superintendent or designee to the issuance of subpoenas may be considered by the Board in closed session, or in open session if so requested by the student, before the meeting. The Board's decision in response to such an objection shall be final and binding. (Education Code 48918(i))

If the Board determines, or if the hearing officer or administrative panel finds and submits

to the Board, that a witness would be subject to unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as described in item #4 below. (Education Code 48918(i))

4. Presentation of Evidence: Technical rules of evidence shall not apply to the expulsion hearing, but relevant evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Board to expel shall be supported by substantial evidence that the student committed any of the acts pursuant to Education Code 48900 and listed in "Grounds for Suspension and Expulsion: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12" above. (Education Code 48918(h))

***Note: Findings of fact made by the Board or a hearing panel must not be based on hearsay alone. "Hearsay" is evidence of an oral or written statement made by a person who is not present at the hearing which is offered to establish a fact as being true. Some exceptions to the hearsay rule exist under the Evidence Code and Education Code; the district should consult legal counsel as appropriate. ***

Findings of fact shall be based solely on the evidence at the hearing. Although no finding shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm. (Education Code 48918(f))

In cases where a search of a student's person or property has occurred, evidence describing the reasonableness of the search shall be included in the hearing record.

***Note: Education Code 48918.6 provides that testimony by a student witness at an expulsion hearing is privileged and thus protected from liability for defamation pursuant to Civil Code 47(b). ***

5. Testimony by Complaining Witnesses: The following procedures shall be observed when a hearing involves allegations of sexual assault or sexual battery by a student: (Education Code 48918, 48918.5)

- a. Any complaining witness shall be given five days' notice before being called to testify.
- b. Any complaining witness shall be entitled to have up to two adult support persons, including, but not limited to, a parent/guardian or legal counsel, present during his/her testimony.
- c. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.
- d. The person presiding over the hearing may remove a support person whom he/she finds is disrupting the hearing.
- e. If one or both support persons are also witnesses, the hearing shall be conducted in accordance with Penal Code 868.5.

f. Evidence of specific instances of prior sexual conduct of a complaining witness shall be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances require the evidence to be heard. Before such a determination is made, the complaining witness shall be given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this evidence, the complaining witness shall be entitled to be represented by a parent/guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of a complaining witness shall not be admissible for any purpose.

g. In order to facilitate a free and accurate statement of the experiences of the complaining witness and to prevent discouragement of complaints, the district shall provide a nonthreatening environment.

(1) The district shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony.

(2) At the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which he/she may leave the hearing room.

(3) The person conducting the hearing may:

(a) Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complaining witness

(b) Limit the time for taking the testimony of a complaining witness to the hours he/she is normally in school, if there is no good cause to take the testimony during other hours

(c) Permit one of the support persons to accompany the complaining witness to the witness stand

6. Decision: The Board's decision as to whether to expel a student shall be made within 40 school days after the student is removed from his/her school of attendance, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

Alternative Expulsion Hearing: Hearing Officer or Administrative Panel

***Note: For districts that use a hearing officer or administrative panel, Education Code 48918 mandates that the Board adopt procedures that include the following section. ***

Instead of conducting an expulsion hearing itself, the Board may contract with the county hearing officer or with the Office of Administrative Hearings of the State of California for a hearing officer. The Board may also appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board or on the staff of the school in which the student is enrolled. (Education Code 48918)

A hearing conducted by the hearing officer or administrative panel shall conform to the same

procedures applicable to a hearing conducted by the Board as specified above in "Conduct of Expulsion Hearing," including the requirement to issue a decision within 40 school days of the student's removal from school, unless the student requests that the decision be postponed. (Education Code 48918(a) and (d))

***Note: Pursuant to Education Code 48918, if the hearing officer or administrative panel does not recommend expulsion, a student must be permitted to return to the classroom instructional program from which the expulsion referral was made, unless the student's parent/guardian requests a different placement. Education Code 48918 also states that a student who is found to have committed any of the violations listed in "Authority to Expel" in the accompanying Board policy but for whom expulsion is not recommended may be referred to his/her prior school. However, the hearing officer or administrative panel, like the Board, must recommend expulsion or a suspended expulsion under Education Code 48915, if it finds that a student committed any such violation that mandates expulsion. District should consult legal counsel to resolve this apparent discrepancy. ***

The hearing officer or administrative panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not recommended, the expulsion proceeding shall be terminated and the student shall be immediately reinstated and permitted to return to the classroom instructional program from which the referral was made, unless another placement is requested in writing by the student's parent/guardian. Before the student's placement decision is made by his/her parent/guardian, the Superintendent or designee shall consult with the parent/guardian and district staff, including the student's teachers, regarding other placement options for the student in addition to the option to return to the classroom instructional program from which the student's expulsion referral was made. The decision to not recommend expulsion shall be final. (Education Code 48918(e))

If expulsion is recommended, findings of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The Board may accept the recommendation based either upon a review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the Board may order. (Education Code 48918(f))

In accordance with Board policy, the hearing officer or administrative panel may recommend that the Board suspend the enforcement of the expulsion. If the hearing officer or administrative panel recommends that the Board expel a student but suspend the enforcement of the expulsion, the student shall not be reinstated and permitted to return to the classroom instructional program from which the referral was made until the Board has ruled on the recommendation. (Education Code 48917, 48918)

Final Action by the Board

***Note: Education Code 48918 mandates that the Board adopt procedures that include the following paragraph. ***

Whether the expulsion hearing is conducted in closed or open session by the Board, a hearing officer, or an administrative panel or is waived through the signing of a stipulated expulsion agreement, the final action to expel shall be taken by the Board in public. (Education Code

48918(j))

(cf. 9321.1 - Closed Session Actions and Reports)

The Board's decision is final. If the decision is to not expel, the student shall be reinstated immediately. If the decision is to suspend the enforcement of the expulsion, the student shall be reinstated under the conditions of the suspended expulsion.

***Note: The Gun-Free Schools Act, 20 USC 7961, requires that information in the following paragraph be sent to the California Department of Education (CDE) for assurances of compliance with federal and state law. For other language that must be submitted to the CDE, see section below entitled "Notifications to Law Enforcement Authorities." ***

Upon ordering an expulsion, the Board shall set a date when the student shall be reviewed for readmission to a school within the district. For a student expelled for any act listed under "Mandatory Recommendation and Mandatory Expulsion" above, this date shall be one year from the date the expulsion occurred, except that the Board may set an earlier date on a case-by-case basis. For a student expelled for other acts, this date shall be no later than the last day of the semester following the semester in which the expulsion occurred. If an expulsion is ordered during summer session or the intersession period of a year-round program, the Board shall set a date when the student shall be reviewed for readmission not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred. (Education Code 48916)

At the time of the expulsion order, the Board shall recommend a plan for the student's rehabilitation, which may include: (Education Code 48916)

1. Periodic review, as well as assessment at the time of review, for readmission
2. Recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs

***Note: The following paragraph is optional. Education Code 48916.5 authorizes, but does not mandate, the Board to make the following requirement of certain expelled students. ***

With parent/guardian consent, students who have been expelled for reasons relating to controlled substances or alcohol may be required to enroll in a county-sponsored drug rehabilitation program before returning to school. (Education Code 48916.5)

Written Notice to Expel

The Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian. This notice shall include the following:

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed above under "Grounds for Suspension and Expulsion: Grades K-12" or "Additional Grounds for Suspension and Expulsion: Grades 4-12" (Education Code 48900.8)

2. The fact that a description of readmission procedures will be made available to the student and his/her parent/guardian (Education Code 48916)
3. Notice of the right to appeal the expulsion to the County Board (Education Code 48918)
4. Notice of the alternative educational placement to be provided to the student during the time of expulsion (Education Code 48918)
5. Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1 (Education Code 48918)

Decision to Suspend Expulsion Order

***Note: Pursuant to Education Code 48917, the Board's criteria for suspending the enforcement of expulsions must be applied uniformly to all students. Items #1-3 below are optional and should be revised to reflect district criteria. ***

In accordance with Board policy, when deciding whether to suspend the enforcement of an expulsion order, the Board shall take into account the following criteria:

1. The student's pattern of behavior
2. The seriousness of the misconduct
3. The student's attitude toward the misconduct and his/her willingness to follow a rehabilitation program

The suspension of the enforcement of an expulsion shall be governed by the following:

1. The Board may, as a condition of the suspension of enforcement, assign the student to a school, class, or program appropriate for the student's rehabilitation. This rehabilitation program may provide for the involvement of the student's parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the student has satisfactorily completed the rehabilitation program. (Education Code 48917)
2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status. (Education Code 48917)
3. The suspension of the enforcement of an expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12" or "Additional Grounds for Suspension and Expulsion: Grades 4-12" above or violates any of the district's rules and regulations governing student conduct. (Education Code 48917)
4. When the suspension of enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order. (Education Code 48917)

5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a district school. Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings. (Education Code 48917)

6. The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall inform the parent/guardian of the right to appeal the expulsion to the County Board, the alternative educational placement to be provided to the student during the period of expulsion, and the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of his/her status with the expelling district, pursuant to Education Code 48915.1(b). (Education Code 48918(j))

7. Suspension of the enforcement of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board. (Education Code 48917)

Appeal

The student or parent/guardian is entitled to file an appeal of the Board's decision with the County Board. The appeal must be filed within 30 days of the Board's decision to expel, even if the expulsion order is suspended and the student is placed on probation. (Education Code 48919)

If the student submits a written request for a copy of the written transcripts and supporting documents from the district simultaneously with the filing of the notice of appeal with the County Board, the district shall provide the student with these documents within 10 school days following the student's written request. (Education Code 48919)

Notification to Law Enforcement Authorities

***Note: The Gun-Free Schools Act, 20 USC 7961, requires that information in the following two paragraphs be sent to the CDE for assurances of compliance with federal and state law. ***

***Note: In addition, Education Code 48902 requires the principal or designee to notify law enforcement authorities when a student or nonstudent possesses a firearm or explosive or sells or furnishes a firearm at school. However, when the student involved in such a case is a student with a disability, Education Code 49076 requires any law enforcement authority to which student information is disclosed to certify that those records will not be disclosed to another party without the prior written consent of the student's parent/guardian or other person invested with the student's educational right; see AR 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities). ***

Prior to the suspension or expulsion of any student, the principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code 245. (Education Code 48902)

The principal or designee also shall notify appropriate city or county law enforcement authorities

of any student acts which may involve the possession or sale of narcotics or of a controlled substance. In addition, law enforcement authorities shall be notified regarding any acts by students regarding the possession, sale, or furnishing of firearms, explosives, or other dangerous weapons in violation of Education Code 48915(c)(1) or (5) or Penal Code 626.9 and 626.10. (Education Code 48902)

Within one school day after a student's suspension or expulsion, the principal or designee shall notify appropriate city or county law enforcement authorities, by telephone or other appropriate means, of any student acts which may violate Education Code 48900(c) or (d), relating to the possession, use, offering, or sale of controlled substances, alcohol, or intoxicants of any kind. (Education Code 48902)

Placement During Expulsion

***Note: Education Code 48915 requires the Board to refer all expelled students to a program of study that is prepared to accommodate students with discipline problems and that is not located at the school the student currently attends or at any regular elementary, middle, junior, or senior high school. However, students expelled for the acts described in Education Code 48900(f) through (m) or Education Code 48900.2, 48900.3, or 48900.4 may be referred to a program of study that is at another elementary, middle, junior, or senior high school if the County Superintendent of Schools certifies that an alternative program is not available at a site away from such a school. ***

***Note: Education Code 48915.01 states that if the Board has established a community day school pursuant to Education Code 48661 on the same site as an elementary, middle, junior, or senior high school, expelled students may be referred to the community day school at that site. Although Education Code 48663 prohibits the use of independent study in community day schools, Education Code 48916.1 does not in any way restrict the district from offering independent study as a voluntary alternative placement option for expelled students. ***

The Board shall refer expelled students to a program of study that is: (Education Code 48915, 48915.01)

1. Appropriately prepared to accommodate students who exhibit discipline problems
2. Not provided at a comprehensive middle, junior, or senior high school or at any elementary school, unless the program is offered at a community day school established at any of these
3. Not housed at the school site attended by the student at the time of suspension

(cf. 6158 - Independent Study)

(cf. 6185 - Community Day School)

When the placement described above is not available and when the County Superintendent so certifies, students expelled for only acts described in items #6-12 under "Grounds for Suspension and Expulsion: Grades K-12" and items #1-3 under "Additional Grounds for Suspension and Expulsion: Grades 4-12" above may be referred to a program of study that is provided at another

comprehensive middle, junior, or senior high school or at an elementary school. (Education Code 48915)

The program for a student expelled from any of grades K-6 shall not be combined or merged with programs offered to students in any of grades 7-12. (Education Code 48916.1)

Readmission After Expulsion

***Note: Education Code 48916 mandates that the Board adopt rules and regulations establishing a procedure for filing and processing requests for readmission and a process for Board review of all expelled students for readmission. Items #1-2 below should be revised to reflect district practice. ***

Prior to the date set by the Board for the student's readmission:

1. The Superintendent or designee shall hold a conference with the parent/guardian and the student. At the conference, the student's rehabilitation plan shall be reviewed and the Superintendent or designee shall verify that the provisions of this plan have been met. School regulations shall be reviewed and the student and parent/guardian shall be asked to indicate in writing their willingness to comply with these regulations.
2. The Superintendent or designee shall transmit to the Board his/her recommendation regarding readmission. The Board shall consider this recommendation in closed session. If a written request for open session is received from the parent/guardian or adult student, it shall be honored to the extent that privacy rights of other students are not violated.
3. If the readmission is granted, the Superintendent or designee shall notify the student and parent/guardian, by registered mail, of the Board's decision regarding readmission.
4. The Board may deny readmission only if it finds that the student has not satisfied the conditions of the rehabilitation plan or that the student continues to pose a danger to campus safety or to other district students or employees. (Education Code 48916)
5. If the Board denies the readmission of a student, the Board shall determine either to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school.
6. The Board shall provide written notice to the expelled student and parent/guardian describing the reasons for denying readmittance into the regular program. This notice shall indicate the Board's determination of the educational program which the Board has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district. (Education Code 48916)

No student shall be denied readmission into the district based solely on the student's arrest, adjudication by a juvenile court, formal or informal supervision by a probation officer, detention in a juvenile facility, enrollment in a juvenile court school, or other such contact with the juvenile justice system. (Education Code 48645.5)

Maintenance of Records

The district shall maintain a record of each suspension and expulsion, including its specific cause(s). (Education Code 48900.8)

Expulsion records of any student shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls upon written request by that school. (Education Code 48918(k))

***Note: Education Code 48915.1 requires that, when an expelled student asks to enroll in another district, the receiving district must hold a hearing to determine whether the student poses a danger to its students or staff. The receiving district then may either deny or permit the enrollment. Upon request from another district, the expelling district must provide information about the expulsion within five days. ***

The Superintendent or designee shall, within five working days, honor any other district's request for information about an expulsion from this district. (Education Code 48915.1)

(cf. 5119 - Students Expelled from Other Districts)

(4/14 12/14) 12/17

CSBA Sample

Administrative Regulation

Before/After School Programs

AR 5148.2

Students

***Note: The district should revise the following administrative regulation to reflect the before and/or after school program(s) it offers and the grade levels at which the programs are offered. In addition to the program requirements described below, before-school and after-school programs may be subject to other district policies such as BP/AR 5148 - Child Care and Development, AR 3514.2 - Integrated Pest Management, and BP/AR 3550 - Food Service/Child Nutrition Program. The district should consult legal counsel if it has questions regarding the applicability of other laws to the district's programs. ***

Grades K-9

***Note: The following section is for use by districts providing before-school and/or after-school programs funded by the state After School Education and Safety Program (ASES) (Education Code 8482-8484.65) or the federal 21st Century Community Learning Center program (21st CCLC) (Education Code 8484.7-8484.9; 20 USC 7171-7176). Both ASES and 21st CCLC programs serve students who are in grades K-9 in an elementary, middle, or junior high school. Pursuant to Education Code 8484.75, programs funded through the 21st CCLC program are generally subject to the same program requirements applicable to ASES programs, with the exception of specified provisions primarily related to allocation of funds. ***

***Note: The following section applies to both ASES and 21st CCLC programs except where otherwise noted, and should be revised to reflect the program(s) offered by the district. ***

The district's After School Education and Safety (ASES) program or 21st Century Community Learning Center (21st CCLC) program shall serve students in any of grades K-9 as the district may determine based on local needs. (Education Code 8482.3, 8484.7, 8484.75, 8484.8)

The district's 21st CCLC program shall primarily serve students in Title I schoolwide programs. (Education Code 8484.8; 20 USC 7173)

(cf. 6171 - Title I Programs)

***Note: The remainder of this section applies to both ASES and 21st CCLC programs. ***

The district's ASES and 21st CCLC program(s) shall be operated in accordance with the following:

1. Program Elements

a. The program shall include an educational and literacy element in which tutoring or homework assistance is provided in language arts, mathematics, history and social science, computer training, and/or science. (Education Code 8482.3)

(cf. 6142.91 - Reading/Language Arts Instruction)

(cf. 6142.92 - Mathematics Instruction)

(cf. 6142.93 - Science Instruction)

(cf. 6154 - Homework/Makeup Work)

(cf. 6163.4 - Student Use of Technology)

***Note: Education Code 8482.3 requires that the program include an educational enrichment component which may include physical fitness. Pursuant to Education Code 8483.55 and 8484.8, the California Department of Education (CDE) has developed voluntary California After School Physical Activity Guidelines which are available on its web site. ***

b. The program shall include an educational enrichment element which may include, but is not limited to, fine arts, career technical education, recreation, technology, physical fitness, and prevention activities. (Education Code 8482.3)

(cf. 5131.6 - Alcohol and Other Drugs)

(cf. 5131.62 - Tobacco)

(cf. 6142.6 - Visual and Performing Arts)

(cf. 6142.7 - Physical Education and Activity)

(cf. 6178 - Career Technical Education)

***Note: Pursuant to Education Code 8482.3, after-school programs may offer snacks or meals that conform to applicable state or federal nutrition standards. Reimbursement for providing snacks is available through the National School Lunch Program and the Child and Adult Care Food Program (CACFP) for participating districts. Pursuant to the Healthy, Hunger-Free Kids Act of 2010 (42 USC 1766-1766a), after-school programs participating in the at-risk after-school care component of the CACFP may be reimbursed for serving full meals. Further information is available on the web sites of the CDE and U.S. Department of Agriculture. ***

2. Nutrition

a. If snacks or meals are made available in the program, they shall conform to nutrition standards specified in Education Code 49430-49434 or 42 USC 1766 as applicable. (Education Code 8482.3; 42 USC 1766-1766a; 7 CFR 226.17)

b. The district's before-school program shall offer a breakfast meal as described in Education Code 49553 for all program participants. (Education Code 8483.1)

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

(cf. 3554 - Other Food Sales)

(cf. 5030 - Student Wellness)

***Note: Education Code 8482.3 provides that a program may be offered at one or multiple school sites. Program applications and U.S. Department of Education (USDOE) nonregulatory

guidance, 21st Century Community Learning Centers, state that programs may be located off campus as long as the facility is as available and accessible to students as if it were located at a school. ***

3. Location of Program

a. The program may be offered at one or multiple school sites and/or at an easily available and accessible off-campus facility. (Education Code 8482.3)

b. When there is a significant barrier to student participation in either the before-school or after-school component of a program at the school of attendance, the Superintendent or designee may, with the approval of the Superintendent of Public Instruction, provide services at another school site. Such transfer of services shall occur only if the school to which the program will be transferred agrees to receive students from the transferring school and has an existing grant of the same type as the transferring school, or does not have a 10-percent lower percentage of students eligible for free or reduced-price meals than the transferring school. A significant barrier includes any of the following: (Education Code 8482.8)

(1) Fewer than 20 students participating in the program component

(2) Extreme transportation constraints, including, but not limited to, desegregation busing, busing for magnet or open enrollment schools, or student dependence on public transportation

(3) A reduction in the program grant of an existing school due to its merging into a new school opened by the district or the splitting of its students with a new school

In such cases, the district shall arrange for safe, supervised transportation between school sites; ensure communication among staff in the regular school program, staff in the before-school or after-school program, and parents/guardians; and ensure alignment of the educational and literacy elements with the regular school program of participating students. (Education Code 8482.8)

(cf. 3540 - Transportation)

4. Staffing

a. All staff members who directly supervise students shall, at a minimum, meet the qualifications for an instructional aide. (Education Code 8483.4, 45330, 45344, 45344.5)

(cf. 4222 - Teacher Aides/Paraprofessionals)

***Note: Pursuant to Education Code 8483.4, program staff and volunteers are required to meet health screening and fingerprint clearance requirements. Education Code 49024 provides that the requirement to obtain an Activity Supervisor Clearance Certificate prior to beginning a paid or volunteer position is satisfied by clearing a Department of Justice and Federal Bureau of Investigation criminal background check. ***

b. All program staff and volunteers shall be subject to the health screening and fingerprint clearance requirements in law and Board policy. (Education Code 8483.4)

(cf. 1240 - Volunteer Assistance)
(cf. 4112.4/4212.4/4312.4 - Health Examinations)
(cf. 4112.5/4212.5/4312.5 - Criminal Record Check)

c. The student-to-staff ratio shall be no more than 20 to 1. (Education Code 8483.4)

5. Hours of Operation

a. A before-school program shall not operate for less than one and one-half hours per regular school day. (Education Code 8483.1)

b. An after-school program shall begin immediately upon the conclusion of the regular school day and shall operate a minimum of 15 hours per week and at least until 6 p.m. on every regular school day. (Education Code 8483)

6. Admissions

a. Every student attending a school operating a program is eligible to participate in the program, subject to program capacity. (Education Code 8482.6)

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

b. If the number of students wishing to participate in the program exceeds program capacity, students shall be selected for enrollment based on the following guidelines:

(1) First priority for enrollment shall be given to students who are identified as homeless youth, as defined by the McKinney-Vento Homeless Assistance Act (42 USC 11434a), at the time they apply for enrollment or at any time during the school year and to students who are identified by the program as being in foster care. (Education Code 8483, 8483.1)

The district is not required to disenroll a current student in order to secure the enrollment of a student who has priority for enrollment. (Education Code 8483, 8483.1)

The district shall inform the parent/guardian of a homeless or foster youth of the right of the child to receive priority enrollment and how to request priority enrollment. (Education Code 8483)

(cf. 5145.6 - Parental Notifications)
(cf. 6173 - Education for Homeless Children)
(cf. 6173.1 - Education for Foster Youth)

***Note: Item #(2) below is for use by districts that maintain middle or junior high schools. ***

(2) Second priority for enrollment of middle or junior high school students shall be given to students who attend daily. (Education Code 8483, 8483.1)

***Note: Items #(3)-(5) are optional and may be revised or expanded to include enrollment priorities established by the district. ***

(3) Third priority for enrollment shall be given to students identified as in need of academic remediation or support in accordance with Board policy or administrative regulation.

(cf. 6179 - Supplemental Instruction)

(4) Any remaining capacity shall be filled by students selected at random.

(5) A waiting list shall be established to accommodate additional students if space becomes available.

7. Attendance/Early Release

***Note: Education Code 8483 and 8483.1 express legislative intent that elementary students attend the full program day of either the before-school or after-school program every day in which they participate. Education Code 8483 and 8483.1 allow districts to implement a flexible attendance schedule for students in middle or junior high school. Education Code 8483.1 specifies that, for before-school programs, students who attend less than one-half of the daily program hours may not be counted for attendance purposes. ***

***Note: Pursuant to Education Code 8483, districts offering an after-school program are mandated to establish a policy regarding reasonable early daily release of students from the after-school program. Education Code 8483.1 mandates districts offering a before-school program to establish a policy regarding reasonable late daily arrival of students. The following items should be revised to reflect district practice. ***

a. Each student admitted into a district program shall be expected to attend the full number of hours that the program is in operation every day that he/she participates.

b. When necessary, a student's parent/guardian may request, in writing, that the Superintendent or designee approve the reasonable late daily arrival of his/her child for the before-school program or the reasonable early daily release of his/her child from the after-school program. The Superintendent or designee shall not approve such a request if the student would be attending less than one-half of the daily program hours.

***Note: Item #8 below is for use by districts that offer a program during summer, intersession, or vacation periods. Pursuant to Education Code 8483.76, a school that establishes a before-school or after-school program is eligible to receive a supplemental grant to operate the program in excess of 180 regular school days or during any combination of summer, weekends, intersession, or vacation periods for a maximum of 30 percent of the total grant amount awarded, per school year, to the school. ***

8. Summer/Intersession/Vacation Programs

a. A before-school program operating during summer, intersession, and/or vacation days shall be offered for a minimum of two hours per day. An after-school program offered during summer, intersession, and/or vacation days may be operated for either three hours or six hours per day in accordance with Education Code 8483.76. When both before-school and after-school

programs are offered for the same students on such days, they shall be operated for a minimum of four and one-half hours per day. (Education Code 8483, 8483.1, 8483.2, 8483.76)

b. A program offered during summer, intersession, and/or vacation periods may open eligibility to every student attending a school in the district, with priority for enrollment given to students enrolled in the school that received the grant. (Education Code 8483.76)

c. To address the needs of students and school closures, the program may be conducted at an off-site location or an alternate school site. The program shall notify the California Department of Education (CDE) of the change of location and shall include a plan to provide safe transportation pursuant to Education Code 8484.6. (Education Code 8483.76)

d. Any program operating for six hours per day shall provide at least one nutritionally adequate free or reduced-price meal to each eligible student during each program day. (Education Code 8483.76)

***Note: Education Code 8483.76 mandates that a district operating a six-hour program adopt an attendance and early release policy for the program that is consistent with the district's early release policy for the regular school day; see item #7 above. This policy must be included in the program plan submitted to the CDE. ***

e. For any program operating six hours per day, district procedures pertaining to student attendance and early release as specified in item #7 above shall apply. (Education Code 8483.76)

(cf. 6177 - Summer Learning Programs)

Grades 9-12

***Note: The following section is for use by districts providing before-school and/or after-school programs funded through 21st Century High School After School Safety and Enrichment for Teens (ASSETs) program (Education Code 8420-8428; 20 USC 7171-7176). ***

The district's 21st Century High School After School Safety and Enrichment for Teens (ASSETs) program shall serve students in any of grades 9-12 as the district may determine based on local needs. (Education Code 8421)

The program shall be operated in accordance with the following guidelines:

1. Program Elements

***Note: Education Code 8421 requires that the ASSETs program include an academic assistance element, as provided below. AB 830 (Ch. 641, Statutes of 2017) amended Education Code 8421 to delete the requirement that the program include preparation for the California High School Exit Examination, as that exam has been eliminated. ***

a. The program shall include an academic assistance element that is coordinated with the regular academic program and includes, but is not limited to, at least one of the following:

(Education Code 8421)

- (1) Tutoring
- (2) Career exploration, including activities that help students develop the knowledge and skills that are relevant to their career interests and reinforce academic content
- (3) Homework assistance
- (4) College preparation, including information about the Cal Grant program pursuant to Education Code 69430-69460

b. The program shall include an enrichment element that may include, but is not limited to:
(Education Code 8421)

- (1) Community service
- (2) Career and technical education
- (3) Job readiness
- (4) Opportunities for mentoring and tutoring younger students
- (5) Service learning
- (6) Arts
- (7) Computer and technology training
- (8) Physical fitness
- (9) Recreation activities

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

***Note: Education Code 8423 requires the ASSETs program to include a physical activity element. See the CDE's California After School Physical Activity Guidelines, available on its web site. ***

c. The program shall include a nutritional snack and/or meal and a physical activity element.
(Education Code 8423)

d. The program shall provide for access to, and availability of, computers and technology.
(Education Code 8423)

e. The Superintendent or designee shall assess students' preferences for program activities.
(Education Code 8423)

2. Location of Program

- a. The district's program may operate on one or multiple school sites or at another location approved by the CDE. (Education Code 8421)
- b. If applying for a location off school grounds, the Superintendent or designee shall ensure that safe transportation is available for students, if necessary, and the program is at least as available and accessible as similar programs conducted on school sites. (Education Code 8421)

3. Hours of Operation

- a. The district's program shall operate for a minimum of 15 hours per week. (Education Code 8421)
- b. The district's program may be operated either after school only or for any combination of after school, before school, weekends, summer, intersession, and vacations. (Education Code 8422)

Volunteers

***Note: The following optional section is for use by districts that choose to create a registry of volunteer after-school physical recreation instructors or other volunteers pursuant to Education Code 35021.3, and may be used by districts that provide an ASES, 21st CCLC, ASSETs, or any other local program. When the district opts to use a registry created by a county office of education pursuant to Education Code 35021.3 rather than develop its own, the following section may be revised to inform district staff about the county registry and encourage its use. ***

***Note: Pursuant to Education Code 35021.3, after-school instruction in physical recreation provided by a volunteer does not count toward satisfaction of physical education requirements pertaining to the number of instructional minutes or course completion for high school graduation; see BP/AR 6142.7 - Physical Education and Activity and BP 6146.1 - High School Graduation Requirements. ***

The Superintendent or designee may establish a registry of volunteer after-school physical recreation instructors and other before-school and after-school program volunteers. (Education Code 35021.3)

***Note: Education Code 35021.3 requires volunteers to submit to a criminal background check and authorizes, but does not require, the district to contribute funds to pay for all or part of the background check. Pursuant to Education Code 35021.3, the district may expand the following paragraph to impose additional requirements on volunteers (e.g., certification in cardiopulmonary resuscitation). ***

To be included in the registry, a volunteer shall submit to a criminal background check pursuant to Education Code 45125. He/she also shall submit current contact information to the district and shall update that information whenever the information changes. (Education Code 35021.3)

The Superintendent or designee may use a volunteer registered with the district or may select

another person to provide physical recreation to students after school hours or to provide other services. (Education Code 35021.3)

Reports

***Note: The following section applies to ASES, 21st CCLC, and ASSETs programs. ***

***Note: Pursuant to Education Code 8426 and 8484, the CDE may terminate a grant if, for three consecutive years, the program fails to demonstrate measurable program outcomes or fails to attain 75 percent of its proposed attendance levels. For this purpose, the CDE may consider a comparison of participating and nonparticipating students at the same school site or other factors. ***

The Superintendent or designee shall annually submit to the CDE outcome-based data, including, but not limited to: (Education Code 8427, 8482.3, 8484)

1. For participating students, school day attendance on an annual basis and program attendance on a semi-annual basis

***Note: Education Code 8427 requires programs to submit evidence of a program quality improvement process that is based on standards developed by the CDE. The CDE's program quality standards, Quality Standards for Expanded Learning in California: Creating and Implementing a Shared Vision of Quality, are available on its web site. ***

2. Evidence of a program quality improvement process that is data driven and based on CDE program quality standards

(cf. 0500 - Accountability)

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CSBA Sample

Board Bylaw

Student Board Members

BB 9150

Board Bylaws

***Note: The following optional Board bylaw is for use by any district maintaining one or more high schools. Pursuant to Education Code 35160, the Governing Board may, on its own authority, elect to include one or more student members on the Board. In districts that do not have a student Board member, the district's high school students may petition the Board, pursuant to Education Code 35012, to include at least one student on the Board. See section on "Petition" below for additional information regarding student petitions. ***

In order to enhance communication and collaboration between the Governing Board and the student body and to teach students the importance of civic involvement, the Board supports the participation of high school students in district governance.

Petition

***Note: If petitioned by the district's high school students pursuant to Education Code 35012, the Board is required to include at least one student on the Board and, at its discretion, may include more than one student Board member. Districts that have already established student Board member position(s) should delete the following section. ***

***Note: Education Code 35012, as amended AB 261 (Ch. 257, Statutes of 2017) and SB 468 (Ch. 283, Statutes of 2017), grants preferential voting rights to student Board members without requiring students to submit a petition to the Board for such rights. See "Role and Responsibilities of Student Board Members" below for additional information regarding preferential voting. ***

High school students may submit a petition to the Board requesting the appointment of at least one student Board member. (Education Code 35012)

To qualify for Board consideration, the petition for student representation shall contain the signatures of no less than 500 regularly enrolled high school students or no less than 10 percent of the number of regularly enrolled high school students, whichever is less. (Education Code 35012)

Within 60 days of receiving a student petition, or at the next regularly scheduled Board meeting if no meeting is held within those 60 days, the Board shall order the inclusion of at least one student member on the Board. (Education Code 35012)

Election of Student Board Member

***Note: The following section may be revised to reflect district practice. Pursuant to Education Code 35012, when student representation is established in response to a student petition, student Board members must be elected by the students enrolled in high school(s). It is recommended that the district apply the same process when a student Board member position is established at the Board's discretion. The following paragraph may be revised accordingly. ***

Student Board member positions shall be filled by a vote of students enrolled in the high school(s) in accordance with procedures prescribed by the Board. (Education Code 35012)

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

(cf. 5121 - Grades/Evaluation of Student Achievement)

(cf. 6145 - Extracurricular and Cocurricular Activities)

The term of student Board member(s) shall be one year, commencing on July 1. (Education Code 35012)

Role and Responsibilities of Student Board Members

Student Board member(s) shall have the right to attend all Board meetings except closed (executive) sessions. (Education Code 35012)

(cf. 9321 - Closed Session Purposes and Agendas)

***Note: Education Code 35012, as amended by SB 468 (Ch. 283, Statutes of 2017), requires that student Board members receive meeting materials and staff briefings at the same time as other Board members. Any briefings presented to the Board need to comply with Brown Act requirements. ***

All materials presented to Board members, except those related to closed sessions, shall be presented to student Board members at the same time they are presented to voting Board members. Student Board member(s) shall also be invited to attend staff briefings or be provided with a separate staff briefing within the same timeframe as the briefing of other Board members. (Education Code 35012)

(cf. 9322 - Agenda/Meeting Materials)

Student Board member(s) shall be recognized at Board meetings as full member(s), shall be seated with other members of the Board, and shall be allowed to participate in questioning witnesses and discussing issues. (Education Code 35012)

***Note: Education Code 35012, as amended by AB 261 (Ch. 257, Statutes of 2017) and SB 468 (Ch. 283, Statutes of 2017), grants preferential voting rights to student Board members. ***

Student Board member(s) shall be allowed to cast preferential votes on all matters except those subject to closed session discussion. Preferential voting means a formal expression of opinion that is recorded in the minutes and cast before the official vote of the Board. Preferential votes shall not affect the final numerical outcome of a vote. (Education Code 35012)

(cf. 9324 - Minutes and Recordings)

***Note: Pursuant to Education Code 35012, the Board may adopt a resolution authorizing its student Board member(s) to make motions that may be acted upon by the Board, except on matters dealing with employer-employee relations pursuant to Government Code 3540-3549.3. The following optional paragraph is for use by districts that have adopted a resolution granting such authority. ***

Student Board member(s) may make motions that may be acted upon by the Board, except on matters dealing with employer-employee relations pursuant to Government Code 3540-3549.3. (Education Code 35012)

A student Board member shall not be liable for any acts of the Board. (Education Code 35012)

(cf. 9323.2 - Actions by the Board)

Student Board member(s) shall be entitled to be reimbursed for mileage to the same extent as other members of the Board but shall not receive compensation for attendance at Board meetings. (Education Code 35012)

(cf. 3350 - Travel Expenses)

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

Student Board Member Development

***Note: The following section is optional. Trainings for student Board members are available through CSBA's Annual Education Conference and statewide associations such as the California Association of Student Councils and California Association of Student Leaders. ***

The Superintendent or designee may, at district expense, provide learning opportunities to student Board members through trainings, workshops, and conferences, such as those offered by the California School Boards Association and other organizations, to enhance their knowledge, understanding, and performance of their Board responsibilities.

(cf. 9240 - Board Training)

The Superintendent or designee may periodically provide an orientation for student Board member candidates to give them an understanding of the responsibilities and expectations of Board service.

Elimination of Position

***Note: Education Code 35012 requires a majority vote of all voting members of the Board in order to eliminate a student Board member position that was established in response to a student petition. It is recommended that the district apply the same requirement when the position is established at the Board's discretion. The following paragraph may be revised accordingly. ***

Once established, the student Board member position shall continue to exist until the Board, by

majority vote of all voting Board members, approves a motion to eliminate the position. Such a motion shall be listed as a public agenda item for a Board meeting prior to the motion being voted upon. (Education Code 35012)

Legal Reference:

EDUCATION CODE

33000.5 Appointment of student member to State Board of Education

35012 Board members; number, election and terms; student members

35160 Authority of governing boards

GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act

Management Resources:

WEB SITES

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

California Association of Student Councils: <http://www.casc.net>

California Association of Student Leaders: <http://www.caslboard.com>

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

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CSBA Sample

Board Policy

Charter School Authorization

BP 0420.4

Philosophy, Goals, Objectives and Comprehensive Plans

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

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

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

***Note: For further information regarding the submission and review of charter school petitions, see CSBA's publication Charter Schools: A Guide for Governance Teams. ***

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

***Note: Education Code 47605 allows for the conversion of an existing public school into a charter school, provided that the school adopts and maintains a policy giving admission preference to students who reside within the former attendance area of that public school. The Board also may create a start-up charter school. ***

***Note: The Board may also act as the governing board for what are known as "dependent" charter schools. Although the term does not appear in law, the SBE includes "dependent" charter schools as a separate category in its inventory of charter schools operating in California.

A dependent charter school is subject to the same petition requirements and approval process as an "independent" charter school, which is typically formed by parents/guardians, teachers, community members, or a charter management organization. ***

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

One or more persons may submit a petition for a start-up charter school to be established within the district. In addition, an existing district school may be converted to a charter school when deemed beneficial by the district and community. (Education Code 47605, 47606, 53300)

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

Any petition for a start-up charter school or conversion charter school shall include all components and signatures required by law and shall be submitted to the Board. The Superintendent or designee shall consult with legal counsel, as appropriate, regarding compliance of the charter proposals with legal requirements.

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

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

(cf. 9320 - Meetings and Notices)

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

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

Approval of Petition

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

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

(cf. 0420.42 - Charter School Renewal)
(cf. 0420.43 - Charter School Revocation)

The Board shall ensure that any approved charter contains adequate processes and measures for holding the school accountable for fulfilling the terms of its charter. These shall include, but are not limited to, fiscal accountability systems, multiple measures for evaluating the educational program, including student outcomes aligned with state priorities as described in Education Code 52060, and regular reports to the Board.

(cf. 0420.41 - Charter School Oversight)

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

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

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

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

Denial of Petition

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

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

***Note: Pursuant to Education Code 47605, a charter petition can be denied only if certain factual findings are made, as specified in items #1-6 below. AB 1360 (Ch. 760, Statutes of 2017) amended Education Code 47605 to add that a petition may be denied if the petition does not include a declaration as to whether or not the charter school will be deemed the exclusive public school employer of the school's employees for purposes of collective bargaining, as provided in item #6 below. 5 CCR 11967.5.1, which contains criteria that the SBE must consider in reviewing charter petitions, may be useful to the district in determining how it might evaluate whether a petition meets the conditions specified in items #1-6 below. ***

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

1. The charter school presents an unsound educational program for the students to be enrolled in the charter school.
2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
3. The petition does not contain the number of signatures required.
4. The petition does not contain an affirmation of each of the conditions described in Education Code 47605(d).
5. The petition does not contain reasonably comprehensive descriptions of the charter provisions in Education Code 47605(b).
6. The petition does not contain a declaration as to whether or not the charter school shall be deemed the exclusive public school employer of the school's employees for purposes of collective bargaining pursuant to Government Code 3540-3549.3.

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

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

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

Legal Reference:

EDUCATION CODE

200 Equal rights and opportunities in state educational institutions

220 Nondiscrimination

17078.52-17078.66 Charter schools facility funding; state bond proceeds
17280-17317 Field Act
17365-17374 Field Act, fitness for occupancy
33126 School Accountability Report Card
41365 Charter school revolving loan fund
42238.51-42238.2 Funding for charter districts
44237 Criminal record summary
44830.1 Certificated employees, conviction of a violent or serious felony
45122.1 Classified employees, conviction of a violent or serious felony
46201 Instructional minutes
47600-47616.7 Charter Schools Act of 1992
47640-47647 Special education funding for charter schools
47650-47652 Funding of charter schools
49011 Student fees
51745-51749.6 Independent study
52052 Numerically significant student subgroup, definition
52060-52077 Local control and accountability plan
56026 Special education
56145-56146 Special education services in charter schools
CORPORATIONS CODE
5110-6910 Nonprofit public benefit corporations
GOVERNMENT CODE
3540-3549.3 Educational Employment Relations Act
CODE OF REGULATIONS, TITLE 5
11700.1-11705 Independent study
11960-11968.5.5 Charter schools
CODE OF REGULATIONS, TITLE 24
Part 2 California Building Standards Code
UNITED STATES CODE, TITLE 20
7223-7225 Charter schools
COURT DECISIONS
Ridgecrest Charter School v. Sierra Sands Unified School District, (2005) 130 Cal.App.4th 986
ATTORNEY GENERAL OPINIONS
89 Ops.Cal.Atty.Gen. 166 (2006)
80 Ops.Cal.Atty.Gen. 52 (1997)
78 Ops.Cal.Atty.Gen. 297 (1995)

Management Resources:

CSBA PUBLICATIONS

Charter Schools in Focus, Issue 2: Ensuring Effective Oversight, Governance Brief, October 2017

Charter Schools in Focus, Issue 1: Managing the Petition Review Process, Governance Brief, November 2016

Charter Schools and Board Member Responsibilities, Education Insights Legal Update Webcast, March 2016

Charter Schools: A Guide for Governance Teams, rev. February 2016

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

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Sample Copy of a Memorandum of Understanding
Charter School Authorization: Guidance and Technical Assistance for Prospective Charter
School Authorizers, Webinar 2014
U.S. DEPARTMENT OF EDUCATION GUIDANCE
Dear Colleague Letter: Guidance Regarding the Oversight of Charter Schools Program and
Regulatory Requirements, including the Uniform Administrative Requirements, Cost Principles,
and Audit Requirements for Federal Awards, August 2016
Charter Schools Program, January 2014
Guidance on the Voluntary Use of Race to Achieve Diversity and Avoid Racial Isolation in
Elementary and Secondary Schools, December 2011
Applying Federal Civil Rights Laws to Public Charter Schools: Questions and Answers, May
2000
WEB SITES
CSBA: <http://www.csba.org>
California Charter Schools Association: <http://www.calcharters.org>
California Department of Education, Charter Schools: <http://www.cde.ca.gov/sp/cs>
National Association of Charter School Authorizers: <http://www.qualitycharters.org>
U.S. Department of Education: <http://www.ed.gov>

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CSBA Sample

Board Policy

Advertising And Promotion

BP 1325

Community Relations

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

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

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

***Note: School facilities and school-sponsored publications are public property and are subject to freedom of expression rights granted by the First Amendment to the United States Constitution and Article 1, Section 2 of the California State Constitution. However, because school facilities and school-sponsored publications are generally for school purposes, they are regarded as "nonpublic fora" and the Governing Board typically has extensive authority to regulate them. In exercising this authority, the Board may decide not to accept any form of advertising or distribution of materials (nonpublic forum), as stated in Option 1 below, or to accept some advertising and/or distribution of materials, but only from certain groups or on certain topics (limited public forum), as stated in Option 2. It is also possible for the Board to prohibit advertisement by nonschool groups in some types of district forums (Option 1), while allowing nonschool groups to advertise at other forums (Option 2). For example, a K-12 district could decide not to allow any advertisement on its elementary school sites, while allowing advertisements of a nonpolitical and nonreligious nature on its high school campuses. When a districtwide policy would involve adopting both options, the Board must include clarifying statements in the policy to specify when and where each option would apply. ***

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

recommended that legal counsel be consulted prior to the adoption of policy in this area. ***

OPTION 1: Nonpublic Forum

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

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

OPTION 2: Limited Public Forum

***Note: When the Board chooses Option 2, it may adopt reasonable rules to achieve its intended purpose for the forum, as long as the rules do not discriminate against members of the public based on their viewpoints. It is recommended that districts maintain limits on the scope of the topics and/or groups permitted in order to avoid creating a designated public forum for use by the general public. Districts with questions about how to maintain a limited public forum should consult legal counsel. ***

***Note: Items #1-5 below present examples of the types of materials and/or advertising that the district may allow, and should be revised to reflect district practice. See section "Criteria for Approval" below for examples of permissible restrictions on the content of the advertising. ***

The Board desires to promote positive relationships between district schools and the community in order to enhance community partnerships, support, and involvement in the schools. The Superintendent or designee may, consistent with the criteria established in this policy, approve:

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

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

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

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

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

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

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

(cf. 3290 - Gifts, Grants and Bequests)

(cf. 6161.11 - Supplementary Instructional Materials)

***Note: Generally, courts have upheld procedures that place reasonable "time, place, and manner" restrictions on materials to be distributed, as long as the same restrictions are placed on all materials. See *Hemry v. School Board of Colorado Springs*. Procedures that limit the "time, place, and manner" of distributions, such as limiting distribution to before or after school hours or creating a central location for the distribution of all materials, may be developed, but districts should consult legal counsel as appropriate when creating such restrictions. ***

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

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

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

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

Criteria for Approval

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

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

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

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

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

(cf. 1160 - Political Processes)

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

***Note: Districts wishing to establish policy dealing with the distribution of religious materials should consult legal counsel. ***

***Note: In *Hills v. Scottsdale Unified School District*, the Ninth Circuit Court of Appeals held that a district may only reject advertising with religious content if the advertising exceeds the subject matter of the limited forum created by the district. The court held that a district could not reject a camp brochure with religious content since the district had permitted distribution of similar literature by secular groups. To avoid viewpoint discrimination, a district must allow an advertisement on an otherwise permissible topic even if cast from a religious viewpoint. ***

***Note: The court explained, however, that a district may reject advertisements that contain "proselytizing language" to the extent that the language exceeds the scope of the district's limited forum. For example, in *DiLoreto v. Downey Unified School District*, the court held that a district could reject an advertisement that contained a posting of the Ten Commandments where the district had only opened a baseball field fence to commercial advertising. In addition, the court in *DiLoreto* held that the district had an inherent right to control its property, including the right to close a previously open forum to avoid the appearance of government endorsement of religion. ***

4. Contain prayer or proselytizing language

5. Position the district on any side of a controversial issue

(cf. 6144 - Controversial Issues)

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

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

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

(cf. 5131.6 - Alcohol and Other Drugs)

(cf. 5131.62 - Tobacco)

***Note: Education Code 49431.9, as added by AB 841 (Ch. 843, Statutes of 2017), prohibits schools, districts, and charter schools that participate in the National School Lunch or Breakfast Program from advertising any food or beverage during the school day, as defined, including on any property or facility owned or leased by the district or school and used for school-related activities, unless the food or beverage meets nutritional standards to be served or sold on the school campus during the school day. Schools and districts are not required to replace durable nonconsumable items, such as scoreboards or team uniforms in use as of January 1, 2018, but must comply with this prohibition as items are replaced or contracts are renegotiated. ***

8. Promote during the school day any food or beverage that does not comply with state nutritional standards pursuant to Education Code 49430-49434, including a corporate incentive program that offers free or discounted foods or beverages that do not meet nutritional standards as rewards for students who reach certain academic goals. This prohibition does not include advertising on clothing with brand images worn on school grounds, advertising contained in product packaging, or advertising of infrequent school fundraising events involving food or beverages that do not meet the nutritional standards. (Education Code 49431.9)

(cf. 3550 - Food Service/Child Nutrition Program)
(cf. 5030 - Student Wellness)

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

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

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

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

(cf. 0000 - Vision)

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

Legal Reference:

EDUCATION CODE

7050-7058 Political activities of school officers and employees

35160 Authority of governing boards

35160.1 Broad authority of school districts

35172 Promotional activities

38130-38139 Civic Center Act

49430-49434 The Pupil Nutrition, Health, and Achievement Act of 2001, especially:

49431.9 Advertisement of non-nutritious foods

BUSINESS AND PROFESSIONS CODE

25664 Advertisements encouraging minors to drink

CALIFORNIA CONSTITUTION

Article 1, Section 2 Free speech rights

U.S. CONSTITUTION

Amendment 1, Freedom of speech and expression

UNITED STATES CODE, TITLE 42

1751-1769j School Lunch Program

1773 School Breakfast Program

COURT CASES

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

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

Yeo v. Town of Lexington, (1997) 131 F.3d 241

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

Bright v. Los Angeles Unified School District, (1976) 18 Cal. 3d 450

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

Management Resources:

WEB SITES

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

(11/01 4/13) 12/17

CSBA Sample

Board Policy

Budget

BP 3100

Business and Noninstructional Operations

The Governing Board recognizes its critical responsibility for adopting a sound budget each fiscal year which is aligned with the district's vision, goals, priorities, local control and accountability plan (LCAP), and other comprehensive plans. The district budget shall guide decisions and actions throughout the year and shall serve as a tool for monitoring the fiscal health of the district.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

(cf. 0400 - Comprehensive Plans)

(cf. 0460 - Local Control and Accountability Plan)

(cf. 3300 - Expenditures and Purchases)

(cf. 3460 - Financial Reports and Accountability)

(cf. 9000 - Role of the Board)

The district budget shall show a complete plan and itemized statement of all proposed expenditures and all estimated revenues for the following fiscal year, together with a comparison of revenues and expenditures for the current fiscal year. The budget shall also include the appropriations limit and the total annual appropriations subject to limitation as determined pursuant to Government Code 7900-7914. (Education Code 42122)

Budget Development and Adoption Process

In order to provide guidance in the development of the budget, the Board shall annually establish budget priorities based on identified district needs and goals and on realistic projections of available funds.

The Superintendent or designee shall oversee the preparation of a proposed district budget for approval by the Board and shall involve appropriate staff in the development of budget projections.

***Note: Education Code 42103 and 42127 require the district to hold a public hearing prior to adoption of the budget; see the accompanying administrative regulation for requirements pertaining to the public hearing. A public hearing on the district's local control and accountability plan (LCAP) must occur at the same meeting; see BP 0460 - Local Control and Accountability Plan. ***

The Board shall hold a public hearing on the proposed budget in accordance with Education Code 42103 and 42127.

(cf. 9320 - Meetings and Notices)
(cf. 9322 - Agenda/Meeting Materials)
(cf. 9323 - Meeting Conduct)

The Board shall adopt the district budget on or before July 1 of each year. (Education Code 42127)

At a public meeting scheduled on a date after the public hearing on the budget, the Board shall, following its adoption of the LCAP or an annual update to the LCAP, adopt the budget. The budget shall include the expenditures necessary to implement the LCAP or the annual update to the LCAP. (Education Code 42127, 52062)

***Note: Pursuant to Education Code 42126, the district budget must be in a format prescribed by the Superintendent of Public Instruction (SPI). The SPI has established a requirement that districts use the Standardized Account Code Structure (SACS). SACS ensures that districts meet state and federal reporting guidelines and comply with generally accepted accounting principles prescribed by the Governmental Accounting Standards Board (GASB). The California Department of Education's (CDE) California School Accounting Manual provides guidance regarding coding of revenues and expenditures. ***

***Note: At its discretion, the district may use a different format for communicating the budget to the Board, staff, and public but, according to the CDE, the budget that the Board formally adopts must be in the SACS format. ***

The budget that is formally adopted by the Board shall adhere to the state's Standardized Account Code Structure as prescribed by the Superintendent of Public Instruction. (Education Code 42126, 42127)

The Superintendent or designee may supplement this format with additional information as necessary to effectively communicate the budget to the Board, staff, and public.

***Note: Education Code 42127 requires the district to file the adopted budget with the County Superintendent of Schools as described below. If the district fails to submit a budget by July 1, the County Superintendent will, at district expense, develop a budget by September 15 and transmit that budget to the Board. ***

No later than five days after the Board adopts the district budget or by July 1, whichever occurs first, the Board shall file with the County Superintendent of Schools the adopted district budget and supporting data. The budget and supporting data shall be maintained and made available for public review. (Education Code 42127)

(cf. 1340 - Access to District Records)

***Note: Pursuant to Education Code 42127, on or before September 15, the County Superintendent must approve, conditionally approve, or disapprove the district's adopted budget. Education Code 42127 requires that this determination be based on a consideration of whether the district's adopted budget complies with state standards and criteria, will allow the district to

meet its current and future financial obligations, satisfies all conditions established by the County Superintendent in the case of a conditionally approved budget, will enable the district to satisfy its multiyear financial commitments, includes the expenditures necessary to implement the LCAP or the annual update to the LCAP, and, when applicable, complies with the requirements pertaining to ending fund balances that exceed the state minimum recommended reserve. Education Code 42127 also requires the County Superintendent to consider other studies, reports, evaluations, or audits that may indicate that the district is in fiscal distress; see the Fiscal Crisis and Management Assistance Team's Fiscal Oversight Guide and BP 3460 - Financial Reports and Accountability. ***

If the County Superintendent disapproves or conditionally approves the district's budget, the Board shall review and respond to his/her recommendations at a public meeting on or before October 8. The response shall include any revisions to the adopted budget and any other proposed actions to be taken as a result of those recommendations. (Education Code 42127)

Budget Advisory Committee

***Note: The following optional section is for use by districts that choose to establish a budget advisory committee to provide input during the budget development process. The committee may be appointed by the Superintendent or designee (Option 1), by the Board (Option 2), or may be a Board subcommittee composed exclusively of Board members (Option 3). Committees established by Board action are subject to the Brown Act; see BP/AR 1220 - Citizen Advisory Committees. Districts should delete or modify the following options as appropriate. See the accompanying administrative regulation for optional language regarding the committee's composition and duties. ***

***Note: This committee is different from the budget review committee that is required in the event that the County Superintendent disapproves the district's budget; see the accompanying administrative regulation. ***

OPTION 1: The Superintendent or designee may appoint a budget advisory committee composed of staff, Board representatives, and/or members of the community.

OPTION 2: The Board may appoint a budget advisory committee composed of staff, Board representatives, and/or members of the community.

OPTION 3: The Board may establish a budget subcommittee composed exclusively of Board members.

***Note: The following paragraph is for use by districts that selected either Option 1, 2, or 3 above. ***

The committee shall submit recommendations during the budget development process and its duties shall be assigned each year based on district needs. All recommendations of the committee shall be advisory only and shall not be binding on the Board.

(cf. 1220 - Citizen Advisory Committees)

(cf. 2230 - Representative and Deliberative Groups)

(cf. 3350 - Travel Expenses)
(cf. 9130 - Board Committees)
(cf. 9140 - Board Representatives)

Budget Criteria and Standards

The Superintendent or designee shall develop a district budget in accordance with state criteria and standards specified in 5 CCR 15440-15450 as they relate to projections of average daily attendance (ADA), enrollment, ratio of ADA to enrollment, local control funding formula revenue, salaries and benefits, other revenues and expenditures, facilities maintenance, deficit spending, unrestricted general fund balance, and reserves. In addition, he/she shall provide the supplemental information specified in 5 CCR 15451 which addresses the methodology and budget assumptions used, contingent liabilities, use of one-time revenues for ongoing expenditures, use of ongoing revenues for one-time expenditures, contingent revenues, contributions, long-term commitments, unfunded liabilities, status of collective bargaining agreements, the LCAP, and LCAP expenditures. (Education Code 33128, 33128.3, 33129, 42127.01; 5 CCR 15440-15451)

***Note: The following paragraph is for use by districts that receive supplemental and concentration funding within the local control funding formula (LCFF) based on the number and concentration of "unduplicated students" (i.e., students who are eligible for free or reduced-price meals, English learners, and foster youth) pursuant to Education Code 42238.02 and 42238.03. 5 CCR 15496 addresses the method of determining the percentage by which services for unduplicated students must be increased or improved above services provided to all students in the fiscal year. Pursuant to 5 CCR 15496, the district's LCAP must include evidence demonstrating how LCFF funding apportioned on the basis of unduplicated students is used to support such students; see AR 0460 - Local Control and Accountability Plan. ***

The district budget shall provide for increasing or improving services for unduplicated students at least in proportion to the increase in funds apportioned on the basis of the number and concentration of unduplicated students in accordance with 5 CCR 15496. Unduplicated students are students who are eligible for free or reduced-price meals, English learners, and/or foster youth. (Education Code 42238.07; 5 CCR 15496)

(cf. 3553 - Free and Reduced Price Meals)
(cf. 6173.1 - Education for Foster Youth)
(cf. 6174 - Education for English Learners)

The Board may establish other budget assumptions or parameters which may take into consideration the stability of funding sources, legal requirements and constraints on the use of funds, anticipated increases and/or decreases in the cost of services and supplies, program requirements, and any other factors necessary to ensure that the budget is a realistic plan for district revenues and expenditures.

(cf. 2210 - Administrative Discretion Regarding Board Policy)
(cf. 3110 - Transfer of Funds)

Fund Balance

***Note: The following section should be revised to reflect district practice. Governmental Accounting Standards Board (GASB) Statement 54 addresses the way fund balances (i.e., the gross differences between assets and liabilities reflected on the balance sheet) in governmental funds are reported in external financial reports. Fund balances must be classified as nonspendable, restricted, committed, assigned, and unassigned in accordance with GASB 54 definitions; also see AR 3460 - Financial Reports and Accountability. Pursuant to GASB 54, the Board has sole authority to specify purposes of funds classified as "committed" and also must express, or delegate the authority to express, intended purposes of resources that result in the "assigned" fund balance. The Board may modify the following section to reflect its fund balance policy or may adopt a formal resolution containing the required components. ***

The district shall classify fund balances in compliance with Governmental Accounting Standards Board (GASB) Statement 54, as follows:

1. Nonspendable fund balance includes amounts that are not expected to be converted to cash, such as resources that are not in a spendable form (e.g., inventories and prepaids) or that are legally or contractually required to be maintained intact.
2. Restricted fund balance includes amounts constrained to specific purposes by their providers or by law.

***Note: For purposes of the committed fund balance, GASB 54 requires that the Board commit funds no later than the end of the reporting period. In New Requirements for Reporting Fund Balance in Governmental Funds, the CDE clarifies that for districts the end of the reporting period is June 30. ***

3. Committed fund balance includes amounts constrained to specific purposes by the Board.

For this purpose, all commitments of funds shall be approved by a majority vote of the Board. The constraints shall be imposed no later than the end of the reporting period (June 30), although the actual amounts may be determined subsequent to that date but prior to the issuance of the financial statements.

4. Assigned fund balance includes amounts which are intended for a specific purpose but do not meet the criteria to be classified as restricted or committed.

The Board delegates authority to assign funds to the assigned fund balance to the Superintendent and authorizes the assignment of such funds to be made any time prior to the issuance of the financial statements. The Superintendent may further delegate the authority to assign funds at his/her discretion.

5. Unassigned fund balance includes amounts that are available for any purpose.

When multiple types of funds are available for an expenditure, the district shall first utilize funds from the restricted fund balance as appropriate, then from the committed fund balance, then from the assigned fund balance, and lastly from the unassigned fund balance.

***Note: Although not required by GASB 54, the Government Finance Officers Association (GFOA) recommends that public agencies adopt a minimum fund balance policy that establishes an appropriate level of unrestricted fund balance that will be maintained in the general fund. The GFOA's Best Practice: Appropriate Level of Unrestricted Fund Balance in the General Fund describes a variety of factors that should be considered when developing a minimum fund balance policy, such as the predictability of its revenue and volatility of its expenditures, perceived exposure to significant one-time outlays, potential drain upon the general fund from other funds as well as the availability of resources in other funds, liquidity of resources, and portion of unrestricted fund balance already committed or assigned for a specific purpose. ***

The Board intends to maintain a minimum assigned and unassigned fund balance in an amount the Board deems sufficient to maintain fiscal solvency and stability and to protect the district against unforeseen circumstances.

***Note: The GFOA recommends that the minimum fund policy address both the circumstances under which the unrestricted fund balance can be spent down and the procedure for replenishing deficiencies. The district may revise the following optional paragraph to specify the rate at which the district will attempt to recover the fund balance (e.g., the Board shall develop a plan to recover the fund balance at a rate of at least one percent each year). ***

If the assigned and unassigned fund balance falls below the level set by the Board due to an emergency situation, unexpected expenditures, or revenue shortfalls, the Board shall develop a plan to recover the fund balance which may include dedicating new unrestricted revenues, reducing expenditures, and/or increasing revenues or pursuing other funding sources.

Reserve Balance

***Note: 5 CCR 15450 establishes a minimum local reserve balance for economic uncertainties based on the district's average daily attendance (ADA). The minimum reserve balance is the greater of five percent or \$55,000 for districts with 0-300 ADA; the greater of four percent or \$55,000 for districts with 301-1,000 ADA; three percent for districts with 1,001-30,000 ADA; two percent for districts with 30,001-400,000 ADA; and one percent for districts with over 400,000 ADA. The following paragraph may be revised to reflect the minimum reserve applicable to the district's ADA. ***

***Note: Education Code 42127.01 establishes, under certain conditions, a maximum amount of local reserve balance for economic uncertainties. Pursuant to Education Code 42127.01, as amended by SB 751 (Ch. 674, Statutes of 2017), if the amount of monies in the state Public School System Stabilization Account is three percent or more of the combined total of general fund revenues appropriated for school districts and allocated local proceeds of taxes, the district's combined assigned or unassigned ending general fund balance must not exceed 10 percent of those funds in the immediately following fiscal year. Basic aid districts, as defined in Education Code 42238.02, and districts with 2,500 or less ADA are exempted from this requirement. Other districts may also be exempted from this requirement by the County Superintendent for up to two consecutive fiscal years within a three-year period upon providing documentation of extraordinary fiscal circumstances (e.g., multiyear infrastructure or technology projects) that substantiate the need for a reserve in excess of the limit specified in Education Code 42127.01. ***

The district budget shall include a minimum reserve balance for economic uncertainties that is consistent with the percentage or amount specified in 5 CCR 15450.

In any year that the district is notified by the Superintendent of Public Instruction that the amount of monies in the state Public School System Stabilization Account equals or exceeds three percent of the combined total of general fund revenues appropriated for school districts and allocated local proceeds of taxes, the district budget shall not contain a combined assigned or unassigned ending general fund balance that is in excess of 10 percent of these funds.
(Education Code 41202, 42127.01)

Long-Term Financial Obligations

The district's current-year budget and multiyear projections shall include adequate provisions for addressing the district's long-term financial obligations, including, but not limited to, long-term obligations resulting from collective bargaining agreements, financing of facilities projects, unfunded or future liability for retiree benefits, and accrued workers' compensation claims.

(cf. 4141/4241 - Collective Bargaining Agreement)
(cf. 4154/4254/4354 - Health and Welfare Benefits)
(cf. 7210 - Facilities Financing)
(cf. 9250 - Remuneration, Reimbursement and Other Benefits)

***Note: The following two optional paragraphs are for use by districts that provide "other postemployment benefits" (OPEBs) (i.e., medical, dental, vision, hearing, life insurance, long-term care, long-term disability, and other nonpension benefits to retired employees or Board members) and should be revised to reflect district practice; see BP/AR 4154/4254/4354 - Health and Welfare Benefits and BB 9250 - Remuneration, Reimbursement and Other Benefits. CSBA recommends that districts adopt a specific funding strategy for addressing their OPEB obligations. The district may pay the premiums as they fall due ("pay-as-you-go"), but in such a case the district would then accrue a deficit with respect to future retirees which can be expected to grow as a result of an increasing retiree population and increases in benefit costs. Therefore, it is recommended that the district prefund the debt to the extent possible using a method and level to be determined by the Board. For example, the district may contribute a set amount or percentage of the actuarially determined "annual required contributions" to an irrevocable trust or designated fund each year. ***

***Note: GASB Statement 75 requires districts that do not provide OPEB through a trust to report the total unfunded liability (i.e., OPEBs that are not prefunded) in the district's financial statements; see AR 3460 - Financial Reports and Accountability. ***

***Note: CSBA's OPEB Solutions Program provides access to qualified actuaries and consultants and a GASB 75-compliant trust to prefund future obligations. See CSBA's web site for further information. ***

The Board shall approve a plan for meeting the district's long-term obligations to fund nonpension, other postemployment benefits (OPEBs). This plan shall include a specific funding strategy and the method that will be used to finance the district's annual fiscal obligations for

such benefits in a manner that continually reduces the deficit to the district to the extent possible. The Board reserves the authority to review and amend the funding strategy as necessary to ensure that it continues to serve the best interests of the district and maintains flexibility to adjust for changing budgetary considerations.

When the Superintendent or designee presents a report to the Board on the estimated accrued but unfunded cost of OPEBs, the Board shall disclose, as a separate agenda item at the same meeting, whether or not it will reserve a sufficient amount of money in its budget to fund the present value of the benefits of existing retirees and/or the future cost of employees who are eligible for benefits in the current fiscal year. (Education Code 42140)

***Note: The following optional paragraph is for use by districts that are self-insured for workers' compensation claims, either individually or as part of a joint powers agency. See AR 3460 - Financial Reports and Accountability for provisions related to reporting the estimated accrued but unfunded cost of workers' compensation claims based on an actuarial report. ***

When the Superintendent or designee presents a report to the Board on the estimated accrued but unfunded cost of workers' compensation claims, the Board shall disclose, as a separate agenda item at the same meeting, whether or not it will reserve in the budget sufficient amounts to fund the present value of accrued but unfunded workers' compensation claims or if it is otherwise decreasing the amount in its workers' compensation reserve fund. The Board shall annually certify to the County Superintendent the amount, if any, that it has decided to reserve in the budget for these costs. The Board shall submit to the County Superintendent any budget revisions that may be necessary to account for this budget reserve. (Education Code 42141)

Budget Amendments

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

No later than 45 days after the Governor signs the annual Budget Act, the Superintendent or designee shall make available for public review any revisions in budgeted revenues and expenditures which occur as a result of the funding made available by that Budget Act. (Education Code 42127)

Whenever revenues and expenditures change significantly throughout the year, the Superintendent or designee shall recommend budget amendments to ensure accurate projections of the district's net ending balance. When final figures for the prior-year budget are available, this information shall be used as soon as possible to update the current-year budget's beginning balance and projected revenues and expenditures.

In addition, budget amendments shall be submitted for Board approval as necessary when collective bargaining agreements are accepted, district income declines, increased revenues or unanticipated savings are made available to the district, program proposals are significantly different from those approved during budget adoption, interfund transfers are needed to meet actual program expenditures, and/or other significant changes occur that impact budget projections.

Legal Reference:

EDUCATION CODE

1240 Duties of county superintendent of schools
33127-33131 Standards and criteria for local budgets and expenditures
41202 Determination of minimum level of education funding
42103 Public hearing on proposed budget; requirements for content of proposed budget
42122-42129 Budget requirements
42130-42134 Financial certifications
42140-42141 Disclosure of fiscal obligations
42238-42251 Apportionments to districts, especially:
42238.01-42238.07 Local control funding formula
42602 Use of unbudgeted funds
42610 Appropriation of excess funds and limitation thereon
45253 Annual budget of personnel commission
45254 First year budget of personnel commission
52060-52077 Local control and accountability plan

GOVERNMENT CODE

7900-7914 Appropriations limit

CODE OF REGULATIONS, TITLE 5

15060 Standardized account code structure
15440-15451 Criteria and standards for school district budgets
15494-15496 Local control funding formula, expenditures

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

California School Accounting Manual

New Requirements for Reporting Fund Balance in Governmental Funds, January 7, 2011

FISCAL CRISIS AND MANAGEMENT ASSISTANCE TEAM PUBLICATIONS

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

GOVERNMENT FINANCE OFFICERS ASSOCIATION

Best Practice: Appropriate Level of Unrestricted Fund Balance in the General Fund, 2009

GOVERNMENTAL ACCOUNTING STANDARDS BOARD STATEMENTS

Statement 75, Accounting and Financial Reporting by Employers for Post-employment Benefits Other Than Pensions, June 2015

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

WEB SITES

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

Association of California School Administrators: <http://www.acsa.org>

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

California Department of Finance: <http://www.dof.ca.gov>

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

Government Finance Officers Association: <http://www.gfoa.org>

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

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

(12/14 10/15) 12/17

CSBA Sample

Board Policy

Firearms On School Grounds

BP 3515.7

Business and Noninstructional Operations

The Governing Board is committed to providing a safe environment for students, staff, and visitors on campus. The Superintendent or designee shall consult with local law enforcement and other appropriate individuals and agencies to address the security of school campuses.

(cf. 3515 - Campus Security)

(cf. 3515.2 - Disruptions)

(cf. 3515.3 - District Police/Security Department)

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

(cf. 5131.4 - Student Disturbances)

(cf. 5131.7 - Weapons and Dangerous Instruments)

***Note: Pursuant to Penal Code 626.9 (the Gun Free School Zone Act), the possession of a firearm on school grounds or within 1,000 feet of a school is prohibited, except by a person who meets one of the exceptions specified in law (e.g., is a law enforcement or honorably retired peace officer, a member of the military force engaged in the performance of his/her duties, a security guard, or a participant in an existing shooting range at a school or in a school-sanctioned shooting sport or activity). Another exception in Penal Code 626.9 allows a person with a valid Carry Concealed Weapon (CCW) license to carry a firearm within 1,000 feet of a school. However, as amended by AB 424 (Ch. 779, Statutes of 2017), Penal Code 626.9 eliminates the authority of the Superintendent or designee to provide written permission for a person who holds a valid CCW license to possess a firearm on school grounds. ***

Possession of a firearm on or within 1,000 feet of school grounds is prohibited, except under the limited circumstances specified in Penal Code 626.9. School grounds include, but are not limited to, school buildings, fields, storage areas, and parking lots. (Penal Code 626.9)

***Note: Education Code 48902 requires the principal or designee to notify law enforcement authorities when any student possesses a firearm or explosive or sells or furnishes a firearm at school. In addition, pursuant to 20 USC 7961, as renumbered by P.L. 114-95, districts are mandated to develop a policy to notify law enforcement whenever a student brings a firearm to school. For policy implementing this mandate, see BP 5131.7 - Weapons and Dangerous Instruments. The following paragraph requires that law enforcement be notified when any person, whether a student or nonstudent, is observed or suspected of possessing a firearm at school. ***

If a district employee observes or suspects that any unauthorized person is in possession of a firearm on or near school grounds or at a school activity, he/she shall immediately notify the principal or designee and law enforcement.

The prohibition against the possession of firearms on school grounds shall be included in the district's comprehensive safety plan and shall be communicated to district staff, parents/guardians, and the community.

(cf. 0450 - Comprehensive Safety Plan)
(cf. 1112 - Media Relations)
(cf. 1113 - District and School Web Sites)
(cf. 1114 - District-Sponsored Social Media)

Legal Reference:

EDUCATION CODE

32281 Comprehensive safety plan

38001.5 District security officers; requirements if carry firearm

PENAL CODE

626.9 Gun Free School Zone Act

830.32 District police department; district decision to authorize carrying of firearm

16150 Definition of ammunition

16520 Definition of firearm

26150-26225 Concealed weapons permit

30310 Prohibition against ammunition on school grounds

UNITED STATES CODE, TITLE 18

921 Definitions, firearms and ammunition

922 Firearms, unlawful acts

923 Firearm licensing

UNITED STATES CODE, TITLE 20

7961 Gun-Free Schools Act; student expulsions for possession of firearm

Management Resources:

WEB SITES

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

CSBA Sample

Board Policy

Professional Standards

BP 4119.21 4219.21,4319.21

Personnel

***Note: The following optional policy should be revised to reflect district practice and/or any related provisions of collective bargaining agreements. ***

The Governing Board expects district employees to maintain the highest ethical standards, behave professionally, follow district policies and regulations, abide by state and federal laws, and exercise good judgment when interacting with students and other members of the school community. Employees shall engage in conduct that enhances the integrity of the district, advances the goals of the district's educational programs, and contributes to a positive school climate.

(cf. 0200 - Goals for the School District)
(cf. 4119.1/4219.1/4319.1 - Civil and Legal Rights)
(cf. 5131 - Conduct)
(cf. 5137 - Positive School Climate)

***Note: The following optional paragraph encourages district employees to abide by standards developed by their professional associations. These standards are reproduced at E 4119.21 (certificated personnel), E 4219.21 (classified personnel), and E 4319.21 (administrative and supervisory personnel). ***

The Board encourages district employees to accept as guiding principles the professional standards and codes of ethics adopted by educational or professional associations to which they may belong.

(cf. 2111 - Superintendent Governance Standards)
(cf. 9005 - Governance Standards)

Each employee is expected to acquire the knowledge and skills necessary to fulfill his/her responsibilities and to contribute to the learning and achievement of district students.

(cf. 4112.2 - Certification)
(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

Inappropriate Conduct

Inappropriate employee conduct includes, but is not limited to:

1. Engaging in any conduct that endangers students, staff, or others, including, but not limited to, physical violence, threats of violence, or possession of a firearm or other weapon

(cf. 0450 - Comprehensive Safety Plan)
(cf. 3515.7 - Firearms on School Grounds)
(cf. 4158/4258/4358 - Employee Security)

2. Engaging in harassing or discriminatory behavior towards students, parents/guardians, staff, or community members, or failing or refusing to intervene when an act of discrimination, harassment, intimidation, or bullying against a student is observed

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)
(cf. 5131.2 - Bullying)
(cf. 5145.3 - Nondiscrimination/Harassment)
(cf. 5145.7 - Sexual Harassment)

3. Physically abusing, sexually abusing, neglecting, or otherwise willfully harming or injuring a child

4. Engaging in inappropriate socialization or fraternization with a student or soliciting, encouraging, or maintaining an inappropriate written, verbal, or physical relationship with a student

5. Possessing or viewing any pornography on school grounds, or possessing or viewing child pornography or other imagery portraying children in a sexualized manner at any time

6. Using profane, obscene, or abusive language against students, parents/guardians, staff, or community members

7. Willfully disrupting district or school operations by loud or unreasonable noise or other action

(cf. 3515.2 - Disruptions)

8. Using tobacco, alcohol, or an illegal or unauthorized substance, or possessing or distributing any controlled substance, while in the workplace, on district property, or at a school-sponsored activity

(cf. 3513.3 - Tobacco-Free Schools)
(cf. 3513.4 - Drug and Alcohol Free Schools)
(cf. 4020 - Drug and Alcohol-Free Workplace)
(cf. 4112.41/4212.41/4312.41 - Employee Drug Testing)
(cf. 4112.42/4212.42/4312.42 - Drug and Alcohol Testing for School Bus Drivers)

9. Being dishonest with students, parents/guardians, staff, or members of the public, including, but not limited to, falsifying information in employment records or other school

records

10. Divulging confidential information about students, district employees, or district operations to persons or entities not authorized to receive the information

(cf. 3580 - District Records)

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

(cf. 5125 - Student Records)

(cf. 5125.1 - Release of Directory Information)

11. Using district equipment or other district resources for the employee's own commercial purposes or for political activities

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

12. Using district equipment or communications devices for personal purposes while on duty, except in an emergency, during scheduled work breaks, or for personal necessity

Employees shall be notified that computer files and all electronic communications, including, but not limited to, email and voice mail, are not private. To ensure proper use, the Superintendent or designee may monitor employee usage of district technological resources at any time without the employee's consent.

(cf. 4040 - Employee Use of Technology)

13. Causing damage to or engaging in theft of property belonging to students, staff, or the district

14. Wearing inappropriate attire

(cf. 4119.22/4219.22/4319.22 - Dress and Grooming)

Reports of Misconduct

An employee who observes or has evidence of another employee's inappropriate conduct shall immediately report such conduct to the principal or Superintendent or designee. An employee who has knowledge of or suspects child abuse or neglect shall file a report pursuant to the district's child abuse reporting procedures as detailed in AR 5141.4 - Child Abuse Prevention and Reporting.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

***Note: Discipline of employees is a subject of collective bargaining. For information about the range of disciplinary actions that may be taken, see BP/AR 4118 - Dismissal/Suspension/Disciplinary Action, and AR 4218 - Dismissal/Suspension/Disciplinary Action. ***

***Note: Education Code 44242.5 and 5 CCR 80303 require the Superintendent to notify the Commission on Teacher Credentialing (CTC) when the status of a certificated employee changes as a result of alleged misconduct. Although "alleged misconduct" is not defined in the law, the CTC states that conduct affecting classroom safety, student safety, or the integrity of the school environment is the type of misconduct that must be reported. See AR 4117.7/4317.7 - Employment Status Reports. ***

Any reports of employee misconduct shall be promptly investigated. Any employee who is found to have engaged in inappropriate conduct in violation of law or Board policy shall be subject to disciplinary action and, in the case of a certificated employee, may be subject to a report to the Commission on Teacher Credentialing. The Superintendent or designee shall notify local law enforcement as appropriate.

(cf. 4117.7/4317.7 - Employment Status Reports)
(cf. 4118 - Dismissal/Suspension/Disciplinary Action)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)

An employee who has knowledge of but fails to report inappropriate employee conduct may also be subject to discipline.

The district prohibits retaliation against anyone who files a complaint against an employee or reports an employee's inappropriate conduct. Any employee who retaliates against any such complainant, reporter, or other participant in the district's complaint process shall be subject to discipline.

Notifications

***Note: Beginning January 1, 2018, Education Code 44050, as added by AB 500 (Ch. 580, Statutes of 2017), requires districts maintaining an employee code of conduct that addresses employee interactions with students to post the section(s) on employee-student interactions in a publicly accessible manner on each school's web site, or the district web site if a school does not maintain one. Beginning July 1, 2018, at the beginning of each school year, the district must also provide parents/guardians with written copies of the sections of the employee code of conduct that address employee interactions with students. The applicable sections of the code of conduct may appear in a variety of district documents, including, but not limited to, portions of this Board policy, employee handbooks, and/or the code of conduct adopted by the district for use by certificated, classified, or administrative personnel as presented in the accompanying Exhibits. ***

The section(s) of the district's employee code of conduct addressing interactions with students shall be provided to parents/guardians at the beginning of each school year and shall be posted on school and/or district web sites. (Education Code 44050)

(cf. 1113 - District and School Web Sites)
(cf. 5145.6 - Parental Notifications)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

44050 Employee code of conduct; interaction with students

44242.5 Reports and review of alleged misconduct

48980 Parental notifications

PENAL CODE

11164-11174.4 Child Abuse and Neglect Reporting Act

CODE OF REGULATIONS, TITLE 5

80303 Reports of dismissal, resignation and other terminations for alleged misconduct

80331-80338 Rules of conduct for professional educators

Management Resources:

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

California Professional Standards for Educational Leaders, February 2014

California Standards for the Teaching Profession, 2009

COUNCIL OF CHIEF STATE SCHOOL OFFICERS PUBLICATIONS

Professional Standards for Educational Leaders, 2015

NATIONAL EDUCATION ASSOCIATION PUBLICATIONS

Code of Ethics of the Education Profession, 1975

WESTED PUBLICATIONS

Moving Leadership Standards into Everyday Work: Descriptions of Practice, 2003

WEB SITES

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

Association of California School Administrators: <http://www.acsa.org>

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

California Federation of Teachers: <http://www.cft.org>

California School Employees Association: <http://www.csea.com>

California Teachers Association: <http://www.cta.org>

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

Council of Chief State School Officers: <http://www.ccsso.org>

WestEd: <http://www.wested.org>

(7/09 7/12) 12/17

CSBA Sample

Board Policy

Classified Personnel

BP 4200

Personnel

***Note: The following Board policy may be revised for consistency with district collective bargaining agreements and, for districts that have incorporated the merit system pursuant to Education Code 45220-45320, with the rules and regulations of the personnel commission. ***

The Governing Board recognizes that classified personnel provide essential services that support and enhance the district's educational program. The Board shall fill each of its classified positions with qualified persons, consistent with position requirements.

(cf. 0200 - Goals for the School District)

(cf. 4211 - Recruitment and Selection)

***Note: The following paragraphs reflect requirements of Education Code 45103-45104 and are for use by non-merit system districts. In merit system districts, classification of positions is a responsibility of the personnel commission pursuant to Education Code 45256. ***

The Board shall classify all employees and positions not requiring certification qualifications as the classified service, except for those employees and positions specifically exempt from classified service. (Education Code 45103)

Individuals who possess certification qualifications shall not be prohibited from being employed in a classified position. (Education Code 45104)

(cf. 4211 - Recruitment and Selection)

(cf. 4212 - Appointment and Conditions of Employment)

Each classified position shall have a designated title and regular minimum number of assigned hours per day, days per week, and months per year.

Classified employees shall be assigned by their immediate supervisors with the approval of the Superintendent or designee. They shall be required to perform those duties prescribed by the Board for the position the employee holds, in accordance with applicable job descriptions and collective bargaining agreements.

(cf. 4141/4241 - Collective Bargaining Agreement)

Each classified employee shall be held accountable for duties assigned to him/her and shall undergo regular performance evaluations in accordance with collective bargaining agreements.

(cf. 4215 - Evaluation/Supervision)

Substitute and Short-Term Employees

The district may employ a substitute employee to replace a classified employee who is temporarily absent from duty. (Education Code 45103)

If the district is in the process of hiring a permanent employee to fill a classified position, the Board may fill the vacancy with one or more substitute employees for no more than 60 calendar days, unless the applicable collective bargaining agreement provides for a different period of time. (Education Code 45103)

***Note: Pursuant to Education Code 45103, the district may employ short-term employees for no more than 75 percent of the school year. As defined in Education Code 45103, 75 percent of the school year is 195 work days, which is equivalent to 75 percent of the number of work days in a full year. ***

The district may employ a short-term employee to perform a service for the district when that service or similar services will not be extended or needed on a continuing basis. Before employing a short-term employee, the Board, at a regularly scheduled meeting, shall specify the service required to be performed by the employee and shall certify the ending date of the service. The Board may shorten or extend the ending date, but the date shall not be extended beyond 195 work days per year, including holidays, sick leave, vacation, and other leaves of absence, irrespective of the number of hours worked per day. (Education Code 45103)

Legal Reference:

EDUCATION CODE

45100-45139 Employment of classified staff
45160-45169 Salaries and differential compensation
45190-45210 Resignation and leaves of absence
45220-45320 Merit system
49406 Examination for tuberculosis
51760-51769.5 Work experience education

Management Resources:

WEB SITES

California School Employees Association: <http://www.csea.com>

CSBA Sample

Board Policy

Suspension And Expulsion/Due Process

BP 5144.1

Students

***Note: Education Code 35291 requires the Governing Board to prescribe rules and regulations for maintaining discipline in the schools under its jurisdiction. Education Code 48918 mandates the setting of rules and regulations for student expulsion as specified in this Board policy and the accompanying administrative regulation. ***

***Note: While recognizing that suspension or expulsion of students is sometimes necessary, legislative, administrative, regulatory, civic, and educational leaders are united in the belief that instructional time should be used for student learning purposes and that school discipline should be imposed in a way that, as much as possible, does not exclude students from school or limit their ability or opportunity to learn. According to the U.S. Department of Justice's Civil Rights Division (DOJ) and the U.S. Department of Education's Office for Civil Rights (OCR), in their joint January 2014 Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, studies suggest a correlation between exclusionary discipline policies and practices (such as suspension and expulsion) and an array of serious educational, economic, and social problems, including school avoidance and diminished educational engagement, decreased academic achievement, increased behavior problems, and increased likelihood of dropping out, substance abuse, and involvement with the juvenile justice system. Consequently, they recommend that districts adopt alternative disciplinary measures that provide students with appropriate interventions and supports as a means for preventing and addressing student misbehaviors. ***

***Note: Pursuant to Education Code 48900.5, a district is not authorized to suspend a student for certain specified violations unless the student has been subjected to other means of correction which have failed to bring about proper conduct. Such other means of correction include, but are not limited to, conferences between school personnel and the student and his/her parents/guardians; use of study, guidance, or other intervention teams to develop a plan to address the behavior in partnership with the student; and participation in a restorative justice program. For further information about specific disciplinary strategies, including alternatives to class or school removals, see BP/AR 5144 - Discipline. Education Code 48900.5 authorizes a district to document in a student's records the alternative means of correction used to address the student's behavior. Furthermore, when a student is being suspended by the Superintendent, principal, or designee, Education Code 48911, as amended by AB 667 (Ch. 445, Statutes of 2017), requires that the student be informed, during the informal conference that precedes the suspension, of the other means of correction that were attempted before the suspension. ***

The Governing Board desires to provide district students access to educational opportunities in an orderly school environment that protects their safety and security, ensures their welfare and well-being, and promotes their learning and development. The Board shall develop rules and

regulations setting the standards of behavior expected of district students and the disciplinary processes and procedures for addressing violations of those standards, including suspension and/or expulsion.

(cf. 5131 - Conduct)

(cf. 5131.1 - Bus Conduct)

(cf. 5131.2 - Bullying)

The grounds for suspension and expulsion and the procedures for considering, recommending, and/or implementing suspension and expulsion shall be only those specified in law, in this policy, and in the accompanying administrative regulation.

***Note: Pursuant to Education Code 48900(s), a student may be subject to discipline only when the violation is related to a school activity or school attendance as specified below. A student may also be disciplined for violations committed away from school if it is related to a school activity or to school attendance. For example, Education Code 48900 defines bullying by means of an electronic act as including an act that originates off campus; see the accompanying administrative regulation and BP/AR 5131.2 - Bullying. Another example is the hostile school environment which a victim may suffer from sexual harassment that occurs off campus; see BP/AR 5145.7 - Sexual Harassment. ***

Except when otherwise permitted by law, a student may be suspended or expelled only when his/her behavior is related to a school activity or school attendance occurring within any district school or another school district, regardless of when it occurs, including, but not limited to, the following: (Education Code 48900(s))

1. While on school grounds
2. While going to or coming from school
3. During the lunch period, whether on or off the school campus

(cf. 5112.5 - Open/Closed Campus)

4. During, going to, or coming from a school-sponsored activity

***Note: The following paragraph addresses the problem of unlawful discrimination in the administration of student discipline. In their joint January 2014 Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, the DOJ and OCR noted that, based on the civil rights data collection conducted by OCR, students of certain racial or ethnic groups tended to be disciplined more, and sometimes more harshly, than their similarly situated peers in violation of federal nondiscrimination laws. The letter warned that any district determined to have engaged in unlawful discrimination could be subject to OCR investigation and significant remedial action. ***

District staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, equally, and in accordance with the district's nondiscrimination policies.

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

Appropriate Use of Suspension Authority

***Note: Education Code 48900.5 requires districts to use other means of correction instead of suspension or expulsion except when a student commits certain enumerated offenses. The following section reflects legislative intent regarding appropriate use of suspension as a means of disciplining students and may be modified to reflect district practice. ***

Except when a student's act violates Education Code 48900(a)-(e), as listed in items #1-5 under "Grounds for Suspension and Expulsion: Grades K-12" of the accompanying administrative regulation, or when his/her presence causes a danger to others, suspension shall be used only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5, 48900.6)

(cf. 1020 - Youth Services)

(cf. 5138 - Conflict Resolution/Peer Mediation)

(cf. 5144 - Discipline)

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

(cf. 6164.2 - Guidance/Counseling Services)

(cf. 6164.5 - Student Success Teams)

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

A student's parents/guardians shall be notified as soon as possible when there is an escalating pattern of misbehavior that could lead to on-campus or off-campus suspension.

***Note: Education Code 48900(k) prohibits a district from suspending students in grades K-3 for disruption or willful defiance and authorizes, but does not require, a district to suspend students in grades 4-12 for disruption or willful defiance. Even with this authority, districts should be careful in using these grounds, as available data have indicated a disproportionate use with certain student subgroups. Option 1 below is for use by any district that chooses to suspend students in grades 4-12 for disruption and/or willful defiance as authorized pursuant to Education Code 48900(k). Any district that chooses to eliminate disruption and willful defiance as reasons for suspending any of its students from school should select Option 2 below. Such districts should also delete the first paragraph in the section titled "Additional Grounds for Suspension and Expulsion: Grades 4-12," in the accompanying administrative regulation. ***

***Note: Each option below reflects an exception granted to teachers pursuant to Education Code 48910 to suspend students, including a K-3 student, from class; see section "Suspension from Class by a Teacher" in the accompanying administrative regulation. ***

OPTION 1: No student in grades K-3 may be suspended for disruption or willful defiance, except by a teacher pursuant to Education Code 48910. (Education Code 48900)

OPTION 2: No student may be suspended for disruption or willful defiance, except by a teacher pursuant to Education Code 48910. (Education Code 48900)

***Note: The following optional paragraph reflects the Legislature's intent, expressed in Education Code 48900, concerning disciplinary actions against truant, tardy, or absent students. Since these are not enumerated offenses, a district does not have the authority to suspend or expel students for committing any of these acts. ***

Students shall not be suspended or expelled for truancy, tardiness, or absenteeism from assigned school activities.

(cf. 5113 - Absences and Excuses)
(cf. 5113.1 - Chronic Absence and Truancy)

On-Campus Suspension

***Note: As an alternative to off-campus suspension, Education Code 48911.1 authorizes a supervised suspension classroom program for students who pose no imminent danger to anyone at school and who have not been recommended for expulsion, as specified below. Education Code 48911.2 states that, if the number of students suspended during the prior year exceeds 30 percent of the school's enrollment, the district should consider implementing this program and/or another on-campus progressive discipline program. ***

***Note: The following optional section is for use by districts implementing a supervised suspension classroom program. Such districts may continue to claim funding apportionments for students so assigned, provided they meet specific criteria which are set forth under "Supervised Suspension Classroom" in the accompanying administrative regulation. A district does not receive funding for off-campus suspensions. ***

To ensure the proper supervision and ongoing learning of students who are suspended for any of the reasons enumerated in Education Code 48900 and 48900.2, but who pose no imminent danger or threat to anyone at school and for whom expulsion proceedings have not been initiated, the Superintendent or designee shall establish a supervised suspension classroom program which meets the requirements of law.

Except where a supervised suspension is permitted by law for a student's first offense, supervised suspension shall be imposed only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5)

Authority to Expel

A student may be expelled only by the Board. (Education Code 48918(j))

As required by law, the Superintendent or principal shall recommend expulsion and the Board shall expel any student found to have committed any of the following "mandatory recommendation and mandatory expulsion" acts at school or at a school activity off school grounds: (Education Code 48915)

1. Possessing a firearm which is not an imitation firearm, as verified by a certificated employee, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence

(cf. 5131.7 - Weapons and Dangerous Instruments)

2. Selling or otherwise furnishing a firearm
3. Brandishing a knife at another person
4. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
5. Committing or attempting to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committing a sexual battery as defined in Penal Code 243.4
6. Possessing an explosive as defined in 18 USC 921

For all other violations listed in the accompanying administrative regulation under "Grounds for Suspension and Expulsion: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12," the Superintendent or principal shall have the discretion to recommend expulsion of a student. If expulsion is recommended, the Board shall order the student expelled only if it makes a finding of either or both of the following: (Education Code 48915(b) and (e))

1. That other means of correction are not feasible or have repeatedly failed to bring about proper conduct
2. That due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others

A vote to expel a student shall be taken in an open session of a Board meeting.

***Note: Pursuant to Education Code 48917, the Board may decide to suspend the enforcement of an order for expulsion as long as a student satisfies specific conditions. See the accompanying administrative regulation for criteria. In addition, the Attorney General opined in 80 Ops.Cal.Atty.Gen. 85 (1997) that the enforcement of an expulsion order may be suspended even in those cases where the student has committed an offense for which expulsion is required by law. Legal counsel should be consulted as appropriate. ***

The Board may vote to suspend the enforcement of the expulsion order pursuant to the requirements of law and the accompanying administrative regulation. (Education Code 48917)

No student shall be expelled for disruption or willful defiance. (Education Code 48900)

Due Process

The Board shall provide for the fair and equitable treatment of students facing suspension and/or expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices, hearings, and appeals as specified in law and administrative regulation. (Education Code 48911, 48915, 48915.5, 48918)

(cf. 5119 - Students Expelled from Other Districts)

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

Maintenance and Monitoring of Outcome Data

***Note: Pursuant to Education Code 48900.8 and 48916.1, the district is required to maintain data related to suspensions and expulsions and to report such data to the Superintendent of Public Instruction. ***

The Superintendent or designee shall annually present to the Board a report of the outcome data which the district is required to collect pursuant to Education Code 48900.8 and 48916.1, including the number of students recommended for expulsion, the grounds for each recommended expulsion, the actions taken by the Board, the types of referral made after each expulsion, and the disposition of the students after the expulsion period.

***Note: Pursuant to Education Code 52060, districts are required to address school climate in the local control and accountability plan, as measured by student suspension and expulsion rates and other local measures for each school and each numerically significant student subgroup. As defined in Education Code 52052, numerically significant subgroups include ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students, when there are at least 30 students in the subgroup or at least 15 foster youth or homeless students. ***

In presenting the report to the Board, the Superintendent or designee shall disaggregate data on suspensions and expulsions by school and by numerically significant student subgroups, including, but not limited to, ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students. Based on the data, the Board shall address any identified disparities in the imposition of student discipline and shall determine whether and how the district is meeting its goals for improving school climate as specified in its local control and accountability plan.

(cf. 0460 - Local Control and Accountability Plan)

Legal Reference:

EDUCATION CODE

212.5 Sexual harassment

233 Hate violence

1981-1981.5 Enrollment of students in community school

17292.5 Program for expelled students

32261 Interagency School Safety Demonstration Act of 1985

35145 Open board meetings

35146 Closed sessions (regarding suspensions)

35291 Rules (for government and discipline of schools)

35291.5 Rules and procedures on school discipline

48645.5 Readmission; contact with juvenile justice system

48660-48666 Community day schools

48853.5 Foster youth

48900-48927 Suspension and expulsion
48950 Speech and other communication
48980 Parental notifications
49073-49079 Privacy of student records
52052 Numerically significant student subgroups
52060-52077 Local control and accountability plan

CIVIL CODE

47 Privileged communication
48.8 Defamation liability

CODE OF CIVIL PROCEDURE

1985-1997 Subpoenas; means of production

GOVERNMENT CODE

11455.20 Contempt

54950-54963 Ralph M. Brown Act

HEALTH AND SAFETY CODE

11014.5 Drug paraphernalia

11053-11058 Standards and schedules

LABOR CODE

230.7 Discharge or discrimination against employee for taking time off to appear in school on behalf of a child

PENAL CODE

31 Principal of a crime, defined

240 Assault defined

241.2 Assault fines

242 Battery defined

243.2 Battery on school property

243.4 Sexual battery

245 Assault with deadly weapon

245.6 Hazing

261 Rape defined

266c Unlawful sexual intercourse

286 Sodomy defined

288 Lewd or lascivious acts with child under age 14

288a Oral copulation

289 Penetration of genital or anal openings

417.27 Laser pointers

422.55 Hate crime defined

422.6 Interference with exercise of civil rights

422.7 Aggravating factors for punishment

422.75 Enhanced penalties for hate crimes

626.2 Entry upon campus after written notice of suspension or dismissal without permission

626.9 Gun-Free School Zone Act of 1995

626.10 Dirks, daggers, knives, razors, or stun guns

868.5 Supporting person; attendance during testimony of witness

WELFARE AND INSTITUTIONS CODE

729.6 Counseling

UNITED STATES CODE, TITLE 18

921 Definitions, firearm

UNITED STATES CODE, TITLE 20

1415(K) Placement in alternative educational setting

7961 Gun-free schools

UNITED STATES CODE, TITLE 42

11432-11435 Education of homeless children and youths

COURT DECISIONS

T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267

Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421

Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H. (2001) 85 Cal.App.4th 1321

Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 118

Garcia v. Los Angeles Board of Education (1991) 123 Cal. App. 3d 807

John A. v. San Bernardino School District (1982) 33 Cal. 3d 301

ATTORNEY GENERAL OPINIONS

84 Ops.Cal.Atty.Gen. 146 (2001)

80 Ops.Cal.Atty.Gen. 348 (1997)

80 Ops.Cal.Atty.Gen. 91 (1997)

80 Ops.Cal.Atty.Gen. 85 (1997)

Management Resources:

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

Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014

WEB SITES

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

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

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

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

<http://www.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf>

U.S. Department of Education, Office of Safe and Healthy Students:

<https://www2.ed.gov/about/offices/list/oese/oshs>

CSBA Sample

Board Policy

Discipline

BP 5144

Students

***Note: The following policy is optional. Pursuant to Education Code 52060-52077, the Governing Board is required to adopt a local control and accountability plan (LCAP) that includes a description of the specific actions that the district intends to take in order to achieve its annual goals in specific priority areas, including student engagement and school climate. See BP/AR 0460 - Local Control and Accountability Plan. ***

***Note: Since a district's ability to meet its goals around these priorities is impacted by its student discipline policies and practices, the Board must be careful to enact rules that are effective in maintaining safety and order on campus and in correcting student misbehavior without unnecessarily excluding students from school or participation in instruction. State law specifies behaviors for which a student may be suspended and/or recommended for expulsion (see BP/AR 5144.1 - Suspension and Expulsion/Due Process) and authorizes the use of age-appropriate alternatives designed to address a student's specific misbehavior, including those listed in Education Code 48900.5 and 48900.6. ***

***Note: In addition, the U.S. Department of Justice's Civil Rights Division and the U.S. Department of Education's Office for Civil Rights (OCR), in their joint January 2014 Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, state that studies have suggested a correlation between exclusionary discipline policies and practices (such as suspension and expulsion) and an array of serious educational, economic, and social problems, including school avoidance, diminished educational engagement, decreased academic achievement, increased behavior problems, and increased likelihood of dropping out, substance abuse, and involvement with the juvenile justice system. Consequently, they recommend that districts adopt alternative disciplinary measures that provide students with appropriate interventions and supports as a means for preventing and addressing student misbehavior. ***

The Governing Board is committed to providing a safe, supportive, and positive school environment which is conducive to student learning and to preparing students for responsible citizenship by fostering self-discipline and personal responsibility. The Board believes that high expectations for student behavior, use of effective school and classroom management strategies, provision of appropriate intervention and support, and parent involvement can minimize the need for disciplinary measures that exclude students from instruction as a means for correcting student misbehavior.

(cf. 5113.1 - Chronic Absence and Truancy)

(cf. 5131 - Conduct)

(cf. 5131.1 - Bus Conduct)

(cf. 5131.2 - Bullying)

(cf. 5137 - Positive School Climate)
(cf. 5145.9 - Hate-Motivated Behavior)
(cf. 6020 - Parent Involvement)

The Superintendent or designee shall develop effective, age-appropriate strategies for maintaining a positive school climate and correcting student misbehavior at district schools. The strategies shall focus on providing students with needed supports; communicating clear, appropriate, and consistent expectations and consequences for student conduct; and ensuring equity and continuous improvement in the implementation of district discipline policies and practices.

(cf. 5138 - Conflict Resolution/Peer Mediation)
(cf. 6164.2 - Guidance/Counseling Services)

In addition, the Superintendent or designee's strategies for correcting student misconduct shall reflect the Board's preference for the use of positive interventions and alternative disciplinary measures over exclusionary discipline measures.

Disciplinary measures that may result in loss of instructional time or cause students to be disengaged from school, such as detention, suspension, and expulsion, shall be imposed only when required or permitted by law or when other means of correction have been documented to have failed. (Education Code 48900.5)

(cf. 5020 - Parent Rights and Responsibilities)
(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)
(cf. 6164.5 - Student Success Teams)

***Note: Pursuant to Education Code 49557.5, as added by SB 250 (Ch. 726, Statutes of 2017), districts must ensure that any discipline imposed on a student does not result in the denial or delay of a nutritionally adequate meal. The following paragraph is for use by districts participating in the National School Lunch and/or Breakfast Program (42 USC 1751-1769j, 1773), or any district in which there is a school required to serve a free or reduced-price meal during the school day pursuant to Education Code 49550. ***

School personnel and volunteers shall not allow any disciplinary action taken against a student to result in the denial or delay of a school meal. (Education Code 49557.5)

(cf. 3550 - Food Service/Child Nutrition Program)
(cf. 3551 - Food Service Operations/Cafeteria Fund)
(cf. 3553 - Free and Reduced Price Meals)

***Note: The following optional paragraph may be revised to reflect district practice. According to Public Counsel's model policy issued as part of the Fix School Discipline Project, a discipline matrix that lists violations and consequences could be a useful guide to school site administrators with regard to when suspension or expulsion referrals should be utilized. ***

The Superintendent or designee shall create a model discipline matrix that lists violations and the consequences for each as allowed by law.

***Note: Education Code 35291.5 authorizes, but does not require, school sites to adopt rules and procedures for student discipline. Pursuant to Education Code 32282, any adopted site-level discipline rules must be included in the comprehensive safety plan; see BP/AR 0450 - Comprehensive Safety Plan. The following paragraph is optional. ***

The administrative staff at each school may develop disciplinary rules to meet the school's particular needs consistent with law, Board policy, and district regulations. The Board, at an open meeting, shall review the approved school discipline rules for consistency with Board policy and state law. Site-level disciplinary rules shall be included in the district's comprehensive safety plan. (Education Code 32282, 35291.5)

(cf. 0450 - Comprehensive Safety Plan)
(cf. 9320 - Meetings and Notices)

At all times, the safety of students and staff and the maintenance of an orderly school environment shall be priorities in determining appropriate discipline. When misconduct occurs, staff shall attempt to identify the causes of the student's behavior and implement appropriate discipline. When choosing between different disciplinary strategies, staff shall consider the effect of each option on the student's health, well-being, and opportunity to learn.

Staff shall enforce disciplinary rules fairly, consistently, and in accordance with the district's nondiscrimination policies.

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 5145.3 - Nondiscrimination/Harassment)
(cf. 5145.7 - Sexual Harassment)

The Superintendent or designee shall provide professional development as necessary to assist staff in developing the skills needed to effectively implement the disciplinary strategies adopted for district schools, including, but not limited to, consistent school and classroom management skills, effective accountability and positive intervention techniques, and development of strong, cooperative relationships with parents/guardians.

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

***Note: Pursuant to Education Code 52060, the district must annually adopt an LCAP that includes a description of district goals for improving school climate, as provided in the following paragraph. ***

District goals for improving school climate, based on suspension and expulsion rates, surveys of students, staff, and parents/guardians regarding their sense of school safety, and other local measures, shall be included in the district's local control and accountability plan, as required by law.

(cf. 0460 - Local Control and Accountability Plan)
(cf. 3100 - Budget)

At the beginning of each school year, the Superintendent or designee shall report to the Board regarding disciplinary strategies used in district schools in the immediately preceding school year and their effect on student learning.

Legal Reference:

EDUCATION CODE

32280-32288 School safety plans
35146 Closed sessions
35291 Rules
35291.5-35291.7 School-adopted discipline rules
37223 Weekend classes
44807.5 Restriction from recess
48900-48926 Suspension and expulsion
48980-48985 Notification of parent/guardian
49330-49335 Injurious objects
49550-49562 Meals for needy students
52060-52077 Local control and accountability plan

CIVIL CODE

1714.1 Parental liability for child's misconduct

CODE OF REGULATIONS, TITLE 5

307 Participation in school activities until departure of bus
353 Detention after school

UNITED STATES CODE, TITLE 42

1751-1769j School Lunch Program
1773 School Breakfast Program

Management Resources:

CSBA PUBLICATIONS

Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014

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

Maximizing Opportunities for Physical Activity during the School Day, Fact Sheet, 2009

CALIFORNIA DEPARTMENT OF EDUCATION PROGRAM ADVISORIES

Classroom Management: A California Resource Guide for Teachers and Administrators of Elementary and Secondary Schools, 2000

STATE BOARD OF EDUCATION POLICIES

01-02 School Safety, Discipline, and Attendance, March 2001

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

Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014

WEB SITES

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

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

Public Counsel: <http://www.fixschooldiscipline.org>

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

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