

**WILLIAMS UNIFORM COMPLAINT PROCEDURES**

Note: Education Code 35186 **mandates** that districts establish policies and procedures to address complaints regarding insufficiency of textbooks and instructional materials, teacher vacancy or misassignment, and emergency or urgent facilities conditions that pose a threat to the health and safety of students or staff. These procedures are no longer required for complaints of deficiencies related to the provision of intensive instruction and services to students who have not passed one or both parts of the high school exit examination after the completion of grade 12 since that categorical program was eliminated pursuant to AB 97 (Ch. 47, Statutes of 2013).

Education Code 35186 requires that districts post notices concerning these complaint procedures in each classroom. 5 CCR 4680-4687 further delineate legal requirements for the complaint form and notice. See the accompanying exhibits for a sample notice and complaint form.

It is recommended that districts use these procedures only for complaints regarding insufficiency of textbooks and instructional materials, teacher vacancy or misassignment, and emergency or urgent facilities conditions. The uniform complaint procedures specified in 5 CCR 4600-4670 should be used, as required, for a complaint alleging (1) failure to comply with state and federal laws governing educational programs; (2) unlawful discrimination, harassment, intimidation, or bullying; (3) violation of the prohibition against requiring students to pay fees, deposits, or other charges unless authorized by law; (4) noncompliance with legal requirements pertaining to the local control and accountability plan; (5) retaliation against a complainant or other participant in the complaint process or anyone who has otherwise acted to uncover or report alleged wrongdoing in the district; or (6) any other complaint as specified in a district policy; see BP/AR 1312.3 - Uniform Complaint Procedures. For procedures related to complaints about employees, see BP/AR 1312.1 - Complaints Concerning District Employees. For complaints concerning the district's adoption and selection of specific instructional materials, see BP/AR 1312.2 - Complaints Concerning Instructional Materials. For complaints regarding the district's nutrition program, see BP 3555 - Nutrition Program Compliance.

**Types of Complaints**

The district shall use the procedures described in this administrative regulation only to investigate and resolve the following: (Education Code 35186; 5 CCR 4680-4683)

1. Complaints regarding the insufficiency of textbooks and instructional materials, including any complaint alleging that:
  - a. A student, including an English learner, does not have standards-aligned textbooks or instructional materials or state- or district-adopted textbooks or other required instructional materials to use in class.
  - b. A student does not have access to textbooks or instructional materials to use at home or after school. This does not require two sets of textbooks or instructional materials for each student.
  - c. Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.

**WILLIAMS UNIFORM COMPLAINT PROCEDURES** (continued)

- d. A student was provided photocopied sheets from only a portion of a textbook or instructional materials to address a shortage of textbooks or instructional materials.

*(cf. 6161.1 - Selection and Evaluation of Instructional Materials)*

2. Complaints regarding teacher vacancy or misassignment, including any complaint alleging that:
  - a. A semester begins and a teacher vacancy exists.
  - b. A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learners in the class.

*(cf. 4112.22 - Staff Teaching English Language Learners)*

- c. A teacher is assigned to teach a class for which the teacher lacks subject matter competency.

*Teacher vacancy* means a position to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of the semester for an entire semester. (Education Code 35186; 5 CCR 4600)

*Beginning of the year or semester* means the first day classes necessary to serve all the students enrolled are established with a single designated certificated employee assigned for the duration of the class, but not later than 20 working days after the first day students attend classes for that semester. (5 CCR 4600)

*Misassignment* means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold. (Education Code 35186; 5 CCR 4600)

*(cf. 4112.2 - Certification)*

*(cf. 4113 - Assignment)*

3. Complaints regarding the condition of school facilities, including any complaint alleging that:
  - a. A condition poses an emergency or urgent threat to the health or safety of students or staff.

## **WILLIAMS UNIFORM COMPLAINT PROCEDURES** (continued)

*Emergency or urgent threat* means structures or systems that are in a condition that poses a threat to the health and safety of students or staff while at school, including, but not limited to, gas leaks; nonfunctioning heating, ventilation, fire sprinklers, or air-conditioning systems; electrical power failure; major sewer line stoppage; major pest or vermin infestation; broken windows or exterior doors or gates that will not lock and that pose a security risk; abatement of hazardous materials previously undiscovered that pose an immediate threat to students or staff; structural damage creating a hazardous or uninhabitable condition; or any other condition deemed appropriate. (Education Code 17592.72)

- b. A school restroom has not been cleaned, maintained, or kept open in accordance with Education Code 35292.5.

*Clean or maintained school restroom* means a school restroom has been cleaned or maintained regularly, is fully operational, or has been stocked at all times with toilet paper, soap, or paper towels or functional hand dryers. (Education Code 35292.5)

*Open restroom* means the school has kept all restrooms open during school hours when students are not in classes and has kept a sufficient number of restrooms open during school hours when students are in classes. This does not apply when the temporary closing of the restroom is necessary for student safety or to make repairs. (Education Code 35292.5)

(cf. 3514 - Environmental Safety)

(cf. 3517 - Facilities Inspection)

### **Filing of Complaint**

Note: Education Code 35186 requires that complaints be investigated and resolved within the timelines specified below. During the Federal Program Monitoring (FPM) process, California Department of Education (CDE) staff will expect to see statements regarding the filing of the complaint, the investigation, timelines, and the complainant's right to appeal to the Governing Board and to appeal facilities complaints to the CDE, as detailed in the following section and the section "Investigation and Response" below.
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A complaint alleging any condition(s) specified in the section "Types of Complaints" above shall be filed with the principal or designee at the school in which the complaint arises. The principal or designee shall forward a complaint about problems beyond his/her authority to the Superintendent or designee in a timely manner, but not to exceed 10 working days. (Education Code 35186; 5 CCR 4680)

## **WILLIAMS UNIFORM COMPLAINT PROCEDURES (continued)**

### **Investigation and Response**

The principal or designee shall make all reasonable efforts to investigate any problem within his/her authority. He/she shall remedy a valid complaint within a reasonable time period not to exceed 30 working days from the date the complaint was received. (Education Code 35186; 5 CCR 4685)

Complaints may be filed anonymously. If the complainant has indicated on the complaint form that he/she would like a response to the complaint, the principal or designee shall report the resolution of the complaint to him/her at the mailing address indicated on the complaint form within 45 working days of the initial filing of the complaint. At the same time, the principal or designee shall report the same information to the Superintendent or designee. (Education Code 35186; 5 CCR 4680, 4685)

Note: Education Code 48985 specifies that, when 15 percent or more of the students enrolled in a particular school speak a single primary language other than English, all notices, reports, statements, or records sent to the parents/guardians of such students be written in English and in the primary language. Education Code 35186 requires that, when Education Code 48985 is applicable, any response requested by the complainant must be written in English and in the primary language in which the complaint was filed.
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When Education Code 48985 is applicable and the complainant has requested a response, the response shall be written in English and in the primary language in which the complaint was filed. (Education Code 35186)

If a complainant is not satisfied with the resolution of a complaint, he/she has the right to describe the complaint to the Governing Board at a regularly scheduled meeting. (Education Code 35186; 5 CCR 4686)

For any complaint concerning a facilities condition that poses an emergency or urgent threat to the health or safety of students or staff as described in item #3a in the section "Types of Complaints" above, a complainant who is not satisfied with the resolution proffered by the principal or Superintendent or designee may file an appeal to the Superintendent of Public Instruction within 15 days of receiving the district's response. The complainant shall comply with the appeal requirements specified in 5 CCR 4632. (Education Code 35186; 5 CCR 4687)

All complaints and written responses shall be public records. (Education Code 35186; 5 CCR 4686)

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

### **Reports**

Note: During the FPM process, CDE staff will expect to see the following statement.
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**WILLIAMS UNIFORM COMPLAINT PROCEDURES** (continued)

On a quarterly basis, the Superintendent or designee shall report, to the Board at a regularly scheduled public Board meeting and to the County Superintendent of Schools, summarized data on the nature and resolution of all complaints. The report shall include the number of complaints by general subject area with the number of resolved and unresolved complaints. (Education Code 35186; 5 CCR 4686)

**Forms and Notices**

The Superintendent or designee shall ensure a Williams complaint form is available at each school. However, complainants need not use the district's complaint form in order to file a complaint. (Education Code 35186; 5 CCR 4680)

Note: Education Code 35186 requires that the district's complaint form contain the elements stated in the following paragraph. In addition, Education Code 35186 requires that a notice be posted in <u>each</u> classroom in <u>each</u> school in the district, as specified below. See the accompanying exhibits for a sample form and classroom notice.
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The Superintendent or designee shall ensure that the district's complaint form contains a space to indicate whether the complainant desires a response to his/her complaint and specifies the location for filing a complaint. A complainant may add as much text to explain the complaint as he/she wishes. (Education Code 35186; 5 CCR 4680)

The Superintendent or designee shall ensure that a notice is posted in each classroom in each school containing the components specified in Education Code 35186. (Education Code 35186)

*Legal Reference: (see next page)*

**WILLIAMS UNIFORM COMPLAINT PROCEDURES (continued)**

*Legal Reference:*

EDUCATION CODE

- 234.1 Prohibition of discrimination, harassment, intimidation, and bullying*
  - 1240 County superintendent of schools, duties*
  - 17592.72 Urgent or emergency repairs, School Facility Emergency Repair Account*
  - 33126 School accountability report card*
  - 35186 Williams uniform complaint procedures*
  - 35292.5 Restrooms, maintenance and cleanliness*
  - 48985 Notice to parents in language other than English*
  - 60119 Hearing on sufficiency of instructional materials*
- CODE OF REGULATIONS, TITLE 5
- 4600-4670 Uniform complaint procedures*
  - 4680-4687 Williams uniform complaint procedures*

*Management Resources:*

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

**WILLIAMS UNIFORM COMPLAINT PROCEDURES**

Note: Education Code 35186 requires that the following notice be posted in each classroom in each school in the district. During its Federal Program Monitoring process, California Department of Education (CDE) staff will check to ensure that a notice is placed in each classroom in each school and that the notice contains all the information described below. This notice is no longer applicable to complaints regarding deficiencies in intensive instruction and services to students who have not passed all parts of the high school exit examination by the end of grade 12 since that categorical program was eliminated by AB 97 (Ch. 47, Statutes of 2013).

**NOTICE TO PARENTS/GUARDIANS, STUDENTS, AND TEACHERS:  
COMPLAINT RIGHTS**

Parents/Guardians, Students, and Teachers:

Pursuant to Education Code 35186, you are hereby notified that:

1. There should be sufficient textbooks and instructional materials. That means each student, including an English learner, must have a textbook or instructional materials, or both, to use in class and to take home.
2. School facilities must be clean, safe, and maintained in good repair.
3. There should be no teacher vacancies or misassignments. There should be a teacher assigned to each class and not a series of substitutes or other temporary teachers. The teacher should have the proper credential to teach the class, including the certification required to teach English learners, if present.

*Misassignment* means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold.

*Teacher vacancy* means a position to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.

Note: Education Code 35186 requires that the notice inform parents/guardians of the location to obtain a complaint form when there is a shortage and provides that posting a notice downloadable from the CDE's web site will satisfy this requirement. The law does not require that complaint forms be placed in any specific location. The following paragraph lists locations where complaint forms may be available and should be modified to reflect district practice, including adding the school and district web site addresses.

4. A complaint form may be obtained at the school office or district office, or downloaded from the school or district web site. You may also download a copy of the California Department of Education complaint form from the following web site:

**WILLIAMS UNIFORM COMPLAINT PROCEDURES** (continued)

<http://www.cde.ca.gov/re/cp/uc>. However, a complaint need not be filed using either the district's complaint form or the complaint form from the California Department of Education.



**WILLIAMS UNIFORM COMPLAINT PROCEDURES**

**COMPLAINT FORM: WILLIAMS UNIFORM COMPLAINT PROCEDURES**

Note: Education Code 35186 creates a procedure for the filing of complaints concerning deficiencies in textbooks or instructional materials, conditions of facilities that are not maintained in a clean or safe manner or in good repair, or teacher vacancy or misassignment. The following form contains elements required by Education Code 35186 and 5 CCR 4681-4683. During the Federal Program Monitoring process, California Department of Education staff will check to ensure that the complaint form includes all of the elements specified below. This form is no longer applicable to complaints regarding deficiencies in intensive instruction and services to students who have not passed all parts of the high school exit examination by the end of grade 12 since that categorical program was eliminated by AB 97 (Ch. 47, Statutes of 2013).

Education Code 35186 creates a procedure for the filing of complaints concerning deficiencies related to instructional materials, conditions of facilities that are not maintained in a clean or safe manner or in good repair, or teacher vacancy or misassignment. The complaint and response are public documents as provided by law. Complaints may be filed anonymously. However, if you wish to receive a response to your complaint, you must provide the contact information below.

Response requested?  Yes  No

Contact information: (if response is requested)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone number: Day: \_\_\_\_\_ Evening: \_\_\_\_\_

E-mail address, if any: \_\_\_\_\_

Date problem was observed: \_\_\_\_\_

Location of the problem that is the subject of this complaint:

School name/address: \_\_\_\_\_

Course title/grade level and teacher name: \_\_\_\_\_

Room number/name of room/location of facility: \_\_\_\_\_

**Only the following issues may be the subject of this complaint process. If you wish to complain about an issue not specified below, please contact the school or district for the appropriate district complaint procedure.**

Specific issue(s) of the complaint: (Please check all that apply. A complaint may contain more than one allegation.)

**WILLIAMS UNIFORM COMPLAINT PROCEDURES** (continued)

1. Textbooks and instructional materials: (Education Code 35186; 5 CCR 4681)
  - A student, including an English learner, does not have standards-aligned textbooks or instructional materials or state- or district-adopted textbooks or other required instructional materials to use in class.
  - A student does not have access to textbooks or instructional materials to use at home or after school. This does not require two sets of textbooks or instructional materials for each student.
  - Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.
  - A student was provided photocopied sheets from only a portion of a textbook or instructional materials to address a shortage of textbooks or instructional materials.
2. Teacher vacancy or misassignment: (Education Code 35186; 5 CCR 4682)
  - A semester begins and a teacher vacancy exists. A *teacher vacancy* is a position to which a single designated certificated employee has not been assigned at the beginning of the school year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.
  - A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learners in the class.
  - A teacher is assigned to teach a class for which the teacher lacks subject matter competency.
3. Facilities conditions: (Education Code 17592.72, 35186, 35292.5; 5 CCR 4683)
  - A condition exists that poses an emergency or urgent threat to the health or safety of students or staff including gas leaks; nonfunctioning heating, ventilation, fire sprinklers, or air-conditioning systems; electrical power failure; major sewer line stoppage; major pest or vermin infestation; broken windows or exterior doors or gates that will not lock and that pose a security risk; abatement of hazardous materials previously undiscovered that pose an immediate threat to students or staff; structural damage creating a hazardous or uninhabitable condition; and any other condition deemed appropriate by the district.

**WILLIAMS UNIFORM COMPLAINT PROCEDURES** (continued)

- A school restroom has not been cleaned or maintained regularly, is not fully operational, or has not been stocked at all times with toilet paper, soap, or paper towels or functional hand dryers.
- The school has not kept all restrooms open during school hours when students are not in classes and has not kept a sufficient number of restrooms open during school hours when students are in classes. This does not apply when temporary closing of the restroom is necessary for student safety or to make repairs.

Please describe the issue of your complaint in detail. You may attach additional pages and include as much text as necessary to fully describe the situation. For complaints regarding facilities conditions, please describe the emergency or urgent facilities condition and how that condition poses a threat to the health or safety of students or staff.

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Note: Education Code 35186 requires that complaints be filed with the principal or designee and that the complaint form specify the location for filing the complaint. Districts should specify the name and/or location in the spaces below.

Please file this complaint at the following location:

\_\_\_\_\_

*(principal or title of designee of the Superintendent)*

\_\_\_\_\_

*(address)*

Please provide a signature below. If you wish to remain anonymous, a signature is not required. However, all complaints, even anonymous ones, should be dated.

\_\_\_\_\_

(Signature)

\_\_\_\_\_

(Date)

**USE OF SCHOOL FACILITIES**

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

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

*(cf. 6145.5 - Student Organizations and Equal Access)*

The Superintendent or designee shall give priority to school-related activities in the use of school facilities and grounds. Other uses authorized under the Civic Center Act shall be on a first-come, first-served basis.

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

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

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

*(cf. 0450 - Comprehensive School Safety Plan)*  
*(cf. 3516 - Emergencies and Disaster Preparedness Plan)*

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

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

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

*(cf. 6115 - Ceremonies and Observances)*

**USE OF SCHOOL FACILITIES** (continued)

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

*(cf. 1325 - Advertising and Promotion)*

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

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

*(cf. 1330.1 - Joint Use Agreements)*

**Fees**

Note: Education Code 38134 authorizes districts to charge an amount "not exceeding" direct costs for the use of school facilities or grounds by community groups and entities. Pursuant to 5 CCR 14041, as added by Register 2014, No. 19, the Board is required to adopt a fee schedule that specifies the hourly fee to be charged by the district either for specific school facilities and grounds or for types or categories of school facilities or grounds (e.g., all gymnasiums or playgrounds), when the district chooses to charge fees for community use of school facilities and grounds.

The Board shall adopt a comprehensive schedule of fees to be charged for community use of school facilities and grounds, including, but not limited to, the multipurpose room(s), playing or athletic field(s), track and field venue(s), tennis court(s), and outdoor basketball court(s). The schedule of fees shall be prepared in accordance with 5 CCR 14037-14041. (5 CCR 14041)

*(cf. 9320 - Meetings and Notices)*

Note: In addition, Education Code 38134 **mandates** each district to adopt a policy specifying the activities and organizations that shall be charged an amount not to exceed direct costs. 5 CCR 14037-14041, as added by Register 2014, No. 19, contain specific rules adopted by the State Board of Education for determining "direct costs" to be charged for use of school facilities and grounds.

The options below provide suggestions on how districts that choose to charge up to direct costs may categorize activities and organizations for that purpose. Option 1 is for use by districts that choose to charge an amount "not exceeding" direct costs to all community groups. Option 2 is for use by districts that choose to grant free use to nonprofit groups organized to promote youth and school activities but charge other

**USE OF SCHOOL FACILITIES** (continued)

groups an amount "not exceeding" direct costs. Option 3 is for use by districts that grant free use to school-related organizations only.

However, regardless of the option chosen, there is an exception for the use of school facilities and grounds for religious services, as noted below.

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

The Board believes that the use of school facilities or grounds should not result in costs to the district. The Superintendent or designee shall charge all groups granted the use of school facilities or grounds under the Civic Center Act an amount not exceeding direct costs determined in accordance with 5 CCR 14037-14041. (Education Code 38134)

**OPTION 2: (No charge to nonprofit youth and school-oriented organizations)**

Note: This option reflects the common practice among districts to allow free use of school facilities by nonprofit organizations, clubs, and organizations that promote youth and school activities, including the YMCA and religious organizations or churches that arrange for and supervise sports league activities for youth, pursuant to Education Code 38134.

Districts that wish to give free use to some groups, but charge other groups, should proceed cautiously and ensure that such free use or discount is granted on a reasonable and nondiscriminatory basis. It is strongly recommended that districts consult legal counsel before deciding which groups will or will not be charged and, based upon legal counsel's advice, decide whether it would be appropriate to specifically name in the district's policy the community groups that will or will not be charged.

The Board authorizes the use of school facilities or grounds without charge by nonprofit organizations, clubs, or associations organized to promote youth and school activities. As specified in Education Code 38134(a), these groups include, but are not limited to, Girl Scouts, Boy Scouts, Camp Fire USA, YMCA, parent-teacher associations, and school-community advisory councils. Other groups that request the use of school facilities under the Civic Center Act, including nonprofit groups not organized to promote youth and school activities and for-profit groups, shall be charged an amount not exceeding direct costs determined in accordance with 5 CCR 14037-14041. (Education Code 38134)

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

The Board shall grant the use of school facilities or grounds without charge to school-related organizations whose activities are directly related to or for the benefit of district schools. All other groups requesting the use of school facilities under the Civic Center Act shall be charged an amount not exceeding direct costs determined in accordance with 5 CCR 14037-14041.

Note: **The remainder of this section is for use by all districts** regardless of the option chosen above.

**USE OF SCHOOL FACILITIES** (continued)

Pursuant to Education Code 38134, any group authorized to use school facilities for religious services must be charged "at least" direct costs.

Additionally, when any use of school facilities or grounds is for religious services, the district shall charge an amount at least equal to the district's direct costs. (Education Code 38134)

Note: The following paragraph provides specific guidance for calculating "direct costs" that a district may charge community groups and organizations for the use of school facilities or grounds. Pursuant to 5 CCR 14038, as added by Register 2014, No. 19, the district must determine the "proportionate share" of allowable capital and operational direct costs as provided below.

In determining direct costs to be charged for community use of each, or each type of, school facility or grounds, the Superintendent or designee shall calculate, in accordance with 5 CCR 14038, the community's proportionate share of the following costs: (Education Code 38134; 5 CCR 14038-14041)

1. Capital direct costs calculated in accordance with 5 CCR 14039, including the estimated costs of maintenance, repair, restoration, and refurbishment of non-classroom space school facilities or grounds

However, capital direct costs shall not be charged to organizations retained by the district or school to provide instruction or instructional activities to students during school hours or for classroom-based programs that operate after school hours, including, but not limited to, after-school, tutoring, and child care programs. (5 CCR 14037)

*(cf. 5148 - Child Care and Development)*  
*(cf. 5148.2 - Before/After School Programs)*

2. Operational direct costs calculated in accordance with 5 CCR 14040, including estimated costs of supplies, utilities, janitorial services, other services of district employees and/or contracted workers, and salaries and benefits paid to district employees directly associated with the administration of the Civic Center Act to operate and maintain school facilities and grounds

Note: The following **optional** paragraph applies to districts that choose to discount direct cost fees based on the type or category of the applicant, such as to groups with tax-exempt status as authorized pursuant to 5 CCR 14041, added by Register 2014, No. 19.

Direct cost fees shall not be discounted to any group or organization except when the discount is specifically authorized in the adopted fee schedule. (5 CCR 14041)

Note: Education Code 38134 requires the district to charge fair rental value when facilities are used for fundraising activities which are not beneficial to youth, public school activities, or charitable purposes, under the conditions specified below. "Fair rental value" is defined as direct costs plus the amortized costs of the school facilities or grounds used for the duration of the activity.

**USE OF SCHOOL FACILITIES** (continued)

Groups shall be charged fair rental value when using school facilities or grounds for entertainment or meetings where admission is charged or contributions solicited and net receipts are not to be expended for charitable purposes or for the welfare of the district's students. (Education Code 38134)

**Expending Funds Collected as Capital Direct Costs**

Note: Pursuant to 5 CCR 14042, added by Register 2014, No. 19, funds collected as capital direct costs must be expended as specified in the following **optional** paragraph.

Any funds collected as capital direct costs shall be deposited into a special fund to be used only for capital maintenance, repair, restoration, and refurbishment of school facilities and grounds. (5 CCR 14042)

*Legal Reference: (see next page)*



## USE OF SCHOOL FACILITIES (continued)

### Legal Reference:

#### EDUCATION CODE

10900-10914.5 *Community recreation programs*

32282 *School safety plan*

37220 *School holidays*

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

#### BUSINESS AND PROFESSIONS CODE

25608 *Alcoholic beverage on school premises*

#### GOVERNMENT CODE

54950-54963 *The Ralph M. Brown Act*

#### MILITARY AND VETERANS CODE

1800 *Definitions*

#### CODE OF REGULATIONS, TITLE 5

14037-14042 *Proportionate direct costs for use of school facilities and grounds*

#### UNITED STATES CODE, TITLE 20

7905 *Equal access to public school facilities*

#### COURT DECISIONS

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

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

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

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

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

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

#### ATTORNEY GENERAL OPINIONS

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

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

### Management Resources:

#### CSBA PUBLICATIONS

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

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

#### WEB SITES

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

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

**CERTIFICATION**

Note: Under the authority granted by Education Code 44252, the Commission on Teacher Credentialing (CTC) establishes standards and procedures for the issuance and renewal of multiple subject, single subject, education specialist, and other credentials, certificates, and permits and approves applications. Pursuant to Education Code 44251, a preliminary credential is generally valid for five years, during which time the employee must complete the requirements for the clear credential in order to continue to serve in a certificated position. The clear credential must be renewed every five years, but renewal does not require completion of additional coursework or service requirements.

Assignment to certain positions within the district may require additional qualifications. For example, see AR 4112.22 - Staff Teaching English Language Learners, AR 4112.23 - Special Education Staff, BP/AR 4112.24 - Teacher Qualifications Under the No Child Left Behind Act, and BP/AR 4113 - Assignment.

The Governing Board recognizes that the district's ability to provide a high-quality educational program is dependent upon the employment of certificated staff who are adequately prepared and have demonstrated proficiency in basic skills and in the subject matter to be taught. The Superintendent or designee shall ensure that persons employed to fill positions requiring certification qualifications possess the appropriate credential, permit, or other certification document from the Commission on Teacher Credentialing (CTC) and fulfill any additional state, federal, or district requirements for the position.

- (cf. 4111/4211/4311 - Recruitment and Selection)*
- (cf. 4112.21 - Interns)*
- (cf. 4112.22 - Staff Teaching English Language Learners)*
- (cf. 4112.23 - Special Education Staff)*
- (cf. 4112.24 - Teacher Qualifications Under the No Child Left Behind Act)*
- (cf. 4112.5/4312.5 - Criminal Record Check)*
- (cf. 4113 - Assignment)*
- (cf. 4121 - Temporary/Substitute Personnel)*
- (cf. 5148 - Child Care and Development)*
- (cf. 6178 - Career Technical Education)*
- (cf. 6200 - Adult Education)*

The Superintendent or designee may provide assistance and support to teachers holding preliminary credentials to help them meet the qualifications required for the clear credential.

- (cf. 4131 - Staff Development)*
- (cf. 4131.1 - Teacher Support and Guidance)*

**Priorities for Hiring Based on Unavailability of Credentialed Teacher**

Note: When the district is unable to hire a "fully prepared" teacher who has completed a teacher preparation program (i.e., a teacher who holds a clear or preliminary teaching credential), Education Code 44225.7 permits the district to hire a teacher without those credentials. Education Code 44225.7 establishes a hierarchy for such hires, as provided in items #1-3 below.

The Superintendent or designee shall make reasonable efforts to recruit a fully prepared teacher for each assignment. Whenever a teacher with a clear or preliminary credential is not

**CERTIFICATION (continued)**

available, the Superintendent or designee shall make reasonable efforts to recruit an individual for the assignment in the following order: (Education Code 44225.7)

Note: Pursuant to Education Code 44225.7, if a credentialed teacher is not available, priority must be given to employing an individual who is enrolled in an approved intern program, as provided in item #1 below. CTC Coded Correspondence 13-01 clarifies that such an individual must possess a CTC-issued intern credential.

1. A candidate who is qualified to participate in and enrolls in an approved intern program in the region of the district

Note: Pursuant to Education Code 44225.7, next priority for filling a position should be for a candidate who is scheduled to complete preliminary credential requirements within six months, as provided in item #2 below. CTC Coded Correspondence 13-01 clarifies that such an individual must qualify for and obtain a provisional internship permit (PIP) or short-term staff permit (STSP).

Pursuant to 5 CCR 80021-80021.1, the district may employ persons with an STSP when needed to immediately staff classrooms based on unforeseen circumstances, or a PIP when the district has conducted a diligent search but has been unable to recruit a credentialed teacher. As amended by Register 2013, No. 28, 5 CCR 80021.1 provides that the PIP shall be issued for one year and is not renewable. Each of these options requires the district to provide orientation, training, and/or guidance; see the accompanying administrative regulation.

2. A candidate who is scheduled to complete preliminary credential requirements within six months and who holds a provisional internship permit (PIP) or short-term staff permit issued by the CTC

Note: 5 CCR 80021.1 requires that a notice of intent to employ a person with a PIP be made public as described in the following paragraph. A copy of the agenda item and the Superintendent or designee's verification of the Governing Board's favorable action must be included as part of the application to the CTC along with other required verifications; see the accompanying administrative regulation.

The Board shall approve, as an action item at a public Board meeting, a notice of its intent to employ a PIP applicant for a specific position. (5 CCR 80021.1)

Note: Pursuant to Education Code 44225.7, when the district is unable to recruit a credentialed teacher or a teacher who meets the qualifications specified in items #1-2 above, it may request that the CTC issue a "variable term" credential waiver (Education Code 44225; 5 CCR 80120-80125) or a long-term emergency permit (Education Code 44300; 5 CCR 80023-80026.6), as provided in item #3 below. The STSP and PIP have replaced multiple subject, single subject, and education specialist emergency permits, but the CTC continues to issue the emergency resource specialist permit (5 CCR 80024.3.1), emergency teacher librarian services permit (5 CCR 80024.6), emergency crosscultural, language and academic development permit (5 CCR 80024.8), and emergency bilingual authorization permit (5 CCR 80024.7).

Pursuant to 5 CCR 80023.1, as amended by Register 2013, No. 28, an emergency permit may be renewed for up to two additional one-year periods (for a maximum of three years of service).

**CERTIFICATION** (continued)

3. As a last resort, an individual who holds an emergency permit issued by the CTC or for whom a credential waiver has been granted by the CTC

Note: Pursuant to 5 CCR 80023.2, 80026, and 80027-80027.1, the Board must annually approve a Declaration of Need for Fully Qualified Educators prior to hiring a person with an emergency permit or a limited assignment permit to teach outside his/her area of certification. The form for the Declaration of Need is available in the CTC's online Credential Information Guide, which may be accessed only by employers. Pursuant to 5 CCR 80026, the Declaration of Need must be approved at a regularly scheduled public Board meeting and is valid for up to 12 months, expiring on June 30 following its submission to CTC.

Prior to requesting that the CTC issue an emergency permit pursuant to item #3 above or a limited assignment permit which allows a fully credentialed teacher to teach outside of his/her area of certification while working toward an added or supplementary authorization, the Board shall annually approve a Declaration of Need for Fully Qualified Educators. The Declaration of Need shall be approved by the Board as an action item at a regularly scheduled public Board meeting, with the entire Declaration of Need being included in the Board agenda. (Education Code 44225, 44225.7; 5 CCR 80023.2, 80026, 80027, 80027.1)

The Declaration of Need shall certify that there is an insufficient number of certificated persons who meet the district's specified employment criteria for the position(s) and that the district has made reasonable efforts to recruit individuals who meet the qualifications specified in items #1-2 above. The Declaration of Need shall also indicate the number and type of emergency permits that the district estimates it will need during the valid period of the Declaration of Need, based on the previous year's actual needs and projections of enrollment. Whenever the actual number of permits needed exceeds the estimate by 10 percent, the Board shall revise and resubmit the Declaration of Need. (5 CCR 80026)

Whenever it is necessary to employ noncredentialed teachers to fill a position requiring certification qualifications, the Superintendent or designee shall provide support and guidance in accordance with law to ensure the quality of the instructional program.

**National Board for Professional Teaching Standards Certification**

Note: The following **optional** section may be revised to reflect district practice. The National Board for Professional Teaching Standards (NBPTS) offers teachers a voluntary, rigorous advanced certification process to demonstrate professional accomplishment. Some districts provide fee support to teachers seeking this certification.

AB 97 (Ch. 47, Statutes of 2013) eliminated state categorical funding (Education Code 44395-44399.1) designated for providing one-time incentive awards to NBPTS-certificated teachers who agree to teach at least 50 percent of a full-time position at a high-priority school (i.e., a school ranked in the bottom half of the Academic Performance Index) for at least four years.

The Board encourages district teachers to voluntarily complete the requirements for the advanced certification awarded by the National Board for Professional Teaching Standards.

**CERTIFICATION** (continued)

The Superintendent or designee shall inform all teachers about the program and how to acquire the necessary application and information materials. In accordance with the collective bargaining agreement and the district budget, the Superintendent or designee may provide release time, fee support, a stipend upon completion, or other support to teachers participating in the program.

*(cf. 4161.3 - Professional Leaves)*

*Legal Reference: (see next page)*

## **CERTIFICATION (continued)**

### *Legal Reference:*

#### EDUCATION CODE

8360-8370 *Qualifications of child care personnel*  
32340-32341 *Unlawful issuance of a credential*  
35186 *Complaints regarding teacher vacancy or misassignment*  
44066 *Limitations on certification requirements*  
44200-44399.1 *Teacher credentialing, especially:*  
44250-44277 *Credential types; minimum requirements*  
44300-44302 *Emergency permit*  
44325-44328 *District interns*  
44330-44355 *Certificates and credentials*  
44420-44440 *Revocation and suspension of credentials*  
44450-44468 *University intern program*  
44830-44929 *Employment of certificated persons; requirement of proficiency in basic skills*  
56060-56063 *Substitute teachers in special education*

#### CODE OF REGULATIONS, TITLE 5

6100-6126 *Teacher qualifications, No Child Left Behind Act*  
80001-80674.6 *Commission on Teacher Credentialing*

#### UNITED STATES CODE, TITLE 20

6319 *Highly qualified teachers*  
7801 *Definitions, highly qualified teacher*

#### CODE OF FEDERAL REGULATIONS, TITLE 34

200.55-200.57 *Highly qualified teachers*  
200.61 *Parent notification regarding teacher qualifications*

#### COURT DECISIONS

*Association of Mexican-American Educators et al. v. State of California and the Commission on Teacher Credentialing, (1993) 836 F.Supp. 1534*

### *Management Resources:*

#### COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

CL-667 *Basic Skills Requirement*  
CL-856 *Provisional Internship Permit*  
CL 858 *Short-Term Staff Permit*  
13-01 *Hiring Hierarchy in Education Code 44225.7, Coded Correspondence, January 30, 2013*  
*Subject Matter Authorization Guideline Book, 2012*  
*Supplementary Authorization Guideline Book, 2012*  
*California Standards for the Teaching Profession, 2009*  
*The Administrator's Assignment Manual, rev. September 2007*

#### WEB SITES

CSBA: <http://www.csba.org>  
Commission on Teacher Credentialing: <http://www.ctc.ca.gov>  
Commission on Teacher Credentialing, *Credential Information Guide (for employers' use only):*  
<http://www.ctc.ca.gov/credentials/cig>  
National Board for Professional Teaching Standards: <http://www.nbpts.org>  
U.S. Department of Education: <http://www.ed.gov>

**CERTIFICATION**

**Verification of Credentials**

Note: The following **optional** section may be revised to reflect district practice. Education Code 44857 requires each person employed by the district in a position requiring certification qualifications to register a valid credential with the county office of education or with the district (if the district has an average daily attendance over 10,000), not later than 60 days after beginning employment in the district or not later than 60 days after renewing a credential.

The Commission on Teacher Credentialing (CTC) does not provide credentials in a paper format. 5 CCR 80001 provides that the official record of a credential is information obtained from the CTC web site. If an applicant has indicated a county of employment on his/her application, the county office of education will receive a download of credential information for that applicant. For all other certificated staff, the district must obtain verification of its employees' certification through the CTC's online service and may print the displayed information.

The Superintendent or designee shall verify that each employee in a position requiring certification qualifications possesses a valid certification document issued by the Commission on Teacher Credentialing (CTC). Such verification shall occur not later than 60 days after the commencement of employment or the renewal of a credential. (Education Code 44857)

*(cf. 4112.21 - Interns)*

*(cf. 4112.22 - Staff Teaching English Language Learners)*

*(cf. 4112.23 - Special Education Staff)*

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

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

*(cf. 5148 - Child Care and Development)*

*(cf. 6178 - Career Technical Education)*

*(cf. 6200 - Adult Education)*

The Superintendent or designee shall maintain records of the appropriate certification of all employees serving in certificated positions.

*(cf. 3580 - District Records)*

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

**Basic Skills Proficiency**

Note: Education Code 44830 provides that a district cannot employ an individual in a position requiring certification unless that person has met the basic skills proficiency requirement or is exempted from the requirement by law. Such exemptions are specified in Education Code 44252 and 44830. Unless exempted, persons who have been granted a credential by the CTC have met the basic skills proficiency requirement as a condition of obtaining the credential. According to CTC leaflet CL-667, Basic Skills Requirement, the basic skills proficiency requirement also may be met by passage of the California Basic Educational Skills Test, California Subject Examinations for Teachers: Multiple Subject Plus Writing Skills Examination, California State University Early Assessment Program, California State University Placement Examinations, or a basic skills examination from another state.

**CERTIFICATION** (continued)

The district shall not initially hire a person in a position requiring certification, on a permanent, temporary, or substitute basis, unless that person has demonstrated basic skills proficiency in reading, writing, and mathematics or is specifically exempted from the requirement by law. (Education Code 44252, 44252.6, 44830)

The district may hire a certificated employee who has not taken a test of basic skills proficiency if he/she has not yet been afforded the opportunity to take the test, provided that he/she takes the test at the earliest opportunity. The employee may remain employed by the district pending the receipt of his/her test results. (Education Code 44830)

An out-of-state prepared teacher shall meet the basic skills requirement within one year of being issued a California preliminary credential by the CTC unless he/she has completed a basic skills proficiency test in another state or is otherwise exempted by law. The district shall develop a basic skills proficiency test, which shall be at least equivalent to the district test required for high school graduation, for purposes of assessing out-of-state prepared teachers pending completion of the basic skills requirement. (Education Code 44252, 44274.2; 5 CCR 80071.4, 80413.3)

*(cf. 6146.1 - High School Graduation Requirements)*

*(cf. 6146.2 - Certificate of Proficiency)*

*(cf. 6162.5 - High School Exit Examination)*

Note: Pursuant to Education Code 44252 and 44830, persons holding or applying for a "designated subjects special subjects" credential must be assessed with a district basic skills proficiency test, unless their credential requires possession of a bachelor's degree in which case they are required to meet the state basic skills proficiency requirement. When such persons are employed by a consortium of districts or a joint powers agreement, the test may instead be established by the boards of those entities.

Any person holding or applying for a "designated subjects special subjects" credential which does not require possession of a bachelor's degree shall pass a district proficiency test in lieu of meeting the state basic skills proficiency requirement. (Education Code 44252, 44830)

The district may charge a fee to cover the costs of developing, administering, and grading the district proficiency test. (Education Code 44252, 44830)

**Short-Term Staff Permit**

Note: 5 CCR 80021 establishes the short-term staff permit (STSP) to immediately fill teacher vacancies based on unforeseen circumstances. Pursuant to 5 CCR 80021, the CTC will issue the STSP to an individual only once and for no more than one year. The STSP will expire no later than July 1, unless the STSP is for a summer school assignment in which case the STSP will expire no later than September 1.



**CERTIFICATION** (continued)

The district may request that the CTC issue a short-term staff permit (STSP) to a qualified applicant whenever there is a need to immediately fill a classroom based on unforeseen circumstances, including, but not limited to: (5 CCR 80021)

1. Enrollment adjustments requiring the addition of another teacher
2. Inability of the teacher of record to finish the school year due to approved leave or illness
3. The applicant's need for additional time to complete preservice requirements for enrollment into an approved intern program
4. Inability of the applicant to enroll in an approved intern program due to timelines or lack of space in the program
5. Unavailability of a third-year extension of an intern program or the applicant's withdrawal from an intern program

The Superintendent or designee shall ensure that the applicant possesses a bachelor's or higher degree from a regionally accredited college or university, has met the basic skills proficiency requirement unless exempted by state law or regulations, and has satisfied the coursework/experience requirements specified in 5 CCR 80021 for the multiple subject, single subject, or education specialist STSP as appropriate. (5 CCR 80021)

When requesting issuance of an STSP, the Superintendent or designee shall submit to the CTC: (5 CCR 80021)

1. Verification that the district has conducted a local recruitment for the permit being requested
2. Verification that the district has provided the permit holder with orientation to the curriculum and to instruction and classroom management techniques and has assigned a mentor teacher for the term of the permit

*(cf. 4131 - Staff Development)*

*(cf. 4131.1 - Teacher Support and Guidance)*

3. Written justification for the permit signed by the Superintendent or designee

<p>Note: 5 CCR 80021 provides that a holder of the STSP is authorized to provide the same service as a holder of the preliminary or clear credential of the same type (i.e., multiple subject, single subject, education specialist). 5 CCR 80021 provides that all STSPs will also include an English learner authorization allowing the holder to provide services in English language development (ELD) or specially designed academic</p>
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**CERTIFICATION** (continued)

instruction in English (SDAIE); see AR 4112.22 - Staff Teaching English Language Learners. Upon request by the district and verification of the applicant's target-language proficiency, the STSP may instead include a bilingual authorization allowing the holder to provide instruction for primary language development or content instruction delivered in the primary language, in addition to ELD and SDAIE.

The holder of an STSP may be assigned to provide the same service as a holder of a multiple subject, single subject, or education specialist credential in accordance with the authorizations specified on the permit. (5 CCR 80021)

**Provisional Internship Permit**

Note: 5 CCR 80021.1 establishes the provisional internship permit (PIP) to staff classrooms when appropriately credentialed teachers cannot be found after a diligent search. As amended by Register 2013, No. 28, 5 CCR 80021.1 provides that the PIP will be issued for one calendar year and may not be renewed.

Before requesting that the CTC issue a provisional internship permit (PIP), the district shall conduct a diligent search for a suitable credentialed teacher or intern, including, but not be limited to, distributing job announcements, contacting college and university placement centers, and advertising in print or electronic media. (5 CCR 80021.1)

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

Whenever a suitable credentialed teacher cannot be found after a diligent search, the Superintendent or designee may request that the CTC issue a PIP to an applicant who possesses a bachelor's or higher degree from a regionally accredited college or university, has met the basic skills proficiency requirement unless exempted by state law or regulations, and has satisfied the coursework/experience requirements specified in 5 CCR 80021.1 for the multiple subject, single subject, or education specialist PIP as appropriate. (5 CCR 80021.1)

When submitting the request for a PIP, the district shall provide verification of all of the following: (5 CCR 80021.1, 80026.5)

1. A diligent search has been conducted for a suitable credentialed teacher or suitable qualified intern as evidenced by documentation of the search.
2. Orientation, guidance, and assistance shall be provided to the permit holder as specified in 5 CCR 80026.5.

The orientation shall include, but not be limited to, an overview of the curriculum the permit holder is expected to teach and effective instruction and classroom management techniques at the permit holder's assigned level. The permit holder also shall receive guidance and assistance from an experienced educator who is a certificated district employee or a certificated retiree from a California district or county office of education and who has completed at least three years of full-time classroom teaching experience.

**CERTIFICATION** (continued)

3. The district shall assist the permit holder in developing a personalized plan through a district-selected assessment that would lead to subject-matter competence related to the permit.
4. The district shall assist the permit holder to seek and enroll in subject-matter training, such as workshops or seminars and site-based courses, along with training in test-taking strategies, and shall assist the permit holder in meeting the credential subject-matter competence requirement related to the permit.
5. A notice of intent to employ the applicant in the identified position has been made public.

The district shall submit a copy of the agenda item presented at a public Governing Board meeting which shall state the name of the applicant, the assignment in which the applicant will be employed including the name of the school, subject(s), and grade(s) that he/she will be teaching, and that the applicant will be employed on the basis of a PIP. The district also shall submit a signed statement from the Superintendent or designee that the agenda item was acted upon favorably.

6. The candidate has been apprised of steps to earn a credential and enroll in an intern program.

Note: 5 CCR 80021.1 provides that a holder of the PIP is authorized to provide the same service as a holder of the preliminary or clear credential of the same type (i.e., multiple subject, single subject, education specialist). In addition, 5 CCR 80021.1 provides that all PIPs will include an English learner authorization allowing the holder to provide services in ELD or SDAIE; see AR 4112.22 - Staff Teaching English Language Learners. Upon request by the district and verification of the applicant's target-language proficiency, the PIP may instead include a bilingual authorization allowing the holder to provide instruction for primary language development or content instruction delivered in the primary language, in addition to ELD and SDAIE.

The holder of a PIP may be assigned to provide the same service as a holder of a multiple subject, single subject, or education specialist credential in accordance with the authorizations specified on the permit. (5 CCR 80021.1)

**Long-Term Emergency Permits**

Note: Pursuant to Education Code 44225.7, the district may request that the CTC grant an applicant a one-year emergency permit (Education Code 44300; 5 CCR 80023-80026.6) when a "fully prepared teacher," defined as a teacher who has completed a teacher preparation program, is unavailable to the district. Emergency permits may only be issued for the resource specialist permit (5 CCR 80024.3.1), teacher librarian services permit (5 CCR 80024.6), crosscultural, language and academic development permit (5 CCR 80024.8), and bilingual authorization permit (5 CCR 80024.7).

Pursuant to 5 CCR 80023.1, as amended by Register 2013, No. 28, an emergency permit may be renewed for up to two additional one-year periods (for a maximum of three years of service).

**CERTIFICATION** (continued)

In order to request an emergency permit, the district must first demonstrate that it has made reasonable efforts to recruit candidates who are enrolled in an intern program or are scheduled to complete preliminary credential requirements within six months and must submit a Declaration of Need for Fully Qualified Educators; see the accompanying Board policy.

As necessary, the Superintendent or designee may request that the CTC issue an emergency resource specialist permit, emergency teacher librarian services permit, emergency crosscultural language and academic development permit, or emergency bilingual authorization permit. (5 CCR 80024.3.1, 80024.6, 80024.7, 80024.8)

The Superintendent or designee shall provide any first-time recipient of an emergency teaching permit with an orientation which, to the extent reasonably feasible, shall occur before he/she begins a teaching assignment. The Superintendent or designee may vary the nature, content, and duration of the orientation to match the amount of training and experience previously completed by the emergency permit teacher. The orientation shall include, but not be limited to, the curriculum the teacher is expected to teach and effective techniques of classroom instruction and classroom management at the assigned grade-level span. The emergency permit holder also shall receive guidance and assistance from an experienced educator who is a certificated district employee or a certificated retiree from a California district or county office of education and who has completed at least three years of full-time classroom teaching experience. (5 CCR 80026.5)

*(cf. 4117.14/4317.14 - Postretirement Employment)*

**Emergency Substitute Teaching Permits**

Note: The CTC issues emergency substitute teaching permits that authorize service as a day-to-day substitute, including the (1) emergency 30-day substitute teaching permit, (2) emergency career substitute teaching permit, (3) emergency substitute teaching permit for prospective teachers, and (4) emergency designated subjects 30-day substitute teaching permit for career technical education. 5 CCR 80025-80025.5 specify restrictions pertaining to the number of days that each type of permit holder may substitute for any one teacher during the school year, as noted in items #1-4 below.

For day-to-day substitute teaching at any grade level, the district may employ a person with an emergency substitute permit issued by the CTC, provided that:

1. A person holding an emergency 30-day substitute teaching permit, or any valid teaching or services credential that requires at least a bachelor's degree and completion of the CBEST, shall not serve as a substitute for more than 30 days for any one teacher during the school year. He/she shall not serve as a substitute in a special education classroom for more than 20 days for any one teacher during the school year. (5 CCR 80025, 80025.3, 80025.4)
2. A person with an emergency career substitute teaching permit shall not serve as a substitute for more than 60 days for any one teacher during the school year. (5 CCR 80025.1)

**CERTIFICATION** (continued)

3. A person with an emergency substitute teaching permit for prospective teachers shall not serve as a substitute for more than 30 days for any one teacher during the school year and not more than 90 days total during the school year. (5 CCR 80025.2)
4. A person with an emergency designated subjects 30-day substitute teaching permit for career technical education shall teach only in a program of technical, trade, or vocational education and not serve as a substitute for more than 30 days for any one teacher during the school year. (5 CCR 80025.5)

<p>Note: 5 CCR 80025 and 80025.5 require the district to have a Statement of Need on file before employing a person with an emergency substitute permit pursuant to item #1 or 4 above. The CTC form for the Statement of Need may be found in the CTC's online <a href="#">Credential Information Guide</a>, which may be accessed only by employers.</p>
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Before employing a person with an emergency substitute permit pursuant to item #1 or 4 above, the Superintendent or designee shall prepare and keep on file a signed Statement of Need for the school year. The Statement of Need shall describe the situation or circumstances that necessitate the use of a 30-day substitute permit holder and state either that a credentialed person is not available or that the available credentialed person does not meet the district's specified employment criteria. (5 CCR 80025, 80025.5)

**INTERNS**

Note: The following **optional** policy is for use by districts that employ interns through one or more intern programs approved by the Commission on Teacher Credentialing (CTC).

Intern programs allow individuals to be employed as fully paid teachers of record while completing a teacher preparation program. "University intern programs" are administered by colleges and universities in partnership with school districts pursuant to Education Code 44450-44468, and "district intern programs" are administered by school districts in consultation with colleges or universities pursuant to Education Code 44325-44328 and 44830.3.

AB 97 (Ch. 47, Statutes of 2013) eliminated the alternative certification program which was designed to address teacher shortages in geographic or subject matter areas (Education Code 44380-44387) and the enhanced intern program (Education Code 44387) and redirected the funding for those programs into the local control funding formula.

The district may employ interns as necessary to fulfill the need for sufficient instructional staff and to provide future teachers an opportunity to link teaching theory with practice in order to meet state credentialing requirements. In addition, the district may employ teachers who already possess a preliminary or clear credential and are pursuing a credential in a different specialization as interns for positions that require such other credential.

*(cf. 4112.2 - Certification)*  
*(cf. 4112.22 - Staff Teaching English Language Learners)*  
*(cf. 4112.23 - Special Education Staff)*

Note: The following paragraph may be revised to reflect the type(s) of intern programs available through the district. All intern programs are subject to CTC program standards and preconditions for program approval. These are available on the CTC web site and in its handbooks SB 2042 Multiple Subject and Single Subject Preliminary Credential Program Standards and Education Specialist Teaching and Other Related Services Credential Program Standards.

The district may enter into partnership agreements with one or more approved teacher preparation programs sponsored by colleges or universities and/or may provide a district intern program with approval of the Commission on Teacher Credentialing (CTC). Any intern program in which the district participates shall be aligned with the preconditions and program standards adopted by the CTC.

Note: When the district is unable to hire a "fully prepared" teacher who has completed a teacher preparation program (i.e., a teacher who holds a clear or preliminary teaching credential), Education Code 44225.7 permits the district to hire a teacher without those credentials. Education Code 44225.7 establishes a hierarchy for such hires which gives priority to individuals who are enrolled in an approved intern program in the region of the district; see BP 4112.2 - Certification. CTC Coded Correspondence 13-01 clarifies that such an individual must possess a CTC-issued intern credential.

The Superintendent or designee shall make reasonable efforts to recruit an intern from an approved program within the region whenever a teacher with a preliminary or clear credential is not available for a position requiring certification. (Education Code 44225.7)

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

**INTERNS** (continued)

Note: Before recommending a candidate for the intern credential, the intern program must certify that the candidate possesses the required qualifications pursuant to Education Code 44325 and 44453 and 5 CCR 80033, as added by Register 2014, No. 7.

Pursuant to Education Code 44455-44456, candidates participating in a university intern program may be granted an intern credential of any type for a period of two years, which may subsequently be extended for one year if the CTC determines that the intern needs additional time to complete the requirements for the preliminary credential due to extenuating circumstances. Pursuant to Education Code 44325, candidates participating in a district intern program may be granted a multiple subject or single subject intern credential for two years or an education specialist intern credential for three years, and may seek a one-year extension.

The Superintendent or designee shall ensure that any intern employed by the district possesses an appropriate intern credential and is adequately prepared for the responsibilities of the position.

An intern may be assigned to provide the same service as a holder of a regular multiple subject, single subject, or education specialist credential in accordance with the authorizations and grade/age level specified on the intern credential. (Education Code 44454, 44325, 44326, 44830.3)

*(cf. 4113 - Assignment)*

Note: Pursuant to 20 USC 6319, districts must employ only "highly qualified" teachers, as defined in 20 USC 7801, to teach core academic subjects. Pursuant to CFR 34 CFR 200.56 and 5 CCR 6100-6112, persons who are currently enrolled in an approved intern program will be considered to have met this requirement. See BP/AR/E 4112.24 - Teacher Qualifications Under the No Child Left Behind Act.

In Renee v. Duncan, the court of appeals held that the federal regulation allowing intern teachers to meet the definition of a "highly qualified" teacher (34 CFR 200.56) violated the text of the No Child Left Behind Act, except that action by Congress temporarily amended federal law to permit that federal regulation to go into effect. 20 USC 7801 Note, as amended by Public Law 113-46, Sec. 144, extends the applicability of that federal regulation through 2015-16.

An intern may be assigned to teach core academic subjects, as defined in law, if he/she meets the definition of a "highly qualified" teacher adopted by the State Board of Education. (20 USC 6319, 7801; 5 CCR 6100-6112)

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

Note: Pursuant to Education Code 44466 and 44885.5, an employee shall be classified as a probationary employee while serving as an intern and for one succeeding school year following completion of the intern program if he/she is reelected to serve in a position requiring certification qualifications. In districts that grant permanent status to certificated staff, the employee would then be granted permanent status if reelected to a certificated position for the subsequent school year. See AR 4116 - Probationary/Permanent Status. Because this area of law is complex, the district should consult with legal counsel as to the appropriate terms of employment for interns.

**INTERNS** (continued)

Terms of employment for interns shall be consistent with law and the district's collective bargaining agreement, as applicable.

*(cf. 4116 - Probationary/Permanent Status)*  
*(cf. 4141/4241 - Collective Bargaining Agreement)*

Note: Pursuant to Education Code 44326, 44465, and 44830.3 and 5 CCR 80033, as added by Register 2014, No. 7, interns participating in any district or university intern program must be provided support and guidance by qualified district and college/university personnel; see the accompanying administrative regulation.

Interns shall receive intensive, structured supervision and ongoing support by qualified personnel in order to enhance their instructional skills and knowledge. The Superintendent or designee shall ensure that district staff serving as supervisors, mentor teachers, or other support providers receive appropriate training to fulfill their responsibilities and that they maintain frequent communication with the interns they are assigned to assist.

*(cf. 4131 - Staff Development)*  
*(cf. 4131.1 - Teacher Support and Guidance)*

Interns shall be provided with ongoing feedback regarding their performance and shall be formally evaluated in accordance with Board policy and the district's collective bargaining agreement.

*(cf. 4115 - Evaluation/Supervision)*

Note: Pursuant to Education Code 44328 and 44830.3, after an intern has completed service sufficient to meet program standards and performance assessments, the Governing Board may recommend to the CTC that the district intern be awarded a preliminary teaching credential. Education Code 44468 contains similar provisions for interns who fulfill the early completion option for either the university or district intern program; see the accompanying administrative regulation.

Upon receiving notification from the Superintendent or designee that an intern has successfully completed the program, the Governing Board may recommend to the CTC that the intern be awarded a preliminary credential. (Education Code 44328, 44468, 44830.3)

The Board shall regularly evaluate the effectiveness of the intern program(s) to determine whether changes are needed in the support and/or assignment of interns. The Board's evaluation shall be based on a report by the Superintendent or designee, including, but not limited to, data on student performance in classes taught by interns, feedback from interns and supervisors, and the number of interns who successfully complete the program and obtain general education or education specialist credentials.

*(cf. 0500 - Accountability)*

*Legal Reference: (see next page)*



**INTERNS (continued)**

*Legal Reference:*

EDUCATION CODE

300-340 *English language education for immigrant children*  
44225 *Credentials, responsibilities of Commission on Teacher Credentialing*  
44225.7 *Priority for hiring fully prepared teacher*  
44253.3-44253.4 *Certificate to provide services to English learners*  
44253.10 *Qualifications to provide specially designed academic instruction in English*  
44259 *Minimum requirements for teaching credential*  
44314 *Diversified or liberal arts program*  
44321 *CTC approval of intern programs*  
44325-44328 *District interns*  
44339-44341 *Teacher fitness*  
44450-44468 *Teacher Education Internship Act of 1967 (university interns)*  
44830.3 *Employing district interns*  
44885.5 *District interns classified as probationary employees*

CODE OF REGULATIONS, TITLE 5

6100-6126 *No Child Left Behind teacher requirements*  
80021.1 *Provisional internship permit*  
80033 *Intern teaching credential*  
80055 *Intern credential, extension for extenuating circumstances*

UNITED STATES CODE, TITLE 20

6319 *Highly qualified teachers*  
7801 *Definitions, highly qualified teacher*  
7801 *Note Applicability of federal regulation defining interns as highly qualified teachers*

COURT DECISIONS

*Renee v. Duncan*, 686 F.3d 1002 (2012)

*Management Resources:*

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

CL-840 *Early Completion Option*  
*SB 2042 Multiple Subject and Single Subject Preliminary Credential Program Standards*, rev. February 2014  
*Intern Preservice, Support and Supervision Requirements: Preparation to Teach English Learners*, Program Sponsor Alert 13-06, June 3, 2013  
*Education Specialist Teaching and Other Related Services Credential Program Standards*, rev. May 2013  
*California Standards for the Teaching Profession*, October 2009  
*Hiring Hierarchy in Education Code 44225.7, Coded Correspondence 13-01*, January 30, 2013  
*Administrator's Assignment Manual*, 2008

*Management Resources continued: (see next page)*

**INTERNS** (continued)

*Management Resources: (continued)*

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS (continued)

*Preparation of Intern Credential Holders Prior to Service as Teacher of Record as an Intern, Coded Correspondence 08-03, March 3, 2008*

U.S. DEPARTMENT OF EDUCATION GUIDANCE

*Improving Teacher Quality State Grants, rev. October 5, 2006*

WEB SITES

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

Commission on Teacher Credentialing, Interns: <http://www.ctc.ca.gov/educator-prep/intern>

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

**INTERNS**

Note: The following administrative regulation is **optional**. Intern programs must be approved by the Commission on Teacher Credentialing (CTC) and meet all legal requirements for university intern programs (Education Code 44450-44468) or district intern programs (Education Code 44325-44328, 44830.3). They also must satisfy the applicable CTC preconditions and program standards, available on the CTC web site and in its handbooks SB 2042 Multiple Subject and Single Subject Preliminary Credential Program Standards and Education Specialist Teaching and Other Related Services Credential Program Standards.

Districts that offer only district intern programs pursuant to Education Code 44325-44328 may revise the following regulation as appropriate to delete references to a college or university program sponsor.

**Memorandum of Understanding**

Note: Pursuant to 5 CCR 80033, as added by Register 2014, No. 7, every approved intern program must have a signed memorandum of understanding between the district and the college/university teacher preparation program in which interns participate. The memorandum of understanding must detail the support and supervision that will be provided to interns. For requirements related to support and supervision, see the section "Support and Supervision of Interns" below.

Before interns employed by the district assume daily teaching responsibilities, a signed memorandum of understanding shall be in place between the district and the partner college/university detailing the support and supervision that will be provided to interns. (5 CCR 80033)

*(cf. 4112.2 - Certification)*

Note: **Optional** items #1-6 below summarize the major components which the CTC, in its Program Sponsor Alert 13-06, recommends should be addressed in the memorandum of understanding. The district may add other components and/or describe the components in more detail.

The memorandum of understanding shall include, but not be limited to:

1. Specific responsibilities of the program supervisor
2. Qualifications, identification, terms of employment, roles and responsibilities, and training of individual(s) to provide on-site support to interns
3. Allocation of additional personnel, time, and resources for interns who have not yet earned an English learner authorization
4. Expectations regarding the type and frequency of support
5. The process of communication between the program supervisor and on-site support personnel
6. Documentation, monitoring, and evaluation of site support

**INTERNS** (continued)

Note: Pursuant to Education Code 44461-44462, a district participating in a university intern program may enter into an agreement to employ college/university staff to supervise interns and may pay for such supervision out of district funds under the conditions specified below. The district may choose to extend these provisions to interns participating in a district intern program.

The district may enter into an agreement to employ college/university staff to supervise interns and may pay for the supervision of interns out of district funds. Salary payments may be met by proportionately reducing the salaries of paid interns, provided that no more than eight interns are supervised by one staff member, the district salary normally paid to interns is not reduced by more than one-eighth, and the intern is not paid less than the minimum salary required by the state for a regularly certificated teacher. (Education Code 44461-44462)

**Support and Supervision of Interns**

Note: The following paragraph reflects CTC program standards for intern programs.

The Superintendent or designee shall collaborate with the college/university teacher preparation program to design structured guidance of interns, regular site-based support and supervision, and a sequence of supervised fieldwork that includes planned observations, consultations, reflections, and individual and small-group teaching opportunities.

*(cf. 4131 - Staff Development)*

*(cf. 4131.1 - Teacher Support and Guidance)*

Support and supervision provided to interns shall include the following: (Education Code 44830.3; 5 CCR 80033)

Note: Pursuant to Education Code 44830.3, 5 CCR 80033 as added by Register 2014, No. 7, and the preconditions established by the CTC for program approval, the district and college/university must develop and implement a professional development plan whenever it employs interns participating in any CTC-approved intern program.

1. **Professional Development Plan:** The Superintendent or designee shall, in cooperation with the college/university, counsel each intern and, with the concurrence of the intern, shall develop a plan for the intern to complete the requirements to earn a credential in the content or specialty area(s) of the intern credential.

The plan shall include the components described in Education Code 44830.3, including, but not limited to, provisions for at least 120 clock hours (or the semester or quarter unit equivalent) of mandatory preservice training tailored to the grade level or class to be taught, additional instruction during the first semester or first year of service when required, and an annual evaluation of the intern.

**INTERNS** (continued)

2. Assignment of Mentor Teacher: Before an intern assumes daily teaching responsibilities, the Superintendent or designee shall assign him/her a mentor teacher who possesses a valid corresponding life or clear teaching credential and a minimum of three years of successful teaching experience.

Note: The following paragraph reflects CTC program standards for intern programs and may be revised to reflect district practice.

The intern shall receive support from a mentor teacher who is assigned to the same school. If two or more mentor teachers are assigned to an intern, at least one of them shall be experienced in the curricular area(s) of the intern's assignment.

3. Support During School Year: Support and supervision shall include coaching, modeling, and demonstrating within the classroom. In addition, the intern shall receive assistance with course planning and with problem-solving regarding students, curriculum, and effective teaching methodologies.

Such support and supervision shall be provided for a minimum of 144 hours per school year or, for late hires, four hours multiplied by the number of instructional weeks remaining in the school year. At least two hours of support and supervision shall be provided every five instructional days.

4. Additional Support Addressing the Needs of English Learners: For any intern who enters the intern program without a valid English learner authorization, bilingual authorization, or crosscultural, language, and academic development certificate, the Superintendent or designee shall identify an individual who will be immediately available to assist the intern with planning lessons that are appropriately designed and differentiated for English learners, for assessing language needs and progress, and for support of language-accessible instruction through in-classroom modeling and coaching as needed. This individual may be the same mentor identified in item #2 above, provided he/she possesses an English learner authorization and will be immediately available to assist the intern.

In addition, the district and college/university shall provide such interns with additional support and supervision, including in-classroom coaching, specific to the needs of English learners. Such support and supervision shall be provided for 45 hours per school year or, for late hires, five hours multiplied by the number of months remaining in the school year.

An intern who passes the California Teaching English Learners examinations may be exempted from these requirements.

**INTERNS** (continued)**Early Completion Option**

Note: Education Code 44468 requires all intern programs to provide interns an opportunity to challenge the coursework requirements and to demonstrate teaching skills through performance assessments. This option is currently available for interns preparing for either a multiple or single subject teaching credential, but is not available for interns preparing for an education specialist credential.

The Superintendent or designee shall inform qualified interns preparing for a multiple or single subject credential of the early completion option which allows them to challenge certain requirements of the intern program in areas where they have demonstrated competence.

Note: All interns choosing the early completion option must fulfill the qualifications required of all interns (i.e., possess bachelor's degree or higher, satisfy basic skills requirement, complete a course or pass an exam related to the U.S. Constitution, demonstrate subject matter knowledge in the subject to be taught, meet requirements for teacher fitness including submission of LiveScan fingerprinting, have an offer of employment with the district, and be enrolled in an intern program) as well as the additional requirements specified in Education Code 44468. These include requirements to complete the CTC-approved assessment of knowledge of teaching foundations (the National Evaluation Series Assessment of Professional Knowledge), the CTC-approved Teaching Performance Assessment, the reading instruction competence assessment for interns pursuing a multiple subject credential, and foundational computer technology coursework. The candidate must also be recommended by the intern program sponsor. For further information, see CTC's leaflet CL-840 Early Completion Option.

According to the CTC leaflet, the district may require additional instruction deemed necessary for the preparation of the candidate. The following paragraph may be revised to list any such additional district requirements.

In order to complete the intern program early and be recommended for a preliminary credential, candidates shall meet all requirements of the intern credential and the additional assessments and coursework specified in Education Code 44468.

**EVALUATION/SUPERVISION**

Note: Education Code 35171 **mandates** that the Governing Board adopt reasonable regulations related to evaluating the performance of certificated personnel. The following policy and accompanying administrative regulation should be revised to reflect district practice and any applicable provisions of collective bargaining agreements. Pursuant to Government Code 3543.2, procedures to be used for the evaluation of employees are conditions of employment subject to negotiation.

For policy related to the evaluation of certificated administrators and supervisory personnel, see BP 4315 - Evaluation/Supervision.

The Governing Board believes that regular, comprehensive evaluations designed to hold instructional staff accountable for their performance are key to improving their teaching skills and raising students' levels of achievement.

*(cf. 4141/4241 - Collective Bargaining Agreement)*  
*(cf. 4315 - Evaluation/Supervision)*

Evaluations shall be used to recognize the exemplary skills and accomplishments of staff and to identify areas needing improvement. When areas needing improvement are identified, the Board expects employees to accept responsibility for improving their performance and encourages them to take initiative to request assistance as necessary, including participation in appropriate staff development and/or individualized teacher support and guidance programs.

*(cf. 4117.4 - Dismissal)*  
*(cf. 4117.6 - Decision Not to Rehire)*  
*(cf. 4131 - Staff Development)*  
*(cf. 4131.1 - Teacher Support and Guidance)*

Note: Education Code 44662 requires the Board to establish evaluation criteria which, at a minimum, must include the criteria listed in items #1-4 below. The following list may be expanded to include additional criteria adopted by the Board.

The Superintendent or designee shall assess the performance of certificated instructional staff as it reasonably relates to the following criteria: (Education Code 44662)

1. Students' progress toward meeting district standards of expected achievement for their grade level in each area of study and, if applicable, towards the state-adopted content standards as measured by state-adopted criterion-referenced assessments

*(cf. 6011 - Academic Standards)*  
*(cf. 6162.5 - Student Assessment)*  
*(cf. 6162.51 - State Academic Achievement Tests)*

2. The instructional techniques and strategies used by the employee
3. The employee's adherence to curricular objectives

**EVALUATION/SUPERVISION** (continued)

4. The establishment and maintenance of a suitable learning environment within the scope of the employee's responsibilities

Note: The following **optional** paragraph may be revised to reflect district practice. Education Code 44661.5 authorizes the Board, with the agreement of the exclusive representative of the certificated staff, to include any objective evaluation standards from the National Board for Professional Teaching Standards and/or the California Standards for the Teaching Profession, as long as the standards are consistent with Education Code 44660-44665. If the certificated staff do not have an exclusive representative, the Board may adopt objective evaluation and assessment guidelines consistent with Education Code 44661.5. Districts in which there is no exclusive representative should modify the following paragraph accordingly.

With the agreement of the exclusive representative of the certificated staff when applicable, the Superintendent or designee may incorporate objective standards from the National Board for Professional Teaching Standards and/or the California Standards for the Teaching Profession into district evaluation standards.

*(cf. 4119.21/4219.21/4319.21 - Professional Standards)*  
*(cf. 4140/4240/4340 - Bargaining Units)*

The evaluation of certificated employee performance shall not include the use of publishers' norms established by standardized tests. (Education Code 44662)

Noninstructional certificated employees shall be evaluated on their performance in fulfilling their defined job responsibilities. (Education Code 44662)

The Superintendent or designee shall ensure that evaluation ratings have uniform meaning and are uniformly applied throughout the district.

*Legal Reference: (see next page)*



**EVALUATION/SUPERVISION (continued)**

*Legal Reference:*

EDUCATION CODE

33039 *State guidelines for teacher evaluation procedures*

35171 *Availability of rules and regulations for evaluation of performance*

44660-44665 *Evaluation and assessment of performance of certificated employees (the Stull Act)*

GOVERNMENT CODE

3543.2 *Scope of representation*

UNITED STATES CODE, TITLE 20

6319 *Highly qualified teachers*

7801 *Definition of highly qualified teacher*

*Management Resources:*

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

*California Standards for the Teaching Profession, 2009*

WEB SITES

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

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

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

National Board for Professional Teaching Standards: <http://www.nbpts.org>

**EVALUATION/SUPERVISION**

Note: Education Code 35171 **mandates** that the Governing Board adopt reasonable regulations related to evaluating the performance of certificated personnel. **The following administrative regulation and accompanying Board policy should be revised to reflect district practice and any applicable provisions of collective bargaining agreements.**

The following paragraph may be deleted by any district that has not recognized a bargaining unit of certificated employees.

Evaluation of certificated employees shall be conducted in accordance with the procedures established in this administrative regulation and applicable collective bargaining agreements. To the extent that any of those provisions conflict, the procedures in the collective bargaining agreement shall be implemented.

*(cf. 4141/4241 - Collective Bargaining Agreement)*

The Superintendent or designee shall print and make available to certificated employees written regulations related to the evaluation of their performance in their assigned duties. (Education Code 35171)

*(cf. 4112.9 - Employee Notifications)*

**Frequency of Evaluations**

Each probationary certificated employee shall be evaluated at least once each school year. (Education Code 44664)

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

*(cf. 4117.6 - Decision Not to Rehire)*

Each certificated employee with permanent status shall be evaluated and assessed at least every other year. If the employee receives an unsatisfactory evaluation, he/she shall be annually evaluated until he/she achieves a positive evaluation or is separated from the district. (Education Code 44664)

*(cf. 4117.4 - Dismissal)*

Alternatively, if the evaluator and employee agree, a permanent employee shall be evaluated at least every five years provided he/she has been employed by the district at least 10 years, was rated in his/her previous evaluation as meeting or exceeding standards, and meets the qualifications of a highly qualified teacher as defined in 20 USC 7801, if his/her position requires such qualifications. Either the evaluator or the employee may withdraw consent for the alternative schedule at any time. (Education Code 44664)

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

**EVALUATION/SUPERVISION** (continued)**Evaluation Results**

Certificated instructional employees shall receive a written copy of their evaluation no later than 30 days before the last scheduled school day of the school year in which the evaluation takes place. Before the last scheduled school day of the school year, the employee and the evaluator shall meet to discuss the evaluation. (Education Code 44663)

Noninstructional certificated staff members employed on a 12-month basis shall receive a copy of their evaluation no later than June 30 of the year in which the evaluation takes place. Before July 30, the employee and the evaluator shall meet to discuss the evaluation. (Education Code 44663)

Instructional and noninstructional certificated employees shall have the right to respond in writing to their evaluation. This response shall become a permanent attachment to the employee's personnel file. (Education Code 44663)

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

Evaluations shall include recommendations, if necessary, as to areas in need of improvement in the employee's performance. If an employee is not performing satisfactorily according to teaching standards approved by the Governing Board pursuant to Education Code 44662, the Superintendent or designee shall so notify the employee in writing and shall describe the unsatisfactory performance. The Superintendent or designee shall confer with the employee, make specific recommendations as to areas needing improvement, and endeavor to provide assistance to the employee in his/her performance. (Education Code 44664)

Note: Education Code 44664 provides that certificated employees who receive an unsatisfactory rating in teaching methods or instruction may be required to participate in a program to improve their performance. AB 97 (Ch. 47, Statutes of 2013) eliminated the Peer Assistance and Review program (Education Code 44500-44508), but districts may design their own programs of individualized teacher support; see BP/AR 4131.1 - Teacher Support and Guidance.

The Superintendent or designee may require any certificated employee who receives an unsatisfactory rating in the area of teaching methods or instruction to participate in a program designed to improve appropriate areas of performance and to further student achievement and the district's instructional objectives. (Education Code 44664)

*(cf. 4131 - Staff Development)*

*(cf. 4131.1 - Teacher Support and Guidance)*

**Qualifications of Evaluators**

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

**EVALUATION/SUPERVISION** (continued)

The Superintendent or designee shall assign the principal or other appropriate supervisory personnel to evaluate certificated staff. He/she shall ensure that the evaluator:

1. Possesses a valid administrative credential
2. Is competent in the instructional methodologies used by the teachers being evaluated
3. Is skilled in the supervision of instruction and in techniques and procedures related to the evaluation of instruction
4. Is familiar with district curriculum priorities and practices, district standards for student progress, and district policies and procedures related to personnel supervision, performance evaluation, and staff development

**PERSONNEL REDUCTION**

Note: Education Code 44955 and 44955.5 detail the circumstances under which a district may lay off certificated employees for lack of funds, as specified in the following **optional** policy. Collective bargaining agreements also should be reviewed to determine whether any provisions are applicable to the layoff. Government Code 3543.2 provides that, upon request by either the district or certificated employee bargaining unit, the parties must meet and negotiate procedures and criteria for the layoff of certificated employees for lack of funds. If mutual agreement is not reached, then the provisions of Education Code 44955 will apply.

Pursuant to Education Code 44929.21 and 44929.23, a district can choose to not re-elect a probationary employee without cause and without a hearing; see AR 4117.6 - Decision Not to Rehire. The decision to not re-elect a probationary certificated employee for no cause is distinguishable from the causes that must be established to lay off a certificated employee.

Because of the complexity of related Education Code provisions, it is strongly recommended that school districts consult with legal counsel before instituting layoff proceedings for any reason.

The Governing Board may reduce the number of probationary and permanent certificated employees when, in its opinion, any of the following conditions makes such reduction necessary:

1. Average daily attendance (ADA) in all of the schools in the district during the first six months of the school year has declined below the level for the same period in either of the previous two school years. (Education Code 44955)

Note: Layoffs may also be made by reducing or eliminating "particular kinds of service" (PKS). Examples of PKS that may be reduced or eliminated include specific curricular offerings, class size reduction, or nonteaching services.

2. A particular kind of service is to be reduced or discontinued not later than the beginning of the following school year. (Education Code 44955)
3. Attendance in the district will decline in the following year as a result of the termination of an interdistrict tuition agreement. (Education Code 44955)
4. An amendment of state law requires modification of the curriculum. (Education Code 44955)
5. During the time period between five days after the enactment of the Budget Act and August 15 of that fiscal year, the Board determines that the district's total revenue limit per ADA for the fiscal year of that Budget Act has not increased by at least two percent. (Education Code 44955.5)

**Determination of the Order of Layoffs**

Note: In Vergara v. State of California, a California superior court found Education Code 44955 unconstitutional. Education Code 44955 requires that certificated employees with less seniority be laid off before certificated employees with more seniority. However, this decision has been stayed until appeals can be settled. Thus, until further action is taken, Education Code 44955 remains in effect.

**PERSONNEL REDUCTION** (continued)

Pursuant to Education Code 44844, an employee's employment date is considered to be the date he/she first rendered paid service in a probationary position. However, determination of employees' seniority, the order of layoff, and the permissibility of certain exceptions to the order of layoff are complex and require consideration of multiple factors. The district should consult legal counsel in making decisions related to establishing the order of layoff.

When it is necessary to reduce the number of certificated employees for any of the reasons listed above, the services of employees shall be terminated in the inverse of the order in which they were employed by the district in probationary status, except as otherwise authorized by law. (Education Code 44844, 44955)

The Superintendent or designee shall maintain the seniority list for this purpose and shall make it available upon request.

Note: Education Code 44955 grants a permanent employee the right to be retained over a probationary employee or other employee with less seniority if the position is one for which he/she is certificated and competent to render service. However, an employee must pass a subject matter competency test before he/she is assigned to teach a subject which he/she has not previously taught, if he/she does not have a teaching credential or major area of postsecondary study, or the equivalent, in that subject.

Unless otherwise provided by law, a permanent employee shall have the right to be retained over a probationary employee or any employee with less seniority if the position is one for which he/she is certificated and competent to render service. (Education Code 44955)

*(cf. 4112.2 - Certification)*

*(cf. 4112.22 - Staff Teaching English Language Learners)*

*(cf. 4112.23 - Special Education Staff)*

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

*(cf. 4113 - Assignment)*

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

To determine the order of termination between employees who first rendered paid service on the same date, the Board shall rank order those employees solely on the basis of the needs of the district and students. Upon the request of an employee whose order of termination is to be determined based on such ranking, the Board shall furnish the employee, no later than five days prior to the commencement of the administrative hearing on the layoff, a written statement of the specific criteria used in determining the order of termination and the application of the criteria in ranking the employee relative to the other employees in the group. (Education Code 44955)

The district may deviate from terminating certificated employees in order of seniority for either of the following reasons: (Education Code 44955, 44956)

**PERSONNEL REDUCTION** (continued)

1. To fill a demonstrated specific need for personnel to teach a specific course or courses of study, or to provide services authorized by a services credential with a specialization in either student personnel services or health for a school nurse, when the certificated employee has the necessary special training and experience which others with more seniority do not possess
2. To maintain or achieve compliance with constitutional requirements related to equal protection of the law

**Notice and Hearing Rights**

Note: In California Teachers Association v. Vallejo City Unified School District, the court found that state law expressly provides layoff rights to permanent and probationary employees but makes no further distinction based on the status of an employee's credential. According to the court, "provisional" is not a recognized classification for the purpose of determining an employee's status and rights during a layoff. Thus, unless classified as a substitute or temporary employee in accordance with law, an employee with provisional certification (e.g., intern credential, emergency credential, short-term staff permit, provisional internship permit) would by default be classified as probationary pursuant to Education Code 44915 and would be entitled to layoff rights, including notice and hearing rights, applicable to probationary employees.

When it becomes necessary to reduce the number of permanent and/or probationary employees pursuant to Education Code 44955 as specified in items #1-4 above, the district shall give notice to the affected employees, no later than March 15, stating the reasons for the action and the employees' right to a hearing. The district shall adhere to the notice, hearing, and layoff procedures in Education Code 44949, 44955, and other applicable provisions of law.

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

Note: Education Code 44949 allows employees given notice of a layoff to request a hearing before an administrative law judge. On or before May 7, the administrative law judge must submit the proposed decision, containing a determination as to the sufficiency of the cause and a recommendation as to disposition regarding the layoff, to the Board for consideration and to affected employees.

When an employee has requested a hearing before an administrative law judge regarding the reduction or discontinuation of services, the Board shall make a final decision regarding the sufficiency of the cause and disposition of the layoff upon receipt of the administrative law judge's proposed decision. None of the findings, recommendations, or determinations of the administrative law judge shall be binding on the Board. (Education Code 44949)

The Board may conduct its own hearing, adopt the administrative law judge's proposed decision, refer the case back to the administrative law judge for additional evidence, or reject or modify the proposed decision and make its own determination based upon its review of the record.

**PERSONNEL REDUCTION** (continued)

Following the Board's decision, the Superintendent or designee shall give final notice, in the manner specified, to the affected employees before May 15 unless the parties agree otherwise in accordance with procedures required by law. (Education Code 44955)

When layoffs become necessary pursuant to Education Code 44955.5 as specified in item #5 above, layoff proceedings shall be carried out as required by law but in accordance with a schedule of notice and hearing adopted by the Board. (Education Code 44955.5)

**Reappointment**

If the number of employees is increased or the discontinued service reestablished, permanent certificated employees shall have the right to reappointment, in order of seniority, for 39 months from the date of termination. Probationary certificated employees shall have the same right for 24 months after being terminated, subject to the prior reappointment rights of permanent employees. (Education Code 44846, 44956, 44957)

Note: Education Code 44956 and 44957 grant priority for substitute service to employees who have been laid off pursuant to Education Code 44955, during the period of preferred right to reappointment, as provided below and in BP 4121 - Temporary/Substitute Personnel. Education Code 44957 gives permanent employees first priority for substitute service over probationary employees. However, Education Code 44918 and 44957 give probationary employees laid off pursuant to Education Code 44955 first rights to any vacant position in which they are qualified to serve over other employees whose right to a substitute position is derived from Education Code 44918 (i.e., substitute or temporary employees who become probationary employees after serving for at least 75 percent of the school days in a school year).

If such a laid-off employee serves as a substitute in any position requiring certification for 21 days or more within a period of 60 school days during any school year, the compensation he/she receives during that 60-day period, including the first 20 days of substitute service, must not be less than he/she would receive if he/she were being reappointed.

During the period of the preferred right to reappointment, permanent certificated employees shall, in the order of original employment, be offered first opportunity for substitute service during the absence of any employee who has been granted a leave of absence or who is temporarily absent from duty. Such substitute service may be terminated upon the return to duty of the other employee. Such substitute service shall not affect the retention of the employees' previous classification and rights. Probationary certificated employees shall have the same right to substitute service during the period of preferred right to reappointment to the extent required by law, subject to the rights of permanent certificated employees. (Education Code 44918, 44956, 44957)

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



**PERSONNEL REDUCTION** (continued)

Before reappointing any certificated employee to teach a subject which he/she has not previously taught and for which he/she does not have a teaching credential or which is not within the employee's major area of postsecondary study, the Board shall require the employee to pass a subject matter competency test in the appropriate subject. (Education Code 44956)

Reappointed certificated employees shall not be subject to any requirements that were not imposed on employees who continued in service. Their period of absence shall be treated as a leave of absence and not considered a break in the continuity of their service. (Education Code 44956, 44957)

*Legal Reference:*EDUCATION CODE

44830 *Employment of certificated persons*  
 44949 *Dismissal of probationary employees*  
 44955 *Reduction in number of permanent employees*  
 44955.5 *Termination of certificated employees*  
 44956-44959.5 *Rights of employees*

GOVERNMENT CODE

3543.2 *Scope of representation*

UNEMPLOYMENT INSURANCE CODE

1089 *Notification of unemployment insurance benefits*

CODE OF REGULATIONS, TITLE 22

1089-1 *Notification of unemployment insurance benefits*

COURT DECISIONS

*Vergara v. State of California*, (2014) Superior Court State of California, County of Los Angeles, Case. No. BC 484642

*California Teachers Association v. Vallejo City Unified School District*, (2007) 149 Cal.App.4th 135

*Bakersfield Elementary Teachers Association v. Bakersfield City School District*, (2006) 145 Cal.App.4th 1260

*Cousins v. Weaverville Elementary School District*, (1994) 24 Cal.App.4th 1846

*Forker v. Board of Trustees*, (1984) 160 Cal.App.3d 13

*Moreland Teachers Assoc. v. Kurze*, (1980) 109 Cal.App.3d 648

*King v. Berkeley Unified School District*, (1979) 89 Cal.App.3d 1016

*Management Resources:*WEB SITES

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

**TEACHER SUPPORT AND GUIDANCE**

Note: The following **optional** policy may be revised to reflect district practice and any collective bargaining provisions related to implementation of the district's individualized teacher support and guidance program(s).

AB 97 (Ch. 47, Statutes of 2013) eliminated a number of categorical programs that funded support and guidance for new teachers and other teachers who would benefit from assistance, including the Certificated Staff Mentoring Program for low-performing schools (Education Code 44560-44562), the Peer Assistance and Review program (Education Code 44500-44508), the alternative certification program to address teacher shortages in geographic or subject matter areas (Education Code 44380-44387), the enhanced intern program (Education Code 44387), and the Teacher Credentialing Block Grant (Education Code 41520-41522) which funded the Beginning Teacher Support and Assessment program (Education Code 44279.1-44279.7).

However, beginning teachers are still required pursuant to Education Code 44259 to complete an induction program approved by the Commission on Teacher Credentialing (CTC) in order to fulfill the requirements for a clear teaching credential. In addition, the requirements to provide support and guidance to interns participating in a university or district intern program (see BP/AR 4112.21 - Interns) and to teachers who possess a short-term staff permit, provisional internship permit, or emergency permit (see AR 4112.2 - Certification) remain applicable. Furthermore, it is widely recognized that intensive teacher support programs can benefit more experienced but struggling teachers and increase both teacher quality and retention.

The Governing Board recognizes the link between teacher effectiveness and student learning and desires to provide structured, individualized support and guidance to teachers as necessary to enhance their performance and support teacher retention. The Superintendent or designee shall develop a program of intensive professional development and consultation to help interns and beginning teachers apply their academic preparation more effectively in the classroom and to assist other teachers who need additional development in subject matter knowledge, instructional methods, and/or classroom management.

*(cf. 4112.21 - Interns)*

The Superintendent or designee shall coordinate individualized teacher support and guidance activities developed pursuant to this policy with other district staff development programs and staff evaluation processes.

*(cf. 4115 - Evaluation/Supervision)*

*(cf. 4131 - Staff Development)*

Teachers may volunteer to participate in a teacher support and guidance program or may be referred to such services based on their performance evaluation.

Support providers shall be experienced certificated personnel who are knowledgeable about teacher development and needed competencies and have strong interpersonal and communication skills. Support may include, but is not limited to, classroom observations, regular meetings with the support provider, and an individualized plan for professional development or coursework that takes into consideration the teacher's assignment and prior preparation and experience. The roles and responsibilities of support providers shall be clearly defined in writing and communicated to all participants.

## **TEACHER SUPPORT AND GUIDANCE** (continued)

The Superintendent or designee shall ensure the timely assignment of qualified support providers to participating teachers and for reassignment as needed. He/she shall also ensure that each support provider receives appropriate training to serve in a support capacity and is provided adequate time and resources to assist other teachers.

The district may provide a stipend to support providers in accordance with the collective bargaining agreement and district budget.

*(cf. 3100 - Budget)*

*(cf. 4141/4241 - Collective Bargaining Agreement)*

The performance of a participating teacher shall be monitored by the support provider, Superintendent or designee, and/or a panel of teachers and administrators in order to determine whether the teacher has met program goals and to make recommendations for follow-up support or employment action, as appropriate.

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

*(cf. 4117.4 - Dismissal)*

*(cf. 4117.6 - Decision Not to Rehire)*

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

The Superintendent or designee shall regularly evaluate the district's teacher support and guidance programs and shall report to the Board regarding program effectiveness in meeting district goals for teacher quality and retention. Evaluation reports may include, but are not limited to, data on program enrollment and completion, subsequent retention rates of participating teachers, and interviews or surveys of program participants.

*(cf. 0500 - Accountability)*

### **Beginning Teacher Induction Program**

Note: The following paragraph may be revised to reflect induction program(s) available to district teachers. Pursuant to Education Code 44259, a teacher with a preliminary credential may complete the induction requirement for the clear credential through a program offered by one or more local educational agencies or by a regionally accredited college or university in cooperation with one or more school districts, provided that the program has been approved by the CTC and the Superintendent of Public Instruction. If a beginning teacher induction program is unavailable or the teacher needs to complete subject matter coursework to be qualified for a teaching assignment under the No Child Left Behind Act (see BP/AR 4112.24 - Teacher Qualifications Under the No Child Left Behind Act), he/she may instead complete a general education clear credential program through an accredited teacher preparation program at a California college or university.

The Superintendent or designee shall inform beginning teachers who possess a preliminary credential about induction programs or other options that are available to help them fulfill the requirements of the clear multiple subject, single subject, or education specialist credential pursuant to Education Code 44259.

**TEACHER SUPPORT AND GUIDANCE** (continued)

*(cf. 4112.2 - Certification)*

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

Note: **The remainder of this section is for use by districts that have been approved by the CTC as a sponsor of an induction program pursuant to Education Code 44259.** All such programs must meet preconditions for program approval and program standards adopted by the CTC.

The district's beginning teacher induction program shall meet program standards adopted by the CTC and shall support beginning teachers in meeting the competencies described in the California Standards for the Teaching Profession.

The beginning teacher's knowledge and classroom practice shall be regularly assessed using multiple measures and the results shall be used to monitor and revise individual induction plans. The Superintendent or designee shall maintain a complete record of each participating teacher's progress toward completion of clear credential requirements.

When the teacher has successfully completed the induction program, the Board shall recommend to the CTC that he/she be awarded a clear teaching credential.

*Legal Reference: (see next page)*

**TEACHER SUPPORT AND GUIDANCE (continued)**

*Legal Reference:*

EDUCATION CODE

44259 *Credential requirements*

44259.5 *Standards for professional preparation programs*

44275.4 *Credential requirements, induction, out-of-state teachers*

44325-44328 *District interns*

44450-44468 *University interns*

44830.3 *Interns, professional development and guidance*

CODE OF REGULATIONS, TITLE 5

6100-6126 *Teacher qualifications, No Child Left Behind Act*

80021 *Short-term staff permit*

80021.1 *Provisional internship permit*

80026.5 *Orientation, guidance, and assistance for emergency permit holders*

80033 *Intern teaching credential*

80055 *Intern credential*

80413 *Credential requirements*

80413.3 *Credential requirements; teachers with out-of-state credentials*

UNITED STATES CODE, TITLE 20

6319 *Highly qualified teachers*

6601-6702 *Preparing, training and recruiting high quality teachers and principals*

7801 *Definitions, highly qualified teacher*

*Management Resources:*

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

SB 2042 Multiple Subject and Single Subject Preliminary Credential Program Standards, rev.

February 2014

*Intern Preservice, Support and Supervision Requirements: Preparation to Teach English Learners,*

*Program Sponsor Alert 13-06, June 3, 2013*

Education Specialist Teaching and Other Related Services Credential Program Standards, rev. May

2013

Multiple and Single Subject Induction Programs (program standards, preconditions, and language addressing the teaching of English learners), rev. January 2013

California Standards for the Teaching Profession, October 2009

WEB SITES

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

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

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

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

**TEACHER SUPPORT AND GUIDANCE**

Note: The following **optional** administrative regulation may be revised to reflect district practice and any applicable collective bargaining provisions.

**Selection of Support Providers**

The Superintendent or designee shall design a written application for certificated personnel who want to be mentor teachers or support providers.

Note: Items #1-3 address qualifications of support providers and may be revised to reflect district practice. Pursuant to 5 CCR 80033, as added by Register 2014, No. 7, a district employing university and/or district interns pursuant to Education Code 44325-44328 or 44450-44468 must identify a mentor teacher who possesses a valid life or clear teaching credential and a minimum of three years of successful teaching experience; see AR 4112.21 - Interns. In addition, 5 CCR 80021.1 and 80026.5 require that a mentor teacher assigned to assist the holder of a provisional internship permit or emergency permit must be a certificated district employee or certificated retiree from a California district or county office of education who has completed at least three years of full-time classroom teaching experience; see AR 4112.2 - Certification. 5 CCR 80021 requires assignment of a mentor teacher to a holder of a short-term staff permit but does not specify qualifications for such mentors. CTC preconditions for approval of a beginning teacher induction program require that support providers hold a valid California teaching credential or equivalent professional background and experience. The following items are consistent with the requirements of these programs and apply the same criteria to the selection of support providers for any district induction or support program.

Any employee designated by the Superintendent or designee as a support provider shall, at a minimum, meet the following qualifications:

1. Possess a clear credential

*(cf. 4112.2 - Certification)*

2. Have at least three years of full-time teaching experience
3. Have demonstrated effective communication skills, subject matter knowledge, and mastery of a range of teaching strategies necessary to meet the needs of students

The Superintendent or designee may establish a districtwide or school site advisory committee to verify that candidates fulfill the qualifications established by the district, interview candidates, and recommend candidates to the Superintendent or designee.

The Superintendent or designee shall make the final selection of support providers and shall assign support providers to participating teachers. To the extent possible, the assigned support provider shall be one who teaches at the same school, the same grade levels, and/or in the same subject matter as the teacher(s) to whom he/she is assigned. No support provider shall be assigned to more than five teachers during a school year.

*(cf. 4113 - Assignment)*

**TEACHER SUPPORT AND GUIDANCE** (continued)

The Superintendent or designee shall regularly evaluate the effectiveness of the support provider and may reassign or revoke his/her designation as a support provider.

**Peer Review Panel**

Note: AB 97 (Ch. 47, Statutes of 2013) eliminated the Peer Assistance and Review program (Education Code 44500-44508), which required the establishment of a joint teacher-administrator peer review panel to support teachers who volunteered or were referred to the program. The following **optional** section is for use by districts that choose to continue to operate such a program and should be revised to reflect district practice.

The Superintendent or designee shall establish a peer review program to provide struggling teachers with feedback and guidance. When a teacher volunteers to participate or is referred by the principal due to unsatisfactory performance, written performance goals shall be established which are aligned with student learning and teacher evaluation criteria. The teacher shall be assigned a consulting teacher who shall provide assistance and review through multiple observations of the teacher during periods of classroom instruction. In addition, the teacher shall participate in sufficient professional development activities to assist him/her to improve teaching skills and knowledge. The consulting teacher shall maintain a written record of the teacher's activities and performance and shall regularly communicate with the principal regarding the teacher's progress.

*(cf. 4115 - Evaluation/Supervision)*

The Superintendent or designee shall establish a joint teacher-administrator peer review panel composed of a majority of teachers selected by other teachers, with the remainder consisting of administrators selected by the Superintendent or designee. The joint teacher-administrator peer review panel shall review reports prepared by the consulting teacher and shall make recommendations to the Superintendent or designee as to whether the participating teacher should be exited from the program due to satisfactory improvement, remain in the program because he/she would possibly benefit from additional support from the program, or be recommended for dismissal.

*(cf. 4117.4 - Dismissal)*

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

**EVALUATION/SUPERVISION**

Note: Education Code 35171 **mandates** that the Governing Board adopt reasonable regulations related to evaluating the performance of certificated personnel, including certificated administrative and supervisory personnel. The following policy addresses the evaluation of both certificated and classified administrative and supervisory personnel and should be revised to reflect district practice.

For policy related to the evaluation of the Superintendent, see BP 2140 - Evaluation of the Superintendent.

The Governing Board believes that regular, comprehensive evaluations designed to hold administrative and supervisory staff accountable for their performance are key to improving their instructional leadership and management skills. Evaluations shall be linked to the district's vision and goals and school improvement plans.

*(cf. 0000 - Vision)*  
*(cf. 0200 - Goals for the School District)*  
*(cf. 0460 - Local Control and Accountability Plan)*  
*(cf. 0500 - Accountability)*  
*(cf. 2140 - Evaluation of the Superintendent)*  
*(cf. 4300 - Administrative and Supervisory Personnel)*

Evaluations shall be used to recognize the exemplary skills and accomplishments of administrative and supervisory employees, serve as a criterion for contract renewals, and identify areas needing improvement. When the evaluation indicates areas needing improvement, the Board expects employees to take the initiative to improve their performance and for their supervisors to assist them in obtaining needed job skills.

*(cf. 4331 - Staff Development)*

Note: Administrative and supervisory personnel covered by employee contracts (see BP 4312.1 - Contracts) must be evaluated in accordance with any related contract provisions. If the district has recognized a bargaining unit of supervisory employees (see BP 4140/4240/4340 - Bargaining Units), evaluation procedures for those employees are subject to negotiation pursuant to Government Code 3543.2. The following paragraph should be revised to reflect district practice.

Administrative and supervisory employees shall be evaluated in accordance with provisions of employee contracts and/or applicable collective bargaining agreements as appropriate.

*(cf. 4140/4240/4340 - Bargaining Units)*  
*(cf. 4312.1 - Contracts)*

Note: Education Code 35171 requires the district to make available to certificated employees written regulations related to evaluation; see AR 4115 - Evaluation/Supervision and E 4112.9 - Employee Notifications. The following paragraph extends the distribution of these regulations to all administrative and supervisory employees, including classified personnel, and may be revised to reflect district practice.

The Superintendent or designee shall make written evaluation procedures available to all administrative and supervisory employees.

*(cf. 4112.9 - Employee Notifications)*



**EVALUATION/SUPERVISION** (continued)

Note: The following **optional** paragraph, including the frequency of evaluations, should be revised to reflect district practice and any applicable collective bargaining agreement with supervisory employees. Education Code 44670 authorizes the Board to identify an evaluator for each principal, require annual evaluations for the first and second year of employment as a new principal in the district, and establish the frequency of evaluations after the first two years of employment. Education Code 44670 also authorizes the evaluator and principal to agree upon additional evaluations outside of the regular intervals determined by the Board.

An employee shall be evaluated annually for the first and second years of employment as an administrator or supervisor in the district, and at least every two years thereafter, unless otherwise provided for in an employee contract or collective bargaining agreement. Evaluations may occur between scheduled periods at the request of the employee, his/her supervisor, or the Superintendent or designee.

The Superintendent or designee shall establish clear, objective criteria for evaluation based on the job responsibilities of each administrative or supervisory position.

Note: Items #1-9 below are **optional** and may be revised to reflect district practice. Pursuant to Education Code 44671, criteria for evaluation of principals may be based on the California Professional Standards for Educational Leaders (CPSEL) and the criteria listed below. As adopted by the Commission on Teacher Credentialing in February 2014, the CPSEL describe the knowledge, skills, and abilities needed by school administrators with respect to the development and implementation of a shared vision, instructional leadership, management and learning environment, family and community engagement, ethics and integrity, and external context and policy; see E 4319.21 - Professional Standards.

Evaluation criteria for certificated school site administrators may be based on the California Professional Standards for Educational Leaders (CPSEL) and also may include, but not be limited to, evidence of: (Education Code 44671)

1. Academic growth of students, based on multiple measures which may include student work as well as student and school longitudinal data that demonstrate academic growth over time

Assessments used for this purpose shall be valid and reliable and used for the intended purposes and for the appropriate student populations. Local and state academic assessments may include, but are not limited to, state standardized assessments and formative, summative, benchmark, end-of-chapter, end-of-course, Advanced Placement, International Baccalaureate, college entrance, and performance assessments.

*(cf. 6162.5 - Student Assessment)*

*(cf. 6162.51 - State Academic Achievement Tests)*

*(cf. 6141.5 - Advanced Placement)*

**EVALUATION/SUPERVISION** (continued)

2. Effective and comprehensive teacher evaluations, including, but not limited to, curricular and management leadership, ongoing professional development, teacher-principal teamwork, and professional learning communities
3. Culturally responsive instructional strategies to address and eliminate the achievement gap
4. The ability to analyze quality instructional strategies and provide effective feedback that leads to instructional improvement
5. High expectations for all students and leadership to ensure active student engagement and learning
6. Collaborative professional practices for improving instructional strategies
7. Effective school management, including personnel and resource management, organizational leadership, sound fiscal practices, a safe campus environment, and appropriate student behavior
8. Meaningful self-assessment to improve as a professional educator, which may include, but not be limited to, a self-assessment based on the CPSEL and the identification of areas of strengths and areas for professional growth to engage in activities to foster professional growth
9. Consistent and effective relationships with students, parents/guardians, teachers, staff, and other administrators

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

The evaluation shall be dated and signed by the employee and evaluator. The employee may respond in writing to the evaluation within a reasonable time after receiving a copy of the evaluation. The response shall be attached to the evaluation and placed in the employee's personnel file.

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

*Legal Reference: (see next page)*

**EVALUATION/SUPERVISION (continued)**

*Legal Reference:*

EDUCATION CODE

35171 Availability of rules and regulations for evaluation of performance

44660-44665 Evaluation and assessment of performance of certificated employees

44670-44671 Principal evaluation

45113 Rules and regulations for the classified service in districts not incorporating the merit system

GOVERNMENT CODE

3540.1 Meeting and negotiating in public educational employment, definitions

3543.2 Scope of representation

3545 Determination of bargaining units

*Management Resources:*

COMMISSION ON TEACHER CREDENTIALING PUBLICATIONS

California Professional Standards for Educational Leaders

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>

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

**PROFESSIONAL STANDARDS**

**CALIFORNIA PROFESSIONAL STANDARDS FOR EDUCATIONAL LEADERS**

Note: The following exhibit reflects the California Professional Standards for Educational Leaders (CPSEL), as adopted by the Commission on Teacher Credentialing (CTC) in February 2014, which describe the knowledge, skills, and abilities needed by school administrators. The CPSEL are the foundation for administrative services credential programs and are used by many districts for administrator induction programs and professional development. Pursuant to Education Code 44671, the CPSEL also may be used by districts as a basis for establishing criteria for evaluating principals; see BP 4315 - Evaluation/Supervision.

As provided below, the CPSEL describes six areas of responsibilities for an education leader, each of which is followed by several "elements" intended to clarify the standard and to organize and define key actions within that standard. Sample indicators, which provide examples of how an education leader might demonstrate the element or standard within his/her practice, are listed in the full CPSEL, available on the CTC's web site.

**Standard 1. Development and Implementation of a Shared Vision:** Education leaders facilitate the development and implementation of a shared vision of learning and growth of all students.

- 1A. Student-Centered Vision: Leaders shape a collective vision that uses multiple measures of data and focuses on equitable access, opportunities, and outcomes for all students.
- 1B. Developing Shared Vision: Leaders engage others in a collaborative process to develop a vision of teaching and learning that is shared and supported by all stakeholders.
- 1C. Vision Planning and Implementation: Leaders guide and monitor decisions, actions, and outcomes using the shared vision and goals.

**Standard 2. Instructional Leadership:** Education leaders shape a collaborative culture of teaching and learning informed by professional standards and focused on student and professional growth.

- 2A. Professional Learning Culture: Leaders promote a culture in which staff engages in individual and collective professional learning that results in their continuous improvement and high performance.
- 2B. Curriculum and Instruction: Leaders guide and support the implementation of standards-based curriculum, instruction, and assessments that address student expectations and outcomes.
- 2C. Assessment and Accountability: Leaders develop and use assessment and accountability systems to monitor, improve, and extend educator practice, program outcomes, and student learning.

**PROFESSIONAL STANDARDS** (continued)

**Standard 3. Management and Learning Environment:** Education leaders manage the organization to cultivate a safe and productive learning and working environment.

- 3A. Operations and Facilities: Leaders provide and oversee a functional, safe, and clean learning environment.
- 3B. Plans and Procedures: Leaders establish structures and employ policies and processes that support students to graduate ready for college and career.
- 3C. Climate: Leaders facilitate safe, fair, and respectful environments that meet the intellectual, linguistic, cultural, social-emotional, and physical needs of each learner.
- 3D. Fiscal and Human Resources: Leaders align fiscal and human resources and manage policies and contractual agreements that build a productive learning environment.

**Standard 4. Family and Community Engagement:** Education leaders collaborate with families and other stakeholders to address diverse student and community interests and mobilize community resources.

- 4A. Parent and Family Engagement: Leaders meaningfully involve all parents and families, including underrepresented communities, in student learning and support programs.
- 4B. Community Partnerships: Leaders establish community partnerships that promote and support students to meet performance and content expectations and graduate ready for college and career.
- 4C. Community Resources and Services: Leaders leverage and integrate community resources and services to meet the varied needs of all students.

**Standard 5. Ethics and Integrity:** Education leaders make decisions, model, and behave in ways that demonstrate professionalism, ethics, integrity, justice, and equity and hold staff to the same standard.

- 5A. Reflective Practice: Leaders act upon a personal code of ethics that requires continuous reflection and learning.
- 5B. Ethical Decision-Making: Leaders guide and support personal and collective actions that use relevant evidence and available research to make fair and ethical decisions.

**PROFESSIONAL STANDARDS** (continued)

- 5C. Ethical Action: Leaders recognize and use their professional influence with staff and the community to develop a climate of trust, mutual respect, and honest communication necessary to consistently make fair and equitable decisions on behalf of all students.

**Standard 6. External Context and Policy:** Education leaders influence political, social, economic, legal, and cultural contexts affecting education to improve education policies and practices.

- 6A. Understanding and Communicating Policy: Leaders actively structure and participate in opportunities that develop greater public understanding of the education policy environment.
- 6B. Professional Influence: Leaders use their understanding of social, cultural, economic, legal, and political contexts to shape policies that lead all students to graduate ready for college and career.
- 6C. Policy Engagement: Leaders engage with policymakers and stakeholders to collaborate on education policies focused on improving education for all students.

**DROPOUT PREVENTION**

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

AB 97 (Ch. 47, Statutes of 2013) eliminated the Pupil Retention Block Grant (Education Code 41505-41508), which had provided funding for opportunity classes and programs; supplemental instruction; and dropout prevention and recovery programs, including educational clinics, alternative work centers, and the school-based student motivation and maintenance program. At their discretion, districts may use funding from the local control funding formula to provide services that support dropout prevention efforts.

The Governing Board expects all students to remain in school until graduation in order to acquire critical knowledge and skills and be prepared for postsecondary education and/or employment. The Superintendent or designee shall identify factors that impede student success in school and shall implement integrated, systemic support and strategies that address dropout prevention and promote timely intervention and recovery.

*(cf. 6011 - Academic Standards)*  
*(cf. 6146.1 - High School Graduation Requirements)*  
*(cf. 6146.2 - Certificate of Proficiency/High School Equivalency)*  
*(cf. 6146.5 - Elementary/Middle School Graduation Requirements)*

The Superintendent or designee, in collaboration with community agencies and organizations as appropriate, shall develop districtwide and schoolwide strategies that support regular school attendance for all students. Dropout prevention strategies shall include efforts to provide a safe and positive learning environment that engages and motivates students, encourages students' connectedness to the schools, offers meaningful educational opportunities, and promotes student health and well-being.

*(cf. 5136 - Gangs)*  
*(cf. 5137 - Positive School Climate)*  
*(cf. 5146 - Married/Pregnant/Parenting Students)*  
*(cf. 6171 - Title I Programs)*  
*(cf. 6173 - Education for Homeless Children)*  
*(cf. 6173.1 - Education for Foster Youth)*  
*(cf. 6173.2 - Education of Children of Military Families)*  
*(cf. 6175 - Migrant Education Program)*

In addition, the Superintendent or designee shall develop strategies to provide targeted support to individual students who are at risk of dropping out of school. Students may be identified based on indicators such as chronic absenteeism, truancy, or tardiness; below-grade-level academic achievement as evidenced by student assessment results and/or teacher evaluations; and personal, social, health, or economic circumstances that may affect student performance and behavior in school.

*(cf. 5113 - Absences and Excuses)*  
*(cf. 5113.1 - Chronic Absence and Truancy)*  
*(cf. 5123 - Promotion/Acceleration/Retention)*  
*(cf. 6162.5 - Student Assessment)*

**DROPOUT PREVENTION** (continued)

*(cf. 6162.51 - State Academic Achievement Tests)*

*(cf. 6162.52 - High School Exit Examination)*

Strategies to support students at risk of dropping out of school may include, but are not limited to:

1. Meetings and/or home visits with the student and parent/guardian to identify and address barriers to the student's success and inform them of the state's compulsory education law

*(cf. 6020 - Parent Involvement)*

2. Individualized instruction that responds to the needs and unique learning styles of students
3. Supplemental instruction during or outside the school day that is designed to help students overcome academic deficiencies

*(cf. 6176 - Weekend/Saturday Classes)*

*(cf. 6177 - Summer Learning Programs)*

*(cf. 6179 - Supplemental Instruction)*

4. Enrollment in alternative or specialized educational programs

*(cf. 6158 - Independent Study)*

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

*(cf. 6172 - Gifted and Talented Student Program)*

*(cf. 6178 - Career Technical Education)*

*(cf. 6178.2 - Regional Occupational Center/Program)*

*(cf. 6181 - Alternative Schools/Programs of Choice)*

*(cf. 6183 - Home and Hospital Instruction)*

*(cf. 6184 - Continuation Education)*

*(cf. 6185 - Community Day School)*

5. Assistance locating employment or work-based learning opportunities which link classroom learning with real-world experiences

*(cf. 5113.2 - Work Permits)*

*(cf. 6178.1 - Work-Based Learning)*

6. Academic guidance and personal counseling services

*(cf. 6164.2 - Guidance/Counseling Services)*



**DROPOUT PREVENTION** (continued)

7. Referral to a student success team, school attendance review board, or other team that addresses persistent attendance problems

*(cf. 6164.5 - Student Success Teams)*

Note: A student assistance program (SAP) is an integrated effort to intervene with students for substance abuse, mental health, emotional, or social issues by connecting education, programs, and school and community services to create a network of supports for students. For resources related to the implementation of SAPs, see the web sites of the California Department of Education and California SAP Resource Center.

8. Referral to school and/or community support services, such as a student assistance program, health services, social services, a substance abuse program, and other resources

*(cf. 1020 - Youth Services)*

*(cf. 5030 - Student Wellness)*

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

*(cf. 5141.6 - School Health Services)*

9. Continued monitoring of student attendance

10. Employment of qualified outreach consultants to perform duties related to dropout identification, prevention, intervention, and recovery as assigned

Note: Education Code 52060, as added by AB 97 (Ch. 47, Statutes of 2013), requires districts to develop a local control and accountability plan (LCAP) which includes goals and actions aligned with specified state priorities, including student engagement; see BP/AR 0460 - Local Control and Accountability Plan. Pursuant to Education Code 52060, student engagement should be measured by school attendance rates, chronic absenteeism rates, middle school dropout rates, high school dropout rates, and high school graduation rates, as applicable, and any additional metrics developed and selected by the district. Actions identified to address other state priorities (e.g., school climate, student achievement) may also contribute to dropout prevention.

The strategies may be incorporated into the district's local control and accountability plan and linked to district goals for student engagement, school climate, and student achievement.

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

*(cf. 0460 - Local Control and Accountability Plan)*

The Superintendent or designee shall ensure that employees are trained to support at-risk students and are prepared to implement intervention strategies or to make appropriate referrals to support services.

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

**DROPOUT PREVENTION** (continued)

When a student leaves school prior to the end of a school year, or when a student successfully completed the prior school year but did not begin attending the next grade or school that he/she was expected to attend or had pre-registered to attend, the Superintendent or designee shall make efforts to determine whether the student has dropped out or has transferred to another educational setting. The Superintendent or designee may contact the student's parents/guardians to verify school enrollment and, if necessary, shall implement intervention and recovery efforts.

Note: The following **optional** paragraph reflects indicators specified in Education Code 52060 as measures of student engagement for purposes of the LCAP, and may be revised to reflect district practice and the grade levels offered by the district.

Using data submitted by districts through the California Longitudinal Pupil Achievement Data System, the California Department of Education calculates four-year graduation and dropout rates for districts, schools, and counties. This information is used to determine whether schools and districts meet their targets for increasing the graduation rate in reporting "adequate yearly progress" under the federal accountability system.

The Superintendent or designee shall annually report to the Board on measures of student engagement, including school attendance rates, chronic absenteeism rates, middle school and high school dropout rates, and high school graduation rates. The Board shall monitor district progress in increasing student retention in school and may require revisions in district plans and strategies as needed.

*(cf. 0500 - Accountability)*

*Legal Reference: (see next page)*

## **DROPOUT PREVENTION (continued)**

### *Legal Reference:*

#### EDUCATION CODE

35160 Authority of governing board  
48200 Compulsory education  
48260-48273 Truancy  
48400-48403 Compulsory continuation education  
48430-48438 Continuation education  
48660-48666 Community day schools  
49600-49604 Educational counseling  
51260-51269 Gang and substance abuse prevention curriculum  
51745-51749.3 Independent study  
52060-52077 Local control and accountability plan  
52300-52334 Regional occupational centers and programs  
52890 Qualifications and duties of outreach consultants  
54690-54697 Partnership academies  
60900-60901 California Longitudinal Pupil Achievement Data System  
64000-64001 Single plan for student achievement

#### WELFARE AND INSTITUTIONS CODE

18986.40-18986.46 Interagency children's services programs

#### UNITED STATES CODE, TITLE 20

6301-6322 Title I programs

### *Management Resources:*

#### CSBA PUBLICATIONS

*California High School Graduation and Dropout Rates, Fact Sheet, May 2013*

#### WEB SITES

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

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

California Dropout Research Project: <http://www.cdrp.ucsb.edu>

California Student Assistance Program Resource Center: <http://www.casapresources.org>

National Dropout Prevention Center: <http://www.dropoutprevention.org>

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

**CERTIFICATE OF PROFICIENCY/HIGH SCHOOL EQUIVALENCY****Certificate of Proficiency**

Note: Pursuant to Education Code 48412, the State Board of Education (SBE) will award a "certificate of proficiency" to persons who pass the California High School Proficiency Examination (CHSPE) established by the California Department of Education (CDE) to assess proficiency in reading, writing, and mathematics skills. A list of test centers and testing dates (once in the fall and once in the spring) is available on the CHSPE web site. The CDE will keep a permanent record of the issuance of all certificates.

5 CCR 11523 requires the principal of each high school to distribute information about the exam to students in grades 11-12. A flyer that may be used for this purpose is available on the CDE web site in both English and Spanish. At their discretion, districts may revise the following paragraph to require distribution of such information to students in grade 10.

The principal of each school maintaining grades 11 and 12 shall distribute to each student in those grades an announcement explaining the California High School Proficiency Examination (CHSPE). Announcements from the California Department of Education (CDE) or its contractor shall be distributed early enough to enable interested students to register for the test to be given in the fall of that year. (5 CCR 11523)

*(cf. 5145.6 - Parental Notifications)*

Note: The following **optional** paragraph reflects CHSPE Frequently Asked Questions on the CDE's web site.

The principal also shall advise students that the certificate of proficiency awarded upon passing the CHSPE, while equivalent to a high school diploma, is not the equivalent of completing all coursework required for high school graduation and therefore students should contact the admissions office of the college or university they are interested in attending to determine if the certificate satisfies college admission requirements.

Any student may take the CHSPE if he/she meets one of the following conditions: (Education Code 48412)

1. Is age 16 or older
2. Has been enrolled in the 10th grade for one school year or longer
3. Will complete one school year of enrollment in 10th grade at the end of the semester during which the CHSPE will be administered

If a student receives the certificate of proficiency, the district shall indicate the student's accomplishment and the date of the award on the student's official transcript. (5 CCR 11521)

*(cf. 5125 - Student Records)*

**CERTIFICATE OF PROFICIENCY/HIGH SCHOOL EQUIVALENCY (continued)**

Any student who has received the certificate of proficiency may be exempted from compulsory school attendance upon his/her request, with verified parent/guardian consent as appropriate. (Education Code 48410)

*(cf. 5112.1 - Exemptions from Attendance)*

The consent form to be exempted from compulsory school attendance shall be provided by the Superintendent or designee and shall contain at least the following information: (5 CCR 11522)

1. A general explanation of the student's rights of exemption from compulsory attendance and of re-enrollment in the public schools
2. The date of issuance of the certificate of proficiency
3. The signature of the parent/guardian and the date
4. The signature of the school administrator who has personally confirmed the authenticity of the parent/guardian's signature and the date

If a student age 16 or 17 terminates his/her enrollment after receiving the high school proficiency certificate, he/she may re-enroll in the district. If he/she subsequently terminates enrollment again, he/she may be denied re-enrollment until the beginning of the following semester. (Education Code 48414)

*(cf. 6184 - Continuation Education)*

**High School Equivalency Certificate**

Note: Education Code 51420-51427 provide that persons may be awarded the California High School Equivalency Certificate by taking a general educational development test and receiving a score that is at least as high as that determined by the SBE to be equal to the standard of performance expected from high school graduates.

5 CCR 11530-11532, as amended by Register 2013, No. 39, delete the requirement to use only the General Educational Development (GED) test adopted by the General Educational Development Testing Service for the purpose of awarding a high school equivalency certificate. Subsequently, in March 2014, the SBE approved the use of three tests: the GED, the High School Equivalency Test (HiSET) provided by the Educational Testing Service, and the Test Assessing Secondary Completion (TASC) provided by CTB/McGraw Hill. Local testing centers will have the option to offer one or more of these tests.

An eligible person may earn a high school equivalency certificate by passing a general educational development test designated by the State Board of Education pursuant to

**CERTIFICATE OF PROFICIENCY/HIGH SCHOOL EQUIVALENCY (continued)**

Education Code 51420, including the General Educational Development (GED) test, the High School Equivalency Test (HiSET), or the Test Assessing Secondary Completion (TASC).

Any person is eligible to take a test leading to a high school equivalency certificate if he/she is a resident of California or a member of the armed forces assigned to duty in California and meets any one of the following criteria: (Education Code 51420; 5 CCR 11532)

1. Is 18 years of age or older, or is within 60 days of his/her 18th birthday, regardless of enrollment status
2. Is not currently enrolled in school and is within 60 days of when he/she would have graduated from high school had he/she remained in school and followed the usual course of study
3. Is 17 years of age, has been out of school for at least 60 consecutive days, and provides a letter of request for the test from the military, a postsecondary educational institution, or a prospective employer
4. Is 17 years of age, has accumulated fewer than 100 units of high school credit, is confined to a state or county hospital or to an institution maintained by a state or county correctional facility, and meets other criteria listed in 5 CCR 11532
5. Is 17 years of age, has accumulated fewer than 100 units of high school credit prior to enrollment in an academic program offered by a dropout recovery high school as defined in Education Code 52052, and has successfully completed the dropout recovery high school's instructional program which is aligned to state standards, offers the opportunity for a high school diploma, and provides services for at least one year

**GIFTED AND TALENTED STUDENT PROGRAM**

Note: The following **optional** policy is for use by districts that choose to offer a gifted and talented education (GATE) program and may be revised to reflect district practice.

AB 97 (Ch. 47, Statutes of 2013) eliminated categorical funding for GATE (Education Code 52200-52212) and redirected that funding into the local control funding formula. Thus, GATE program requirements are no longer applicable.

The Governing Board believes that all students deserve an education that challenges them to reach their full potential. The district shall provide gifted and talented students with opportunities for learning commensurate with their particular abilities and talents.

*(cf. 0200 - Goals for the School District)*  
*(cf. 0460 - Local Control and Accountability Plan)*  
*(cf. 6000 - Concepts and Roles)*

Note: The following paragraph should be revised to reflect the categories of abilities by which students may be identified for the district's GATE program. Appropriate types of data that may be used to determine whether students meet the following criteria are described in the accompanying administrative regulation.

The Superintendent or designee shall identify students for the district's gifted and talented education (GATE) program on the basis of demonstrated or potential intellectual development, creative ability, consistently high achievement levels, academic ability in particular subject area(s), leadership ability, and/or performing and visual arts talent.

The Superintendent or designee shall provide all eligible students, including economically disadvantaged students, English learners, and students of varying cultural backgrounds, with full opportunities to participate in the GATE program and shall provide special counseling or services as necessary to help such students to succeed in the program.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*  
*(cf. 6164.2 - Guidance/Counseling Services)*  
*(cf. 6174 - Education for English Language Learners)*

The district's GATE program shall be designed to provide articulated learning experiences across subjects and grade levels and shall meet or exceed state academic content standards and curriculum frameworks.

*(cf. 6011 - Academic Standards)*  
*(cf. 6142.6 - Visual and Performing Arts Education)*  
*(cf. 6142.7 - Physical Education and Activity)*  
*(cf. 6142.8 - Comprehensive Health Education)*  
*(cf. 6142.91 - Reading/Language Arts Instruction)*  
*(cf. 6142.92 - Mathematics Instruction)*  
*(cf. 6142.93 - Science Instruction)*  
*(cf. 6142.94 - History-Social Science Instruction)*  
*(cf. 6178 - Career Technical Education)*

**GIFTED AND TALENTED STUDENT PROGRAM** (continued)

Educational opportunities in the district's GATE program may include:

1. Special day classes which are designed to meet specific academic needs of gifted and talented students and are appropriately differentiated from other classes in the same subjects at the school
2. Part-time groupings, in which students attend classes or seminars that are organized to provide advanced or enriched subject matter for a part of the school day
3. Cluster groupings, in which students are grouped within a regular classroom setting and receive appropriately differentiated activities from the regular classroom teacher
4. Independent study supervised by a certificated district employee and offered through special tutors or mentors or through enrollment in correspondence courses pursuant to Education Code 51740 and 5 CCR 1633

*(cf. 6158 - Independent Study)*

5. Acceleration, in which students are placed in grade levels or classes more advanced than those of their chronological age group and are provided special counseling and/or instruction outside the regular classroom in order to facilitate their advanced work

*(cf. 5123 - Promotion/Acceleration/Retention)*

6. Opportunities to attend classes conducted by a college or community college

*(cf. 6172.1 - Concurrent Enrollment in College Classes)*

7. Advanced Placement classes, International Baccalaureate program, or honors classes

*(cf. 6141.5 - Advanced Placement)*

8. Supplemental educational activities which augment students' regular educational programs in their regular classrooms and may include the use of advanced materials and/or provide special opportunities from persons other than the regular classroom teacher

In addition, the district's program shall support the social and emotional development of GATE students in order to promote student engagement in school.

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

*(cf. 5147 - Dropout Prevention)*



**GIFTED AND TALENTED STUDENT PROGRAM** (continued)

Staff development shall be provided as needed to support teachers in understanding the unique learning styles and abilities of gifted and talented students and in developing appropriate instructional strategies.

*(cf. 4112.2 - Certification)*  
*(cf. 4131 - Staff Development)*

As appropriate, the Superintendent or designee may involve certificated staff, students, parents/guardians, and community members in the planning, implementation, and evaluation of the GATE program.

*(cf. 1220 - Citizen Advisory Committees)*  
*(cf. 6020 - Parent Involvement)*

The Superintendent or designee shall regularly report to the Board regarding the progress of students enrolled in the district's GATE program. Reports may include, but are not limited to, student achievement test results, school attendance, and feedback from program staff and participants.

*(cf. 0500 - Accountability)*  
*(cf. 5121 - Grades/Evaluation of Student Achievement)*  
*(cf. 6162.5 - Student Assessment)*  
*(cf. 6162.51 - State Academic Achievement Tests)*  
*(cf. 6162.52 - High School Exit Examination)*  
*(cf. 6190 - Evaluation of the Instructional Program)*

*Legal Reference: (see next page)*

**GIFTED AND TALENTED STUDENT PROGRAM (continued)**

*Legal Reference:*

EDUCATION CODE

37223 *Weekend classes for mentally gifted minors*

48800-48802 *Enrollment of gifted students in community college*

51740 *Instruction by correspondence*

51745-51749.3 *Independent study programs*

52060-52077 *Local control and accountability plan*

76000-76002 *Enrollment in community college*

CODE OF REGULATIONS, TITLE 5

1633 *Instruction by correspondence*

*Management Resources:*

WEB SITES

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

California Association for the Gifted: <http://www.cagifted.org>

Council for Exceptional Children, The Association for the Gifted (CEC-TAG): <http://www.cectag.org>

National Association for Gifted Children: <http://www.nagc.org>

**GIFTED AND TALENTED STUDENT PROGRAM**

Note: The following **optional** administrative regulation is for use by districts that elect to offer a gifted and talented education (GATE) program and may be revised to reflect district practice.

**Program Coordinator**

The Superintendent or designee shall appoint a district coordinator who has demonstrated experience and knowledge in gifted education to oversee implementation of the district's gifted and talented education (GATE) program, including student identification procedures, recordkeeping, and other duties as assigned.

*(cf. 4131 - Staff Development)*

*(cf. 4331 - Staff Development)*

The Superintendent or designee also may appoint, for each school site, a GATE coordinator who shall be responsible for implementation of program services at that school site.

**Identification of Gifted and Talented Students**

Students may be recommended for the GATE program by administrators, teachers, counselors, other staff, or parents/guardians. Parent/guardian consent shall be obtained before administering any assessments for the sole purpose of identifying students for this program or for placing a student in the program.

Note: **Optional** items #1-6 below reflect data that may be used to determine whether students are eligible for the district's GATE program and may be revised to reflect district practice. The indicators should be aligned with the categories of abilities adopted by the Governing Board to identify students for the program; see the accompanying Board policy.

The Superintendent or designee shall select students for the program based on their demonstrated or potential ability for high performance in categories identified by the Governing Board, as evidenced by any of the following indicators:

1. School, class, and individual student records
2. Individual tests, including summary and evaluation by a credentialed school psychologist
3. Group tests
4. Interviews and questionnaires of teachers, parents/guardians, and others
5. Student portfolios

**GIFTED AND TALENTED STUDENT PROGRAM** (continued)

6. Opinions of professional persons

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

*(cf. 6162.5 - Student Assessment)*

*(cf. 6164.2 - Guidance/Counseling Services)*

The Superintendent or designee shall base selection decisions upon the evaluation of pertinent evidence by the principal or designee, a classroom teacher familiar with the student's work, and, when appropriate, a credentialed school psychologist and/or other expert. These persons may review screening, identification, and placement data and shall meet when necessary to resolve any differences in assessment and recommendations. In reviewing evidence of a student's abilities, the Superintendent or designee also shall consider the economic, linguistic, and cultural characteristics of the student's background.

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

*(cf. 6174 - Education for English Language Learners)*

A student who transfers into the district shall be considered for the GATE program if he/she was identified as a gifted and talented student in his/her previous district or school or is recommended for the program. The Superintendent or designee may verify that the GATE program would be an appropriate placement for the student by examining evidence of the student's abilities based on any of the indicators listed above.

Because students who do not initially meet district criteria for the GATE program may become eligible at a later grade level, the district may re-examine student eligibility whenever the district receives a referral or the Superintendent or designee determines it to be in the student's best interest.

**ACTIONS BY THE BOARD**

**ACTIONS REQUIRING A SUPER MAJORITY VOTE**

Note: The following exhibit lists some of the Governing Board actions that require more than a simple majority vote. Other such actions may exist and may be identified in the future.

**Actions Requiring a Two-Thirds Vote of the Board:**

1. Resolution declaring intention to sell or lease real property (Education Code 17466)

*(cf. 3280 - Sale or Lease of District-Owned Real Property)*

2. Resolution declaring intent of Governing Board to convey or dedicate property to the state or any political subdivision for the purposes specified in Education Code 17556 (Education Code 17557)
3. Resolution authorizing and directing the Board president, or any other presiding officer, secretary, or member, to execute a deed of dedication or conveyance of property to the state or a political subdivision (Education Code 17559)
4. Lease, for up to three months, of school property which has a residence on it and which cannot be developed for district purposes because funds are unavailable (Education Code 17481)

Note: Item #5 below is different from temporary borrowing pursuant to Government Code 53850-53858 which requires only a majority vote of the Board.

5. Request for temporary borrowing pursuant to Government Code 53820-53833, to pay district obligations incurred before the receipt of district income for the fiscal year sufficient to meet the payment(s) (Government Code 53821)
6. Upon complying with Government Code 65352.2 and Public Resources Code 21151.2, action to render city or county zoning ordinances inapplicable to a proposed use of the property by the district (Government Code 53094)

*(cf. 7131 - Relations with Local Agencies)*  
*(cf. 7150 - Site Selection and Development)*  
*(cf. 7160 - Charter School Facilities)*

Note: Items #7-9 below are for use by districts seeking to establish a community day school on an existing school site.

7. When the district has an average daily attendance (ADA) of 2,500 or less and seeks to situate a community day school on an existing school site, certification that satisfactory alternative facilities are not available for a community day school (Education Code 48661)

**ACTIONS BY THE BOARD** (continued)

8. When the district is organized to serve only grades K-8 and seeks to situate a community day school on an existing school site, certification that satisfactory alternative facilities are not available for a community day school (Education Code 48661)
9. When the district desires to operate a community day school to serve any of grades K-6 (and no higher grades) on an existing school site, certification that satisfactory alternative facilities are not available for a community day school (Education Code 48661)

*(cf. 6185 - Community Day School)*

10. Resolution of intent to issue general obligation bonds with the approval of 55 percent of the voters of the district (Education Code 15266)

*(cf. 7214 - General Obligation Bonds)*

11. Resolution of intent to issue bonds within a school facilities improvement district with the approval of 55 percent of the voters of the school facilities improvement district (Education Code 15266)

*(cf. 7213 - School Facilities Improvement Districts)*

12. Resolution to place a parcel tax on the ballot (Government Code 53724)

<p>Note: Code of Civil Procedure 1245.240 requires that, prior to commencing an eminent domain action, the Board adopt a resolution of necessity approved by a two-thirds vote of the Board unless a greater vote is required by statute, charter, or ordinance. In addition, if the Board desires to use the property for a different purpose than stated in the resolution of necessity, then pursuant to Code of Civil Procedure 1245.245, the Board must adopt, by two-thirds vote, another resolution authorizing the different use unless a greater vote is required by statute, charter, or ordinance.</p>
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13. Resolution of necessity to proceed with an eminent domain action and, if the Board subsequently desires to use the property for a different use than stated in the resolution of necessity, a subsequent resolution so authorizing the different use (Code of Civil Procedure 1245.240, 1245.245)

**Actions Requiring a Two-Thirds Vote of the Board Members Present at the Meeting:**

1. Determination that there is a need to take immediate action and that the need for action came to the district's attention after the posting of the agenda. If less than two-thirds of the Board members are present at the meeting, a unanimous vote of all members present is required. (Government Code 54954.2)

**ACTIONS BY THE BOARD** (continued)

2. Determination that a closed session is necessary during an emergency meeting. If less than two-thirds of the Board members are present, a unanimous vote of all members present is required. (Government Code 54956.5)

*(cf. 9320 - Meetings and Notices)*

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

**Actions Requiring a Four-Fifths Vote of the Board:**

1. Expenditure and transfer of necessary funds and use of district property or personnel to meet a national or local emergency created by war, military, naval, or air attack, or sabotage, or to provide for adequate national or local defense (Government Code 53790-53792)

*(cf. 3110 - Transfer of Funds)*

2. Resolution for district borrowing based on issuance of notes, tax anticipation warrants, or other evidences of indebtedness, in an amount up to 50 percent of the district's estimated income and revenue for the fiscal year or the portion not yet collected at the time of the borrowing (Government Code 53822, 53824)
3. Resolution for district borrowing, between July 15 and August 30 of any fiscal year, of up to 25 percent of the estimated income and revenue to be received by the district during that fiscal year from apportionments based on ADA for the preceding school year (Government Code 53823-53824)
4. Declaration of an emergency in order to authorize the district to include a particular brand name or product in a bid specification (Public Contract Code 3400)

*(cf. 3311 - Bids)*

**Actions Requiring a Unanimous Vote of the Board:**

1. Resolution authorizing and prescribing the terms of a community lease for extraction of gas (Education Code 17510-17511)
2. Waiver of the competitive bid process pursuant to Public Contract Code 20111 when the Board determines that an emergency exists and upon approval of the County Superintendent of Schools (Public Contract Code 20113)

**Action Requiring a Unanimous Vote of the Board Members Present at the Meeting:**

1. Private sale of surplus property without advertisement in order to establish that such property is not worth more than \$2,500. Disposal of surplus property in the local

**ACTIONS BY THE BOARD** (continued)

dump or donation to a charitable organization requires the unanimous vote of the Board members present to establish that the value of such property would not defray the cost of arranging its sale. (Education Code 17546)

*(cf. 3270 - Sale and Disposal of Books, Equipment and Supplies)*