

CHARTER SCHOOL OVERSIGHT

REQUIREMENTS FOR CHARTER SCHOOLS

Note: The following Exhibit lists some, but not necessarily all, legal requirements that apply to charter schools and may be used by the district to monitor a charter school's compliance with law. Violation of any law may subject the charter school to revocation pursuant to Education Code 47607; see BP 0420.43 - Charter School Revocation.

Pursuant to Education Code 47610, charter schools are exempt from Education Code provisions governing school districts unless otherwise specified in law. Districts should consult with legal counsel regarding the applicability of state law other than the Education Code to charter schools.

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

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

Note: Education Code 47605 specifically prohibits a charter school from charging tuition, but does not mention fees or other charges. As clarified in the California Department of Education's (CDE) advisory Pupil Fees, Deposits, and Other Charges, because charter schools are subject to the California Constitution, the free school guarantee of the California Constitution, Article IX, Section 5, applies to charter schools. Charter schools may only charge fees authorized by law that have been made explicitly applicable to charter schools. For example, charter schools may charge fees for meals and field trips pursuant to Education Code 35330, 38082, and 38084 because those provisions apply to charter schools, but charter schools may not necessarily charge other fees authorized by law for school districts. In addition, Education Code 49011 prohibits all public schools from requiring services or donations as a condition of enrollment or continued enrollment.

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

CHARTER SCHOOL OVERSIGHT (continued)

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

Note: Education Code 56145 requires charter schools to serve students with disabilities in the same manner as other public schools. Pursuant to Education Code 47646, districts must ensure that each charter school that is deemed to be a public school of the district and is not its own local educational agency for special education purposes receives an equitable share of state and federal special education funding and/or any necessary special education services provided by the district on behalf of disabled students in the charter school.

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

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

If a charter school will be physically located in a public elementary school attendance area in which 50 percent or more of the student enrollment is eligible for free or reduced-price meals, it may also establish an admissions preference for students who are currently enrolled in the public elementary school and for students who reside in the public school attendance area. (Education Code 47605.3)
 - b. If the number of students who wish to attend the charter school exceeds the school's capacity, attendance shall be determined by a public random drawing. However, preference shall be extended to students currently attending the charter school and students who reside in the district, except as provided for in Education Code 47614.5. (Education Code 47605)

CHARTER SCHOOL OVERSIGHT (continued)

- c. Other admissions preferences may be permitted by the chartering district on an individual school basis consistent with law. (Education Code 47605)
- 11. Immediately enroll a homeless student, except where such enrollment would conflict with Education Code 47605(d) (Education Code 48850; 42 USC 11431-11435)
- 12. If the school participates as a member of a special education local plan area (SELPA), comply with the requirements of Education Code 48850-48859 regarding the enrollment and placement of foster youth (Education Code 48853.5, 48859)
- 13. If the school offers a kindergarten program: (Education Code 48000)
 - a. Offer a transitional kindergarten (TK) program to students whose fifth birthday is from September 2 through December 2

Note: Pursuant to Education Code 48000, as amended by SB 876 (Ch. 687, Statutes of 2014), as a condition of receiving apportionments for transitional kindergarten (TK) students, charter schools must ensure that credentialed teachers who are first assigned to a TK class after July 1, 2015 possess certain qualifications by August 1, 2020. These requirements include at least 24 units in early childhood education and/or child development, comparable experience in a preschool setting, and/or a child development teacher permit issued by the Commission on Teacher Credentialing (CTC).

- b. Ensure that any credentialed teacher first assigned to teach a TK class after July 1, 2015 meets the qualifications specified in Education Code 48000 by August 1, 2020
- 14. Require its teachers to hold a certificate, permit, or other document issued by the Commission on Teacher Credentialing (CTC) equivalent to that which a teacher in other public schools would be required to hold (Education Code 47605)

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

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

Note: Education Code 44691, as amended by AB 1432 (Ch. 797, Statutes of 2014), adds the following requirement for charter schools.

CHARTER SCHOOL OVERSIGHT (continued)

16. Provide annual training on child abuse and neglect reporting requirements to employees and persons working on their behalf who are mandated reporters, within the first six weeks of each school year or within six weeks of employment (Education Code 44691)

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

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

Note: Education Code 44030.5 requires charter schools to report to the CTC any change in employment status due to an allegation of misconduct. See AR 4117.7/4317.7 - Employment Status Reports for further information about these reports.

18. Report to the CTC any change in a certificated employee's employment status (dismissal, nonreelection, resignation, suspension, unpaid administrative leave for more than 10 days, retirement, or other decision not to employ or reemploy) as a result of an allegation of misconduct or while an allegation of misconduct is pending (Education Code 44030.5)

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

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

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

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

Note: Education Code 47612.5 specifies, by grade level, the minimum number of instructional minutes that must be offered each fiscal year. Any charter school that fails to meet the requirement will have its state

CHARTER SCHOOL OVERSIGHT (continued)

apportionment reduced in proportion to the percentage of instructional minutes that the school fails to offer. Education Code 47612.5 and 47612.6 provide that neither the State Board of Education (SBE) nor the Superintendent of Public Instruction (SPI) may waive the required number of instructional minutes but may waive the fiscal penalties under specified conditions.

23. Offer at least the number of instructional minutes required by law for the grade levels provided by the charter school (Education Code 46201.2, 47612.5)

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

24. If the school provides independent study, meet the requirements of Education Code 51745-51749.3, except that the school may be allowed to offer courses required for graduation solely through independent study as an exception to Education Code 51745(e) (Education Code 47612.5, 51747.3; 5 CCR 11705)
25. Identify and report to the Superintendent of Public Instruction (SPI) any portion of its average daily attendance that is generated through nonclassroom-based instruction, including, but not limited to, independent study, home study, work study, and distance and computer-based education (Education Code 47612.5, 47634.2; 5 CCR 11963.2)

Note: Education Code 221.9, as added by SB 1349 (Ch. 258, Statutes of 2014), adds the following requirement for charter schools beginning in the 2015-16 school year.

26. If the school offers competitive athletics, annually post on the school's web site or on the web site of the charter operator the total enrollment of the school classified by gender, the number of students who participate in competitive athletics classified by gender, and the number of boys' and girls' teams classified by sport and by competition level (Education Code 221.9)
27. If the school offers an athletic program, annually provide an information sheet about concussion and head injury to athletes and their parents/guardians, which must be signed and returned to the school before the athlete initiates practice or competition. In the event that an athlete is suspected of sustaining a concussion or head injury in an athletic activity, he/she shall be immediately removed from the activity for the remainder of the day and shall not be permitted to return to the activity until he/she is evaluated by a licensed health care provider and receives written clearance to return to the activity. (Education Code 49475)

CHARTER SCHOOL OVERSIGHT (continued)

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

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

29. Provide students the right to exercise freedom of speech and of the press including, but not limited to, the use of bulletin boards; the distribution of printed materials or petitions; the wearing of buttons, badges, and other insignia; and the right of expression in official publications (Education Code 48907, 48950)
30. Maintain written contemporaneous records that document all student attendance and make these records available for audit and inspection (Education Code 47612.5)
31. If a student subject to compulsory full-time education is expelled or leaves the charter school without graduating or completing the school year for any reason, notify the Superintendent of the school district of the student's last known address within 30 days and, upon request, provide that district with a copy of the student's cumulative record, including a transcript of grades or report card, and health information (Education Code 47605)

Note: Education Code 69432.9, as amended by AB 2160 (Ch. 679, Statutes of 2014), adds the following requirement for charter schools that offer grade 12.

32. Electronically submit the grade point average of all students in grade 12 to the Student Aid Commission each academic year for use in the Cal Grant program, after notifying the students and their parents/guardians as applicable, by October 15 of each year, of the opportunity to opt out of being deemed a Cal Grant applicant within a specified period of time of at least 30 days (Education Code 69432.9)
33. Comply with the California Building Standards Code as adopted and enforced by the local building enforcement agency with jurisdiction over the area in which the charter school is located, unless the charter school facility meets either of the following conditions: (Education Code 47610, 47610.5)
- a. The facility complies with the Field Act pursuant to Education Code 17280-17317 and 17365-17374.
 - b. The facility is exclusively owned or controlled by an entity that is not subject to the California Building Standards Code, including, but not limited to, the federal government.

CHARTER SCHOOL OVERSIGHT (continued)

Note: Education Code 49414, as amended by SB 1266 (Ch. 321, Statutes of 2014), adds the following requirement for charter schools. For further information, see AR 5141.21 - Administering Medication and Monitoring Health Conditions.

34. Ensure the availability and proper use of emergency epinephrine auto-injectors by: (Education Code 49414)
 - a. Providing school nurses or other voluntary, trained personnel with at least one regular and one junior device for elementary schools and, for secondary schools, one regular device if there are no students who require a junior device
 - b. Distributing a notice at least once per school year to all staff requesting volunteers and describing the training that volunteers will receive
 - c. Providing defense and indemnification to volunteers for any and all civil liability from such administration
35. Promptly respond to all reasonable inquiries from the district, the county office of education, or the SPI, including, but not limited to, inquiries regarding the school's financial records (Education Code 47604.3)
36. Annually prepare and submit financial reports to the district Governing Board and the County Superintendent of Schools in accordance with the following reporting cycle:
 - a. By July 1, a preliminary budget for the current fiscal year. For a charter school in its first year of operation, financial statements submitted with the charter petition pursuant to Education Code 47605(g) will satisfy this requirement. (Education Code 47604.33)
 - b. By July 1 each year, an update of the school's goals and the actions to achieve those goals as identified in the charter, developed using the SBE template in accordance with Education Code 47606.5. This report shall include a review of the progress toward the goals, an assessment of the effectiveness of the specific actions toward achieving the goals, a description of changes the school will make to the specific actions as a result of the review and assessment, and a listing and description of expenditures for the fiscal year implementing the specific actions. (Education Code 47604.33, 47606.5)

When conducting this review, the governing body of the school may consider qualitative information including, but not limited to, findings that result from any school quality reviews conducted pursuant to Education Code 52052 or any other reviews. To the extent practicable, data shall be reported in a manner

CHARTER SCHOOL OVERSIGHT (continued)

consistent with how information is reported on a school accountability report card. The update shall be developed in consultation with teachers, principals, administrators, other school personnel, parents/guardians and students. (Education Code 47606.5)

- c. By December 15, an interim financial report for the current fiscal year reflecting changes through October 31. (Education Code 47604.33)
- d. By March 15, a second interim financial report for the current fiscal year reflecting changes through January 31. (Education Code 47604.33)
- e. By September 15, a final unaudited report for the full prior year. The report submitted to the Board shall include an annual statement of all the charter school's receipts and expenditures for the preceding fiscal year. (Education Code 42100, 47604.33)
- f. By December 15, a copy of the charter school's annual, independent financial audit report for the preceding fiscal year, unless the charter school's audit is encompassed in the district's audit. The audit report shall also be submitted to the state Controller and the California Department of Education. (Education Code 47605)

LOCAL CONTROL AND ACCOUNTABILITY PLAN

Note: The following policy is **optional**. Education Code 52060-52077 require the Governing Board to adopt and annually update, on or before July 1, a local control and accountability plan (LCAP). A template for the plan and related requirements for LCAP development are contained in 5 CCR 15494-15497.5, as amended by Register 2015, No. 2.

The Governing Board desires to ensure the most effective use of available funding to improve outcomes for all students. A community-based, comprehensive, data-driven planning process shall be used to identify annual goals and specific actions and to facilitate continuous improvement of district practices.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

Note: Pursuant to Education Code 52060, the LCAP must include goals and actions aligned with eight state priorities related to (1) the degree to which teachers are appropriately assigned and fully credentialed, students have sufficient access to standards-based instructional materials, and facilities are maintained in good repair; (2) implementation of and student access to state academic content and performance standards; (3) parent/guardian involvement; (4) student achievement; (5) student engagement; (6) school climate; (7) student access to and enrollment in a broad course of study, including programs and services provided to benefit low-income students, English learners, and/or foster youth (i.e., "unduplicated students" for purposes of the local control funding formula); and (8) student outcomes in the specified course of study. The LCAP template in 5 CCR 15497.5, as added by Register 2015, No. 2, presents guiding questions to consider in plan development and groups these priorities into categories of Conditions of Learning, Pupil Outcomes, and Engagement. See the accompanying administrative regulation for further information about the required content of the LCAP.

Education Code 52060 provides that, in addition to addressing the state priorities in the LCAP, the district may establish and address local priorities. Examples include priorities for student wellness and other conditions of children, professional development, community involvement, and effective governance and leadership.

The Board shall adopt a districtwide local control and accountability plan (LCAP), following the template provided in 5 CCR 15497.5, that addresses the state priorities in Education Code 52060 and any local priorities adopted by the Board. The LCAP shall be updated on or before July 1 of each year and, like the district budget, shall cover the next fiscal year and subsequent two fiscal years. (Education Code 52060; 5 CCR 15497.5)

(cf. 3100 - Budget)

The LCAP shall focus on improving outcomes for all students, particularly those who are "unduplicated students" and other underperforming students.

Unduplicated students include students who are eligible for free or reduced-price meals,

English learners, and foster youth and are counted only once for purposes of the local control funding formula. (Education Code 42238.02)

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)

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

Note: Education Code 52062 requires the district to ensure that the specific actions included in the LCAP are consistent with strategies in the single plan for student achievement (SPSA) submitted by each school pursuant to Education Code 64001; see BP/AR 0420 - School Plans/Site Councils for SPSA requirements. In addition, the LCAP template in 5 CCR 15497.5 allows for the LCAP to be supplemented with information contained in other plans, including the Title I local educational agency plan required by 20 USC 6312 (see BP/AR 6171 - Title I Programs).

The Superintendent or designee shall review the single plan for student achievement (SPSA) submitted by each district school pursuant to Education Code 64001 to ensure that the specific actions included in the LCAP are consistent with strategies included in the SPSA. (Education Code 52062)

(cf. 0420 - School Plans/Site Councils)

The LCAP shall also be aligned with other district and school plans to the extent possible in order to minimize duplication of effort and provide clear direction for program implementation.

(cf. 0400 - Comprehensive Plans)
(cf. 0440 - District Technology Plan)
(cf. 0450 - Comprehensive Safety Plan)
(cf. 5030 - Student Wellness)
(cf. 6171 - Title I Programs)
(cf. 7110 - Facilities Master Plan)

Any complaint that the district has not complied with legal requirements pertaining to the LCAP may be filed pursuant to AR 1312.3 - Uniform Complaint Procedures. (Education Code 52075)

(cf. 1312.3 - Uniform Complaint Procedures)

Plan Development

The Superintendent or designee shall gather data and information needed for effective and meaningful plan development and present it to the Board and community. Such data and information shall include, but not be limited to, data regarding the numbers of students in various student subgroups, disaggregated data on student achievement levels, and information about current programs and expenditures.

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)

Note: Education Code 52060 requires consultation on plan development with all of the groups listed below. The Board may delegate responsibility for arranging meetings and other input opportunities to the Superintendent or designee.

5 CCR 15495, as amended by Register 2015, No. 2, defines what it means to consult with students, including unduplicated students and other numerically significant student subgroups, and gives examples of methods that may be used for this consultation. Pursuant to Education Code 52052, a numerically significant subgroup includes ethnic subgroups, students with disabilities, socioeconomically disadvantaged students, English learners, and foster youth, when there are at least 30 students in the subgroup (or 15 foster youth) in the school or district. For schools or districts with 11-99 students, numerically significant student subgroups are defined by the Superintendent of Public Instruction (SPI) with approval of the State Board of Education (SBE).

State regulations do not provide examples of consultation with groups other than students, but consultations might include the establishment of an advisory committee consisting of representatives of all the specified groups, solicitation of feedback from the groups after a draft plan is available, discussion of the LCAP at staff meetings, and communication with parent organizations, student councils, school site councils, or other established committees or organizations.

The district may expand the following paragraph to reflect district practice.

The Board shall consult with teachers, principals, administrators, other school personnel, employee bargaining units, parents/guardians, and students in developing the LCAP. Consultation with students shall enable unduplicated students and other numerically significant student subgroups to review and comment on LCAP development and may include surveys of students, student forums, student advisory committees, and/or meetings with student government bodies or other groups representing students. (Education Code 52060; 5 CCR 15495)

(cf. 1220 - Citizen Advisory Committees)

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

(cf. 6020 - Parent Involvement)

Public Review and Input

Note: Pursuant to Education Code 52063 and 5 CCR 15495, as amended by Register 2015, No. 2, the Board is required to establish a parent advisory committee that is composed of a majority of parents/guardians and includes at least one parent/guardian of an unduplicated student. In addition, if district enrollment includes at least 15 percent English learners, with at least 50 students who are English learners, the Board is required to establish an English learner parent advisory committee which, pursuant to 5 CCR 15495 as amended, must include a majority of parents/guardians of English learners. The district may use existing parent advisory committees for these purposes if the committee composition complies with Education Code 52063 and 5 CCR 15945. However, the district should consider whether such opportunities need to be expanded to achieve significant levels of stakeholder involvement in the planning process as intended by the law.

The Board shall establish a parent advisory committee to review and comment on the LCAP. The committee shall be composed of a majority of parents/guardians and shall include at least one parent/guardian of an unduplicated student as defined above. (Education Code 52063; 5 CCR 15495)

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)

Whenever district enrollment includes at least 15 percent English learners, with at least 50 students who are English learners, the Board shall establish an English learner parent advisory committee composed of a majority of parents/guardians of English learners. (Education Code 52063; 5 CCR 15495)

The Superintendent or designee shall present the LCAP to the committee(s) before it is submitted to the Board for adoption, and shall respond in writing to comments received from the committee(s). (Education Code 52062)

Note: Education Code 52062 requires notification to the public of the opportunity to submit written comments on the proposed LCAP, including notification in the primary language of parents/guardians when required by Education Code 48985. Pursuant to Education Code 48985, whenever 15 percent or more of the students in a school speak a single primary language other than English, notifications sent to parents/guardians of such students must be written in the primary language as well as in English; see BP 5145.6 - Parental Notifications.

The Superintendent or designee shall notify members of the public of the opportunity to submit written comments regarding the specific actions and expenditures proposed to be included in the LCAP. The notification shall be provided using the most efficient method of notification possible, which may not necessarily include producing printed notices or sending notices by mail. All written notifications related to the LCAP shall be provided in the primary language of parents/guardians when required by Education Code 48985. (Education Code 52062)

(cf. 5145.6 - Parental Notifications)

Note: Pursuant to Education Code 42127, the Board cannot adopt a district budget until the LCAP is in place for the budget year; see BP 3100 - Budget. The budget must include the expenditures necessary to implement the plan that is effective during the subsequent fiscal year. If it does not, the County Superintendent of Schools will disapprove the district's budget.

The Board shall hold at least one public hearing to solicit the recommendations and comments of members of the public regarding the specific actions and expenditures proposed to be included in the LCAP. The public hearing shall be held at the same meeting as the budget hearing required pursuant to Education Code 42127 and AR 3100 - Budget. (Education Code 42127, 52062)

(cf. 9320 - Meetings and Notices)

Adoption of the Plan

The Board shall adopt the LCAP prior to adopting the district budget, but at the same public meeting. This meeting shall be held after the public hearing described above, but not on the same day as the hearing.

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)

The Board may adopt revisions to the LCAP at any time during the period in which the plan is in effect, provided the Board follows the process to adopt the LCAP pursuant to Education Code 52062 and the revisions are adopted in a public meeting. (Education Code 52062)

Submission of Plan to County Superintendent of Schools

Note: Education Code 52070 requires the district to submit the LCAP to the County Superintendent. The County Superintendent may seek written clarification of the contents of the plan and may submit recommendations for amendments as provided below. He/she is required to approve the LCAP on or before October 8 if he/she determines that (1) the LCAP adheres to the template in 5 CCR 15497.5 as added by Register 2015, No. 2; (2) the district budget includes expenditures sufficient to implement the specific actions in the LCAP; and (3) the LCAP adheres to supplemental and concentration grant expenditure requirements specified in Education Code 42238.07 for unduplicated students. In determining whether the district has fully demonstrated that it will use supplemental and concentration funds to increase or improve services for unduplicated students, 5 CCR 15497, as added by Register 2015, No. 2, requires the County Superintendent to review any descriptions of districtwide or schoolwide services provided.

Not later than five days after adoption of the LCAP, the Board shall file the LCAP with the County Superintendent of Schools. (Education Code 52070)

If the County Superintendent sends, by August 15, a written request for clarification of the contents of the LCAP, the Board shall respond in writing within 15 days of the request. If the County Superintendent then submits recommendations for amendments to the LCAP within 15 days of receiving the Board's response, the Board shall consider those recommendations in a public meeting within 15 days of receiving the recommendations. (Education Code 52070)

Monitoring Progress

Note: The following **optional** paragraph may be revised to reflect the district's timeline for reviewing evaluations of the progress and effectiveness of strategies included in the LCAP. Such reports should be provided to the Board in sufficient time to allow for any necessary changes in the annual update to the LCAP by July 1 of each year, as required by Education Code 52060-52061.

Pursuant to Education Code 52064.5, the SBE is required to adopt evaluation rubrics by October 1, 2015, to assist districts in evaluating their strengths, weaknesses, and areas that require improvement. The rubrics will include all of the state priorities described in Education Code 52060, SBE standards for district and school performance, and SBE expectations for improvement in regard to those state priorities.

The Superintendent or designee shall report to the Board, at least annually in accordance with the timeline and indicators established by him/her and the Board, regarding the district's progress toward attaining each goal identified in the LCAP. Evaluation data shall be used to recommend any necessary revisions to the LCAP.

(cf. 0500 - Accountability)

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)**Technical Assistance/Intervention**

Note: Pursuant to Education Code 52071, the Board may, at its discretion and at the district's expense, request technical assistance as described in items #1-3 below. In addition, the County Superintendent is required to provide such technical assistance whenever he/she does not approve the district's LCAP and/or the district fails to improve student achievement across more than one state priority described in Education Code 52060, as determined using the SBE evaluation rubric.

When it is in the best interest of the district, the Board may submit a request to the County Superintendent for technical assistance, including, but not limited to: (Education Code 52071)

1. Assistance in the identification of district strengths and weaknesses in regard to state priorities and review of effective, evidence-based programs that apply to the district's goals
2. Assistance from an academic expert, team of academic experts, or another district in the county in identifying and implementing effective programs to improve the outcomes for student subgroups
3. Advice and assistance from the California Collaborative for Educational Excellence established pursuant to Education Code 52074

In the event that the County Superintendent requires the district to receive technical assistance pursuant to Education Code 52071, the Board shall review all recommendations received from the County Superintendent or other advisor and shall consider revisions to the LCAP as appropriate in accordance with the process specified in Education Code 52062.

Note: Education Code 52072 provides that the SPI, with approval of the SBE, may intervene when a district meets both of the following criteria: (1) the district did not improve the outcomes for three or more student subgroups identified pursuant to Education Code 52052, or all of the student subgroups if the district has fewer than three subgroups, in regard to more than one state or local priority in three out of four consecutive school years; and (2) the California Collaborative for Educational Excellence (CCEE) has provided advice and assistance to the district and submits a finding that the district failed or is unable to implement the CCEE's recommendations or that the district's inadequate performance is so persistent or acute as to require intervention. For any district identified as needing intervention, the SPI or an academic trustee appointed by the SPI may, with approval of the SBE, take one or more of the actions listed in items #1-3 below.

If the Superintendent of Public Instruction (SPI) identifies the district as needing intervention pursuant to Education Code 52072, the district shall cooperate with any action taken by the SPI or any academic advisor appointed by the SPI, which may include one or more of the following:

1. Revision of the district's LCAP
2. Revision of the district's budget in accordance with changes in the LCAP

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)

3. A determination to stay or rescind any district action that would prevent the district from improving outcomes for all student subgroups, provided that action is not required by a collective bargaining agreement

Legal Reference:

EDUCATION CODE

305-306 English language education

17002 State School Building Lease-Purchase Law, including definition of good repair

41020 Audits

42127 Public hearing on budget adoption

42238.01-42238.07 Local control funding formula

44258.9 County superintendent review of teacher assignment

48985 Parental notices in languages other than English

51210 Course of study for grades 1-6

51220 Course of study for grades 7-12

52052 Academic Performance Index; numerically significant student subgroups

52060-52077 Local control and accountability plan

52302 Regional occupational centers and programs

52372.5 Linked learning pilot program

54692 Partnership academies

60119 Sufficiency of textbooks and instructional materials; hearing and resolution

60605.8 California Assessment of Academic Achievement; Academic Content Standards Commission

60811.3 Assessment of language development

64001 Single plan for student achievement

99300-99301 Early Assessment Program

CODE OF REGULATIONS, TITLE 5

15494-15497.5 Local control and accountability plan and spending requirements

UNITED STATES CODE, TITLE 20

6312 Local educational agency plan

6826 Title III funds, local plans

Management Resources:

CSBA PUBLICATIONS

Impact of Local Control Funding Formula on Board Policies, November 2013

Local Control Funding Formula 2013, Governance Brief, August 2013

State Priorities for Funding: The Need for Local Control and Accountability Plans, Fact Sheet, August 2013

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

California School Accounting Manual

WEB SITES

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

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

LOCAL CONTROL AND ACCOUNTABILITY PLAN

Note: Education Code 52060-52077 require the Governing Board to adopt and annually update, on or before July 1, a three-year local control and accountability plan (LCAP). See the accompanying Board policy for information about plan development and monitoring.

Goals and Actions Addressing State and Local Priorities

Note: Education Code 52060 requires that the LCAP include annual goals, aligned with specified state priorities, to be achieved for all students and for each numerically significant subgroup as defined in Education Code 52052. Pursuant to Education Code 52052, a numerically significant subgroup includes ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, and foster youth, when there are at least 30 students in the subgroup (or at least 15 foster youth) in the school or district. For schools or districts with 11-99 students, numerically significant student subgroups are defined by the Superintendent of Public Instruction (SPI) with approval by the State Board of Education (SBE).

In addition, several state priorities address programs and services for "unduplicated students." For purposes of supplemental and concentration grants allocated through the local control funding formula (LCFF), "unduplicated students" are defined by Education Code 42238.02 as students eligible for free or reduced-price meals, English learners, and foster youth; see the accompanying Board policy.

The district's local control and accountability plan (LCAP) shall include, for the district and each district school: (Education Code 52060)

1. A description of the annual goals established for all students and for each numerically significant subgroup as defined in Education Code 52052, including ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, and foster youth. The LCAP shall identify goals for each of the following state priorities:

a. The degree to which district teachers are appropriately assigned in accordance with Education Code 44258.9 and fully credentialed in the subject areas and for the students they are teaching; every district student has sufficient access to standards-aligned instructional materials as determined pursuant to Education Code 60119; and school facilities are maintained in good repair as specified in Education Code 17002

(cf. 1312.4 - Williams Uniform Complaint Procedures)

(cf. 3517 - Facilities Inspection)

(cf. 4112.2 - Certification)

(cf. 4113 - Assignment)

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

b. Implementation of the academic content and performance standards adopted by the State Board of Education (SBE), including how the programs and services will enable English learners to access the Common Core State Standards and the English language development standards for purposes of gaining academic content knowledge and English language proficiency

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)

(cf. 6011 - Academic Standards)

(cf. 6174 - Education for English Language Learners)

- c. Parent/guardian involvement, including efforts the district makes to seek parent/guardian input in district and school site decision making and how the district will promote parent/guardian participation in programs for unduplicated students, as defined in Education Code 42238.02 and Board policy

(cf. 3553 - Free and Reduced Price Meals)

(cf. 6020 - Parent Involvement)

(cf. 6173.1 - Education for Foster Youth)

- d. Student achievement, as measured by all of the following as applicable:
 - (1) Statewide assessments of student achievement
 - (2) Academic Performance Index
 - (3) The percentage of students who have successfully completed courses that satisfy the requirements for entrance to the University of California and the California State University, or career technical education sequences or programs of study that satisfy specified requirements and align with SBE-approved career technical education standards and frameworks, including, but not limited to, those described in Education Code 52302, 52372.5, or 54692
 - (4) The percentage of English learners who make progress toward English proficiency as measured by the SBE-certified assessment of English proficiency
 - (5) The English learner reclassification rate
 - (6) The percentage of students who have passed an Advanced Placement examination with a score of 3 or higher
 - (7) The percentage of students who participate in and demonstrate college preparedness in the Early Assessment Program pursuant to Education Code 99300-99301

(cf. 0500 - Accountability)

(cf. 6141.5 - Advanced Placement)

(cf. 6162.5 - Student Assessment)

(cf. 6162.51 - State Academic Achievement Tests)

(cf. 6178 - Career Technical Education)

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)

- e. Student engagement, as measured by school attendance rates, chronic absenteeism rates, middle school dropout rates, high school dropout rates, and high school graduation rates, as applicable

(cf. 6146.1 - High School Graduation Requirements)

(cf. 5113.1 - Chronic Absence and Truancy)

(cf. 5147 - Dropout Prevention)

- f. School climate, as measured by student suspension and expulsion rates and other local measures, including surveys of students, parents/guardians, and teachers on the sense of safety and school connectedness, as applicable

(cf. 5137 - Positive School Climate)

(cf. 5144 - Discipline)

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

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

- g. The extent to which students have access to and are enrolled in a broad course of study that includes all of the subject areas described in Education Code 51210 and 51220, as applicable, including the programs and services developed and provided to unduplicated students and students with disabilities, and the programs and services that are provided to benefit these students as a result of supplemental and concentration funding pursuant to Education Code 42238.02 and 42238.03

(cf. 6143 - Courses of Study)

(cf. 6159 - Individualized Education Program)

- h. Student outcomes, if available, in the subject areas described in Education Code 51210 and 51220, as applicable

<p>Note: In addition to goals aligned with the state priorities described in item #1 above, Education Code 52060 provides that the LCAP may include goals for local priorities established by the Board; see the accompanying Board policy. Optional item #2 below may be revised to reflect local priorities.</p>

- 2. Any goals identified for any local priorities established by the Board.

(cf. 0200 - Goals for the School District)

- 3. A description of the specific actions the district will take during each year of the LCAP to achieve the identified goals, including the enumeration of any specific actions necessary for that year to correct any deficiencies in regard to the state and local priorities specified in items #1-2 above. Such actions shall not supersede provisions of existing collective bargaining agreements within the district.

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)

Note: Pursuant to Education Code 52060, in developing goals and actions for the LCAP, the Board may consider qualitative information, including, but not limited to, the results of school quality reviews conducted pursuant to Education Code 52052. Education Code 52052 authorizes the SPI, with approval of the SBE and conditional upon an appropriation in the state budget, to develop and implement a program of school quality reviews that features locally convened panels to visit schools, observe teachers, interview students, and examine student work.

For purposes of the descriptions required by items #1-3 above, the Board may consider qualitative information, including, but not limited to, findings that result from any school quality reviews conducted pursuant to Education Code 52052 or any other reviews. (Education Code 52060)

For any local priorities addressed in the LCAP, the Board and Superintendent or designee shall identify and include in the LCAP the method for measuring the district's progress toward achieving those goals. (Education Code 52060)

To the extent practicable, data reported in the LCAP shall be reported in a manner consistent with how information is reported on a school accountability report card. (Education Code 52060)

(cf. 0510 - School Accountability Report Card)

Increase or Improvement in Services for Unduplicated Students

Note: The following section is for use by districts that receive LCFE supplemental and/or concentration funds. Such districts are required to increase or improve services for unduplicated students in proportion to the increase in funds apportioned on the basis of the number and concentration of unduplicated students; see BP 3100 - Budget. 5 CCR 15494-15496, as amended by Register 2015, No. 2, specify the method for determining the percentage by which services for unduplicated students must be increased or improved above services provided to all students in the fiscal year.

The LCAP shall demonstrate how the district will increase or improve services for unduplicated students at least in proportion to the increase in funds apportioned on the basis of the number and concentration of unduplicated students. (5 CCR 15494-15496)

Note: Whenever a district chooses to expend supplemental or concentration funds on a districtwide or schoolwide basis, it is required pursuant to 5 CCR 15496, as amended by Register 2015, No. 2, to include the following components in its LCAP.

When the district expends supplemental and/or concentration funds on a districtwide or schoolwide basis during the year for which the LCAP is adopted, the district's LCAP shall: (5 CCR 15496)

1. Identify those services that are being funded and provided on a districtwide or schoolwide basis

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)

2. Describe how services are principally directed towards, and are effective in, meeting the district's goals for unduplicated students in the state priority areas and any local priority areas
3. If the enrollment of unduplicated students is less than 55 percent of district enrollment or less than 40 percent of school enrollment, describe how these services are the most effective use of the funds to meet the district's goals for its unduplicated students in the state priority areas and any local priority areas. The description shall provide the basis for this determination, including, but not limited to, any alternatives considered and any supporting research, experiences, or educational theory. (5 CCR 15496)

Annual Updates

On or before July 1 of each year, the LCAP shall be updated using the template in 5 CCR 15497.5 and shall include all of the following: (Education Code 52061)

1. A review of any changes in the applicability of the goals described in the existing LCAP pursuant to the section "Goals and Actions Addressing State and Local Priorities" above
2. A review of the progress toward the goals included in the existing LCAP, an assessment of the effectiveness of the specific actions described in the existing LCAP toward achieving the goals, and a description of changes to the specific actions the district will make as a result of the review and assessment

Note: Pursuant to Education Code 52061, the annual update to the LCAP must include expenditures for specific actions included in the LCAP and expenditures serving unduplicated students. Education Code 52061 requires that the expenditures specified in items #3-4 below be classified in accordance with the California School Accounting Manual.

3. A listing and description of the expenditures for the fiscal year implementing the specific actions included in the LCAP and the changes to the specific actions made as a result of the reviews and assessment required by items #1-2 above
4. A listing and description of expenditures for the fiscal year that will serve unduplicated students and students redesignated as fluent English proficient

Availability of the Plan

Note: Education Code 52065 requires the district to post its LCAP and annual update or revisions to the LCAP on the district web site. In addition, the County Superintendent of Schools is required to post all district LCAPs, or links to those plans, on the county office of education web site and to transmit all such plans to the SPI, who will then post links to all plans on the California Department of Education web site.

LOCAL CONTROL AND ACCOUNTABILITY PLAN (continued)

The Superintendent or designee shall post the LCAP and any updates or revisions to the LCAP on the district's web site. (Education Code 52065)

(cf. 1113 - District and School Web Sites)

USE OF SCHOOL FACILITIES

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

Application for Use of Facilities

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

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

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

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

Civic Center Use

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

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

Note: An Attorney General Opinion (79 Ops.Cal.Atty.Gen. 248 (1996)) found unconstitutional the section of Education Code 38131 which provides that a board may grant the use of school facilities to a religious group to conduct services only when the religious group has no other suitable meeting place. Although Attorney General opinions do not carry the force of law, they are given deference by the courts in the case of legal challenge. Therefore, a district should consult legal counsel before requiring a religious organization to establish that it lacks another suitable meeting place for the conduct of its services in order to rent school facilities. In that same opinion, the Attorney General also determined that Education Code 38131 does not limit the renewability of the temporary use permit for school facilities by a religious organization. Thus, legal counsel should also be consulted before a district refuses to renew a temporary permit. Item #3 below is consistent with the Attorney General's interpretation of Education Code 38131.

USE OF SCHOOL FACILITIES (continued)

3. The conduct of religious services for temporary periods, on a one-time or renewable basis, by any church or religious organization

4. Child care programs to provide supervision and activities for children of preschool and elementary school age

(cf. 5148 - Child Care and Development)

(cf. 5148.2 - Before/After School Programs)

(cf. 5148.3 - Preschool/Early Childhood Education)

5. The administration of examinations for the selection of personnel or the instruction of precinct board members by public agencies

6. Supervised recreational activities, including, but not limited to, sports league activities that are arranged for and supervised by entities, including religious organizations or churches, and in which youth may participate regardless of religious belief or denomination

7. A community youth center

(cf. 1020 - Youth Services)

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

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

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

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

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

USE OF SCHOOL FACILITIES (continued)

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

10. Other purposes deemed appropriate by the Governing Board

Restrictions

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

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

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

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

(*cf.* 3513.3 - Tobacco-Free Schools)

Note: Pursuant to Business and Professions Code 25608, it is a misdemeanor to possess, consume, sell, give, or deliver any alcoholic beverage to any person in a school building or on school grounds unless a specified exception applies. AB 2073 (Ch. 235, Statutes of 2014) amended Business and Professions Code 25608 to add an exception for cases in which alcohol is served during a special event, pursuant to a license or permit obtained under the Alcohol Beverage Control Act, at district-owned facilities at a time when students are not present. For this purpose, "facilities" include, but are not limited to, office complexes, conference centers, or retreat facilities.

The district should consult legal counsel and/or risk management personnel when determining whether to allow alcohol on district property pursuant to this exception. When a district allows the use of its facilities or grounds for events that may involve the serving or consumption of alcoholic beverages, it is recommended that rules and/or limitations be established to minimize risks to the district and attendees at such events (e.g., requiring security guards and/or additional insurance, limiting the presence of alcoholic beverages to

USE OF SCHOOL FACILITIES (continued)

designated areas, limiting the types of beverages and/or how many drinks can be served at a time, specifying the time period during which alcoholic beverages may be served). The following optional paragraphs may be revised to reflect any limitations imposed on the facility user.

However, the Superintendent or designee may approve the use of district facilities for special events that may involve the acquisition, possession, use, or consumption of alcoholic beverages when the event is covered by a special events permit pursuant to Division 9 of the Business and Professions Code and will occur at a time when students are generally not on the school grounds. (Business and Professions Code 25608)

Any such use of school facilities shall be subject to any limitations that may be necessary to reduce risks to the district and ensure the safety of participants, as determined by the Superintendent or designee. Applicable limitations shall be clearly stated in the facility use agreement to be signed by the user's representative.

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

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

Damage and Liability

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

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

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

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

USE OF SCHOOL FACILITIES (continued)

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

Note: Pursuant to Education Code 38134, groups that promote youth and school activities cannot be required to sign hold harmless and indemnification agreements agreeing to defend and indemnify the district against liability arising during the group's use of school facilities to the extent that the agreement requires the group to assume liability for the district's negligence. The statute is unclear as to whether the district can require non-youth-related groups to indemnify the district from any and all injuries resulting from the use of the facilities. Districts wishing to create such an agreement should consult legal counsel.

Because hold harmless agreements are only as strong as the groups' credit, districts should generally require proof of insurance in addition to such agreements. When a hold harmless and indemnification agreement appears necessary for any specific school facilities or a specific event, the district's risk manager, insurance carrier, or legal counsel should tailor it to the situation.

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

CONTRACTS

Note: Several statutes authorize the Governing Board to contract for services, equipment, materials, and supplies on behalf of the district. Such statutes include, but are not limited to, Education Code 17596 which allows a broad range of services to be performed under a "continuing contract" and Education Code 45103.5 which authorizes a contract for management consulting services relating to food service.

Some contracts are subject to certain specific legal requirements which, if not complied with, may render the contract void or unenforceable. For instance, when contracting for the purchase of equipment, materials, or supplies in excess of the current bid limit (\$86,000 for 2015), the district must seek competitive bids, pursuant to Public Contract Code 20111. See sections below titled "Contracts for Non-nutritious Foods or Beverages," "Contracts for Electronic Products and Services," "Contracts for Digital Storage and Maintenance of Student Records," and "Contracts for Personal Services" for specific requirements and/or restrictions related to those contracts. The district should consult its legal counsel when questions arise about legal requirements for specific kinds of contract.

The Governing Board recognizes its responsibility to enter into contracts on behalf of the district for the acquisition of equipment, supplies, services, and other resources necessary for the achievement of district goals. In exercising this authority to enter into a contract, the Board shall ensure that the district's interest is protected and that the terms of the contract conform to applicable legal standards, including the bidding requirements in Public Contract Code 20111.

(cf. 2121- Superintendent's Contract)
(cf. 4312.1 - Contracts)
(cf. 9124 - Attorney)

Note: The following **optional** paragraph may be revised to specify any desired limits to this delegation of authority.

The Board may, by a majority vote, delegate to the Superintendent or designee the authority to enter into contracts on behalf of the district. To be valid or to constitute an enforceable obligation against the district, all such contracts must be approved and/or ratified by the Board.

(cf. 3300 - Expenditures and Purchases)
(cf. 3314 - Payment for Goods and Services)

Note: The following **optional** paragraph reflects the requirements of Education Code 35182.5 which are applicable to contracts for exclusive or nonexclusive advertising and sale of carbonated beverages or non-nutritious foods or beverages. Though not required for all contracts, such requirements help to minimize public waste and ensure transparency in public contracting and should be adopted by the Board for other contracts. See "Contracts for Non-nutritious Foods or Beverages" below.

Every contract entered into on behalf of the district shall be made available for public inspection, except when the law prohibits disclosure. No contract shall prohibit a district employee from disparaging the goods or services of any contracting party.

(cf. 1340 - Access to District Records)

CONTRACTS (continued)

Contracts for Non-nutritious Foods or Beverages

Note: Foods and beverages that do not meet nutritional standards specified in law may not be sold in schools except under limited circumstances; see BP/AR 3554 - Other Food Sales. Schools that do not participate in the National School Lunch or Breakfast program are required to comply with the nutritional standards in Education Code 49431-49431.7 and 5 CCR 15500-15501 and 15575-15578 from one-half hour before the school day to one-half hour after it. Schools that participate in the National School Lunch or Breakfast program must comply with the stricter of the nutritional standards in 7 CFR 210.11 and 220.12 and Education Code 49431-49431.7 between midnight before and one-half hour after the end of the school day.

The district shall not enter into or renew a contract for the sale of foods or beverages that do not meet applicable nutritional standards specified in Education Code 49431-49431.7, 5 CCR 15500-15501 or 15575-15578, or 7 CFR 210.11 or 220.12, unless the contract specifies that such sale will occur off campus or outside the time restriction specified in the applicable law.

(cf. 3554 - Other Food Sales)

(cf. 3555 - Nutrition Program Compliance)

Note: Pursuant to Education Code 35182.5, the district may not enter into a contract that grants exclusive or nonexclusive sales or advertising for carbonated beverages, non-nutritious beverages, or non-nutritious foods unless the Board holds a public hearing and, as **mandated**, adopts a policy that ensures that internal controls are in place to protect the integrity of public funds, that the funds raised will benefit public education, and that the contracts are entered into on a competitive basis.

Before the district enters into or renews a contract that grants exclusive or nonexclusive advertising or sale of carbonated beverages, non-nutritious beverages, or non-nutritious foods as defined in law, the Board shall ensure that the district has sufficient internal controls in place to protect the integrity of public funds and to ensure that funds raised as a result of the contract benefit public education. (Education Code 35182.5)

Note: Education Code 35182.5 does not define the term "internal controls." Items #1-2 below are based on suggested "internal controls" as recommended by the California Association of School Business Officials (CASBO), and should be modified to reflect the specific internal controls developed by the district.

The Superintendent or designee shall develop the district's internal control procedures to protect the integrity of public funds. Such internal controls may include, but not be limited to, the following:

1. Procedures that produce accurate and reliable financial statements and, at the same time, safeguard the assets, financial resources, and integrity of every employee responsible for handling money or property. Control systems shall be systematically evaluated and revised to keep pace with the changing responsibilities of management.

(cf. 3100 - Budget)

CONTRACTS (continued)

(cf. 3400 - Management of District Assets/Accounts)
(cf. 3460 - Financial Reports and Accountability)

2. Procedures to ensure that district personnel do not handle cash or product at the school site. The contract shall specify that the vendor stock the machines and shall provide cash accounting, along with a check, for district proceeds directly to the control office.

Note: Optional items #1-4 below are not required by law, but present additional factors for the Board to consider to help ensure that the funds raised benefit public education in accordance with Education Code 35182.5. The following list should be modified to reflect district practice.

To ensure that funds raised by the contract benefit district schools and students:

1. The Superintendent or designee may invite parents/guardians, students, staff, and interested community members to make recommendations regarding the contract, including recommendations as to how the funds will be spent in a manner that benefits public education.

(cf. 1220 - Citizen Advisory Committees)

2. Prior to ratifying the contract, the Board shall designate the specific programs and activities that will be funded by the proceeds of the contract and consider how the contract reflects the district's vision and goals.

(cf. 0000 - Vision)
(cf. 0100 - Philosophy)
(cf. 0200 - Goals for the School District)

3. The contract shall specify that the contractor report, on a quarterly basis, to the Superintendent or designee the number of food items or beverages sold within the district and the amount of money raised by the sales. The Superintendent or designee shall report these amounts to the Board on a regular basis.

4. The Superintendent or designee shall ensure that the contract does not limit the ability of student and parent organizations to plan and operate fundraising activities.

(cf. 1230 - School-Connected Organizations)
(cf. 1321 - Solicitation of Funds from and by Students)

Note: Education Code 35182.5 mandates that Board policy ensure that the contract is entered into on a competitive basis pursuant to Public Contract Code 20111 or through the issuance of a Request for Proposal. Public Contract Code 20111 requires districts to seek competitive bids through advertisements for contracts for services exceeding an amount specified in law. For a detailed procedure for the bidding of contracts, see AR 3311 - Bids.
--

CONTRACTS (continued)

Any contract for the sale or advertisement of non-nutritious foods or carbonated or non-nutritious beverages shall be entered into on a competitive bid basis pursuant to Public Contract Code 20111 or through the issuance of a Request for Proposal. (Education Code 35182.5)

(cf. 3311 - Bids)

Note: Pursuant to Education Code 35182.5, the public hearing required before the district may enter into or renew a contract for non-nutritious foods or carbonated or non-nutritious beverages may be met through an annual public hearing to review and discuss existing and potential contracts for the sale of foods and beverages on campuses, as provided in Option 1 below. Option 2 is available for districts that prefer to hold a public hearing for the making or renewal of each contract involving non-nutritious foods or beverages.

OPTION 1: The Board shall hold an annual public hearing to review and discuss all existing and potential contracts for the sale of foods and beverages on campus, including those sold as full meals or through competitive sales, fundraisers, or vending machines. The Board shall hold a public hearing for any contract not discussed at the annual public hearing. (Education Code 35182.5)

OPTION 2: The Board shall not enter into or renew any contract that grants exclusive or nonexclusive advertising or sale of carbonated beverages, non-nutritious beverages, or non-nutritious foods until parents/guardians, students, and members of the public have had an opportunity to comment on the contract at a public hearing held during a regularly scheduled Board meeting. The Board shall clearly, and in a manner recognizable to the general public, identify in the agenda the contract to be discussed at the meeting. (Education Code 35182.5)

(cf. 9322 - Agendas/Meeting Materials)

(cf. 9323 - Meeting Conduct)

Note: The following paragraph is applicable to both Options 1 and 2.

The public hearing shall include, but not be limited to, a discussion of the nutritional value of foods and beverages sold within the district; the availability of fresh fruit, vegetables, and grains in school meals and snacks, including locally grown and organic produce; the amount of fat, sugar, and additives in the foods and beverages discussed; and barriers to student participation in school breakfast and lunch programs. (Education Code 35182.5)

(cf. 5030 - Student Wellness)

The contract shall be accessible to the public and may not include a confidentiality clause that would prevent the district or a district school from making any part of the contract public. (Education Code 35182.5)

CONTRACTS (continued)**Contracts for Electronic Products or Services**

Note: Education Code 35182.5 prohibits districts or schools from entering into contracts for electronic products or services that require dissemination of advertising to students, unless the following conditions are satisfied. This section should be modified to reflect any additional requirements included by the district.

The Board shall not enter into a contract for electronic products or services that requires the dissemination of advertising to students, unless the Board: (Education Code 35182.5)

1. Enters into the contract at a noticed, public hearing of the Board.

(cf. 9320 - Meetings and Notices)

2. Makes a finding that the electronic product or service is or would be an integral component of the education of students.

(cf. 0440 - District Technology Plan)

3. Makes a finding that the district cannot afford to provide the electronic product or service unless it contracts to permit dissemination of advertising to students.

(cf. 1325 - Advertising and Promotion)

4. As part of the district's normal, ongoing communication to parents/guardians, provides written notice that the advertising will be used in the classroom or other learning center.

(cf. 5145.6 - Parental Notifications)

5. Offers parents/guardians the opportunity to request in writing that their child not be exposed to the program that contains the advertising. A request shall be honored for the school year in which it is submitted, or longer if specified, but may be withdrawn by the parents/guardians at any time.

Contracts for Digital Storage and Maintenance of Student Records

Note: Pursuant to Education Code 49073.1, as added by AB 1584 (Ch. 800, Statutes of 2014), the Board is **mandated** to adopt a policy when the district chooses to enter into a contract with a third party to provide services specified in the following section.

If the district has a contract in effect prior to January 1, 2015, the requirements of Education Code 49073.1 will not become effective until the expiration, amendment, or renewal of the existing contract.

The district may enter into or renew a contract with a third party for the purpose of providing services, including cloud-based services, for the digital storage, management, and retrieval of

CONTRACTS (continued)

student records and/or to provide digital educational software that authorizes a third-party provider of digital educational software to access, store, and use student records. For these purposes, student records include any information maintained by the district that is directly related to a student and any information acquired directly from the student through the use of instructional software or applications assigned to the student by a teacher or other district employee, and do not include de-identified information. (Education Code 49073.1)

(cf. 5125 - Student Records)

Any such contract shall contain all of the following: (Education Code 49073.1)

1. A statement that student records continue to be the property of and under the control of the district
2. If applicable, a description of the means by which students may retain possession and control of their own student-generated content, as defined in Education Code 49073.1, including options by which a student may transfer student-generated content to a personal account
3. A prohibition against the third party using any information in the student record for any purpose other than those required or specifically permitted by the contract
4. A description of the procedures by which a parent/guardian or a student age 18 years or older may review personally identifiable information in the student's records and correct erroneous information
5. A description of the actions the third party will take, including the designation and training of responsible individuals, to ensure the security and confidentiality of student records
6. A description of the procedures for notifying the affected parent/guardian, or the affected student if age 18 years or older, in the event of an unauthorized disclosure of the student's records
7. A certification that a student's records shall not be retained or available to the third party upon completion of the terms of the contract and a description of how that certification will be enforced, except that these requirements shall not apply to student-generated content if the student chooses to establish or maintain an account with the third party for the purpose of storing that content
8. A description of how the district and the third party will jointly ensure compliance with the federal Family Educational Rights and Privacy Act, 20 USC 1232g

CONTRACTS (continued)

9. A prohibition against the third party using personally identifiable information in student records to engage in targeted advertising

Contracts for Personal Services

Note: The following **optional** paragraph is applicable when the district chooses to contract for personal services that are currently or customarily performed by its classified employees. Pursuant to Education Code 45103.1, such a contract may be entered into or renewed by the district in order to achieve cost savings, but only if the contract (1) is awarded through a publicized, competitive bidding process; (2) does not result in displacement of district employees (layoff, demotion, involuntary transfer to a new classification, etc.); and (3) meets other specified conditions.

In order to achieve cost savings, the district may enter into or renew a contract for any personal service that is currently or customarily performed by classified employees, if the contract does not displace school district employees and meets other conditions specified in Education Code 45103.1. To enter into or renew such a contract, the Board shall ensure that the district meets the numerous conditions specified in Education Code 45103.1.

(cf. 4200 - Classified Personnel)

Note: Education Code 45103.1 also permits personal service contracts that do not meet the conditions specified in the paragraph above in the circumstances as listed below.

In addition, the district may enter into or renew any contract for personal service without meeting the conditions described above, if any of the following conditions exists: (Education Code 45103.1)

1. The contract is for new district functions and the Legislature has specifically mandated or authorized the performance of the work by independent contractors.
2. The services contracted are not available within the district, cannot be performed satisfactorily by district employees, or are of such a highly specialized or technical nature that the necessary expert knowledge, experience, and ability are not available through the district.
3. The services are incidental to a contract for the purchase or lease of real or personal property, including, but not be limited to, agreements to service or maintain office equipment or computers that are leased or rented.
4. The district's policy, administrative, or legal goals and purposes cannot be accomplished through the utilization of persons selected pursuant to the regular or ordinary district hiring process.

CONTRACTS (continued)

5. The nature of the work is such that the criteria for emergency appointments, as defined in Education Code 45103.1, apply.
6. The contractor will provide equipment, materials, facilities, or support services that could not feasibly be provided by the district in the location where the services are to be performed.
7. The services are of such an urgent, temporary, or occasional nature that the delay that would result from using the district's regular or ordinary hiring process would frustrate their very purpose.

Legal Reference: (see next page)

CONTRACTS (continued)

Legal Reference:

EDUCATION CODE

200-262.4 *Prohibition of discrimination on the basis of sex*
14505 *Provisions required in contracts for audits*
17595-17606 *Contracts*
35182.5 *Contract prohibitions*
45103.1 *Personal services contracts*
45103.5 *Contracts for management consulting service related to food service*
49073.1 *Contract requirements for digital storage, maintenance and retrieval of student records*
49431-49431.7 *Nutritional standards*

CODE OF CIVIL PROCEDURE

685.010 *Rate of interest*

GOVERNMENT CODE

12990 *Nondiscrimination and compliance employment programs*
53260 *Contract provision re maximum cash settlement*
53262 *Ratification of contracts with administrative officers*

LABOR CODE

1775 *Penalties for violations*
1810-1813 *Working hours*

PUBLIC CONTRACT CODE

4100-4114 *Subletting and subcontracting fair practices*
7104 *Contracts for excavations; discovery of hazardous waste*
7106 *Noncollusion affidavit*
20111 *Contracts over \$50,000; contracts for construction; award to lowest responsible bidder*
20104.50 *Construction Progress Payments*
22300 *Performance retentions*

CODE OF REGULATIONS, TITLE 5

15500 *Food sales by student organizations*
15501 *Sales in high schools and junior high schools*
15575-15578 *Food and beverage requirements outside of the federal school meal programs*

UNITED STATES CODE, TITLE 20

1232g *Family Educational Rights and Privacy Act*
1681-1688 *Title IX, discrimination*

CODE OF FEDERAL REGULATIONS, TITLE 7

210.1-210.31 *National School Lunch Program*
220.1-220.21 *National School Breakfast Program*

Management Resources:

CSBA PUBLICATIONS

Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide, rev. 2005

WEB SITES

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

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

INTEGRATED PEST MANAGEMENT

Note: Education Code 17608-17614 encourage the use of effective, least toxic pest management practices for the control and management of pests on district properties and require the identification of an integrated pest management (IPM) coordinator and/or school site designee to carry out program requirements.

The California Department of Pesticide Regulation (DPR) has established an IPM program for use by school districts, including a model program guidebook, a template for an IPM plan, and a web site containing a comprehensive directory of resources describing and promoting the use of IPM practices.

The Superintendent or designee shall designate an employee at the district office and/or school site to develop, implement, and coordinate an integrated pest management (IPM) program that incorporates effective, least toxic pest management practices. The IPM coordinator shall prepare and regularly update a districtwide or school site IPM plan based on the template provided by the California Department of Pesticide Regulation (DPR).

Integrated pest management means a strategy that focuses on long-term prevention or suppression of pest problems through a combination of techniques such as monitoring for pest presence and establishing treatment threshold levels, using nonchemical practices to make the habitat less conducive to pest development, improving sanitation, and employing mechanical and physical controls. Pesticides that pose the least possible hazard and are effective in a manner that minimizes risks to people, property, and the environment are used only after careful monitoring indicates they are needed according to pre-established guidelines and treatment thresholds. (Education Code 17609; Food and Agricultural Code 13181)

Note: Pursuant to Education Code 17610.5, certain pesticides are exempt from the notification, recordkeeping, and reporting requirements of Education Code 17611 and 17612. The exempted products are listed in 3 CCR 6147.

The IPM plan and this administrative regulation shall not apply to reduced-risk pesticides, including self-contained baits or traps, gels or pastes used for crack and crevice treatments, antimicrobials, and pesticides exempt from registration by law. (Education Code 17610.5; 3 CCR 6147)

Note: Education Code 17610.1 prohibits districts from using certain pesticides identified by the DPR or U.S. Environmental Protection Agency (EPA) that have been granted only a conditional or interim registration or an experimental use permit, have had their registration cancelled or suspended, or are being phased out of use. A list of pesticides prohibited for use on school sites by Education Code 17610.1 can be found on DPR's web site.

The IPM coordinator shall not use any pesticide that is prohibited by DPR or the U.S. Environmental Protection Agency, as listed on the DPR web site. (Education Code 17610.1)

Program Components

Note: The following section reflects IPM measures recommended by DPR in its [California School IPM Model Program Guidebook](#) and the EPA and should be modified to reflect district practice.

INTEGRATED PEST MANAGEMENT (continued)

The district's program shall include, but not necessarily be limited to, the following components:

1. Identifying and monitoring pest population levels and identifying practices that could affect pest populations. Strategies for managing the pest shall be influenced by the pest species and whether that species poses a threat to people, property, or the environment.
2. Setting action threshold levels to determine when pest populations or vegetation at a specific location might cause unacceptable health or economic hazards that would indicate corrective action should be taken.
3. Modifying or eliminating pest habitats to deter pest populations and minimize pest infestations.
4. Considering a full range of possible alternative cost-effective treatments. Such alternative treatments may include taking no action or controlling the pest by physical, horticultural, or biological methods. Cost or staffing considerations alone will not be adequate justification for the use of chemical control agents.
5. Selecting nonchemical pest management methods over chemical methods whenever such methods are effective in providing the desired control or, when it is determined that chemical methods must be used, giving preference to those chemicals that pose the least hazardous effects to people and the environment.
6. Limiting pesticide purchases to amounts needed for the year. Pesticides shall be stored at a secure location that is not accessible to students and unauthorized staff. They shall be stored and disposed of in accordance with state regulations and label directions registered with the EPA as well as any disposal requirements indicated on the product label.

(cf. 3514 - Environmental Safety)
(cf. 3514.1 - Hazardous Substances)

7. Informing parents/guardians and employees regarding pesticide use as described in the sections "Notifications" and "Warning Signs" below.
8. Ensuring that persons applying pesticides follow label precautions and are sufficiently trained in the principles and practices of IPM.

(cf. 4231 - Staff Development)

INTEGRATED PEST MANAGEMENT (continued)

Note: SB 1405 (Ch. 848, Statutes of 2014) added Education Code 17614 and Food and Agricultural Code 13186.5 to require that, beginning July 1, 2016, the IPM coordinator and any employee or contractor who intends to apply a pesticide at a school site must annually complete a DPR-approved training course.

Beginning July 1, 2016, the IPM coordinator and any employee or contractor who intends to apply a pesticide at a school site shall annually complete a DPR-approved training course on IPM and the safe use of pesticides in relation to the unique nature of school sites and children's health. (Education Code 17614; Food and Agricultural Code 13186.5)

Notifications

Note: Education Code 17612 requires the district to annually issue a written notification to employees and parents/guardians containing the information specified in items #1-6 below; see E 4112.9/4212.9/4312.9 - Employee Notifications and E 5145.6 - Parental Notifications. A sample notification is available on the DPR web site. Education Code 17612 clarifies that the district is not required to issue the notice through first-class mail unless no other method is feasible. Pursuant to Education Code 17612 and 48980.3, the district may satisfy this requirement by including the notification in its annual parental notification.

Staff and parents/guardians of students enrolled at a school site shall be annually notified, in writing, regarding pesticide products expected to be applied at the school site in the upcoming year. The notification shall include at least the following: (Education Code 17612)

1. The name of each pesticide product expected to be applied in the upcoming year and the active ingredient(s) in it
2. The Internet address (<http://www.cdpr.ca.gov/schoolipm>) used to access information on pesticides and pesticide use reduction developed by the DPR pursuant to Food and Agricultural Code 13184

Note: As amended by SB 1405 (Ch. 848, Statutes of 2014), Education Code 17612 requires the notification to include the information specified in items #3-4 below.

3. If the school has posted its IPM plan, the Internet address where the plan may be found
4. The opportunity to view a copy of the IPM plan in the school office
5. An opportunity for interested persons to register to receive prior notification of each application of a pesticide at the school site
6. Other information deemed necessary by the IPM coordinator

(cf. 1312.4 - Williams Uniform Complaint Procedures)
(cf. 3517 - Facilities Inspection)

INTEGRATED PEST MANAGEMENT (continued)

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

(cf. 5145.6 - Parental Notifications)

Whenever a person registers to receive notice of individual pesticide application pursuant to item #5 above, the IPM coordinator shall notify such registered persons of individual pesticide applications at least 72 hours prior to the application. The notice shall include the product name, the active ingredient(s) in the product, and the intended date of application. (Education Code 17612)

If a pesticide product not included in the annual notification is subsequently intended for use at a school site, the IPM coordinator shall provide written notification of its intended use to staff and parents/guardians of students enrolled at the school, at least 72 hours prior to the application. (Education Code 17612)

Note: Pursuant to Education Code 17611.5, as added by SB 1405 (Ch. 848, Statutes of 2014), whenever a school chooses to use a pesticide that is not exempted under Education Code 17610.5, the IPM plan must be posted on the school web site or, if the school does not have a web site, then on the district web site. If neither the school nor district has a web site, then the plan must be included in the annual parental notification issued pursuant to Education Code 17612 as described above. The following paragraph may be revised to reflect district practice.

If a school chooses to use a pesticide not exempted pursuant to Education Code 17610.5, it shall post the school or district IPM plan on the school's web site or, if the school does not have a web site, then on the district web site. If neither the school nor district has a web site, then the IPM plan shall be included with the annual notification sent to staff and parents/guardians pursuant to Education Code 17612 as described above. The plan shall include the name of the school designee or IPM coordinator, the pesticides applied at the school site by school or district employees and hired pest control applicators, and a date when the plan shall be reviewed and updated as necessary. When not required, the IPM coordinator may post or distribute the IPM plan at his/her discretion. (Education Code 17611.5)

Note: Education Code 17612 exempts emergency conditions from strict compliance with the notification requirements. However, the IPM coordinator must make every effort to provide the required notification for an application of a pesticide under emergency conditions.

Whenever the IPM coordinator deems that the immediate use of a pesticide is necessary to protect the health and safety of students, staff, or other persons at the school site, he/she shall make every effort to provide the required notifications prior to the application of the pesticide. (Education Code 17612)

Warning Signs

Note: Education Code 17612 requires posting of a warning sign in each area of a school site where pesticides will be applied. A sample warning sign can be found on the DPR web site.

INTEGRATED PEST MANAGEMENT (continued)

The IPM coordinator shall post a warning sign at each area of the school site where pesticides will be applied that shall be visible to all persons entering the treated area. The sign shall be posted at least 24 hours prior to the application and shall remain posted until 72 hours after the application. The warning sign shall prominently display the following information: (Education Code 17612)

1. The term "Warning/Pesticide Treated Area"
2. The product name, manufacturer's name, and the EPA's product registration number
3. Intended areas and dates of application
4. Reason for the pesticide application

When advance posting is not possible due to an emergency condition requiring immediate use of a pesticide, the warning sign shall be posted immediately upon application and shall remain posted until 72 hours after the application. (Education Code 17609, 17612)

Records

Note: Food and Agricultural Code 13186 requires pest control operators to report the use of pesticides at a school site to the county agricultural commissioner or director. Pursuant to Education Code 17611, as amended by SB 1405 (Ch. 848, Statutes of 2014), any pesticide use that is not included in the report submitted pursuant to Food and Agricultural Code 13186 must be reported to the DPR by the school designee as provided below. The form that must be used for this report is available on DPR's web site.

At the end of each calendar year, the IPM coordinator shall submit to the DPR, on a form provided by the DPR, a copy of the records of all pesticide use at the school site for that year, excluding any pesticides exempted by law and any pesticide use reported by the pest control operator pursuant to Food and Agricultural Code 13186. The IPM coordinator may submit more frequent reports at his/her discretion. (Education Code 17611)

Each school site shall maintain records of all pesticide use at the school for four years, and shall make the information available to the public, upon request, in accordance with the California Public Records Act. Such records may be maintained by retaining a copy of the warning sign posted for each pesticide application with a recording on that copy of the amount of the pesticide used. (Education Code 17611)

(cf. 1340 - Access to District Records)
(cf. 3580 - District Records)

Legal Reference: (see next page)

INTEGRATED PEST MANAGEMENT (continued)

Legal Reference:

BUSINESS AND PROFESSIONS CODE

8593.2 Licensed pest control operators; training requirements

EDUCATION CODE

17366 Legislative intent (fitness of buildings for occupancy)

17608-17614 Healthy Schools Act of 2000

48980 Notice at beginning of term

48980.3 Notification of pesticides

FOOD AND AGRICULTURAL CODE

11401-12408 Pest control operations and agricultural chemicals

13180-13188 Healthy Schools Act of 2000

GOVERNMENT CODE

3543.2 Scope of representation; right to negotiate safety conditions

6250-6270 California Public Records Act

CODE OF REGULATIONS, TITLE 3

6147 Pesticides exempted from registration requirements

CODE OF REGULATIONS, TITLE 8

340-340.2 Employer's obligation to provide safety information

UNITED STATES CODE, TITLE 7

136-136y Insecticide, Fungicide and Rodenticide Act

Management Resources:

CALIFORNIA DEPARTMENT OF PESTICIDE REGULATION PUBLICATIONS

California School IPM Model Program Guidebook

U.S. ENVIRONMENTAL PROTECTION AGENCY

Protecting Children in Schools from Pests and Pesticides, 2002

Pest Control in the School Environment: Adopting Integrated Pest Management, 1993

WEB SITES

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

California Department of Pesticide Regulation, School IPM: <http://www.cdpr.ca.gov/schoolipm>

U.S. Environmental Protection Agency, Integrated Pest Management at Schools:

<http://www.epa.gov/pesticides/ipm>

All PersonnelE 4112.9(a)
4212.9
4312.9**EMPLOYEE NOTIFICATIONS**

Note: The following exhibit lists notices which the law requires be provided to employees. See the referenced Board policy, administrative regulation, or Board bylaw for further information about related program and notice requirements.

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. To All Employees			
At the beginning of school year or upon employment	Education Code 231.5; Government Code 12950; 2 CCR 11023	AR 4119.11 4219.11 4319.11	The district's policy on sexual harassment, legal remedies, complaints
Annually to all employees, and 72 hours before pesticide application	Education Code 17612	AR 3514.2	Use of pesticide product, active ingredients, Internet address to access information
To all employees, prior to implementing year-round schedule	Education Code 37616	BP 6117	Public hearing on year-round program
To all employees, prior to implementing alternative schedule	Education Code 46162	AR 6112	Public hearing on alternative schedule
Annually to all employees	Education Code 49013; 5 CCR 4622	AR 1312.3 BP 0460 BP 3260	Uniform complaint procedures, appeals, civil law remedies, coordinator, complaints about student fees and local control and accountability plan
Annually to all employees	Education Code 49414	AR 5141.21	Request for volunteers to be trained to administer epinephrine auto-injectors
Electronically to all employees, no more than twice per school year per child needing training medication	Education Code 49414.7	AR 5141.21	Request for volunteers to administer emergency antiseizure medication; to be provided
To all employees	Government Code 1126	BP 4136 4236 4336	Prohibition of activities that are inconsistent, incompatible, in conflict with, or inimical to duties; discipline; appeal
Prior to beginning employment	Government Code 3102	AR 4112.3 4212.3 4312.3	Oath or affirmation of allegiance required of disaster service workers

E 4112.9(b)
4212.9
4312.9

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. To All Employees (continued)			
To all employees	Government Code 8355; 41 USC 8102	BP 4020 BP 4159 4259 4359	District's drug- and alcohol-free workplace; actions to be taken if violated; available employee assistance programs
Upon placement of automated external defibrillator (AED) in school, and annually thereafter	Health and Safety Code 1797.196	AR 5141	Proper use of AED; location of all AEDs on campus
To all employees, if the district receives Tobacco-Use Prevention Education funds	Health and Safety Code 104420	AR 3513.3	District's tobacco-free schools policy and enforcement procedures
Annually to all employees, or more frequently if there is new information	Health and Safety Code 120875, 120880	AR 4119.43 4219.43 4319.43	AIDS and hepatitis B, including methods to prevent exposure
To all employees, with each paycheck	Labor Code 246	AR 4161.1 4361.1 AR 4261.1	Amount of sick leave available
To covered employees and former employees	Labor Code 2800.2	AR 4154 4254 4354	Availability of COBRA/ Cal-COBRA continuation and conversion coverage; statement encouraging careful examination of options before declining coverage
To every new employee, either at the time employee is hired or by end of first pay period	Labor Code 3551	BP 4157.1 4257.1 4357.1	Workers' compensation benefits, how to obtain medical care, role of primary physician, form for reporting personal physician/chiropractor
Prior to beginning employment	Penal Code 11165.7, 11166.5	AR 5141.4	Status as a mandated reporter of child abuse, reporting obligations, confidentiality rights, copy of law
Upon employment, and when employee goes on leave for specified reasons	Unemployment Insurance Code 2613	AR 4154 4254 4354	Disability insurance rights and benefits

E 4112.9(c)
4212.9
4312.9

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. To All Employees (continued)			
To all employees via employee handbook, or to each new employee	2 CCR 11096; 29 CFR 825.300	AR 4161.8 4261.8 4361.8	Benefits through Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA); obligation to provide 30 days' notice of need for leave when possible
To all employees and job applicants	34 CFR 104.8, 106.9	BP 0410 BP 4030	District's policy on nondiscrimination and related complaint procedures
Annually to all employees	40 CFR 763.84, 763.93	AR 3514	Availability of asbestos management plan; inspections, response actions, post-response actions planned or in progress
II. To Certificated Employees			
To eligible certificated employees in a timely manner, and to part-time and substitute certificated employees within 30 days of hire	Education Code 22455.5	AR 4121	Criteria for membership in retirement system; right to elect membership at any time
Upon employment of a retired certificated individual	Education Code 22461	AR 4117.14 4317.14	Postretirement earnings limitation or employment restriction; monthly report of compensation
To certificated employees	Education Code 35171	AR 4115 BP 4315	District regulations related to performance evaluations
30 days before last day of school year for instructional staff, or by June 30 for noninstructional certificated staff, in any year in which employee is evaluated	Education Code 44663	AR 4115	Copy of employee's evaluation

E 4112.9(d)
4212.9
4312.9

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
II. To Certificated Employees (continued)			
To a certificated employee with unsatisfactory evaluation, once per year for probationary employee or at least once every other year for permanent employee	Education Code 44664	AR 4115	Notice and description of the unsatisfactory performance
By May 30, if district issues reemployment notices to certificated employees	Education Code 44842	AR 4112.1	Request that the employee notify district of intent to remain in service next year
To certificated employees upon employment, and to nonpermanent employees in July of each school year	Education Code 44916	AR 4112.1 AR 4121	Employment status and salary
To probationary employees in district with ADA of 250 or more, by March 15 of employee's second consecutive year of employment	Education Code 44929.21	AR 4117.6	Whether or not employee is reelected for next school
When certificated employee is subject to disciplinary action for cause, at any time of year or, for charge of unsatisfactory performance, during instructional year	Education Code 44934, 44934.1, 44936	BP 4118 AR 4118	Notice of charges, procedures, and employee rights; intent to dismiss or suspend 30 days after notice
To certificated employee charged with unprofessional conduct, at least 45 days prior to suspension/ dismissal notice	Education Code 44938	BP 4118	Notice of deficiency and opportunity to correct
To certificated employee charged with unsatisfactory performance, at least 90 days prior to suspension/dismissal notice or prior to last quarter of school year	Education Code 44938	BP 4118	Notice of deficiency and opportunity to correct
To certificated employee charged with mandatory leave of absence offense, within 10 days of entry of judgment in proceedings	Education Code 44940.5	AR 4118	Notice of intent to dismiss 30 days from notice unless employee demands hearing

E 4112.9(e)
4212.9
4312.9

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
II. To Certificated Employees (continued)			
To probationary employees 30 days prior to dismissal during school year, but not later than March 15 for second-year probationary employees	Education Code 44948.3	AR 4118	Reasons for dismissal and opportunity to appeal
By March 15 when necessary to reduce certificated personnel, with final notice by May 15	Education Code 44949, 44955	BP 4117.3	Reasons for personnel reduction and employees' right to hearing; final notice of Board decision re: termination
On or before June 30, to temporary employee who served 75 percent of school year but will be released	Education Code 44954	BP 4121	District's decision not to reelect employee for following school year
To teacher, when a student engages in or is reasonably suspected of specified acts	Education Code 49079	AR 4158 4258 4358	Student has committed specified act that constitutes ground for suspension or expulsion
To certificated employee upon change in employment status due to alleged misconduct or while allegation is pending	5 CCR 80303	AR 4117.7 4317.7	Contents of state regulation re: report to Commission on Teacher Credentialing
To teachers when school is identified for Title I program improvement restructuring	20 USC 6316	AR 0520.2	School identified for restructuring; opportunity to comment and participate
III. To Classified Employees			
To classified employee charged with mandatory leave of absence offense, in merit system district	Education Code 44940.5	AR 4218	Notice of intent to dismiss in 30 days
When classified employee is subject to disciplinary action for cause, in nonmerit district	Education Code 45113	AR 4218	Notice of charges, procedures, and employee rights

E 4112.9(f)
4212.9
4312.9

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. To Classified Employees (continued)			
To classified employees at least 60 days prior to layoff, or by April 29 for specially funded program that expires at end of school year	Education Code 45117	AR 4217.3	Notice of layoff and reemployment rights
To classified employees upon employment and upon each change in classification	Education Code 45169	AR 4212	Employee's class specification, salary data, assignment or work location, duty hours, prescribed workweek
To classified permanent employee whose leave is exhausted	Education Code 45192, 45195	AR 4261.1 AR 4261.11	Exhaustion of leave, opportunity to request additional leave
To school bus drivers and school activity bus drivers prior to expiration of specified documents	13 CCR 1234	AR 3542	Expiration date of driver's license, driver's certificate and medical certificate; need to renew
To school bus drivers and school activity bus drivers upon employment and at least once per year thereafter	13 CCR 2480	AR 3542	Limitations on vehicle idling; consequences of not complying
To school bus drivers, prior to district drug testing program and thereafter upon employment	49 CFR 382.601	BP 4112.42 4212.42 4312.42	Explanation of federal requirements for drug testing program and district's policy
IV. To Administrative/Supervisory Personnel			
To deputy, associate, or assistant superintendent or senior manager of classified service, at least 45 days before expiration of contract	Education Code 35031	BP 4312.1	Decision not to reelect or reemploy upon expiration of contract or term
Upon request by administrative or supervisory employee transferred to teaching position	Education Code 44896	AR 4313.2	Statement of the reasons for the release or reassignment

E 4112.9(g)
4212.9
4312.9

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
IV. To Administrative/Supervisory Personnel (continued)			
By March 15 to employee who may be released/reassigned the following school year	Education Code 44951	AR 4313.2	Notice that employee may be released or reassigned the following school year
V. To Individual Employees Under Special Circumstances			
Prior to placing derogatory information in personnel file	Education Code 44031	AR 4112.6 4212.6 4312.6	Notice of derogatory information, opportunity to review and comment
To employees who volunteer to administer epinephrine auto-injector	Education Code 49414	AR 5141.21	Defense and indemnification from civil liability by the district
24 hours before Board meets in closed session to hear complaints or charges against employee	Government Code 54957	BB 9321	Employee's right to have complaints/charges heard in open session
When taking disciplinary action against employee for disclosure of confidential information	Government Code 54963	BP 4119.23 4219.23 4319.23	Law prohibiting disclosure of confidential information obtained in closed session
Within one working day of work-related injury or victimization of crime	Labor Code 3553, 5401	BP 4157.1 4257.1 4357.1	Potential eligibility for workers' compensation benefits, claim form
When adverse employment action is based on DOJ criminal history information or subsequent arrest notification	Penal Code 11105, 11105.2	AR 4112.5 4212.5 4312.5	Copy of DOJ notification
To any employee with exposure to blood or other potentially infectious materials, upon initial employment and at least annually thereafter	8 CCR 3204, 5193	AR 4119.42 4219.42 4319.42	The existence, location, and availability of exposure and medical records; person responsible for maintaining and providing access to records; right to access records
To any employee assigned to a work area where hazardous chemicals are present, upon initial assignment and upon new exposure situation	8 CCR 5191	AR 3514.1	Location and availability of chemical hygiene plan, exposure limits, signs and symptoms of exposure, location of reference material

E 4112.9(h)
4212.9
4312.9

EMPLOYEE NOTIFICATIONS (continued)

When/Whom to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
V. To Individual Employees Under Special Circumstances (continued)			
To any employee who may be exposed to hazardous substances in the work area, upon initial assignment and when new hazard is introduced into work area	8 CCR 5194	AR 3514.1	Any presence of hazardous substances in the work area, location and availability of hazard communication program, new material safety data sheet, employee rights
To employee eligible for military leave	38 USC 4334	AR 4161.5 4261.5 4361.5	Notice of rights, benefits, and obligations under military leave
Within five days of employee's request for FMLA leave, receipt of supporting information, or district's knowledge that the requested leave may qualify as FMLA leave	29 CFR 825.300	AR 4161.8 4261.8 4361.8	Designation of leave as FMLA or non-FMLA; if not eligible, reason not eligible; requirement to use paid leave; any requirement for fitness-for-duty certification; any subsequent changes in designation notice
Whenever notice of eligibility for FMLA is provided to employee	29 CFR 825.300	AR 4161.8 4261.8 4361.8	Rights and responsibilities re: use of FMLA; consequences of failure to meet obligations

NEGOTIATIONS/CONSULTATION

Note: Districts that have recognized a bargaining unit of supervisory employees as authorized by Government Code 3545 (see BP 4140/4240/4340 - Bargaining Units) may choose to triple code this Board policy as BP 4143/4243/4343 - Negotiations/Consultation.

The Governing Board recognizes its responsibility to represent the public's interests in the collective bargaining process. In ratifying agreements on employee contracts, the Board shall balance the needs of staff and the priorities of the district in order to provide students with a high-quality instructional program based on a sound, realistic budget.

(cf. 0200 - Goals for the School District)
(cf. 3100 - Budget)
(cf. 4140/4240/4340 - Bargaining Units)
(cf. 4141/4241 - Collective Bargaining Agreement)

The Board and the Superintendent shall establish a bargaining team to assist in analyzing contract provisions and conducting contract negotiations. The Board shall provide its negotiator(s) with expected outcomes and clear parameters for acceptable contract provisions which promote the realization of district goals and priorities.

The Board and its bargaining team shall negotiate in good faith with exclusive employee representatives on wages, hours of employment, and other terms and conditions of employment identified in law as being within the scope of representation. (Government Code 3543.2)

Note: As amended by AB 1611 (Ch. 801, Statutes of 2014), Government Code 3543.2 requires advance "reasonable written notice" to the exclusive employee representative whenever the district intends to make any change to matters within the scope of representation of the exclusive representative. This amendment to law is consistent with previous decisions by the Public Employment Relations Board (PERB).

When the district intends to make any change to matters within the scope of representation, it shall give reasonable written notice of its intent to the exclusive representative for the purpose of providing the exclusive representative a reasonable amount of time to negotiate with the district regarding the proposed changes. (Government Code 3543.2)

Note: Pursuant to Government Code 3543.1, a reasonable number of employees must be granted paid released time during the work day to participate in negotiations. In such cases, the employee is compensated by the district. This released time is distinct from the time off allowed pursuant to Education Code 44987 and 45210 for employees to serve as elected officers of their local, statewide, or national employee organization, which is reimbursed by the employee organization, except as negotiated otherwise for classified bargaining units; see AR 4161.2/4261.2/4361.2 - Personal Leaves.

A reasonable number of representatives of the employee organization shall have the right to receive reasonable periods of released time without loss of district compensation when meeting and negotiating and/or for the processing of grievances. (Government Code 3543.1)

NEGOTIATIONS/CONSULTATION (continued)

Note: Pursuant to Government Code 54957.6, the Governing Board may meet in closed session to review its position and/or instruct its designated representative regarding salaries, salary schedules, or benefits or to discuss any other matter within the statutorily provided scope of representation for both represented and unrepresented groups. Government Code 3549.1 specifies that closed sessions may be held for (1) any meeting and negotiating discussion between the district and employee organization; (2) any meeting of a mediator with either party or both parties; (3) any hearing, meeting, or investigation conducted by a factfinder or arbitrator; and (4) an executive session of the district or between the district and its designated representative to discuss its position regarding any matter within the scope of representation and instructing its designated representatives. See BB 9321 - Closed Session Purposes and Agendas. Closed sessions properly conducted pursuant to Government Code 3549.1 are exempt from the Brown Act.

The Board and its bargaining team shall establish standards of conduct pertaining to the negotiations process for members of the bargaining team. Certain meetings related to negotiations shall not be open to the public in accordance with Government Code 3549.1 and 54957.6, except as otherwise required by law. Matters discussed in these meetings shall be kept in strict confidence in accordance with law.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 9010 - Public Statements)
(cf. 9011 - Disclosure of Confidential/Privileged Information)
(cf. 9321 - Closed Session Purposes and Agendas)

The Board and its negotiator(s) shall not knowingly provide the employee organization with inaccurate information regarding the financial resources of the district. (Government Code 3543.5)

The Board shall monitor the progress of negotiations and carefully consider how proposed contract provisions would affect the district's short- and long-term fiscal, programmatic, instructional, and personnel goals.

Note: Government Code 3547 and 3547.5 require the Board and exclusive representative, at public meetings, to present their initial contract proposals before commencing negotiations and to make public the major provisions of the proposed agreement before entering into such agreement; see BP 4143.1/4243.1 - Public Notice - Personnel Negotiations.

The Board and/or Superintendent or designee shall keep the public informed about the progress of negotiations and the ways in which negotiations may affect district goals unless otherwise agreed upon by the district and exclusive representative.

(cf. 4143.1/4243.1 - Public Notice - Personnel Negotiations)

NEGOTIATIONS/CONSULTATION (continued)

Note: Pursuant to Government Code 3540.2, if the district has a qualified or negative certification on an interim fiscal report, indicating that it may not or will not be able to meet its financial obligations for the current or subsequent fiscal years (see AR 3460 - Financial Reports and Accountability), it must allow the county office of education 10 working days to review and comment on any proposed collective bargaining agreement. During that time, the County Superintendent of Schools will notify the Superintendent, Board, and each parent-teacher organization of the district if, in his/her opinion, the proposed agreement would endanger the fiscal well-being of the district.

Whenever the district has a qualified or negative certification on an interim fiscal report, it shall allow the county office of education at least 10 working days to review and comment on any proposed agreement with exclusive representatives of employees. The district shall provide the County Superintendent of Schools with all information relevant to gain an understanding of the financial impact of any final collective bargaining agreement. (Government Code 3540.2)

(cf. 3460 - Financial Reports and Accountability)

Once the final terms of the agreement have been ratified by the membership of the employee organization, the contract shall be presented to the Board at a public meeting for acceptance.

Any agreement adopted by the Board may be for a term not to exceed three years. (Government Code 3540.1)

Note: Pursuant to Government Code 3548, if the district and employee organization are unable to reach agreement, either party may declare an impasse and request assistance from PERB in instituting mediation procedures in accordance with Government Code 3548-3548.8.

In the event of an impasse in negotiations, the district shall participate in good faith in mediation and fact-finding procedures pursuant to Government Code 3548-3548.8. (Government Code 3543.5)

(cf. 4141.6/4241.6 - Concerted Action/Work Stoppage)

Following adoption of the collective bargaining agreement, any subsequent amendments shall be executed in writing and ratified by the Board and the employees' exclusive representative.

Consultation

Note: Pursuant to Government Code 3543.2, the exclusive representative of certificated personnel has the right to consult with the Board on matters specified below; all other matters are reserved to the Board. PERB has determined that consultation procedures are a mandatory subject of bargaining. Although required to consult on these matters, the Board should address the matters in policies and regulations rather than incorporating them into the negotiated agreement.

NEGOTIATIONS/CONSULTATION (continued)

The exclusive representative of certificated staff may consult with the Board on the definition of educational objectives, the determination of the content of courses and curriculum, and the selection of textbooks.

(cf. 6011 - Academic Standards)
(cf. 6141 - Curriculum Development and Evaluation)
(cf. 6161.1 - Selection and Evaluation of Instructional Materials)
(cf. 9310 - Board Policies)

Legal Reference:

EDUCATION CODE

44987 Service as officer of employee organization (certificated)

45210 Service as officer of employee organization (classified)

GOVERNMENT CODE

3540-3549.3 Educational Employment Relations Act

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

Berkeley Council of Classified Employees v. Berkeley Unified School District, (2008) PERB Decision No. 1954

Management Resources:

CSBA PUBLICATIONS

Collective Bargaining DVD-ROM

Maximizing School Board Governance: Collective Bargaining

Before the Strike: Planning Ahead in Difficult Negotiations, 1996

WEB SITES

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

California Public Employee Relations: <http://cper.berkeley.edu>

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

Public Employment Relations Board: <http://www.perb.ca.gov>

State Mediation and Conciliation Service (SMCS): <http://www.dir.ca.gov/csmcs/smcs.aspx>

ADMISSION

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

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

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

(cf. 5111.1 - District Residency)
(cf. 5111.12 - Residency Based on Parent/Guardian Employment)
(cf. 5125 - Student Records)
(cf. 5141.3 - Health Examinations)
(cf. 5141.31 - Immunizations)
(cf. 5141.32 - Health Screening for School Entry)

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

The Office for Civil Rights, U.S. Department of Education, has issued a "Dear Colleague" letter to clarify that districts may not adopt enrollment procedures that discourage the participation of students based on the actual or perceived citizenship or immigration status of the student or parent/guardian, as such practices would violate federal laws granting all students equal access to education. Thus, the district may not inquire into a student's citizenship or immigration status as a condition of enrollment.

The Superintendent or designee shall ensure that the enrollment of a homeless or foster child or a child of a military family is not delayed because of outstanding fees or fines owed to the child's last school or for his/her inability to produce previous academic, medical, or other records normally required for enrollment.

(cf. 6173 - Education for Homeless Children)
(cf. 6173.1 - Education for Foster Youth)
(cf. 6173.2 - Education of Children of Military Families)

ADMISSION (continued)

Note: Education Code 48645.5 prohibits the district from denying enrollment to a child solely for reason of his/her contact with the juvenile justice system as specified in the following paragraph. Pursuant to Education Code 48647, as added by AB 2276 (Ch. 901, Statutes of 2014), districts are strongly encouraged to work together with other agencies, including, but not limited to, the county office of education and the county probation department, to facilitate smooth transition of children from the juvenile court schools into regular schools.

In addition, no child shall be denied enrollment in a district school solely on the basis of his/her arrest, adjudication by a juvenile court, formal or informal supervision by a probation officer, detention in a juvenile facility, enrollment in a juvenile court school, or other contact with the juvenile justice system. (Education Code 48645.5)

(cf. 5119 - Students Expelled from Other Districts)

Note: The following **optional** paragraph may be revised to reflect district practice. Education Code 48354 requires the district to give priority for enrollment to students residing in the district, including students applying for intradistrict open enrollment, over students transferring from a school identified under the Open Enrollment Act (Education Code 48350-48361). Thus, the district needs to align the application windows for various attendance options in a manner that will allow the district to meet legal requirements pertaining to admissions priorities. See BP/AR 5116.1 - Intradistrict Open Enrollment and BP/AR 5118 - Open Enrollment Act Transfers for application windows applicable to those options.

When enrolling in any district school, including a school in their attendance area, children whose parents/guardians reside within district boundaries shall be subject to the timelines established by the Board for open enrollment. Children whose parents/guardians do not reside within the district or who are not otherwise eligible for enrollment in the district may apply for interdistrict attendance in accordance with the timelines specified in applicable Board policies and administrative regulations.

(cf. 5116.1 - Intradistrict Open Enrollment)

(cf. 5117 - Interdistrict Attendance)

(cf. 5118 - Open Enrollment Act Transfers)

Note: Education Code 49452.9, as added by AB 2706 (Ch. 827, Statutes of 2014), requires the district's enrollment forms for the 2015-16, 2016-17, and 2017-18 school years to include an informational item about affordable health care options and available enrollment assistance. Pursuant to Education Code 49452.9, the district could accomplish this by developing an informational item or amending its existing forms, or by using a template or attaching a fact sheet to be developed by the California Department of Education.

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

ADMISSION (continued)

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

Legal Reference:

EDUCATION CODE

46300 *Computation of average daily attendance, inclusion of kindergarten and transitional kindergarten*

46600 *Agreements for admission of students desiring interdistrict attendance*

48000 *Minimum age of admission (kindergarten)*

48002 *Evidence of minimum age required to enter kindergarten or first grade*

48010 *Minimum age of admission (first grade)*

48011 *Admission from kindergarten or other school; minimum age*

48050-48053 *Nonresidents*

48200 *Children between ages of 6 and 18 years (compulsory full-time education)*

48350-48361 *Open Enrollment Act*

48850-48859 *Educational placement of homeless and foster youth*

49076 *Access to records by persons without written consent or under judicial order*

49408 *Information of use in emergencies*

49452.9 *Health care coverage options and enrollment assistance*

49700-49704 *Education of children of military families*

HEALTH AND SAFETY CODE

120325-120380 *Education and child care facility immunization requirements*

121475-121520 *Tuberculosis tests for students*

CODE OF REGULATIONS, TITLE 5

200 *Promotion from kindergarten to first grade*

201 *Admission to high school*

CODE OF REGULATIONS, TITLE 17

6000-6075 *School attendance immunization requirements*

UNITED STATES CODE, TITLE 42

11431-11435 *McKinney Homeless Assistance Act*

Management Resources:

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

Dear Colleague Letter, May 6, 2011

WEB SITES

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

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

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

ADMISSION

Note: The following **optional** administrative regulation is for use by districts offering grades K-1.

Age of Admittance to Kindergarten and First Grade

Note: Pursuant to Education Code 48200, a parent/guardian's obligation to enroll his/her child in school begins with the child's eligibility to be enrolled in first grade once he/she has his/her sixth birthday, as specified in Education Code 48010. However, a district that offers kindergarten is obligated to enroll a child in kindergarten at the beginning of the school year in which the child will have his/her fifth birthday, if his/her birthday is on or before September 1, pursuant to Education Code 48000.

At the beginning of each school year, the Superintendent or designee shall enroll any otherwise eligible child who will have his/her fifth or sixth birthday on or before September 1 of that year into kindergarten or first grade, as applicable. (Education Code 48000, 48010)

Note: Pursuant to Education Code 48000, a district that offers kindergarten must, each year, offer transitional kindergarten (TK) to children who will have their fifth birthday between September 2 and December 2. See BP 6170.1 - Transitional Kindergarten for details of the program.

Any child who will have his/her fifth birthday from September 2 through December 2 of the school year shall be offered a transitional kindergarten (TK) program in accordance with law and Board policy. (Education Code 48000)

(cf. 5123 - Promotion/Acceleration/Retention)
(cf. 6170.1 - Transitional Kindergarten)

Note: The following paragraph is **optional**. Education Code 48000 authorizes the district, at its discretion, to allow enrollment into kindergarten during the school year on a case-by-case basis, under the conditions described below. According to the "Transitional Kindergarten FAQs" issued by the California Department of Education (CDE), enrollment into TK during the school year is also permitted on a case-by-case basis and under the same conditions. CDE information on "Kindergarten in California," available on its web site, cautions that any district utilizing this option must ensure that the child has turned age five or else may jeopardize its apportionments as auditors may impose fiscal sanctions. The CDE also cautions that the district may risk being challenged by parents/guardians if it bases early admission on test results, maturity of the child, or preschool records. The district might consider establishing a process for parents/guardians to challenge denial of early entry.

On a case-by-case basis, a child who will turn five years old in a given school year may be enrolled in kindergarten or TK at any time during that school year with the approval of the child's parent/guardian, provided that: (Education Code 48000)

Note: Education Code 48000 requires the Governing Board to make a determination that the admittance is in the best interests of the child.

1. The Governing Board determines that the admittance is in the best interests of the child.

ADMISSION (continued)

2. The parent/guardian is given information regarding the advantages and disadvantages and any other explanatory information about the effect of this early admittance.

(cf. 5145.6 - Parental Notifications)

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

The Superintendent or designee shall make a recommendation to the Board regarding whether a child should be granted early entry to kindergarten. In doing so, the Superintendent or designee shall consider various factors including the availability of classroom space and any negotiated maximum class size.

(cf. 6151 - Class Size)

(cf. 7111 - Evaluating Existing Buildings)

Documentation of Age/Grade

Prior to the admission of a child to kindergarten or first grade, the parent/guardian shall present proof of the child's age. (Education Code 48002)

Note: Education Code 48002 specifies that the method of proof of age, when admitting children to grades K-1, may include any appropriate means prescribed by the Board. The following items reflect examples in Education Code 48002 and may be revised to reflect district practice.

Evidence of the child's age may include: (Education Code 48002)

1. A certified copy of a birth certificate or a statement by the local registrar or county recorder certifying the date of birth
2. A duly attested baptism certificate
3. A passport

When none of the foregoing is obtainable, the parent/guardian may provide any other appropriate means of proving the age of the child. (Education Code 48002)

CHRONIC ABSENCE AND TRUANCY

Note: The following **optional** policy addresses both chronic absence, which refers to students missing an excessive number of school days for any reason, whether excused or unexcused, and truancy, which refers to students missing school and/or being tardy without a valid excuse. Education Code 48260 defines a "valid excuse" for purposes of classifying students as truants; see the accompanying administrative regulation. Also see BP/AR 5113 - Absences and Excuses for information about methods of verification of student absences.

The Governing Board believes that excessive absenteeism, whether caused by excused or unexcused absences, may be an early warning sign of poor academic achievement and may put students at risk of dropping out of school. The Board desires to ensure that all students attend school in accordance with the state's compulsory education law and take full advantage of educational opportunities provided by the district.

(cf. 5113 - Absences and Excuses)

Note: The following paragraph may be revised to reflect district practice. Districts must monitor unexcused absences for the purpose of identifying students who are classified as truants pursuant to Education Code 48260-48273. In addition, Education Code 52060 requires districts to include the rates of school attendance, chronic absence, dropout, and graduation, as applicable, in their local control and accountability plan (LCAP); see BP/AR 0460 - Local Control and Accountability Plan. Pursuant to 5 CCR 15497.5, as added by Register 2015, No. 2, the chronic absence rate reported in the LCAP is the number of students who are absent on 10 percent or more of the school days in the academic year (July 1 through June 30) divided by the total enrollment during the academic year.

Other tools to calculate chronic absence are available, such as the [District Attendance Tracking Tool](#) and [School Attendance Tracking Tool](#) from Attendance Works and an online software application from OnTrackCA; see the management resources listed below in this policy.

The Superintendent or designee shall establish a system to accurately track student attendance in order to identify individual students who are chronic absentees and truants, as defined in law and administrative regulation, and to identify patterns of absence throughout the district. He/she shall provide the Board with data on school attendance, chronic absence, and truancy rates for all district students, for each school, and for each numerically significant student subgroup as defined in Education Code 52052. Such data shall be disaggregated and used in the development of annual goals and specific actions for student attendance and engagement and for inclusion in the district's local control and accountability plan and other applicable school and district plans.

(cf. 0400 - Comprehensive Plans)

(cf. 0420 - School Plans/Site Councils)

(cf. 0450 - Comprehensive Safety Plan)

(cf. 0460 - Local Control and Accountability Plan)

The Superintendent or designee shall develop strategies that focus on prevention of attendance problems, which may include, but are not limited to, efforts to provide a safe and positive school environment, relevant and engaging learning experiences, school activities that help develop students' feelings of connectedness with the school, school-based health

CHRONIC ABSENCE AND TRUANCY (continued)

services, and incentives and rewards to recognize students who achieve excellent attendance or demonstrate significant improvement in attendance. The Superintendent or designee also shall develop strategies that enable early outreach to students as soon as they show signs of poor attendance.

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

(cf. 5126 - Awards for Achievement)

(cf. 5131 - Conduct)

(cf. 5131.2 - Bullying)

(cf. 5137 - Positive School Climate)

(cf. 5141.6 - School Health Services)

(cf. 5145.3 - Nondiscrimination/Harassment)

Note: In developing strategies for addressing chronic absence and truancy, districts may consider reasons for absences given by individual students as well as survey data using tools such as the California Healthy Kids Survey and/or the California School Climate, Health, and Learning Survey System available from WestEd.

The Superintendent or designee shall work with students, parents/guardians, school staff, and community agencies, as appropriate, to identify factors contributing to chronic absence and truancy. He/she also may collaborate with child welfare services, law enforcement, courts, public health care agencies, other government agencies, and/or medical, mental health, and oral health care providers to ensure that alternative educational programs and nutrition, health care, and other support services are available for students and families and to intervene as necessary when students have serious attendance problems.

(cf. 1020 - Youth Services)

(cf. 5030 - Student Wellness)

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

(cf. 5147 - Dropout Prevention)

(cf. 6158 - Independent Study)

(cf. 6164.2 - Guidance/Counseling Services)

(cf. 6164.5 - Student Success Teams)

(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)

(cf. 6179 - Supplemental Instruction)

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

(cf. 6183 - Home and Hospital Instruction)

(cf. 6184 - Continuation Education)

(cf. 6185 - Community Day School)

Note: State law establishes a series of interventions that the district is required or authorized to impose depending on the number of trancies committed by a student; see the accompanying administrative regulation. Habitually truant students, as defined in Education Code 48262, may be referred to a school attendance review board (SARB) if established by the county or to a SARB established by the district Governing Board pursuant to Education Code 48321. Instead of the SARB process, students may be referred

CHRONIC ABSENCE AND TRUANCY (continued)

to a truancy mediation program operated by the county's district attorney or probation officer pursuant to Education Code 48260.6. Education Code 48264.5 authorizes, but does not require, students who continue to be truant after receiving these interventions to be referred to a juvenile court. Parents/guardians of truants may be subject to penalties pursuant to Education Code 48293, Penal Code 270.1, and/or Penal Code 272.

Students who are identified as truants shall be subject to the interventions specified in law and administrative regulation.

Note: Education Code 48900 expresses legislative intent that alternatives to suspension or expulsion be used with students who are truant, tardy, or otherwise absent from assigned school activities; see BP 5144 - Discipline and BP 5144.1 - Suspension and Expulsion/Due Process.

A student's truancy, tardiness, or other absence from school shall not be the basis for his/her out-of-school suspension or expulsion. Alternative disciplinary strategies and positive reinforcement for attendance shall be used whenever possible.

(cf. 5144 - Discipline)

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

The Superintendent or designee shall periodically report to the Board regarding the district's progress in improving student attendance rates for all students and for each numerically significant student population. Such information shall be used to evaluate the effectiveness of strategies implemented to reduce chronic absence and truancy and to make changes as needed. As appropriate, the Superintendent or designee shall engage school staff in program evaluation and improvement and in identification of how to best allocate available community resources.

School Attendance Review Board

Note: Education Code 48321 authorizes the establishment of a SARB in each county and also authorizes the county SARB to approve as many local SARBs as it deems necessary. If no county SARB exists, the district Board may establish a local SARB which operates in the same manner and under the same authority as a county SARB. The following section should be revised to reflect program(s) available to district students.

In accordance with law and administrative regulation, habitual truants may be referred to a school attendance review board (SARB).

Note: The following **optional** paragraph is for use by districts whose county has established a SARB. Pursuant to Education Code 48321, the county SARB must include representative(s) of school districts who are to be nominated by the district Board and appointed by the County Superintendent of Schools.

The Board may submit a nomination to the County Superintendent of Schools for a person who will serve on the county SARB as a representative of school districts. (Education Code 48321)

CHRONIC ABSENCE AND TRUANCY (continued)

Note: The remainder of this section is for use by districts that have established a local SARB instead of, or in addition to, the county SARB. The CDE's School Attendance Review Board Handbook provides guidance to SARBs on effective operations.

Education Code 48321 lists persons the Board may, but is not required to, appoint to the local SARB, as provided in the following paragraph. AB 1643 (Ch. 879, Statutes of 2014) amended Education Code 48321 to add that the local SARB may include representatives from at least one county district attorney's office and one county public defender's office. In addition, the CDE recommends that the Board include a representative of the county CalWORKS office in order to assist the office in determining whether a student whose family receives a welfare grant is regularly attending school. Pursuant to Welfare and Institutions Code 11253.5, if any such student is not regularly attending school, the family's welfare grant may be reduced.

The Board shall appoint members of the district's SARB, who may include, but are not limited to, a parent/guardian as well as representatives of the district; county probation department; county welfare department; county office of education; law enforcement agencies; community-based youth service centers; school guidance personnel; child welfare and attendance personnel; school or county health care personnel; school, county, or community mental health personnel; the county district attorney's office; and the county public defender's office. (Education Code 48321)

The district's SARB shall operate in accordance with Education Code 48320-48325 and procedures established by the Superintendent or designee.

*Legal Reference:*EDUCATION CODE*1740 Employment of personnel to supervise attendance (county superintendent)**37223 Weekend classes**41601 Reports of average daily attendance**46000 Records (attendance)**46010-46014 Absences**46110-46119 Attendance in kindergarten and elementary schools**46140-46147 Attendance in junior high and high schools**48200-48208 Children ages 6-18 (compulsory full-time attendance)**48225.5 Work permits, entertainment and allied industries**48240-48246 Supervisors of attendance**48260-48273 Truants**48290-482967 Failure to comply; complaints against parents**48320-48325 School attendance review boards**48340-48341 Improvement of student attendance**48400-48403 Compulsory continuation education**48900 Suspension and expulsion**Legal Reference continued: (see next page)*

CHRONIC ABSENCE AND TRUANCY (continued)

Legal Reference: (continued)

EDUCATION CODE (continued)

49067 *Unexcused absences as cause of failing grade*

52052 *Academic Performance Index; numerically significant student subgroups*

60901 *Chronic absence*

GOVERNMENT CODE

54950-54963 *The Ralph M. Brown Act*

PENAL CODE

270.1 *Chronic truancy; parent/guardian misdemeanor*

272 *Parent/guardian duty to supervise and control minor child; criminal liability for truancy*

830.1 *Peace officers*

VEHICLE CODE

13202.7 *Driving privileges; minors; suspension or delay for habitual truancy*

WELFARE AND INSTITUTIONS CODE

256-258 *Juvenile hearing officer*

601-601.4 *Habitually truant minors*

11253.5 *Compulsory school attendance*

CODE OF REGULATIONS, TITLE 5

306 *Explanation of absence*

420-421 *Record of verification of absence due to illness and other causes*

15497.5 *Local control and accountability plan template*

COURT DECISIONS

L.A. v. Superior Court of San Diego County, (2012) 209 Cal.App.4th 976

Management Resources:

CSBA PUBLICATIONS

Attendance Awareness Month, Fact Sheet, September 2014

ATTENDANCE WORKS PUBLICATIONS

Count Us In! Working Together to Show that Every School Day Matters, 2014

The Power of Positive Connections: Reducing Chronic Absence Through PEOPLE: Priority Early Outreach for Positive Linkages and Engagement, 2014

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

School Attendance Review Board Handbook, 2015

School Attendance Improvement Handbook, 2000

WEB SITES

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

Attendance Works: <http://www.attendanceworks.org>

California Association of Supervisors of Child Welfare and Attendance: <http://www.cascwa.org>

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

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

California School Climate, Health, and Learning Survey System: <http://www.cal-schls.wested.org>

OnTrackCA: <http://www.ontrackca.org>

AWARDS FOR ACHIEVEMENT

The Governing Board encourages excellence as a goal for all students and wishes to publicly recognize students for exemplary achievement in academic, athletic, extracurricular, or community service activities.

(cf. 5121 - Grades/Evaluation of Student Achievement)
(cf. 5127 - Graduation Ceremonies and Activities)
(cf. 6142.4 - Service Learning/Community Service Classes)

District/School Awards

Note: Education Code 44015 authorizes the Governing Board to give district-level awards to students for "excellence" and mandates that the district adopt rules and regulations implementing any such awards program. See the accompanying administrative regulation for language implementing this mandate.

Student awards may include verbal recognition, a letter, a certificate, a Board resolution, public ceremony, trophy, gift, plaque, or cash gift.

The Superintendent or designee shall develop criteria for the selection of student award recipients.

Golden State Seal Merit Diploma

Note: The following **optional** section is for use by districts that maintain high schools. Education Code 51450-51455 establish the Golden State Seal Merit Diploma which may be awarded by the Superintendent of Public Instruction (SPI) and the State Board of Education to students identified as demonstrating mastery of the high school core curriculum. See the accompanying administrative regulation for eligibility criteria.

At graduation from high school, special recognition shall be awarded to those students whose academic achievements in core curriculum areas have been outstanding.

The Superintendent or designee shall identify high school students who have demonstrated mastery of the high school curriculum qualifying them for the Golden State Seal Merit Diploma. (Education Code 51454)

(cf. 6162.51 - State Academic Achievement Tests)

Biliteracy Award

Note: The following **optional** paragraph is for use by districts maintaining one or more high schools. Education Code 51460-51464 establish the State Seal of Biliteracy, a voluntary program which recognizes high school graduates who have attained a high level of proficiency in one or more languages in addition to English. The SPI will provide an insignia that can be affixed to the diploma or transcript of eligible students. See the accompanying administrative regulation for eligibility criteria for the award. Districts that choose to adopt their own criteria and present a district-level biliteracy award may revise the following paragraph accordingly.

AWARDS FOR ACHIEVEMENT (continued)

The district shall present the State Seal of Biliteracy to each graduating high school student who has attained a high level of proficiency in speaking, reading, and writing in one or more languages in addition to English. (Education Code 51460-51464)

(cf. 6142.2 - World/Foreign Language Instruction)

(cf. 6174 - Education for English Language Learners)

Note: The following **optional** paragraph is for use by districts that choose to present biliteracy awards at other grade levels, and should be revised to reflect district practice. Californians Together, a statewide coalition working to enhance the success of English learners, recommends issuing local "pathway awards" recognizing benchmarks toward biliteracy at preschool, grade 3, end of elementary school, and end of middle school.

In order to affirm the value of bilingualism and encourage students' enrollment in world language programs, the Superintendent or designee may present awards at appropriate grade levels to recognize the pursuit and/or attainment of grade-level proficiency in one or more languages in addition to English.

Scholarship and Loan Fund

Note: The following section is for use by districts that choose to establish and maintain a scholarship and loan fund pursuant to Education Code 35310-35319. If the district chooses to establish such a fund, it should revise the following paragraph to reflect only those purposes for which it wishes to make funds available.

The Board shall establish and maintain a scholarship and loan fund which may be used to provide interest-free loans for educational advancement, scholarship, or grants-in-aid to bona fide organizations, students, or graduates of district schools. (Education Code 35310, 35315)

(cf. 1260 - Educational Foundation)

(cf. 3290 - Gifts, Grants and Bequests)

The district's scholarship and loan fund shall be administered by a district committee composed of Board members, the Superintendent, and such other community, staff, administrative, and/or student representatives as determined by the Board. (Education Code 35310)

Note: If the district chooses to establish and maintain a scholarship and loan fund, it is **mandated** pursuant to Education Code 35310 to develop rules and regulations specifying the term of office and method of selection of the committee appointed to administer the fund. The following paragraph may be revised to reflect district practice.

The Board shall select its own representatives to the committee. Staff, community, and/or student representatives shall be selected by the Superintendent. Members of this committee shall serve two-year terms.

(cf. 1220 - Citizen Advisory Committees)

(cf. 9140 - Board Representatives)

AWARDS FOR ACHIEVEMENT (continued)

The committee may accept gifts, donations, and bequests made for the purposes of the fund and may prescribe conditions or restrictions on these gifts and bequests. If the donor imposes any conditions, the committee shall review the conditions and make a recommendation to the Board as to the compatibility of such conditions with the intent and purpose of the fund. The Board may prohibit the committee from accepting any donation under conditions it finds incompatible with the fund's intents and purposes. (Education Code 35313)

The Superintendent or designee shall report to the Board at least annually regarding the status and activity of the fund. (Education Code 35319)

Legal Reference:

EDUCATION CODE

220 Nondiscrimination

35160 Authority of governing boards

35310-35319 Scholarship and loan funds

44015 Awards to employees and students

51243-51245 Credit for private school foreign language instruction

51450-51455 Golden State Seal Merit Diploma

51460-51464 State Seal of Biliteracy

52164.1 Assessment of English language skills of English learners

CODE OF REGULATIONS, TITLE 5

876 Golden State Seal Merit Diploma

1632 Credit for private school foreign language instruction

11510-11516 Assessment of English language development

Management Resources:

WEB SITES

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

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

Californians Together: <http://www.californianstogether.org>

AWARDS FOR ACHIEVEMENT

District/School Awards

Note: Education Code 44015 authorizes the Governing Board to give district-level awards to students for "excellence." Before any awards are given under the authority of this law, the district is **mandated** to adopt rules and regulations implementing the awards program. The Board may delegate the authority to establish criteria for these awards to the Superintendent or designee; see the accompanying Board policy. The following section should be revised to reflect any such rules and regulations adopted by the district.

The Superintendent or designee may appoint an awards committee at each school which may consist of school administrators, teachers, parents/guardians, community members, and student representatives. The committee shall submit recommendations for student awards to the Superintendent or designee for approval.

(cf. 1220 - Citizen Advisory Committees)

Individual awards in excess of \$200 must be expressly approved by the Governing Board. (Education Code 44015)

Golden State Seal Merit Diploma

Note: The following **optional** section is for use by districts that maintain high schools. Education Code 51450-51455 require the State Board of Education (SBE) to determine the means, performance standards, and achievement levels that demonstrate mastery of the curriculum for the purpose of awarding the Golden State Seal Merit Diploma. In November 2014, the SBE adopted new eligibility criteria for students graduating in 2015 to reflect changes in the state assessment system and established a workgroup to develop a plan for students graduating in 2016 and beyond. Eligibility criteria are published on the California Department of Education (CDE) web site.

To be eligible to receive the Golden State Seal Merit Diploma upon graduation from high school, a student shall complete all requirements for a high school diploma and demonstrate, in accordance with the means adopted by the State Board of Education, mastery of the curriculum in mathematics, English language arts, science, United States history, and two other subject matter areas selected by the student. (Education Code 51451, 51452; 5 CCR 876)

(cf. 6143 - Courses of Study)

(cf. 6146.1 - High School Graduation Requirements)

(cf. 6146.11 - Alternative Credits Toward Graduation)

(cf. 6162.51 - State Academic Achievement Tests)

(cf. 6162.52 - High School Exit Examination)

The Superintendent or designee shall maintain appropriate records to identify students who are eligible for the merit diploma and shall affix an insignia to the diploma and transcript of each student awarded the merit diploma. (Education Code 51454)

(cf. 5125 - Student Records)

AWARDS FOR ACHIEVEMENT (continued)

Note: The CDE requires each district to annually submit one districtwide insignia request on a form provided by the CDE. The CDE's web site encourages districts to submit the request far enough in advance of the graduation ceremony date to allow sufficient time for processing by the CDE and for district staff to place the insignias on the diplomas. The CDE begins mailing requested insignias the first week of April.

The Superintendent or designee shall submit an insignia request form to the California Department of Education in sufficient time to allow processing of the request prior to the high school graduation ceremony.

Biliteracy Award

Note: The following **optional** section is for use by districts that maintain high schools and choose to recognize graduating students' bilingual/multilingual proficiency with the State Seal of Biliteracy pursuant to Education Code 51460-51464; see the accompanying Board policy. Districts that choose to present district-level biliteracy awards to students at other grade levels may revise the following section to add eligibility criteria for those awards.

For students whose primary language is other than English, Education Code 51461 also requires attainment of the early advanced proficiency level on the state's English language proficiency assessment. The California English Language Development Test (CELDT) is the state test designated for this purpose; however, by the 2016-17 school year the CELDT will be replaced by the English Language Proficiency Assessments for California (ELPAC) which is aligned with the 2012 state standards for English language development.

To be eligible to receive the State Seal of Biliteracy upon graduation, a student shall demonstrate, in accordance with state criteria, proficiency in English and at least one other language, which may include American Sign Language. A student whose primary language is other than English shall also attain the required proficiency level on the state test of English language proficiency. (Education Code 51461)

(cf. 6141.5 - Advanced Placement)

(cf. 6142.2 - World/Foreign Language Instruction)

(cf. 6174 - Education for English Language Learners)

Note: The CDE requires each district to submit one districtwide insignia request on a form provided by the CDE. The CDE begins mailing requested insignias the first week of April.

The Superintendent or designee shall maintain appropriate records to identify high school students who qualify for the award and shall affix the insignia to the diploma or transcript of each student who earns the award. (Education Code 51463)

Scholarship and Loan Fund

Note: The following section is for use by any district that has established a scholarship and loan fund pursuant to Education Code 35310-35319; see the accompanying Board policy. Districts that have not established such a program should delete this section.

AWARDS FOR ACHIEVEMENT (continued)

The Superintendent shall serve as chief executive officer of the scholarship and loan fund and as chairperson of the district committee established to administer the fund. The committee shall meet at least once each fiscal year and at other such times as it may be called into session by the Superintendent. (Education Code 35311, 35312)

Scholarship and loan funds shall be deposited, administered, and audited in accordance with Education Code 35314 and 35318.

(cf. 3400 - Management of District Assets/Accounts)
(cf. 3460 - Financial Reports and Accountability)

Note: If the district has chosen to maintain a scholarship and loan fund, it is **mandated** by Education Code 35316 to adopt regulations governing applications, provided such regulations do not limit student eligibility based on any conditions listed in Education Code 220; see BP 0410 - Nondiscrimination in District Activities and Programs. The following paragraph may be expanded to describe the district's application procedures.

The Superintendent or designee shall establish criteria, procedures, and deadlines for student applications for scholarships and/or loans from the fund. As applicable, the Superintendent or designee may require the student to submit letters of recommendation or other supplementary materials providing evidence of the student's accomplishments and/or need.

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

Notifications

Note: The following **optional** section may be revised to reflect programs offered by the district.

The Superintendent or designee shall annually distribute information about eligibility requirements for the Golden State Seal Merit Diploma, State Seal of Biliteracy, and/or any district awards programs to students at the applicable grade levels.

REQUIRED PARENTAL ATTENDANCE

Note: If the district chooses to authorize its teachers to require parents/guardians to attend a portion of a school day in their child's classroom when their child has been removed from class pursuant to Education Code 48910 for the reasons specified in Education Code 48900(i) (obscene act or habitual profanity or vulgarity) or 48900(k) (disruption of school activities or willful defiance), Education Code 48900.1 **mandates** the Governing Board to adopt policy and specified procedures.

Pursuant to Education Code 48900.1, this policy must be adopted pursuant to the procedures specified in Education Code 35291-35291.5 and parents/guardians must be notified of the policy prior to its implementation.

The Governing Board is committed to providing a safe school environment and setting expectations for appropriate student conduct. The Superintendent or designee may involve parents/guardians in student discipline as necessary to improve a student's behavior and encourage personal responsibility.

(cf. 5131 - Conduct)

(cf. 5131.1 - Bus Conduct)

(cf. 5131.2 - Bullying)

(cf. 5144 - Discipline)

(cf. 6020 - Parent Involvement)

Note: Education Code 48900(k), as amended by AB 420 (Ch. 660, Statutes of 2014), prohibits a district from suspending grades K-3 students for disruption or willful defiance; see BP/AR 5144.1 - Suspension and Expulsion/Due Process. However, an exception exists in Education Code 48910 allowing teachers to remove students, including a K-3 student, from class for the day of the removal and the following day for any act listed in Education Code 48900.

When removing a student from class pursuant to Education Code 48910 for committing an act of obscenity, habitual profanity or vulgarity, disruption of school activities, or willful defiance, the teacher of the class may require any parent/guardian who lives with the student to accompany the student for a portion of a school day in the class from which the student has been removed. (Education Code 48900.1)

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

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

Any teacher requiring parental attendance pursuant to this policy shall apply the policy uniformly to all students within the classroom. (Education Code 48900.1)

District and school-site rules for student discipline shall include procedures for implementing parental attendance requirements. (Education Code 48900.1)

Legal Reference: (see next page)

REQUIRED PARENTAL ATTENDANCE (continued)

Legal Reference:

EDUCATION CODE

35291 *Rules (for government and discipline of schools)*

35291.5 *Rules and procedures on school discipline*

48900-48927 *Suspension and expulsion, especially:*

48900 *Grounds for suspension and expulsion*

48900.1 *Required parental attendance*

48910 *Suspension by teacher*

Management Resources:

CSBA PUBLICATIONS

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

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

Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014

WEB SITES

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

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

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

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

<http://www.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf>

U.S. Department of Education, Office of Safe and Drug-Free Schools:

<http://www.ed.gov/about/offices/list/osdfs>

REQUIRED PARENTAL ATTENDANCE

Note: If the district chooses to authorize its teachers to require parents/guardians to attend a portion of a school day in their child's classroom when their child has been removed from class pursuant to Education Code 48910 for the reasons specified in Education Code 48900(i) (obscene act or habitual profanity or vulgarity) or 48900(k) (disruption of school activities or willful defiance), Education Code 48900.1 **mandates** that the district adopt specified procedures as reflected in the following administrative regulation.

Whenever a teacher requires a parent/guardian to attend a portion of a school day with his/her child for the child's commission of an act specified in Education Code 48900(i) or (k), the principal shall send the parent/guardian a written notice that the parent/guardian's attendance is required pursuant to law. (Education Code 48900.1)

(cf. 5144 - Discipline)

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

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

(cf. 5145.6 - Parental Notifications)

Note: Items #1-4 below should be modified to reflect district practice.

The notice shall:

1. Inform the parent/guardian of the date that his/her presence is expected, the length of the visit, and by what means he/she may arrange an alternate date
2. State that if the parent/guardian does not have a means of transportation to school, he/she may ride the school bus with the student
3. Direct the parent/guardian to meet with the principal after the visit and before leaving school

Note: Pursuant to Education Code 48900.1, the district must take into account reasonable factors that may prevent the parent/guardian from complying with the parental attendance requirement, such as illness, injury, disability, risk of losing his/her job or compensation, or absence from town.

4. Direct the parent/guardian to contact the school if there are reasonable factors that would prevent him/her from complying with the attendance requirement

Attendance of the parent/guardian shall be limited to the class from which the student was removed. (Education Code 48900.1)

Note: For any district that authorizes parental attendance as a disciplinary option, Education Code 48900.1 **mandates** that the district's procedures ensure that parents/guardians who attend school meet with the principal or designee after completing the classroom visitation and before leaving the school. The following paragraph may be revised to reflect district practice.

REQUIRED PARENTAL ATTENDANCE (continued)

A parent/guardian who has received a written notice shall attend class as specified in the notice. After completing the classroom visit and before leaving school premises, the parent/guardian also shall meet with the principal or designee. (Education Code 48900.1)

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

At the meeting with the student's parent/guardian, the principal or designee shall explain the district's and school's discipline policies, including the disciplinary strategies that may be used to achieve proper student conduct.

Note: For any district that authorizes parental attendance as a disciplinary option, Education Code 48900.1 **mandates** that the district's policy include procedures for contacting parents/guardians who do not respond to the request to attend. The following paragraph may be revised to reflect district practice.

When a parent/guardian does not respond to the request to attend school, the principal or designee shall contact him/her by any method that maintains the confidentiality of the student's records.

(cf. 5125 - Student Records)

PARENTAL NOTIFICATIONS

Cautionary Notice: Government Code 17581.5 relieves districts from the obligation to perform specified mandated activities when the Budget Act does not provide reimbursement during that fiscal year. The Budget Act of 2014 (SB 852, Ch. 25, Statutes of 2014) extends the suspension of these requirements through the 2014-15 fiscal year. As a result, certain provisions of the following Exhibit related to scoliosis screening and bus safety instruction may be suspended.

Note: The following exhibit lists notices which the law explicitly requires be provided to parents/guardians. However, there are other notices that districts are recommended to distribute (e.g., the notice included in AR 5145.3 - Nondiscrimination/Harassment regarding the rights of transgender and gender-nonconforming students and the opportunity for a student to inform the district whenever his/her participation in a sex-segregated program or activity with a student of the opposite biological sex would be against the student's religious beliefs and/or practices or a violation of his/her right to privacy).

See the referenced Board policy, administrative regulation, or Board bylaw for further information about related program and notice requirements.

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. Annually			
Beginning of each school year	Education Code 17611.5, 17612, 48980.3	AR 3514.2	Use of pesticide product, active ingredients, Internet address to access information, and, if district has no web site and uses certain pesticides, integrated pest management plan
By February 1	Education Code 35256, 35258	BP 0510	School Accountability Report Card provided
Beginning of each school year	Education Code 35291, 48980	AR 5144 AR 5144.1	District and site discipline rules
Beginning of each school year	Education Code 46010.1	BP 5113	Absence for confidential medical services
Beginning of each school year	Education Code 48980	BP 6111	Schedule of minimum days
Beginning of each school year	Education Code 48980, 231.5; 5 CCR 4917	AR 5145.7	Sexual harassment policy as related to students
Beginning of each school year	Education Code 48980, 32255-32255.6	AR 5145.8	Right to refrain from harmful or destructive use of animals

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. Annually (continued)			
Beginning of each school year	Education Code 48980, 35160.5, 46600-46611, 48204, 48301, 48350-48361	AR 5111.1 AR 5116.1 AR 5117	All statutory attendance options, available local attendance options, options for meeting residency
Beginning of each school year, if Board allows such absence	Education Code 48980, 46014	BP 5113 AR 5113	Absence for religious exercises or purposes
Beginning of each school year	Education Code 48980, 48205	BP 5113 AR 5113 AR 6154	Excused absences; grade/credit cannot be reduced due to excused absence if work or test has been completed
Beginning of each school year	Education Code 48980, 48206.3, 48207, 48208	AR 6183	Availability of home/hospital instruction for students with temporary disabilities
Beginning of each school year	Education Code 48980, 49403	BP 5141.31	Consent to school immunization program
Beginning of each school year	Education Code 48980, 49423, 49480	AR 5141.21	Administration of prescribed medication
Beginning of each school year	Education Code 48980, 49451; 20 USC 1232h	AR 5141.3	Right to refuse consent to physical examination
Beginning of each school year	Education Code 48980, 49471, 49472	BP 5143	Availability of insurance
Beginning of each school year	Education Code 49013; 5 CCR 4622	AR 1312.3	Uniform complaint procedures, available appeals, civil law remedies
Beginning of each school year	Education Code 49063	AR 5125 AR 5125.3	Challenge, review, and expunging of records

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. Annually (continued)			
Beginning of each school year	Education Code 49063, 49069; 20 USC 1232g; 34 CFR 99.7	AR 5125	Student records: inspect and review, access, types, location, persons responsible, location of log, access criteria, cost of copies, amendment requests, criteria to determine legitimate educational interest, course prospectus availability
Beginning of each school year	Education Code 49063, 49073; 20 USC 1232g; 34 CFR 99.37	AR 5125.1	Release of directory information
Beginning of each school year	Education Code 49520, 48980; 42 USC 1758; 7 CFR 245.5	AR 3553	Free and reduced price meals
Beginning of each school year	Education Code 51513; 20 USC 1232h	AR 5022 BP 6162.8	Notice of privacy policy and dates of activities re: survey, health examination, or collection of personal information for marketing; process to opt out of such activities
Beginning of each school year	Education Code 56301	BP 6164.4	Parental rights re: special education identification, referral, assessment, instructional planning, implementation and review, and procedures for initiating a referral for assessment
Beginning of each school year	Education Code 58501, 48980	AR 6181	Alternative schools
Beginning of each school year	Health and Safety Code 104855	AR 5141.6	Availability of dental fluoride treatment; opportunity to accept or deny treatment
Annually	5 CCR 852; Education Code 60615	AR 6162.51	Student's participation in state assessments; option to request exemption from testing

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. Annually (continued)			
Beginning of each school year, if district receives Title I funds	20 USC 6311; 34 CFR 200.61	AR 4112.24 AR 4222	Right to request information re: professional qualifications of child's teacher and paraprofessional
Beginning of each school year, if any district school has been identified for program improvement or corrective action	20 USC 6316	AR 0520.2	Availability of supplemental educational services, identity of providers, description of services, qualifications, effectiveness of providers
Beginning of each school year	34 CFR 104.8, 106.9	BP 0410 BP 6178	Nondiscrimination
Beginning of each school year to parent, teacher, and employee organizations or, in their absence, individuals	40 CFR 763.84, 763.93	AR 3514	Availability of asbestos management plan; any inspections, response actions or post-response actions planned or in progress
II. At Specific Times During the Student's Academic Career			
Beginning in grade 7, at least once prior to course selection and career counseling	Education Code 221.5, 48980	BP 6164.2	Course selection and career counseling
When child first enrolls in a public school, if the school offers a fingerprinting program	Education Code 32390, 48980	AR 5142.1	Fingerprinting program
When participating in driver training courses under the jurisdiction of the district	Education Code 35211	None	Civil liability, insurance coverage
Upon registration in K-6, if students have not previously been transported	Education Code 39831.5	AR 3543	School bus safety rules and information, list of stops, rules of conduct, red light crossing instructions, bus danger zones, walking to and from stops
Beginning of each school year for high school students, if high school is open campus	Education Code 44808.5, 48980	AR 5112.5	Open campus

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
II. At Specific Times During the Student's Academic Career (continued)			
Beginning of each school year in grades 9-12, if district allows career technical education (CTE) course to satisfy graduation requirement	Education Code 48980, 51225.3	AR 6146.1	How each graduation requirement does or does not satisfy college entrance a-g course criteria; district CTE courses that satisfy a-g criteria
Beginning of each school year in grades 9-12 and when high school student transfers into the district	Education Code 48980, 60850	AR 6162.52	Requirement to pass the high school exit exam including: date of exam, requirements for passing, consequences of not passing, and that passing is a condition of graduation
When students entering grade 7	Education Code 49452.7	AR 5141.3	Specified information on type 2 diabetes
When in kindergarten, or first grade if not previously enrolled in public school	Education Code 49452.8	AR 5141.32	Requirement for oral health assessment, explanation of law, importance of oral health, agency contact, privacy rights
Beginning of each school year for students in grades 9-12	Education Code 51229, 48980	AR 6143	College admission requirements, UC and CSU web sites that list certified courses, description of CTE, CDE Internet address, how students may meet with counselors
Beginning of each school year for students in grades 7-12	Education Code 51938, 48980	AR 6142.1	Explanation of sex and HIV/ AIDS instruction; right to view A/V materials, who's teaching, request specific Education Code sections, right to excuse
Within 20 working days of receiving results of standardized achievement tests or, if results not available in school year, 20 days of start of next school year	Education Code 60641; 5 CCR 863	AR 6162.51	Results of tests; test purpose, individual score and intended use
By October 15 for students in grade 12	Education Code 69432.9	AR 5125	Forwarding of student's grade point average to Cal Grant program; timeline to opt out

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
II. At Specific Times During the Student's Academic Career (continued)			
When child is enrolled in kindergarten	Health and Safety Code 124100, 124105	AR 5141.32	Health screening examination
To students in grades 11-12, early enough to enable registration for fall test	5 CCR 11523	AR 6146.2	Notice of proficiency examination provided under Education Code 48412
To secondary students, if district receives Title I funds	20 USC 7908	AR 5125.1	Request that district not release name, address, phone number of child to military recruiters without prior written consent
III. When Special Circumstances Occur			
Upon receipt of a complaint alleging discrimination	Education Code 262.3	AR 1312.3	Civil law remedies available to complainants
When student has been placed in structured English immersion program	Education Code 310-311; 5 CCR 11309	AR 6174	Student's placement in program, opportunity to apply for parental exception waiver, other rights of student relative to such placements
When determining whether an English learner should be reclassified as fluent English proficient	Education Code 313; 5 CCR 11303	AR 6174	Description of reclassification process, opportunity for parent/guardian to participate
When student is identified as English learner and district receives Title III funds, not later than 30 days after beginning of school year or within two weeks of placement if identified during school year	Education Code 440; 20 USC 7012	AR 6174	Reason for classification, level of English proficiency, description of program(s), option to decline program or choose alternate, exit requirements of program
Before high school student attends specialized secondary program on a university campus	Education Code 17288	None	University campus buildings may not meet Education Code requirements for structural safety
At least 72 hours before use of pesticide product not included in annual list	Education Code 17612	AR 3514.2	Intended use of pesticide product

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. When Special Circumstances Occur (continued)			
To members of athletic teams	Education Code 32221.5	AR 5143	Offer of insurance; no-cost and low-cost program options
If school has lost its WASC accreditation status	Education Code 35178.4	BP 6190	Loss of status, potential consequences
When district has contracted for electronic products or services that disseminate advertising	Education Code 35182.5	BP 3112	Advertising will be used in the classroom or learning center
At least six months before implementing uniform policy	Education Code 35183	AR 5132	Dress code policy requiring schoolwide uniform
Before implementing a year-round schedule	Education Code 37616	BP 6117	Public hearing on year-round schedule
When interdistrict transfer is requested and not approved or denied within 30 days	Education Code 46601	AR 5117	Appeal process
Before early entry to kindergarten, if offered	Education Code 48000	AR 5111	Effects, advantages and disadvantages of early entry
When student identified as being at risk of retention	Education Code 48070.5	AR 5123	Student at risk of retention
When student excluded due to quarantine, contagious or infectious disease, danger to safety or health	Education Code 48213	AR 5112.2 BP 5141.33	Student has been excluded from school
Before already admitted student is excluded for lack of immunization	Education Code 48216; 17 CCR 6040	AR 5141.31	Need to submit evidence of immunization or exemption within 10 school days; referral to medical care
When a student is classified a truant	Education Code 48260.5, 48262	AR 5113.1	Truancy, parental obligation, availability of alternative programs, student consequences, need for conference
When a truant is referred to a SARB or probation department	Education Code 48263	AR 5113.1	Name and address of SARB or probation department and reason for referral

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. When Special Circumstances Occur (continued)			
When a school is identified on the state's Open Enrollment List	Education Code 48354; 5 CCR 4702	AR 5118	Student's option to transfer to another school
Within 60 days of receiving application for transfer out of open enrollment school	Education Code 48357; 5 CCR 4702	AR 5118	Whether student's transfer application is accepted or rejected; reasons for rejection
When student requests to voluntarily transfer to continuation school	Education Code 48432.3	AR 6184	Copy of district policy and regulation on continuation education
Prior to involuntary transfer to continuation school	Education Code 48432.5	AR 6184	Right to request meeting prior to involuntary transfer to continuation school
To person holding educational rights, prior to recommending placement of foster youth outside school of origin	Education Code 48853.5	AR 6173.1	Basis for the placement recommendation
When student is removed from class and teacher requires parental attendance at school	Education Code 48900.1	AR 5144.4	Parental attendance required; timeline for attendance
Prior to withholding grades, diplomas, or transcripts	Education Code 48904	AR 5125.2	Damaged school property
When withholding grades, diplomas or transcripts from transferring student	Education Code 48904.3	AR 5125.2	Next school will continue withholding grades, diplomas, or transcripts
When student is released to peace officer	Education Code 48906	BP 5145.11	Release of student to peace officer for the purpose of removing minor from school premises
At time of suspension	Education Code 48911	BP 5144.1 AR 5144.1	Notice of suspension
When original period of suspension is extended	Education Code 48911	AR 5144.1	Extension of suspension
At the time a student is assigned to a supervised suspension classroom	Education Code 48911.1	AR 5144.1	The student's assignment to a supervised suspension classroom

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. When Special Circumstances Occur (continued)			
Before holding a closed session re: suspension	Education Code 48912	AR 5144.1	Intent to hold a closed session re: suspension
When student expelled from another district for certain acts seeks admission	Education Code 48915.1, 48918	BP 5119	Hearing re: possible danger presented by expelled student
When readmission is denied	Education Code 48916	AR 5144.1	Reasons for denial; determination of assigned program
When expulsion occurs	Education Code 48916	AR 5144.1	Readmission procedures
At least 10 calendar days before expulsion hearing	Education Code 48918	AR 5144.1	Notice of expulsion hearing
When expulsion or suspension of expulsion occurs	Education Code 48918	AR 5144.1	Decision to expel; right to appeal to county board; obligation to inform new district of status
One month before the scheduled minimum day	Education Code 48980	BP 6111	When minimum days are scheduled after beginning of the school year
When parents/guardians request guidelines for filing complaint of child abuse at a school site	Education Code 48987	AR 5141.4	Guidelines for filing complaint of child abuse at a school site with local child protective agencies
When student in danger of failing a course	Education Code 49067	AR 5121	Student in danger of failing a course
When student transfers from another district or private school	Education Code 49068	AR 5125	Right to receive copy of student's record and to challenge its content
When district is considering program to gather safety-related information from students' social media activity	Education Code 49073.6	BP 5125	Opportunity for input on proposed program

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. When Special Circumstances Occur (continued)			
When district adopts program to gather information from students' social media activity, and annually thereafter	Education Code 49073.6	AR 5125	Information is being gathered, access to records, process for removal or corrections, destruction of records
Within 24 hours of release of information to a judge or probation officer	Education Code 49076	AR 5125	Release of student record to a judge or probation officer for conducting truancy mediation program or for presenting evidence at a truancy petition
Before release of information pursuant to court order or subpoena	Education Code 49077	AR 5125	Release of information pursuant to court order or subpoena
When screening results in suspicion that student has scoliosis	Education Code 49452.5	AR 5141.3	Scoliosis screening
When test results in discovery of visual or hearing defects	Education Code 49456; 17 CCR 2951	AR 5141.3	Vision or hearing test results
Annually to parents/guardians of student athletes before their first practice or competition	Education Code 49475	AR 6145.2	Information on concussions and head injuries
To person holding educational rights, within 30 days of foster youth's transfer between high schools	Education Code 51225.1	AR 6173.1	Exemption from local graduation requirements, effect on college admission, option for fifth year of high school
Before any test/survey questioning personal beliefs	Education Code 51513	AR 5022	Permission for test, survey questioning personal beliefs
Within 14 days of instruction if arrangement made for guest speaker after beginning of school year	Education Code 51938	AR 6142.1	Instruction in HIV/AIDS or sexual health education by guest speaker or outside consultant
Prior to administering survey regarding health risks and behaviors to students in 7-12	Education Code 51938	AR 5022	Notice that the survey will be administered

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. When Special Circumstances Occur (continued)			
Within 30 calendar days of receipt of results of assessment or reassessment of English proficiency	Education Code 52164.1, 52164.3; 5 CCR 11511.5	AR 6174	Results of state test of English proficiency
When migrant education program is established	Education Code 54444.2	BP 6175 AR 6175	Parent advisory council membership composition
When child participates in licensed child care and development program	Health and Safety Code 1596.857	AR 5148	Parent/guardian right to enter facility
When district receives Tobacco-Use Prevention Education Funds	Health and Safety Code 104420	AR 3513.3	The district's tobacco-free schools policy and enforcement procedures
When sharing student immunization information with an immunization system	Health and Safety Code 120440	AR 5125	Types of information to be shared, name and address of agency, acceptable use of the information, right to examine, right to refuse to share
At least 14 days prior to sex offender coming on campus as volunteer	Penal Code 626.81	AR 1240 BP 1250	Dates and times permission granted; obtaining information from law enforcement
When hearing is requested by person asked to leave school premises	Penal Code 627.5	AR 3515.2	Notice of hearing
When responding to complaint re: discrimination, special education, or noncompliance with law	5 CCR 4631	AR 1312.3	Findings, disposition of complaint, any corrective actions, appeal rights and procedures
When child participates in licensed child care and development program	5 CCR 18066	AR 5148	Policies re: unexcused absences
When district substantively changes policy on student privacy rights	20 USC 1232h	AR 5022	Notice of any substantive change in policy or regulation

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. When Special Circumstances Occur (continued)			
For districts receiving Title I funds, when child has been taught for four or more consecutive weeks by a teacher who is not "highly qualified"	20 USC 6311	AR 4112.24	Timely notice to parent/guardian of child's assignment
When school identified for program improvement or corrective action, within 30 days of failure to make annual yearly progress, to parents/guardians of English learners	20 USC 6312	AR 0520.2	Notice of failure to make adequate yearly progress
For districts receiving Title I funds, not later than 30 days after beginning of school year, to parents/guardians of English learners	20 USC 6312	AR 6174	Reasons for placement, level of proficiency, instructional methods, how program meets child's strengths and teaches English, exit requirements, right to choose other program
When school identified for program improvement or corrective action	20 USC 6316	AR 0520.2 AR 5116.1	Explanation of identification, reasons, how problem will be addressed, how parents/guardians can become involved, transfer option, availability of supplemental services
When district identified for program improvement	20 USC 6316	AR 0520.3	Explanation of status, reasons for identification, how parents/guardians can participate in upgrading district
For schools receiving Title I funds, upon development of parent involvement policy	20 USC 6318	AR 6020	Notice of policy
For districts receiving Title III funds, within 30 days of the annual release of state Title III accountability report	20 USC 7012	AR 6174	Notification of any failure to make progress on state's measurable achievement objectives for English learners
When household is selected for verification of eligibility for free or reduced-price meals	42 USC 1758; 7 CFR 245.6a	AR 3553	Notice of need to submit verification information; any subsequent change in benefits;

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. When Special Circumstances Occur (continued)			
When student is homeless or unaccompanied minor	42 USC 11432	AR 6173	Educational and related opportunities; transportation services; placement decision and right to appeal
When student transfers out of state and records are disclosed without consent pursuant to 34 CFR 99.30	34 CFR 99.34	AR 5125	Right to review records
IV. Special Education Notices			
Prior to conducting initial evaluation	Education Code 56301, 56321, 56321.5, 56321.6, 56329; 20 USC 1415(d); 34 CFR 300.502, 300.503	BP 6159.1 AR 6159.1 AR 6164.4	Proposed evaluation plan, related parental rights, prior written notice, procedural safeguards
Before functional behavioral assessment begins	Education Code 56321	AR 6159.4	Notification and consent
24 hours before IEP when district intending to record	Education Code 56341.1	AR 6159	Intention to audio-record IEP meeting
Early enough to ensure opportunity for parent/guardian to attend IEP meeting	Education Code 56341.5; 34 CFR 300.322	AR 6159	Time, purpose, location, who in attendance, participation of others with special knowledge, transition statements if appropriate
When parent/guardian orally requests review of IEP	Education Code 56343.5	AR 6159	Need for written request
Within one school day of emergency intervention or serious property damage	Education Code 56521.1	AR 6159.4	Emergency intervention
Whenever there is a proposal or refusal to initiate or change the identification, evaluation, placement, or FAPE, including when parent/guardian revokes consent for services	20 USC 1415(c); 34 CFR 300.300, 300.503	AR 6159 AR 6159.1	Prior written notice

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
IV. Special Education Notices (continued)			
Upon filing of state complaint	20 USC 1415(d); 34 CFR 300.504	AR 6159.1	Procedural safeguards notice
When disciplinary measures are taken or change in placement	20 USC 1415(k); 34 CFR 300.530	AR 5144.2	Decision and procedural safeguards notice
Upon requesting a due process hearing	20 USC 1415(k); 34 CFR 300.508	AR 6159.1	Student's name, address, school, description of problem, proposed resolution
Eligibility for services under Section 504	34 CFR 104.32, 104.36	AR 6164.6	District responsibilities, district actions, procedural safeguards
V. Classroom Notices			
In each classroom in each school	Education Code 35186	AR 1312.4 E 1312.4	Complaints re: sufficiency of instructional materials, teacher vacancy or misassignment, maintenance of facilities

Instruction

BP 6170.1(a)

TRANSITIONAL KINDERGARTEN

Note: The following policy is for use by districts that maintain kindergarten and may be revised to reflect district practice. Education Code 48000 provides that children are eligible for kindergarten enrollment if they have their fifth birthday on or before September 1 in that school year; see AR 5111 - Admission. Pursuant to Education Code 48000, any child whose birthday is between September 2 and December 2 must be offered a transitional kindergarten (TK) program.

Education Code 48000 defines TK as the first year of a two-year kindergarten program that uses a modified kindergarten curriculum that is age and developmentally appropriate. Many of the requirements applicable to kindergarten (e.g., class size, minimum school day, facilities) are also applicable to TK. The district will receive average daily attendance (ADA) for students in a TK program that meets the requirements specified in Education Code 48000.

For guidance on implementing TK programs, see the [Transitional Kindergarten Implementation Guide: A Resource for California Public School District Administrators and Teachers](#), published by the California Department of Education (CDE).

The Governing Board desires to offer a high-quality transitional kindergarten (TK) program for eligible children who do not yet meet the minimum age criterion for kindergarten. The program shall assist TK children in developing the academic, social, and emotional skills they need to succeed in kindergarten and beyond.

The district's TK program shall be the first year of a two-year kindergarten program. (Education Code 48000)

The Board encourages ongoing collaboration among district preschool staff, other preschool providers, elementary teachers, administrators, and parents/guardians in program development, implementation, and evaluation.

(cf. 1220 - Citizen Advisory Committees)

(cf. 6020 - Parent Involvement)

Eligibility

Note: Pursuant to Education Code 48200, each person between the ages of 6 and 18 years is subject to compulsory full-time education, unless otherwise exempted by law. Thus, parents/guardians are not required to enroll children in TK or kindergarten but, if they do so, are subject to the age criteria specified below.

The district's TK program shall admit children whose fifth birthday is from September 2 through December 2. (Education Code 48000)

Note: The CDE's "Transitional Kindergarten FAQs" clarify that children are required to have documentation of required immunizations or a valid exemption prior to admission to TK. For information about required immunizations and exemptions, see BP/AR 5141.31 - Immunizations.

TRANSITIONAL KINDERGARTEN (continued)

Parents/guardians of eligible children shall be notified of the availability of the TK program and the age, residency, immunization, and any other enrollment requirements. Enrollment in the TK program shall be voluntary.

(cf. 5111 - Admission)
(cf. 5111.1 - District Residency)
(cf. 5111.12 - Residency Based on Parent/Guardian Employment)
(cf. 5141.22 - Infectious Diseases)
(cf. 5141.3 - Health Examinations)
(cf. 5141.31 - Immunizations)
(cf. 5141.32 - Health Screening for School Entry)

Note: The following paragraph is **optional**. If the district chooses to allow kindergarten-eligible children to enroll in the TK program, CDE recommends that the district establish criteria to determine selection requirements. The parent/guardian of a kindergarten-eligible child who is enrolled in TK must, at the end of the year, sign a Kindergarten Continuance Form verifying that he/she agrees to have the child continue in kindergarten the following year; see section "Continuation in Kindergarten" below.

Upon request of a child's parents/guardians, the district may, on a case-by-case basis after the Superintendent or designee determines that it is in the child's best interest, admit into the district's TK program a child whose fifth birthday is on or before September 1 and who is therefore eligible for kindergarten.

Note: The following paragraph is **optional**. According to the CDE's "Transitional Kindergarten FAQs," it is a local decision as to whether to allow admittance of children whose fifth birthday is after December 2. The CDE's "Transitional Kindergarten FAQs" clarify that children whose fifth birthday is after December 2 may not be admitted to TK at the beginning of the school year but may be admitted during the school year on or after their fifth birthday, provided their parents/guardians have been provided with specified information. ADA can be claimed for "late start" students on the day of their admittance.

The district may admit into the TK program a child whose fifth birthday is after December 2, provided that the child is admitted during the school year on or after his/her fifth birthday and the Superintendent or designee recommends that enrollment in a TK program is in the child's best interest. Prior to such enrollment, the child's parents/guardians shall be provided information regarding the advantages and disadvantages and any other explanatory information about the effect of early admittance.

Curriculum and Instruction

The district's TK program shall be based on a modified kindergarten curriculum that is age and developmentally appropriate. (Education Code 48000)

(cf. 6141 - Curriculum Development and Evaluation)
(cf. 6161.1 - Selection and Evaluation of Instructional Materials)

TRANSITIONAL KINDERGARTEN (continued)

Note: As amended by SB 858 (Ch. 32, Statutes of 2014), Education Code 48000 states the Legislature's intent that the TK curriculum be aligned to the California Preschool Learning Foundations developed by the CDE. These standards address essential skills in the subject areas listed below. The standards and companion preschool curriculum frameworks are available on CDE's web site.

The program shall be aligned with the preschool learning foundations and preschool curriculum frameworks developed by the California Department of Education. It shall be designed to facilitate students' development in essential skills related to language and literacy, mathematics, physical development, health, visual and performing arts, science, history-social science, English language development, and social-emotional development.

(cf. 5148.3 - Preschool/Early Childhood Education)
(cf. 6011 - Academic Standards)
(cf. 6174 - Education for English Language Learners)

Note: The following **optional** paragraph may be revised to reflect district practice. Education Code 37202 requires that all elementary schools in the district be maintained for an equal length of time during the school year. In its "Transitional Kindergarten FAQs," the CDE has interpreted this to mean that the district's annual instructional minutes offered to TK students should be the same as the number of instructional minutes offered to kindergarten students, as reflected in its annual audit. Pursuant to Education Code 46111 and 46117, at the kindergarten level the minimum school day is three hours (180 minutes) and the maximum school day is four hours (240 minutes), unless the district has adopted an extended-day kindergarten pursuant to Education Code 8973. However, pursuant to Education Code 46119, if the district has fewer than 40 kindergarten students, it may apply to the Superintendent of Public Instruction to maintain two kindergarten classes of 150 minutes each, taught on the same day by the same teacher. Also see AR 6112 - School Day.

The Board shall fix the length of the school day in the district's TK program, which shall be at least three hours but no more than four hours.

(cf. 6111 - School Calendar)
(cf. 6112 - School Day)

Note: The following **optional** paragraph may be revised to reflect district practice. According to the CDE's "Transitional Kindergarten FAQs," it is the intent of the law to provide separate and unique experiences for TK and kindergarten students. However, districts have flexibility to determine how best to meet the curricular needs of each child and whether TK and kindergarten students may be enrolled in the same classrooms.

TK students may be placed in the same classrooms as kindergarten students when necessary, provided that the instructional program is differentiated to meet student needs.

Staffing

Note: To be qualified to teach a TK class, the teacher must possess an appropriate multiple subjects or early child education credential issued by the Commission on Teacher Credentialing (CTC) authorizing instruction in TK. As amended by SB 876 (Ch. 687, Statutes of 2014), Education Code 48000 establishes additional requirements for credentialed teachers who are first assigned to a TK class after July 1, 2015, as provided below.

TRANSITIONAL KINDERGARTEN (continued)

TK assignments are subject to assignment monitoring and reporting by the County Superintendent of Schools in accordance with Education Code 44258.9.

The Superintendent or designee shall ensure that teachers assigned to teach in TK classes possess a teaching credential or permit from the Commission on Teacher Credentialing (CTC) that authorizes such instruction.

(cf. 4112.2 - Certification)

A credentialed teacher who is first assigned to a TK class after July 1, 2015, shall, by August 1, 2020, have at least 24 units in early childhood education and/or child development, comparable experience in a preschool setting, and/or a child development teacher permit issued by the CTC. (Education Code 48000)

The Superintendent or designee may provide professional development as needed to ensure that TK teachers are knowledgeable about the standards and effective instructional methods for teaching young children.

(cf. 4131 - Staff Development)

Continuation to Kindergarten

Note: The following section is consistent with guidance in the CDE's "Transitional Kindergarten FAQs."

Students who complete the TK program shall be eligible to continue in kindergarten the following school year. Parents/guardians of such students shall not be required to submit a signed Kindergarten Continuance Form for kindergarten attendance.

Note: The following **optional** paragraph is for use by districts that allow kindergarten-eligible children to enroll in TK; see section "Eligibility" above. When such students are subsequently enrolled in kindergarten, the district is required to obtain a signed Kindergarten Continuance Form in order to receive kindergarten ADA for those children since they would otherwise be age-eligible for first grade. CDE recommends that approval for a student to continue in kindergarten not be sought until near the end of the year of TK, since permission obtained unreasonably far in advance could be found invalid.

However, whenever children who would otherwise be age-eligible for kindergarten are enrolled in TK, the Superintendent or designee shall obtain a Kindergarten Continuance Form signed by the parent/guardian near the end of the TK year consenting to the child's enrollment in kindergarten the following year.

Note: Pursuant to Education Code 46300, the district may not include for ADA purposes the attendance of any student for more than two years in a combination of TK and kindergarten.

A student shall not attend more than two years in a combination of TK and kindergarten. (Education Code 46300)

TRANSITIONAL KINDERGARTEN (continued)

(cf. 5123 - Promotion/Acceleration/Retention)

Assessment

Note: The following section may be revised to reflect district practice. One assessment resource for TK students is the CDE's Desired Results Developmental Profile, which is designed to assess the developmental progression of all children from early infancy to kindergarten entry.

The Superintendent or designee may develop or identify appropriate formal and/or informal assessments of TK students' development and progress. He/she shall monitor and regularly report to the Board regarding program implementation and the progress of students in meeting related academic standards.

(cf. 0500 - Accountability)

(cf. 6162.5 - Student Assessment)

*Legal Reference:*EDUCATION CODE

8973 *Extended-day kindergarten*

37202 *School calendar; equivalency of instructional minutes*

44258.9 *Assignment monitoring by county superintendent of schools*

46111 *Kindergarten, hours of attendance*

46114-46119 *Minimum school day, kindergarten*

46300 *Computation of ADA, inclusion of kindergarten and transitional kindergarten*

48000 *Age of admission, kindergarten and transitional kindergarten*

48002 *Evidence of minimum age required to enter kindergarten or first grade*

48200 *Compulsory education, starting at age six*

*Management Resources:*CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Transitional Kindergarten FAQs

Desired Results Developmental Profile, 2015

Transitional Kindergarten Implementation Guide: A Resource for California Public School District Administrators and Teachers, 2013

California Preschool Curriculum Framework, Vol. 1, 2010

California Preschool Learning Foundations, Vol. 1, 2008

WEB SITES

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

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

California Kindergarten Association: <http://www.ckanet.org>

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

Transitional Kindergarten California: <http://www.tkcalifornia.org>

EDUCATION FOR ENGLISH LANGUAGE LEARNERS

Note: The following policy may be revised to reflect district practice. State and federal law establish requirements for the identification, placement, and education of English learners. In addition, 20 USC 6801-6871 (Title III, Part A) provide grant funds that may be used to supplement, but not supplant, funding from other sources for the purpose of ensuring that English learners attain English proficiency and meet the same challenging academic standards that are applicable to all students. During the Federal Program Monitoring (FPM) process, California Department of Education (CDE) staff will expect to see evidence that the district has complied with state and federal requirements. See the CDE web site for FPM compliance monitoring instruments.

Contingent upon voter approval in the November 2016 statewide general election, SB 1174 (Ch. 753, Statutes of 2014) would amend and repeal various statutes effective July 1, 2017. If approved, the changes will include authorization for parents/guardians to select a language acquisition program that best suits their child and a requirement for districts to solicit input on language acquisition programs as part of the parent/guardian and community engagement process required for development of the local control and accountability plan (LCAP) (see BP 0460 - Local Control and Accountability Plan).

The Governing Board intends to provide English learners with challenging curriculum and instruction that develop proficiency in English as rapidly and effectively as possible while facilitating student achievement in the district's regular course of study.

Note: Pursuant to Education Code 42238.02 and 42238.03, the local control funding formula (LCFF) provides additional funding based on the number and concentration of unduplicated counts of students who are English learners, foster youth, and/or eligible for free or reduced-price meals. Such funds must be used to increase or improve services for unduplicated students at least in proportion to the increase in funds apportioned on the basis of the number or concentration of unduplicated students; see BP 3100 - Budget. In addition, Education Code 52060 requires the district's LCAP to include annual goals and specific actions, aligned to state and local priorities, for all students and for each "numerically significant" student subgroup as defined in Education Code 52052, including English learners; see BP/AR 0460 - Local Control and Accountability Plan.

The district shall identify in its local control and accountability plan (LCAP) specific actions and services to enhance student engagement, academic achievement, and other outcomes for English learners.

(cf. 0460 - Local Control and Accountability Plan)

(cf. 3100 - Budget)

Note: Pursuant to Education Code 60811, in November 2012 the State Board of Education (SBE) adopted state academic content standards for English language development, aligned with the Common Core State Standards for English language arts, for students whose primary language is a language other than English. In July 2014, the SBE adopted the English Language Arts/English Language Development Framework aligned to those standards. Education Code 60811 and 60811.4 require the State Superintendent of Public Instruction to recommend updated English language development standards that are also aligned with state standards for mathematics and science, and require the SBE to either adopt or reject those recommended standards by August 1, 2015.

Education Code 60211 authorizes the SBE to adopt, no later than November 30, 2015, K-8 instructional materials aligned to the state English language development standards. To bridge the gap until such materials are available, the SBE has approved a list of K-8 supplementary instructional materials which is available on the CDE's web site; this list is informational only.

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

English learners shall be provided English language development instruction targeted to their English proficiency level and aligned with the state content standards and curriculum framework. The district's program shall be based on sound instructional theory, use standards-aligned instructional materials, and assist students in accessing the full educational program.

(cf. 6011 - Academic Standards)
(cf. 6141 - Curriculum Development and Evaluation)
(cf. 6161.1 - Selection and Evaluation of Instructional Materials)
(cf. 6161.11 - Supplementary Instructional Materials)
(cf. 6171 - Title I Programs)

Note: Commission on Teacher Credentialing (CTC) leaflet CL-622, Serving English Learners, describes requirements pertaining to the qualifications of teachers of English learners. A teacher who is assigned to provide English language development, specially designed academic instruction in English, and/or primary language instruction to English learners must hold an appropriate authorization from the CTC; see AR 4112.22 - Staff Teaching English Language Learners.

The Superintendent or designee shall ensure that all staff employed to teach English learners possess the appropriate authorization from the Commission on Teacher Credentialing.

(cf. 4112.22 - Staff Teaching English Language Learners)

Note: The following **optional** paragraph reflects professional development required under 20 USC 6825 for districts receiving federal Title III funds and may be revised or deleted by other districts to reflect district practice. 20 USC 6825 specifies that the professional development described below must be of sufficient intensity and duration to have a positive and lasting impact on teacher performance (i.e., it must go beyond one-day or short-term workshops and conferences).

The Superintendent or designee shall provide to teachers, administrators, and other school staff research-based professional development that is designed to improve the instruction and assessment of English learners and enhance staff's ability to understand and use curricula, assessment, and instructional strategies for English learners. (20 USC 6825)

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

Note: The following paragraph may be revised to reflect district strategies for parent/guardian and community involvement. If district enrollment includes at least 15 percent English learners, with at least 50 students who are English learners, Education Code 52063 requires the establishment of an English learner parent advisory committee to review and comment on the district's LCAP; see the accompanying administrative regulation and BP 0460 - Local Control and Accountability Plan.

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

The Superintendent or designee shall encourage parent/guardian and community involvement in the development, implementation, and evaluation of English language development programs. In addition, to support students' English language development, the Superintendent or designee may provide an adult literacy training program that leads to English fluency for parents/guardians and community members.

(cf. 0420 - School Plans/Site Councils)

(cf. 1220 - Citizen Advisory Committees)

(cf. 6020 - Parent Involvement)

Identification and Assessment

Note: Education Code 313 requires any district that has one or more students who are English learners to assess the English language proficiency of those students. The California English Language Development Test (CELDT) is the state test designated for this purpose. However, in the 2016-17 school year the state will field test a new language proficiency assessment, English Language Proficiency Assessments for California (ELPAC), which is aligned with the 2012 state standards for English language development. The ELPAC will include both an initial screening test to identify students who may be English learners and a summative assessment which will be used to determine English learners' level of English proficiency and their progress in acquiring the skills of listening, speaking, reading, and writing in English. The CDE also provides a home language survey to be used to identify students who should be tested for English proficiency. See the accompanying administrative regulation for further information about test administration and identification and reclassification criteria.

The Superintendent or designee shall maintain procedures which provide for the accurate identification of English learners and an assessment of their proficiency and needs in the areas of listening, speaking, reading, and writing in English.

Once identified as an English learner, a student shall be annually assessed for language proficiency until he/she is reclassified based on criteria specified in the accompanying administrative regulation.

Note: In addition to testing the level of English proficiency of English learners, districts are required pursuant to Education Code 60640 to administer the California Assessment of Student Performance and Progress to English learners; see BP/AR 6162.51 - State Academic Achievement Tests. As needed, English learners may be provided with the testing resources (i.e., universal tools, designated supports, and accommodations) specified in 5 CCR 853.5 and 853.7, as amended by Register 2014, No. 35, during test administration. Education Code 60640, as amended by SB 858 (Ch. 32, Statutes of 2014), also authorizes districts to administer a primary language assessment to students in grades 2-11. The Standards-Based Test in Spanish may be used for this purpose until a test is available that is aligned with the most recent state English language development standards. The SBE is required to adopt such an assessment to be used no later than the 2016-17 school year.

English learners' academic achievement in English language arts, mathematics, science, and any additional subject required by law shall be assessed using the California Assessment of Student Performance and Progress. As necessary, the test shall be administered with allowable

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

testing variations in accordance with 5 CCR 853.5 and 853.7. English learners who are in their first 12 months of attending a school in the United States shall be exempted from taking the English language arts assessment to the extent allowed by federal law. (Education Code 60603, 60640; 5 CCR 853.5, 853.7)

(*cf.* 6152.51 - *State Academic Achievement Tests*)

Placement of English Learners

Note: Education Code 300-340, added by Proposition 227 (June 1998), require that English learners who have not yet attained a reasonable level of English proficiency be educated through a program of "structured English immersion," as defined in law and the accompanying administrative regulation, with the goal that students learn English as rapidly and effectively as possible. In McLaughlin v. State Board of Education, the court held that the SBE may not grant waivers related to Education Code 300-340 pursuant to its waiver authority in Education Code 33050.

Students who are English learners shall be educated through "structured English immersion" (also known as "sheltered English immersion"), as defined in law and the accompanying administrative regulation, for a temporary transition period not normally intended to exceed one year. Nearly all of the classroom instruction in the district's structured English immersion program shall be in English, but with the curriculum and presentation designed for students who are learning the language. (Education Code 305-306)

Note: The Education Code does not define the term "nearly all" for purposes of ensuring that nearly all instruction is provided in English pursuant to Education Code 306, and the SBE has declared that it is the responsibility of districts to determine the appropriate ratio of English to native language instruction. The following paragraph defines "nearly all" as to provide that all classroom instruction be conducted in English except for clarification, explanation, and support as needed. The district could instead establish a minimum percentage of classroom instructional time to be conducted in English or specify the types of courses to be conducted in English and the courses (e.g., science, algebra) to be taught in the student's primary language. The following paragraph may be revised to reflect the district's definition of "nearly all."

"Nearly all," for the purpose of determining the amount of instruction to be conducted in English, means that all classroom instruction shall be conducted in English except for clarification, explanation, and support as needed.

Note: Pursuant to Education Code 305-306 and 5 CCR 11301, when a student has acquired a reasonable level of English proficiency, as measured by state or local assessment instruments, he/she shall be removed from the structured English immersion classroom and placed in an English mainstream classroom in which the language of instruction is overwhelmingly in English. The term "overwhelmingly" is not defined in the Education Code nor in the state regulations.

The definition of "reasonable level of proficiency" is one that must be made at the local level. The following paragraph should be revised to specify the types of assessment instruments and scores and/or other local tools (e.g., student portfolios or grades) which will be used to determine whether a student has achieved a reasonable level of English proficiency for purposes of qualifying for transfer to an English mainstream classroom. The district should fill in the blanks below with its definition of "reasonable level of proficiency."

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

When an English learner has acquired a reasonable level of English proficiency as measured by any of the state-designated assessments approved by the California Department of Education, any district assessments, and/or other criteria adopted by the Board, he/she shall be transferred from a structured English immersion classroom to an English language mainstream classroom in which the instruction is overwhelmingly in English. (Education Code 305-306; 5 CCR 11301)

(cf. 6162.5 - Student Assessment)

An English learner has acquired a "reasonable level of English proficiency" when he/she has achieved the following:

Note: 5 CCR 11301 allows a parent/guardian to have his/her child moved into an English language mainstream classroom at any time during the school year. According to the CDE, the parent/guardian only needs to request this placement; he/she does not need to go through the waiver process described below in the section entitled "Parental Exception Waivers."

Education Code 320 grants parents/guardians legal standing to sue Governing Board members, teachers, or administrators if their child has been "willfully and repeatedly" denied the option of an English language mainstream classroom. The constitutionality of this section was upheld by the Ninth Circuit Court of Appeals in California Teachers Association v. the State Board of Education. Therefore, districts should ensure that requests from parents/guardians to place their child in an English language mainstream classroom are granted immediately.

At any time during the school year, the parent/guardian of an English learner may have his/her child moved into an English language mainstream program. (5 CCR 11301)

Parental Exception Waivers

Note: Pursuant to Education Code 310-311, the district may, in three narrowly defined circumstances, grant parental exception waivers from the requirements of Education Code 305 regarding placement in the structured English immersion program and instead allow students to be taught through bilingual education or other permitted methodologies. For detailed procedures, see the accompanying administrative regulation.

When allowed by law, the parent/guardian of an English learner may submit a request that his/her child be exempted from placement in a structured English immersion program and instead be placed in a class where he/she is taught English and other subjects through bilingual education techniques or other generally recognized educational methodologies permitted by law. (Education Code 310-311)

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

Each waiver request shall be considered on its individual merits with deference given to the parent/guardian's preference for student placement.

Note: 5 CCR 11309 **mandates** that the district's procedure contain the following paragraph. Pursuant to 5 CCR 11309, the district is required to grant all parental exception waiver requests unless the principal and educational staff have determined that an alternative program offered at the school would not be better suited for the overall educational development of the student; see the accompanying administrative regulation. Therefore, the burden is on the district staff to show why a waiver request should not be granted.

In 83 Ops.Cal.Atty.Gen. 40 (2000), the Attorney General opined that a district may not deny a parent/guardian request for a waiver on the sole ground that the district has no alternative program.

A waiver request shall be granted in accordance with law unless the principal and educational staff have determined that an alternative program would not be better suited to the student's overall educational development. (5 CCR 11309)

Note: The following appeal process is **optional**.

If the Superintendent or designee denies the waiver request, he/she shall provide a written justification to the parent/guardian describing the reasons for the denial. A parent/guardian may appeal the decision in writing to the Board. The Board may consider the matter at its next regular Board meeting. The Board may decide not to hear the appeal, in which case the Superintendent's decision shall be final. If the Board hears the appeal, the Superintendent shall send the Board's decision to the parent/guardian within seven working days.

Note: Pursuant to 5 CCR 11310, any parent/guardian who applies for a waiver may request that the SBE review the district's guidelines or procedures. The SBE shall review the guidelines only to make a determination as to whether the guidelines comply with 5 CCR 11309.

Program Evaluation

Note: The following section may be revised to reflect indicators agreed upon by the Board and Superintendent or designee for measuring the effectiveness of the district's educational program for English learners.

Education Code 52061 requires that the annual update of the LCAP include a review of progress toward the goals included in the LCAP, an assessment of the effectiveness of the specific actions described in the LCAP toward achieving the goals, and a description of changes the district will make as a result of this review and assessment.

Pursuant to Education Code 313.2, the CDE is required to annually determine the number of students in each district and school who are, or at risk of becoming, long-term English learners and to report that information to districts and schools. Definitions of "long-term English learner" and "English learner at risk of becoming a long-term English learner" are contained in Education Code 313.1.

To evaluate the effectiveness of the district's educational program for English learners, the Superintendent or designee shall report to the Board, at least annually, regarding:

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

1. Progress of English learners towards proficiency in English
2. The number and percentage of English learners reclassified as fluent English proficient
3. The number and percentage of English learners who are or are at risk of being classified as long-term English learners in accordance with Education Code 313.1
4. The achievement of English learners on standards-based tests in core curricular areas
5. Progress toward any other goals for English learners identified in the district's LCAP
6. A comparison of current data with data from at least the previous year.

The Superintendent or designee also shall provide the Board with regular reports from any district or schoolwide English learner advisory committees.

Legal Reference:

EDUCATION CODE

300-340 English language education

430-446 English Learner and Immigrant Pupil Federal Conformity Act

33050 State Board of Education waiver authority

42238.02-42238.03 Local control funding formula

44253.1-44253.11 Qualifications for teaching English learners

48985 Notices to parents in language other than English

52052 Academic Performance Index; numerically significant student subgroups

52060-52077 Local control and accountability plan

52130-52135 Impacted Languages Act of 1984

52160-52178 Bilingual Bicultural Act

60200.7 Suspension of state instructional materials adoptions

60605.87 Supplemental instructional materials, English language development

60640 California Assessment of Student Performance and Progress

60810-60812 Assessment of language development

62005.5 Continuation of advisory committee after program sunsets

CODE OF REGULATIONS, TITLE 5

853.5-853.7 Test administration; universal tools, designated supports, and accommodations

11300-11316 English learner education

11510-11517 California English Language Development Test

UNITED STATES CODE, TITLE 20

1701-1705 Equal Educational Opportunities Act

6312 Local education agency plans

6801-6871 Title III, Language instruction for limited English proficient and immigrant students

7012 Parental notification

Legal Reference continued: (see next page)

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

Legal Reference continued:

COURT DECISIONS

Valeria G. v. Wilson, (2002) 307 F.3d 1036

California Teachers Association v. State Board of Education et al., (9th Circuit, 2001) 271 F.3d 1141

McLaughlin v. State Board of Education, (1999) 75 Cal.App.4th 196

Teresa P. et al v. Berkeley Unified School District et al, (1989) 724 F.Supp. 698

ATTORNEY GENERAL OPINIONS

83 *Ops.Cal.Atty.Gen.* 40 (2000)

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Academic Criterion for Reclassification, CDE Correspondence, August 11, 2014

California English Language Development Test (CELDT): 2013-14 CELDT Information Guide, 2013

English Language Arts/English Language Development Framework for California Public Schools: Transitional Kindergarten Through Grade Twelve, 2014

English Language Development Standards for California Public Schools: Kindergarten Through Grade Twelve, 2012

Matrix of Test Variations, Accommodations, and Modifications for Administration of California Statewide Assessments

U.S. DEPARTMENT OF EDUCATION NONREGULATORY GUIDANCE

Assessment and Accountability for Recently Arrived and Former Limited English Proficient (LEP) Students, May 2007

WEB SITES

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

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

EDUCATION FOR ENGLISH LANGUAGE LEARNERS**Definitions**

English learner, also known as a limited English proficient student, means a student who does not speak English or whose native language is not English and who is not currently able to perform ordinary classroom work in English. (Education Code 306)

English language classroom means a classroom in which the language of instruction used by the teaching personnel is overwhelmingly the English language, and in which such teaching personnel possess a good knowledge of the English language. (Education Code 306)

English language mainstream classroom means a classroom in which the students either are native English language speakers or already have acquired reasonable fluency in English. (Education Code 306)

Structured English immersion (also known as "sheltered English immersion") means an English language acquisition process in which nearly all classroom instruction is in English but with the curriculum and presentation designed for students who are learning the language. (Education Code 306)

Bilingual education/native language instruction means a language acquisition process for students in which much or all instruction, textbooks, and teaching materials are in the student's native language. (Education Code 306)

Identification and Assessments

Note: Education Code 52164.1 and 5 CCR 11307 and 11511 require the district to administer a home language survey to all enrolled students and, for students who are determined by the survey to have a primary language other than English, to follow up with administration of a state assessment of English proficiency. The California English Language Development Test (CELDT) is the state test designated for this purpose. However, in the 2016-17 school year the state will field test a new language proficiency assessment, English Language Proficiency Assessments for California (ELPAC), which is aligned with the 2012 state standards for English language development. The ELPAC will include both an initial screening test to identify students who may be English learners and a summative assessment which will be used to determine English learners' level of English proficiency and their progress in acquiring the skills of listening, speaking, reading, and writing in English.

Upon enrollment in the district, each student's primary language shall be determined through use of a home language survey. (Education Code 52164.1; 5 CCR 11307)

Any student who is identified as having a primary language other than English as determined by the home language survey, and who has not previously been identified as an English learner by a California public school or for whom there is no record of results from an administration of an English language proficiency test, shall be assessed for English proficiency using the state's designated English language proficiency test. (Education Code 313, 52164.1; 5 CCR 11511)

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

Each year after a student is identified as an English learner and until he/she is redesignated as English proficient, the summative assessment shall be administered to the student during a four-month period after January 1 as determined by the California Department of Education. (Education Code 313)

Note: 5 CCR 11516-11516.6 specify allowable variations and accommodations in CELDT administration. These variations and accommodations are generally the same as those allowed for other state assessments; see AR 6162.51 - State Academic Achievement Tests.

The state assessment shall be administered in accordance with test publisher instructions and 5 CCR 11511-11516.7. Variations and accommodations in test administration may be provided pursuant to 5 CCR 11516-11516.7. Any student with a disability shall be allowed to take the assessment with those accommodations for testing that the student has regularly used during instruction and classroom assessment as delineated in the student's individualized education program (IEP) or Section 504 plan that are appropriate and necessary to address the student's individual needs. If he/she is unable to participate in the assessment or a portion of the assessment with such accommodations, he/she shall be administered an alternate assessment for English language proficiency as set forth in his/her IEP. (5 CCR 11516-11516.7)

(cf. 6152.51 - State Academic Achievement Tests)

(cf. 6159 - Individualized Education Program)

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

Parental Notifications

Note: The following section specifies notifications that must be sent to parents/guardians regarding assessment results and available programs for English learners. The district may choose to combine these notifications with notifications required for parental exception waivers, as detailed in the section "Parental Exception Waivers" below. The California Department of Education (CDE) has developed sample notification letters, available on its web site in multiple translations, to notify parents/guardians of the initial identification of the student as an English learner or as initially fluent English proficient and to notify them of the results of the annual assessment.

Pursuant to Education Code 48985, when 15 percent or more of students enrolled in a school speak a single primary language other than English, all notices and reports sent to their parents/guardians must be written in English and in the primary language and may be answered by the parent/guardian in either language.

The Superintendent or designee shall provide the following written notifications to parents/guardians of English learners:

1. **Assessment Notification:** The district shall notify parents/guardians of their child's results on the state's English language proficiency assessment within 30 calendar days following receipt of the results from the test contractor. (Education Code 52164.1; 5 CCR 11511.5)

(cf. 5145.6 - Parental Notifications)

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

2. Placement Notification: At the beginning of each school year, parents/guardians shall be informed of the placement of their child in a structured English immersion program and shall be notified of an opportunity to apply for a parental exception waiver. (Education Code 310; 5 CCR 11309)

Note: Items #3-4 below are for use by districts that receive federal Title III funds.

3. Title III Notifications: Each parent/guardian of a student participating in, or identified for participation in, a language instruction program supported by federal Title III funds shall receive notification of the assessment of his/her child's English proficiency. Such notice shall be provided not later than 30 calendar days after the beginning of the school year or, if the student is identified for program participation during the school year, within two weeks of the student's placement in the program. The notice shall include all of the following: (Education Code 440; 20 USC 7012)
 - a. The reason for the student's classification as an English learner
 - b. The level of English proficiency, how the level was assessed, and the status of the student's academic achievement
 - c. A description of the program for English language development instruction, including a description of all of the following:
 - (1) The manner in which the program will meet the educational strengths and needs of the student
 - (2) The manner in which the program will help the student develop his/her English proficiency and meet age-appropriate academic standards
 - (3) The specific exit requirements for the program, the expected rate of transition from the program into classes not tailored for English learners, and the expected rate of graduation from secondary school if applicable
 - (4) Where the student has been identified for special education, the manner in which the program meets the requirements of the student's IEP
 - d. Information regarding a parent/guardian's option to decline to allow the student to be enrolled in the program or to choose to allow the student to be enrolled in an alternative program
 - e. Information designed to assist a parent/guardian in selecting among available programs, if more than one program is offered

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

Note: Pursuant to 20 USC 6842, the CDE must develop annual measurable objectives for English learners served under federal Title III. These include targets for the percentage of English learners who are proficient on the assessments used in the calculations of "adequate yearly progress" for accountability purposes; see BP 0500 - Accountability.

4. Annual Measurable Objectives Notification: If the district fails to make progress on the annual measurable achievement objectives for English learners established pursuant to 20 USC 6842, the Superintendent or designee shall, within 30 days after such failure occurs, send a notification regarding such failure to the parents/guardians of each student identified for participation in a language instruction educational program supported by Title III funds. (20 USC 7012)

Parental Exception Waivers

Note: Pursuant to Education Code 311, parents/guardians may request a waiver of their child's placement in a structured English immersion program under the circumstances described below. See the accompanying Exhibit for a sample form that may be used to obtain and process the parent/guardian's waiver request.

A parent/guardian may, by personally visiting the school, request that the district waive the requirements pertaining to the placement of his/her child in a structured English immersion program if one of the following circumstances exists: (Education Code 310-311)

1. The student already possesses sufficient English language skills, as measured by standardized tests of English vocabulary comprehension, reading, and writing, in which the student scores at or above the state average for his/her grade level or at or above the fifth-grade average, whichever is lower.
2. The student is age 10 years or older, and it is the informed belief of the principal and educational staff that an alternate course of study would be better suited to the student's rapid acquisition of basic English skills.

Note: Education Code 311 provides that a waiver may be granted when the student has such special physical, emotional, psychological, or educational needs that an alternate course of study would be better suited to the student's overall educational development, as provided in item #3 below. The State Board of Education (SBE) has declared that the definition of "special needs" is broader than special education, or any other specific medical condition, in that expert documentation justifying the waiver need not be presented by the parent/guardian. Rather, the determination as to whether a child has "special needs" should be based on the parent/guardian's opinion that an alternative program is better for his/her child. According to the CDE, for a special education student, the individualized education program determines placement of that student, and therefore a waiver pursuant to this section is not required.

3. The student already has been placed, for a period of not less than 30 calendar days during that school year, in an English language classroom and it is subsequently the informed belief of the principal and educational staff that the student has special

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

physical, emotional, psychological, or educational needs and that an alternate course of educational study would be better suited to the student's overall educational development.

Note: 5 CCR 11309 **mandates** that districts establish procedures for granting parental exception waivers that contain the following two paragraphs. Pursuant to Education Code 311, waivers granted pursuant to item #3 above are subject to approval by the Superintendent under guidelines adopted by the Governing Board and ultimately subject to SBE guidelines.

Upon request for a waiver, the Superintendent or designee shall provide parents/guardians with a full written description and, upon request, a spoken description of the intent and content of the structured English immersion program, any alternative courses of study, all educational opportunities offered by the district and available to the student, and the educational materials to be used in the different educational program choices. For a request for waiver pursuant to item #3 above, the Superintendent or designee shall notify the parent/guardian that the student must be placed for a period of not less than 30 calendar days in an English language classroom and that the waiver must be approved by the Superintendent pursuant to any guidelines established by the Governing Board. (Education Code 310, 311; 5 CCR 11309)

The principal and educational staff may recommend a waiver to a parent/guardian pursuant to item #2 or #3 above. Parents/guardians shall be informed in writing of any recommendation for an alternative program made by the principal and staff and shall be given notice of their right to refuse to accept the recommendation. The notice shall include a full description of the recommended alternative program and the educational materials to be used for the alternative program as well as a description of all other programs available to the student. If the parent/guardian elects to request the alternative program recommended by the principal and educational staff, the parent/guardian shall comply with district procedures and requirements otherwise applicable to a parental exception waiver, including Education Code 310. (Education Code 311; 5 CCR 11309)

Note: If standardized tests are not available to measure a student's English language skills and for waivers pursuant to item #1 above, 5 CCR 11309 provides that the district may use equivalent measures as determined by the Board. The following **optional** paragraph should be revised to reflect district practice.

When evaluating waiver requests pursuant to item #1 above and other waiver requests for those students for whom standardized assessment data are not available, other equivalent assessment measures may be used. These equivalent measures may include district standards and assessment and teacher evaluations of such students.

Parental exception waivers pursuant to item #2 above shall be granted if it is the informed belief of the principal and educational staff that an alternate course of educational study would be better suited to the student's rapid acquisition of basic English language skills. (Education Code 311)

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

Parental exception waivers pursuant to item #3 above shall be granted by the Superintendent if it is the informed belief of the principal and educational staff that, due to the student's special physical, emotional, psychological, or educational needs, an alternate course of educational study would be better suited to the student's overall educational development. (Education Code 311)

All parental exception waivers shall be acted upon within 20 instructional days of submission to the principal. However, parental waiver requests pursuant to item #3 above shall not be acted upon during the 30-day placement in an English language classroom. Such waivers shall be acted upon no later than 10 calendar days after the expiration of that 30-day English language classroom placement or within 20 instructional days of submission of the waiver to the principal, whichever is later. (5 CCR 11309)

Note: Education Code 310 provides that when 20 or more students in the same grade level at the same school receive a waiver, the school is required to offer an alternative class; otherwise it must allow the students to transfer to a public school in which such a class is offered. Districts that have questions about the requirement to offer a program should consult legal counsel as necessary.
--

Any individual school in which 20 or more students of a given grade level receive a waiver shall offer an alternative class where the students are taught English and other subjects through bilingual education techniques or other generally recognized educational methodologies permitted by law. Otherwise, the students shall be allowed to transfer to a public school in which such a class is offered. (Education Code 310)

In cases where a parental exception waiver pursuant to item #2 or #3 above is denied, the parent/guardian shall be informed in writing of the reason(s) for the denial and advised that he/she may appeal the decision to the Board if the Board authorizes such an appeal, or to the court. (5 CCR 11309)

Waiver requests shall be renewed annually by the parent/guardian. (Education Code 310)

Reclassification/Redesignation

The district shall continue to provide additional and appropriate educational services to English learners for the purposes of overcoming language barriers until they: (5 CCR 11302)

1. Demonstrate English language proficiency comparable to that of the district's average native English language speakers
2. Recoup any academic deficits which may have been incurred in other areas of the core curriculum as a result of language barriers

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

English learners shall be reclassified as fluent English proficient when they are able to comprehend, speak, read, and write English well enough to receive instruction in an English language mainstream classroom and make academic progress at a level substantially equivalent to that of students of the same age or grade whose primary language is English and who are in the regular course of study. (Education Code 52164.6)

Note: 5 CCR 11303 requires that the district's reclassification process include the criteria specified in items #1-4 below. The CDE's [CELDT Information Guide](#) includes recommendations for assessing each of the following criteria.

The following measures shall be used to determine whether an English learner shall be reclassified as fluent English proficient: (Education Code 313; 5 CCR 11303)

1. Assessment of English language proficiency using an objective assessment instrument, including, but not limited to, the state's English language proficiency assessment
2. Participation of the student's classroom teacher and any other certificated staff with direct responsibility for teaching or placement decisions related to the student
3. Parent/guardian opinion and consultation

The Superintendent or designee shall provide the parent/guardian with notice and a description of the reclassification process and of his/her opportunity to participate in the process and shall encourage his/her involvement in the process.

Note: Pursuant to Education Code 313, the fourth criterion requires comparison of student performance on an objective assessment of basic skills that provides an empirically established range of performance of English proficient students of the same age. A letter from the CDE to district superintendents (Academic Criterion for Reclassification) dated August 11, 2014 clarifies that, when a state test of basic skills is unavailable, districts must select another measure which may include a local assessment. The CDE correspondence provides examples of appropriate measures and is available on the CDE web site.

4. Student performance on an objective assessment of basic skills in English that shows whether the student is performing at or near grade level

The Superintendent or designee shall monitor the progress of reclassified students to ensure their correct classification and placement. (5 CCR 11304)

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

The Superintendent or designee shall monitor students for at least two years following their reclassification to determine whether the student needs any additional academic support to ensure his/her language and academic success.

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

Advisory Committee

Note: The following section should be revised to reflect district practice. Pursuant to 5 CCR 11308, a parent/guardian advisory committee is required for any district with over 50 English learners and for each school with over 20 English learners. Duties of the advisory committee are specified in 5 CCR 11308.

A parent/guardian advisory committee shall be established at the district level when there are more than 50 English learners in the district and at the school level when there are more than 20 English learners at the school. Parents/guardians of English learners shall constitute committee membership in at least the same percentage as English learners represent of the total number of students in the school. (Education Code 52176; 5 CCR 11308)

The district's English language advisory committee shall advise the Board on at least the following tasks: (5 CCR 11308)

1. The development of a district master plan of education programs and services for English learners, taking into consideration the school site plans for English learners
2. The districtwide needs assessment on a school-by-school basis
3. Establishment of a district program, goals, and objectives for programs and services for English learners
4. Development of a plan to ensure compliance with applicable teacher or aide requirements
5. Administration of the annual language census
6. Review of and comment on the district's reclassification procedures
7. Review of and comment on the written notification required to be sent to parents/guardians pursuant to 5 CCR 11300-11316

(cf. 0420 - School Plans/Site Councils)

(cf. 1220 - Citizen Advisory Committees)

(cf. 5020 - Parent Rights and Responsibilities)

(cf. 6020 - Parent Involvement)

In order to assist the advisory committee in carrying out its responsibilities, the Superintendent or designee shall ensure that committee members receive appropriate training and materials. This training shall be planned in full consultation with the members. (5 CCR 11308)

EDUCATION FOR ENGLISH LANGUAGE LEARNERS (continued)

LCAP Advisory Committee

Note: The following section is applicable if the district's student enrollment includes at least 15 percent English learners, with at least 50 students who are English learners. Education Code 52063 requires that such districts establish an English learner parent advisory committee to review and comment on the district's local control and accountability plan; see BP 0460 - Local Control and Accountability Plan. 5 CCR 15495, as amended by Register 2015, No. 2, requires this committee to include a majority of parents/guardians of English learners.

When there are at least 15 percent English learners in the district, with at least 50 students who are English learners, a district-level English learner parent advisory committee shall be established to review and comment on the district's local control and accountability plan (LCAP) in accordance with BP 0460 - Local Control and Accountability Plan. The committee shall be composed of a majority of parents/guardians of English learners. (Education Code 52063; 5 CCR 15495)

(cf. 0460 - Local Control and Accountability Plan)

The advisory committee established pursuant to 5 CCR 11308, as described in the section "Advisory Committee" above, could serve as the LCAP English learner advisory committee if its composition includes a majority of parents/guardians of English learners.