

Board Policy

Concepts And Roles

BP 1000

Community Relations

The Governing Board desires to represent the community and provide leadership in addressing community issues related to education. In order to identify community concerns and enlist support for the schools, the Board shall establish effective two-way communication systems between schools and the community.

Schools, parents/guardians, community members and local organizations must continually collaborate as partners. The Board and the Superintendent or designee shall work together with city and county agencies and organizations to promote and facilitate coordinated services for children, and shall seek to develop partnerships with local businesses.

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)
(cf. 1700 - Relations between Private Industry and the Schools)

The Board recognizes that schools are an important community resource and encourages community members to make appropriate use of school facilities. Community members are also encouraged to attend Board meetings, participate in school activities, and take an active interest in issues that affect the schools. The Board and Superintendent or designee shall keep community members well informed about district needs and accomplishments and shall ensure that they have opportunities to share in developing educational policies, programs and evaluation processes.

(cf. 0510 - School Accountability Report Card)
(cf. 1220 - Citizen Advisory Committees)
(cf. 1240 - Volunteer Assistance)
(cf. 1330 - Use of School Facilities)
(cf. 6020 - Parent Involvement)
(cf. 6141 - Curriculum Development and Evaluation)
(cf. 9323 - Meeting Conduct)

The Board recognizes that its ability to fulfill the community's expectations for a high-quality educational program depends on the level of support provided by the state and federal government as well as the community. The Board therefore shall study legislative processes and issues, establish ongoing relationships with state and local leaders and the media, adopt positions on key issues, set priorities for advocacy, and collaborate with other organizations and coalitions in legislative and legal advocacy efforts.

(cf. 1112 - Media Relations)
(cf. 1160 - Political Processes)

(cf. 9000 - Role of the Board)

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

35172 Promotional activities

(6/85) 10/96

Board Policy

Communication With The Public

BP 1100

Community Relations

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

The Governing Board recognizes the district's responsibility to keep the public informed regarding the goals, programs, achievements, and needs of the schools and district and to be responsive to the concerns and interests of the community. The Superintendent or designee shall establish strategies for effective two-way communications between the district and the public and shall consult with the Board regarding the role of Board members as advocates for the district's students, programs, and policies.

(cf. 5020 - Parent Rights and Responsibilities)

(cf. 9000 - Role of the Board)

Note: Protocols for media relations, including the identification of Governing Board and staff spokespersons designated to meet with the media on behalf of the district, are addressed in BP 1112 - Media Relations. The district may choose to establish additional protocols for communications with other segments of the public.

The Superintendent or designee shall provide the Board and staff with communications protocols and procedures to assist the district in presenting a consistent, unified message on district issues. Such protocols and procedures may include, but are not limited to, identification of the spokesperson(s) authorized to speak to the media on behalf of the district, strategies for coordinating communications efforts and activities, and legal requirements pertaining to confidentiality as well as the public's right to access records.

(cf. 1112 - Media Relations)

(cf. 1340 - Access to District Records)

(cf. 2111 - Superintendent Governance Standards)

(cf. 3580 - District Records)

(cf. 5125 - Student Records)

(cf. 5125.1 - Release of Directory Information)

(cf. 9005 - Governance Standards)

(cf. 9010 - Public Statements)

(cf. 9011 - Disclosure of Confidential/Privileged Information)

The Superintendent or designee shall utilize a variety of methods to provide information to the public with access to information. Such methods may include, but are not limited to, district and school newsletters, web sites, social media, electronic communications, mailings, notices sent home with students, recorded telephone messages for parent/guardian information, community

forums and public events, news releases, meetings with education reporters and editorial boards, presentations at parent organization meetings, and meetings with representatives of local governments, community organizations, and businesses.

(cf. 0510 - School Accountability Report Card)

(cf. 1113 - District and School Web Sites)

(cf. 1114 - District-Sponsored Social Media)

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

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

Note: Pursuant to Education Code 48985, when 15 percent or more of students enrolled in a school speak a single primary language other than English, all notices and reports sent to the parents/guardians of those students must also be written in that primary language. In addition, the Americans with Disabilities Act (28 CFR 35.130 and 35.160) requires districts to provide services and aids to ensure that a disabled individual is not excluded from participation or denied a benefit, service, or program on the basis of a disability. See BP 0410 - Nondiscrimination in District Programs and Activities.

In developing communications strategies, the Superintendent or designee shall take into account the needs of all members of the public, including individuals with disabilities and those whose primary language is not English.

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

The Superintendent or designee may provide staff members with professional development to assist them in effectively responding to requests for information or assistance by parents/guardians or members of the public.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331 - Staff Development)

The Superintendent or designee shall provide multiple avenues and opportunities for members of the public to give input on district and school issues and operations. Community members are encouraged to become involved in school activities, participate on district and school committees, provide input at Board meetings, submit suggestions to district staff, and use the district's complaint procedures as appropriate.

(cf. 0460 - Local Control and Accountability Plan)

(cf. 1220 - Citizen Advisory Committees)

(cf. 1230 - School-Connected Organizations)

(cf. 1240 - Volunteer Assistance)

(cf. 1250 - Visitors/Outsiders)

(cf. 1260 - Educational Foundation)

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.2 - Complaints Concerning Instructional Materials)

(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 1312.4 - Williams Uniform Complaint Procedures)
(cf. 3555 - Nutrition Program Compliance)
(cf. 6020 - Parent Involvement)
(cf. 9322 - Agenda/Meeting Materials)
(cf. 9323 - Meeting Conduct)

Mass Mailings at Public Expense

Note: Education Code 7054 and 2 CCR 18901.1 prohibit the use of public funds for a mass mailing that (1) expressly advocates the election or defeat of a candidate or the qualification, passage, or defeat of a ballot measure or (2) if taken in context, unambiguously urges an election result. Violation of these provisions could result in an enforcement action by the Fair Political Practices Commission. See BP 1160 - Political Processes for language regarding the use of district funds for activities related to ballot measures, candidates, or lobbying.

Newsletters or mass mailings regarding ballot measures, candidates, legislative activities, or any other campaign activities shall be sent and distributed in accordance with law and Board policy.

(cf. 1160 - Political Processes)

Note: Government Code 82041.5, 89001, and 89002 prohibit the use of public funds for a mass mailing which features a Board member or includes the name, signature, or photograph of a Board member, except as specifically allowed by law. "Mass mailing" is defined as over 200 substantially similar pieces of mail sent in a single calendar month or course of an election. A "mass mailing" does not include form letters or mail sent in response to an unsolicited request, letter, or other inquiry, or permissible informational materials otherwise authorized by Government Code 89002. Because these laws are very complex, districts should consult with legal counsel if there is a question about the appropriateness of a planned mailing.

A mass mailing is prohibited if all of the following criteria are met: (Government Code 89001-89002)

1. The mailing involves sending a tangible item, such as a videotape, record, button, or written document, which is delivered by any means to recipients at their residence, place of employment or business, or post office box.
2. The item features a Board member or includes the name, office, photograph, or other reference to a Board member and is prepared or sent in cooperation, consultation, coordination, or concert with the Board member.
3. The costs of distribution, or any costs of design, production, and printing exceeding \$50, are paid with district funds.
4. More than 200 substantially similar items, as defined in Government Code 89002, are sent in a single calendar month.

The above prohibition does not apply to the types of mass mailings specified in Government Code 89002(b), including, but not limited to: (Government Code 89002)

1. An item in which the Board member's name appears only in a roster containing the names of all Board members or in the letterhead or logotype of the stationery, forms, and envelopes of the district, a district committee, or the Board member
2. An announcement including only a single mention of the Board member's name which concerns a public meeting related to the Board member's duties or any official district event(s) for which the district is providing the use of its facilities, staff, or other financial support
3. A business card that contains only one mention of the Board member's name and no photograph of the Board member

However, any of the excepted mailings listed in items #1-3 above that meets the criteria for prohibited mass mailings shall not be sent within 60 days preceding an election in which a Board member to whom the mailing relates will appear on the ballot as a candidate. (Government Code 89003)

Comprehensive Communications Plan

Note: The following optional section may be revised to reflect district practice. A comprehensive district communications plan may include strategies for internal and external communications on issues that are important to the district and community. The plan also may incorporate specific communications strategies required by other Board policies and administrative regulations. For example, see AR 0450 - Comprehensive Safety Plan, BP 1112 - Media Relations, AR 3516 - Emergencies and Disaster Preparedness Plan, and BP/AR 6020 - Parent Involvement.

The Superintendent or designee shall develop a written communications plan which establishes priorities for proactive community outreach to build support for district programs and issues. The plan shall identify specific communications goals aligned with the district's vision and goals for student learning. For each communications goal, the plan shall identify key messages, individuals or groups that can help the district achieve its goal, strategies tailored to each target audience, timelines, persons responsible for each activity, and budget implications.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

As appropriate for each issue, target audiences may include parents/guardians, the media, local governmental agencies, businesses, community organizations and civic groups, postsecondary institutions, health care professionals, child care providers, community leaders, state or federal legislators or agencies, and/or other segments of the public.

The plan shall incorporate strategies for effective communications during a crisis or other

emergency situation that may arise.

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

The Superintendent or designee shall periodically evaluate the implementation and effectiveness of the district's communications plan and recommend to the Board whether the goals and key issues identified in the plan need to be revised to meet changing circumstances or priorities.

Legal Reference:

EDUCATION CODE

7054 Use of district property or funds re: ballot measures and candidates

35145.5 Board meetings, public participation

35172 Promotional activities

38130-38138 Civic Center Act

48980-48985 Parental notifications

GOVERNMENT CODE

54957.5 Meeting agendas and materials

82041.5 Mass mailing

89001-89003 Newsletter or mass mailing

CODE OF REGULATIONS, TITLE 2

18901.1 Campaign-related mailings sent at public expense

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act

Management Resources:

WEB SITES

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

California School Public Relations Association: <http://www.calspra.org>

Fair Political Practices Commission: <http://www.fppc.ca.gov>

Board Policy

Media Relations

BP 1112

Community Relations

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

Note: As part of building positive media relations, the district may consider presenting awards to media representatives who have helped support district goals and programs. See BP 1150 - Commendations and Awards. The district may also nominate journalists for CSBA's Golden Quill Award, which recognizes fair, insightful, and accurate reporting of the objectives, operations, accomplishments, challenges, and opportunities related to public schools.

The Governing Board respects the public's desire for and right to information and recognizes that the media significantly influence the community's understanding of school programs, student achievement, and school safety. In order to develop and maintain positive media relations, the Board and Superintendent shall reasonably accommodate media requests for information and provide accurate, reliable, and timely information.

In conjunction with the Superintendent or designee, the Board shall periodically establish priorities and key messages for proactively communicating with the media regarding current district issues, activities, or needs.

(cf. 0400 - Comprehensive Plans)
(cf. 0450 - Comprehensive Safety Plan)
(cf. 0460 - Local Control and Accountability Plan)
(cf. 0510 - School Accountability Report Card)
(cf. 1100 - Communication with the Public)
(cf. 1160 - Political Processes)

Media representatives are welcome at all public Board meetings and shall receive meeting agendas upon request in accordance with Board policy.

(cf. 9321 - Closed Session)
(cf. 9322 - Agenda/Meeting Materials)

***Note: Penal Code 627.2 requires all "outsiders" to register upon entering school grounds during school hours. Pursuant to Penal Code 627.1, media representatives are not defined as "outsiders." However, the Attorney General has opined (79 Ops.Cal.Atty.Gen. 58 (1996)) that, pursuant to Education Code 32212, districts are authorized to prevent interference with the orderly educational activities of the school, which may include restricting media representatives in the same manner that access by the general public may be limited (e.g., registration or accompaniment by a staff member when on school grounds). According to the Attorney

General opinion, a district that has developed a policy requiring all members of the general public, both visitors and outsiders, to register upon entering school grounds may similarly require media representatives to register before coming on campus. Although Attorney General opinions are not binding on the courts, they are generally afforded deference when there is no specific statutory or case law to the contrary. See BP/AR 1250 - Visitors/Outsiders for options regarding registration.***

Note: The following optional paragraph is only for use by districts that require all visitors to register upon entering school grounds, and does not apply to districts that only require outsiders to register. Districts should ensure consistency with this paragraph and BP 1250 - Visitors/Outsiders.

Media representatives, like all other visitors, shall register immediately upon entering any school building or grounds when school is in session.

(cf. 1250 - Visitors/Outsiders)

(cf. 3515.2 - Disruptions)

Staff may provide the media with student directory information, as identified in AR 5125.1 - Release of Directory Information, unless the student's parent/guardian has submitted a written request that such information not be disclosed. The district shall not release other student records or personally identifiable student information that is private or confidential as required by law, Board policy, or administrative regulation.

(cf. 1340 - Access to District Records)

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

(cf. 5125 - Student Records)

(cf. 5125.1 - Release of Directory Information)

(cf. 9010 - Public Statements)

(cf. 9324 - Minutes and Recordings)

Interviewing and Photographing Students

Note: In 79 Ops.Cal.Atty.Gen. 58 (1996), the Attorney General stated that, because students have a constitutional right to free speech, school administrators may not require prior written parental permission before allowing media representatives to interview particular students on campus. However, Education Code 48907 and 48950 and case law clarify that the district may adopt reasonable provisions for the time, place, and manner in which free expression may occur within the district's jurisdiction. Therefore, in some circumstances (e.g., interviews during class time or interviews that identify other students by name), it may be appropriate to limit the student's ability to talk with the media on campus. Because this is a complex area of law, districts should consult with legal counsel before adopting a policy or practice that may limit students' constitutional rights.

***Note: Neither the Attorney General opinion nor case law considers the rights of media to photograph students on school grounds. However, the same concerns raised with regard to

student interviews, such as a substantial disruption to the orderly operation of school or a substantial invasion of the rights of others, including privacy rights, may exist with regard to photos. Furthermore, in some cases, the publishing of a photo may affect student safety, such as when a student's attendance is concealed from a parent due to a domestic violence restraining order. Districts should consult with legal counsel before adopting a policy or practice that may limit the photographing of students by the media.***

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

The district shall not impose restraints on students' right to speak freely with media representatives. However, interviewing and photographing students shall not create substantial disruption to the orderly operation of the school or impinge on the rights or safety of students. Therefore, the district shall encourage media representatives who wish to interview or photograph students at school to make prior arrangements with the principal.

(cf. 5145.2 - Freedom of Speech/Expression)

Media Contacts/Spokespersons

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

The Superintendent or designee shall identify the district's and/or site's primary media contact to whom all media inquiries shall be routed. Spokespersons designated to speak to the media on behalf of the district include the Board president, Superintendent, public information officer, or district communications director. Other Board members and/or staff may be asked by the Superintendent or designee to speak to the media on a case-by-case basis, depending on their expertise on an issue or appropriateness given a particular situation.

The Superintendent or designee shall provide training on effective media relations to all designated spokespersons.

(cf. 9240 - Board Training)

Crisis Communications Plan

Note: The following optional section may be revised to reflect district practice. CSBA recommends that districts develop a crisis communications plan to help ensure that accurate and timely information is provided to students, parents/guardians, the community, and the media during a crisis or natural disaster. This crisis plan may be a separate document or may be incorporated into other safety plans such as the district's comprehensive safety plan (see AR 0450 - Comprehensive Safety Plan) and/or emergency and disaster preparedness plan (see AR 3516 - Emergencies and Disaster Preparedness Plan).

The Superintendent or designee shall develop strategies for working with the media to provide timely and accurate information to students, parents/guardians, and the community during a crisis or natural disaster. The crisis communications plan may include, but not be limited to,

identification of a media center, strategies for press conference logistics, and development and integration of both internal and external notification systems, including public address systems, social media, web site postings, and text alerts.

(cf. 0450 - Comprehensive Safety Plan)
(cf. 1113 - District and School Web Sites)
(cf. 1114 - District-Sponsored Social Media)
(cf. 3516 - Emergencies and Disaster Preparedness Plan)

The Superintendent or designee shall include local law enforcement, media representatives, and district technology personnel in the crisis planning process.

Legal Reference:

EDUCATION CODE

32210-32212 Willful disturbance of public school or meeting

35144 Special meetings

35145 Public meetings

35160 Authority of governing boards

35172 Promotional activities

48907 Freedom of speech and press

48950 Prohibition against disciplinary action for first amendment speech

49061 Definition of directory information

49073 Directory information

EVIDENCE CODE

1070 Refusal to disclose news source

PENAL CODE

627-627.10 Access to school premises

UNITED STATES CODE, TITLE 20

1232g Family educational and privacy rights

CODE OF FEDERAL REGULATIONS, TITLE 34

99.3 Definition of directory information

COURT DECISIONS

Lopez v. Tulare Joint Union High School District, (1995) 34 Cal.App.4th 1302

ATTORNEY GENERAL OPINIONS

79 Ops.Cal.Atty.Gen. 58 (1996)

Management Resources:

WEB SITES

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

Board Policy

District And School Web Sites

BP 1113

Community Relations

Note: The following optional policy is for use by districts that maintain their own web site(s) and may be revised to reflect district practice. District strategies for effective use of web sites may be incorporated into the district's comprehensive communications plan; see BP 1100 - Communication with the Public.

To enhance communication with students, parents/guardians, staff, and community members, the Governing Board encourages the Superintendent or designee to develop and maintain district and school web sites. The use of district and school web sites shall support the district's vision and goals and shall be coordinated with other district communications strategies.

(cf. 0000 - Vision)

(cf. 0440 - District Technology Plan)

(cf. 1100 - Communication with the Public)

(cf. 1112 - Media Relations)

(cf. 1114 - District-Sponsored Social Media)

(cf. 6020 - Parent Involvement)

Design Standards

The Superintendent or designee shall establish design standards for district and school web sites in order to maintain a consistent identity, professional appearance, and ease of use.

Note: Pursuant to Title II of the Americans with Disabilities Act (42 USC 12131-12134) and Section 504 of the Rehabilitation Act of 1973 (29 USC 705, 794; 34 CFR 104.1-104.39), districts have an obligation to provide an equal opportunity to individuals with disabilities to participate in and receive the benefits of the educational program, and must provide accommodations or modifications when necessary to ensure equal treatment. Such obligations have been interpreted by the U.S. Department of Education's Office for Civil Rights (OCR) to include the requirement that district web sites be accessible to individuals with disabilities. See the OCR's June 2010 and May 2011 Dear Colleague Letters. Thus, districts must consider the needs of individuals with disabilities and identify features that would enable such persons to access all the information on district and school web sites.

***Note: A U.S. Department of Justice technical assistance publication, Accessibility of State and Local Government Websites to People with Disabilities, states that an agency with a web site that is otherwise inaccessible to individuals with disabilities may meet its legal obligations by providing an alternative accessible way for them to use the programs or services (e.g., a staffed telephone information line), but points out that these alternatives are unlikely to provide an equal

degree of access in terms of hours of operation or range of options and programs available. See the accompanying administrative regulation for accessibility guidelines.***

The district's design standards shall address the accessibility of district and school web sites to individuals with disabilities, including compatibility with commonly used assistive technologies.

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

Web Site Content

The Superintendent or designee shall develop content guidelines for district and school web sites and assign staff to review and approve content prior to posting.

Note: The following optional paragraph ensures consistency of district policies regarding advertising and may be revised to reflect district practice.

Board policy pertaining to advertising in district and school publications, as specified in BP 1325 - Advertising and Promotion, shall also apply to advertising on district and school web sites.

(cf. 1325 - Advertising and Promotion)

Privacy Rights

Note: Business and Professions Code 22580-22582 prohibit an operator of a web site from knowingly using, disclosing, compiling, or allowing a third party to use, disclose, or compile the personal information of a minor for the purpose of marketing or advertising specified types of products or services. Business and Professions Code 22584-22585 prohibit the operator of a web site that provides services to K-12 students from selling or disclosing specified student information or knowingly using that student information to engage in targeted advertising to students or parents/guardians or to amass a profile about a student. Business and Professions Code 22586, as added by AB 2799 (Ch. 620, Statutes of 2016), provides a similar prohibition for the operator of a web site used, designed, and marketed primarily for preschool or prekindergarten purposes from knowingly engaging in specified activities, including targeted advertising, selling or disclosing a student's information, and using specified information to amass a profile about a student except in furtherance of preschool or prekindergarten purposes. See BP 5125 - Student Records for further information regarding protection of student information.

The Superintendent or designee shall ensure that the privacy rights of students, parents/guardians, staff, Board members, and other individuals are protected on district and school web sites.

(cf. 1340 - Access to District Records)

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

(cf. 5022 - Student and Family Privacy Rights)

(cf. 5125 - Student Records)

Note: The following optional paragraph may be revised to reflect district practice. The district should carefully consider whether to place personally identifiable information on district or school web sites since release of such information may put individuals, including students, at risk and also may violate Education Code 49073 which prohibits disclosure of student directory information to any private profit-making entity; see BP/AR/E 5125.1 - Release of Directory Information.

Telephone numbers and home and email addresses of students and/or their parents/guardians shall not be published on district or school web sites.

(cf. 5125.1 - Release of Directory Information)

Note: The following options address the use of students' photographs on district or school web sites. Option 1 is for use by districts that, pursuant to Education Code 49061 and 34 CFR 99.3, include photographs in the definition of directory information, as specified in AR 5125.1 - Release of Directory Information, and publish student photographs along with their names unless a parent/guardian requested in writing that no photographs of their child be released without their prior written consent. Option 2 is for use by districts that do not allow students' photographs to be published along with their names unless specific consent for such publication is received from the parent/guardian.

OPTION 1: The district regards photographs as a category of directory information that would not generally be considered harmful or an invasion of privacy if disclosed. Therefore, a student's photograph, together with his/her name, may be published on district or school web sites unless the student's parent/guardian has notified the district in writing to not release the student's photograph without prior written consent, in accordance with BP/AR 5125.1 - Release of Directory Information.

OPTION 2: Photographs of individual students shall not be published on district or school web sites accompanied by the student's name or other personally identifiable information without the prior written consent of the student's parent/guardian.

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

If students' names are not included, photographs of individual students or groups of students, such as at a school event, may be published on school or district web sites.

***Note: The following optional paragraph may be revised to reflect district practice. It is recommended that districts not post employees' home addresses, personal telephone numbers, or personal email addresses on district or school web sites, in order to maintain employee privacy and safety. If such information is posted, employees should be informed that using a personal account or device to receive communications regarding district business does not categorically exclude these records from disclosure upon request under the California Public Records Act (Government Code 6250-6270), pursuant to the California Supreme Court's decision in *City of San Jose v. Superior Court*. See BP 1340 - Access to District Records, AR 3580 - District

Records, and BB 9012 - Board Member Electronic Communications.***

Employees' home addresses, personal telephone numbers, and personal email addresses shall not be posted on district or school web sites.

The home address or telephone number of any elected or appointed official including, but not limited to, a Board member or public safety official, shall not be posted on district or school web sites without the prior written permission of that individual. (Government Code 3307.5, 6254.21, 6254.24)

No public safety official shall be required to consent to the posting on the Internet of his/her photograph or identity as a public safety officer for any purpose if that officer reasonably believes that the disclosure may result in a threat, harassment, intimidation, or harm to the officer or his/her family. (Government Code 3307.5)

(cf. 3515.3 - District Police/Security Department)

Legal Reference:

EDUCATION CODE

35182.5 Contracts for advertising

35258 Internet access to school accountability report cards

48907 Exercise of free expression; rules and regulations

48950 Speech and other communication

49061 Definitions, directory information

49073 Release of directory information

60048 Commercial brand names, contracts or logos

BUSINESS AND PROFESSIONS CODE

22580-22582 Digital privacy

22584-22585 Student Online Personal Information Protection Act

22586 Preschool and prekindergarten privacy

GOVERNMENT CODE

3307.5 Publishing identity of public safety officers

6254.21 Publishing addresses and telephone numbers of officials

6254.24 Definition of public safety official

11135 Nondiscrimination; accessibility to state web sites

PENAL CODE

14029.5 Prohibition against publishing personal information of person in witness protection program

UNITED STATES CODE, TITLE 17

101-122 Subject matter and scope of copyright

504 Penalties for copyright infringement

UNITED STATES CODE, TITLE 20

1232g Federal Family Educational Rights and Privacy Act

UNITED STATES CODE, TITLE 29

705 Definitions; Vocational Rehabilitation Act
794 Section 503 of the Rehabilitation Act of 1973; accessibility to federal web sites
UNITED STATES CODE, TITLE 42
12101-12213 Americans with Disabilities Act
CODE OF FEDERAL REGULATIONS, TITLE 16
312.1-312.12 Children's Online Privacy
CODE OF FEDERAL REGULATIONS, TITLE 34
99.1-99.67 Family Educational Rights and Privacy
104.1-104.61 Nondiscrimination on the basis of disability
COURT DECISIONS
City of San Jose v. Superior Court, (2017) 2 Cal.5th 608
Aaris v. Las Virgenes Unified School District, (1998) 64 Cal.App.4th 1112

Management Resources:

U.S. DEPARTMENT OF EDUCATION OFFICE FOR CIVIL RIGHTS PUBLICATIONS
Dear Colleague Letter, May 26, 2011
Joint Dear Colleague Letter: Electronic Book Readers, June 2010
U.S. DEPARTMENT OF JUSTICE PUBLICATIONS
Accessibility of State and Local Government Websites to People with Disabilities, June 2003
WORLD WIDE WEB CONSORTIUM PUBLICATIONS
Web Content Accessibility Guidelines, December 2008
WEB SITES
CSBA: <http://www.csba.org>
California Department of Education, Web Accessibility Standards:
<http://www.cde.ca.gov/re/di/ws/webaccessstds.asp>
California School Public Relations Association: <http://www.calspra.org>
U.S. Department of Education, Office for Civil Rights:
<http://www2.ed.gov/about/offices/list/ocr>
U.S. Department of Justice, Americans with Disabilities Act: <http://www.ada.gov>
World Wide Web Consortium, Web Accessibility Initiative: <http://www.w3.org/wai>

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Administrative Regulation

District And School Web Sites

AR 1113

Community Relations

Note: The following optional administrative regulation is for use by districts that maintain their own web site(s) and should be revised to reflect district practice.

Design Standards

The Superintendent or designee shall develop design standards for district and school web sites that include, but are not limited to, guidelines to ensure the clear organization of the material, readability of the font type and size, and simplicity of the navigation structure linking the content on the web site. Such standards shall take into consideration the ease of use on a wide range of devices.

Note: Pursuant to Title II of the Americans with Disabilities Act (42 USC 12131-12134) and Section 504 of the Rehabilitation Act of 1973 (29 USC 705, 794; 34 CFR 104.1-104.39), districts have an obligation to provide an equal opportunity to individuals with disabilities to participate in and receive the benefits of the educational program. Such obligations have been interpreted by the U.S. Department of Education's Office for Civil Rights (OCR) to include the requirement that district web sites be accessible to individuals with disabilities. See the OCR's June 2010 and May 2011 Dear Colleague Letters.

Note: While there are no explicit standards detailed in law or regulations addressing accessible features, the World Wide Web Consortium's Web Content Accessibility Guidelines 2.0 and Web Accessibility Initiative Accessible Rich Internet Applications Suite are widely used tools that may serve as guidelines for district and school web sites. Additionally, examples of technical standards for accessibility are available on the California Department of Education's web site.

In accordance with the requirements of the Americans with Disabilities Act and Section 504 of the federal Rehabilitation Act of 1973, district and school web sites shall contain features that ensure accessibility for individuals with disabilities, which may include, but are not limited to, captions for videos and multimedia presentations, text alternatives to images, provision of sufficient time to use the content, avoidance of flashing images, adequate contrast in visual presentations, and/or other features that meet applicable standards for web site accessibility. The Superintendent or designee shall regularly review district and school web sites and modify them as needed to ensure legal compliance with accessibility standards.

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

Web Site Content

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

Note: For all Governing Board meetings occurring on and after January 1, 2019, Government Code 54954.2, as amended by AB 2257 (Ch. 265, Statutes of 2016), requires the district to post a "prominent, direct link" to the current Board meeting agenda on the primary homepage of the district's web site. However, districts that use an integrated agenda management platform (i.e., a web site dedicated to providing the entirety of the agenda information for the Board) are exempt from this requirement if a direct link to the platform is posted on the homepage and the current agenda is the first agenda available at the top of the platform. Government Code 54954.2 specifies that agendas posted either through a direct link or through use of an integrated agenda management platform must be (1) retrievable, downloadable, indexable, and electronically searchable by commonly used Internet search applications; (2) platform independent and machine readable; and (3) available to the public free of charge and without any restriction that would impede the reuse or redistribution of the agenda.

As applicable, district and school web sites shall provide current information regarding the district's mission and goals, district/school programs and operations, district/school news, agendas and minutes of Governing Board meetings, School Accountability Report Cards, school calendars, and links to educational resources.

(cf. 0440 - District Technology Plan)
(cf. 0510 - School Accountability Report Card)
(cf. 1100 - Communication with the Public)
(cf. 9322 - Agenda/Meeting Materials)

With approval of the principal, individual teachers may create web pages linked to the district or school web site to provide information pertaining to class assignments, expectations, and activities.

Note: In determining whether to limit or allow the ability of certain groups or individuals to provide content for district or school web sites, districts should consult with legal counsel on matters pertaining to protected speech and equal access; see BP/AR 5145.2 - Freedom of Speech/Expression and BP/AR 6145.5 - Student Organizations and Equal Access.

Student work may be published on district or school web sites provided that both the student and his/her parent/guardian provide written permission or the work is part of an existing publication such as a school newspaper.

***Note: Federal copyright law (17 USC 106) grants a copyright owner the exclusive rights to reproduce, distribute, make derivative works of, publicly perform, or publicly display the copyrighted work or to authorize others to do so. However, pursuant to 17 USC 107, "fair use" (i.e., the reproduction of limited portions of copyrighted materials without the copyright owner's permission) is allowed for such purposes as criticism, comment, news reporting, teaching, scholarship, or research; see BP/AR 6162.6 - Use of Copyrighted Materials. Even if use of certain copyrighted materials in the district meets the criteria for a fair use exception, text, art, or

photos that are not clearly stated to be in the "public domain" and available for free use should not be replicated on a district or school web site without prior permission of the copyright owner.***

Any copyrighted material to be posted on a district or school web site shall be submitted to the Superintendent or designee together with the permission of the copyright owner to reprint the material. Any copyrighted material submitted without the copyright owner's permission shall only be posted on a district or school web site if the Superintendent or designee determines that the material is in the public domain or that the intended use meets the criteria for fair use or another exception pursuant to 17 USC 107-122. When any copyrighted material is posted, the web site shall include a notice crediting the copyright owner and, as necessary, shall note that permission to reprint the material was granted.

(cf. 4132/4232/4332 - Publication or Creation of Materials)
(cf. 6162.6 - Use of Copyrighted Materials)

Whenever a district or school web site includes links to external web sites, it shall include a disclaimer that the district is not responsible for the content of external web sites.

Roles and Responsibilities

Any employee assigned as a district or school webmaster shall be responsible for the uploading of material to the web site(s) upon approval of the Superintendent or designee. He/she shall review district and school web sites to ensure consistency with district standards, regularly check links for accuracy and appropriateness, keep the web server free of outdated or unused files, and provide technical assistance as needed.

The Superintendent or designee may assign additional staff members to conduct editorial reviews of all materials submitted for publication on district or school web sites and to make corrections as needed in spelling, grammar, or accuracy of content.

The Superintendent or designee shall provide staff development opportunities related to district content guidelines, design standards, and accessibility laws and standards to district communications and technology staff, district and school webmasters, and/or other appropriate staff.

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

Security

The Superintendent or designee shall establish security procedures for the district's computer network to prevent unauthorized access and changes to district and school web sites. To the extent possible, the host computer(s) shall be in a lockable room with restricted access.

(3/00 7/11) 10/17

Exhibit

District And School Web Sites

E 1113

Community Relations

MATERIALS REQUIRED TO BE POSTED ON DISTRICT WEB SITE

Note: The following exhibit lists material which the law explicitly requires be posted on district or school web sites. See the referenced Board policy, administrative regulation, or Board bylaw for further information about related requirements. The exhibit does not include other postings that may be recommended throughout CSBA's sample policy manual but are not required by law.

Materials to Prominently Display

The following must be posted in a prominent location on the district's web site, such as on the home page when required by law:

1. The district's local control and accountability plan (LCAP), any updates or revisions to the LCAP, and the local control funding formula budget overview (Education Code 52064.1, 52065). See AR 0460 - Local Control and Accountability Plan.
2. A direct link to the current board agenda containing the time and location of the meeting and a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session, or a link to the district's agenda management platform where the current agenda shall be the first available (Government Code 54954.2, 54956). Post at least 72 hours before a regular board meeting or 24 hours before a special meeting. See BB 9320 - Meetings and Notices and BB 9322 - Agenda/Meeting Materials.
3. The district's policy on student suicide prevention including, for grades K-6, the age appropriateness of the policy (Education Code 234.6). See BP 5141.52 - Suicide Prevention.
4. The district's policies and procedures prohibiting discrimination, harassment, student sexual harassment, intimidation, bullying, and cyberbullying, including a section on social media bullying that includes all of the references described in Education Code 234.6 as possible forums for social media (Education Code 234.6). See AR 5131.2 - Bullying and AR 5145.3 - Nondiscrimination/Harassment.
5. The district's policy on preventing and responding to hate violence, if the district has adopted such a policy (Education Code 234.6). See BP 5145.9 - Hate-Motivated Behavior.
6. The definition of discrimination and harassment based on sex as described in Education

Code 230, including the rights set forth in Education Code 221.8 (Education Code 234.6). See AR 5145.3 - Nondiscrimination/Harassment.

7. Information regarding Title IX prohibitions against discrimination based on a student's sex, gender, gender identity, pregnancy, and parental status, including the name and contact information of the Title IX Coordinator, the rights of students and the public as specified in Education Code 221.8, the responsibilities of the district under Title IX, web links to information about those rights and responsibilities on the web sites of the Office for Equal Opportunity and the U.S. Department of Education's Office for Civil Rights, a description of how to file a complaint of noncompliance under Title IX with specified components, and a link to Title IX information posted on the California Department of Education's (CDE) web site (Education Code 221.6, 221.61, 234.6; 34 CFR 106.8). See AR 5145.3 - Nondiscrimination/Harassment and AR 5145.7 - Sexual Harassment.

8. A link to statewide CDE-compiled resources, including community-based organizations, that provide support to youth who have been subjected to school-based discrimination, harassment, intimidation, or bullying and to their families (Education Code 234.5, 234.6). See AR 5145.3 - Nondiscrimination/Harassment.

9. If the district has formed a community facilities district (Mello-Roos district) for the acquisition or improvement of school facilities, a copy of the annual report for the fiscal year if requested pursuant to Government Code 53343.1, the report provided to the California Debt and Investment Advisory Commission pursuant to Government Code 53359.5, and the report provided to the State Controller's office pursuant to Government Code 12463.2 (Government Code 53343.2). Post within seven months after the last day of the fiscal year. See BP 7212 - Mello-Roos Districts.

Other Postings

The following materials are also required to be posted on the district web site. However, there are no specific requirements related to where they are posted on the web site.

1. The Special Education Local Plan Area's approved comprehensive local plan for special education, annual budget plan, annual service plan, and annual assurances support plan and any updates or revisions to the plans (Education Code 56205.5). See AR 0430 - Comprehensive Local Plan for Special Education.

2. The district's nondiscrimination policy and regulation, including the complaint procedure and the compliance coordinator's contact information (34 CFR 100.6, 106.8). See BP 0410 - Nondiscrimination in District Programs and Activities and AR 4030 - Nondiscrimination in Employment.

3. Training materials used to train the Title IX Coordinator, investigator(s), decision-maker(s), and any person(s) who facilitate an informal resolution process in response to a Title IX sexual harassment complaint (34 CFR 106.45). See AR 4119.12/4219.12/4319.12 - Title IX Sexual Harassment Complaint Procedures and AR 5145.71 - Title IX Sexual

Harassment Complaint Procedures.

4. For all schools offering competitive athletics, the total enrollment of the school classified by gender, the number of students enrolled at the school 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). The information shall be posted at the end of the school year on the school's web site or, if the school does not have a web site, on the district's web site. See AR 6145.2 - Athletic Competition.
5. If the district has interdistrict attendance agreement(s), the procedures and timelines for requesting an interdistrict transfer permit, including, but not limited to, a link to the board's policy on interdistrict attendance, the date that the district will begin accepting applications, reasons that the district may approve/deny the request, the process for appeal, that failure to meet timelines will be deemed an abandonment of the request, and the condition under which an exiting interdistrict transfer permit may be revoked or rescinded (Education Code 46600.2). See AR 5117 - Interdistrict Transfer.
6. If the district has elected to be a school district of choice, application information including, at a minimum, any applicable form, the timeline for a transfer, and an explanation of the selection process (Education Code 48301). See AR 5117 - Interdistrict Transfer.
7. For districts that offer grade 9, the district's policy and protocols related to student placement in mathematics courses (Education Code 51224.7). See AR 6152.1 - Placement in Mathematics Courses.
8. The section(s) of the district's employee code of conduct addressing interactions with students (Education Code 44050). Post these section(s) or a link to them on each school's web site or, if a school does not have its own web site, on the district's web site in a manner that is accessible to the public without a password. See BP 4119.21/4219.21/4319.21 - Professional Standards and BP 4119.24/4219.24/4319.24 - Maintaining Appropriate Adult-Student Interactions.
9. The district's meal payment collection policy and procedures (CDE Nutrition Services Division Management Bulletin SNP-03-2017). See AR 3551 - Food Services Operations/Cafeteria Fund.
10. If the district includes information about the free and reduced-priced meal program on its web site, a nondiscrimination statement about the district's status as an equal opportunity provider and the address of the agency with responsibility to handle complaints made against the district (U.S. Department of Agriculture's FNS Instruction 113-1). For the required wording of the statement, see E 3555 - Nutrition Program Compliance.
11. The school's or district's integrated pest management plan, whenever a school chooses to use a pesticide not exempted pursuant to Education Code 17610.5 (Education Code 17611.5). Post on the school's web site or, if the school does not have a web site, then on the district's web site. See AR 3514.2 Integrated Pest Management.

12. When a citizens' oversight committee is formed after the approval of a bond under the 55 percent majority threshold, the committee's minutes, documents received, and reports issued (Education Code 15280). See AR 7214 - General Obligation Bonds.

13. Copy of each school's school accountability report card, on or before February 1 of each year (Education Code 35258). See BP 0510 - School Accountability Report Card.

14. Results of the Western Association of Schools and Colleges (WASC) or other accrediting agency's inspection of a school, within 60 days of receiving the results. (This notification could be made in writing to parents/guardians instead of or in addition to posting the results on the district's web site.) In addition, if a school loses its WASC or other agency's accreditation, the district and school shall post on their web sites a notice of the loss of accreditation and potential consequences (Education Code 35178.4). See BP 6190 - Evaluation of the Instructional Program.

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Board Policy

District-Sponsored Social Media

BP 1114

Community Relations

***Note: The following optional policy is for use by districts that have created an official district (i.e., district-sponsored) social media platform. "Social media" is defined in the accompanying administrative regulation as an online platform for collaboration, interaction, and active participation, including social networking sites such as Facebook, Twitter, YouTube, LinkedIn, or blogs. Districts that have not created such platforms should delete this policy and regulation. ***

Note: District strategies for effective use of online social media may be incorporated into the district's comprehensive communications plan; see BP 1100 - Communication with the Public.

The Governing Board recognizes the value of technology such as social media platforms in promoting community involvement and collaboration. The purpose of any official district social media platform shall be to further the district's vision and mission, support student learning and staff professional development, and enhance communication with students, parents/guardians, staff, and community members.

(cf. 0000 - Vision)

(cf. 0440 - District Technology Plan)

(cf. 1100 - Communication with the Public)

(cf. 1112 - Media Relations)

(cf. 1113 - District and School Web Sites)

(cf. 6020 - Parent Involvement)

(cf. 6145.5 - Student Organizations and Equal Access)

Note: To minimize liability to the district, it is important that the district's social media policy clearly define the official social media platforms over which it has control and to specify the standards, guidelines, and protocols for their use. An "official district social media platform" is defined in the accompanying administrative regulation. District policy and guidelines do not apply to personal social media platforms that may be created by students, staff members, or other individuals which may sometimes include discussion of district-related issues but are not sponsored by the district.

The Superintendent or designee shall develop content guidelines and protocols for official district social media platforms to ensure the appropriate and responsible use of these resources and compliance with law, Board policy, and regulation.

Guidelines for Content

Note: Because of the open accessibility of social media, content will be posted by members of the public on the district's official platform without prior approval by district staff. By allowing the public to post comments, some legal analysts have opined that a "limited public forum" is created which grants individuals certain freedom of speech rights and limits the district's ability to remove comments or posts. In order to protect against possible constitutional challenges, any removal of content by the district should be based on viewpoint-neutral considerations, such as prohibitions of posts that violate laws against discrimination or harassment or that are unrelated to the purpose of the site. In addition, in order to help maintain the district's ability to remove content, users should be informed of the purpose of the site and the limited nature of the discussion and district staff should regularly monitor sites so that materials are removed in an even-handed and consistent manner. See the accompanying administrative regulation for language regarding removal of posts and monitoring of sites. It is recommended that the district consult legal counsel prior to adopting this policy and regulation to ensure that any provisions related to removal of posts or discipline of students or staff are consistent with law.

Official district social media platforms shall be used only for their stated purposes and in a manner consistent with this policy and administrative regulation. By creating these official sites and allowing for public comment, the Board does not intend to create a limited public forum or otherwise guarantee an individual's right to free speech.

(cf. 5145.2 - Freedom of Speech/Expression)
(cf. 6145.5 - Student Organizations and Equal Access)

The Superintendent or designee shall ensure that the limited purpose of the official district social media platforms is clearly communicated to users. Each site shall contain a statement that specifies the site's purposes along with a statement that users are expected to use the site only for those purposes. Each site shall also contain a statement that users are personally responsible for the content of their posts.

Official district social media platforms may not contain content that is obscene, libelous, or so incites students as to create a clear and present danger of the commission of unlawful acts on school premises, violation of school rules, or substantial disruption of the school's orderly operation.

(cf. 5131 - Conduct)

Note: Staff and students who post prohibited content on official district social media platforms are subject to discipline in accordance with district policies and regulations. Pursuant to Education Code 48900(r), a student may be subject to suspension or expulsion if he/she engages in an act of bullying by means of an electronic act as defined in Education Code 32261; see AR 5144.1 - Suspension and Expulsion/Due Process. AB 746 (Ch. 72, Statutes of 2011) broadened the definition of "electronic act" in Education Code 32261 to include posts on a social networking site.

Note: When staff and students misuse the district's technological resources, they also may be subject to cancellation of user privileges in accordance with the district's Acceptable Use Agreement; see BP/E 4040 - Employee Use of Technology and BP/E 6163.4 - Student Use of Technology.

Staff or students who post prohibited content shall be subject to discipline in accordance with district policies and administrative regulations.

(cf. 4040 - Employee Use of Technology)
(cf. 4118 - Dismissal/Suspension/Disciplinary Action)
(cf. 4119.21/4219.21/4319.21 - Professional Standards)
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)
(cf. 5144 - Discipline)
(cf. 5144.1 - Suspension and Expulsion/Due Process)
(cf. 6163.4 - Student Use of Technology)

Note: Communication on social media platforms may raise legal issues for users regarding public records laws. In addition, individual Governing Board members using social media platforms must be careful not to violate the Brown Act. Pursuant to Government Code 54952.2, a prohibited serial meeting may result from a series of communications involving a majority of the Board to discuss, deliberate, or take action on any item of district business outside of an authorized meeting. See BB 9012 - Board Member Electronic Communications. In addition, information posted may be considered a record subject to the Public Records Act (Government Code 6250-6270).

Users of official district social media platforms should be aware of the public nature and accessibility of social media and that information posted may be considered a public record subject to disclosure under the Public Records Act. The Board expects users to conduct themselves in a respectful, courteous, and professional manner.

(cf. 1340 - Access to District Records)
(cf. 9012 - Board Member Electronic Communications)

Privacy

The Superintendent or designee shall ensure that the privacy rights of students, parents/guardians, staff, Board members, and other individuals are protected on official district social media platforms.

Board policy pertaining to the posting of student photographs and the privacy of telephone numbers, home addresses, and email addresses, as specified in BP 1113 - District and School Web Sites, shall also apply to official district social media platforms.

(cf. 5125.1 - Release of Directory Information)

Social media and networking sites and other online platforms shall not be used by district

employees to transmit confidential information about students, employees, or district operations.

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

(cf. 5022 - Student and Family Privacy Rights)

(cf. 5125 - Student Records)

Legal Reference:

EDUCATION CODE

32261 School safety, definitions of bullying and electronic act

35182.5 Contracts for advertising

48900 Grounds for suspension and expulsion

48907 Exercise of free expression; rules and regulations

48950 Speech and other communication

49061 Definitions, directory information

49073 Release of directory information

60048 Commercial brand names, contracts or logos

GOVERNMENT CODE

3307.5 Publishing identity of public safety officers

6250-6270 Public Records Act, especially:

6254.21 Publishing addresses and phone numbers of officials

6254.24 Definition of public safety official

54952.2 Brown Act, definition of meeting

UNITED STATES CODE, TITLE 17

101-1101 Federal copyright law

UNITED STATES CODE, TITLE 20

1232g Federal Family Educational Rights and Privacy Act

UNITED STATES CODE, TITLE 29

157 Employee rights to engage in concerted, protected activity

794 Section 503 of the Rehabilitation Act of 1973; accessibility to federal web sites

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 Family Educational Rights and Privacy

COURT DECISIONS

Page v. Lexington County School District, (2008, 4th Cir.) 531 F.3d 275

Downs v. Los Angeles Unified School District, (2000) 228 F.3d 1003

Aaris v. Las Virgenes Unified School District, (1998) 64 Cal.App.4th 1112

Perry Education Association v. Perry Local Educators' Association, (1983) 460 U.S. 37

Board of Education, Island Trees Union Free School District, et.al. v. Pico, (1982) 457 U.S. 853

NATIONAL LABOR RELATIONS BOARD DECISIONS

18-CA-19081 Sears Holdings, December 4, 2009

Management Resources:

FACEBOOK PUBLICATIONS

Facebook for Educators Guide, 2011

WEB SITES

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

California School Public Relations Association: <http://www.calspra.org>

Facebook in Education: <http://www.facebook.com/education>

Facebook for Educators: <http://facebookforeducators.org>

Facebook, privacy resources: <http://www.facebook.com/fbprivacy>

Issued: 7/11

Administrative Regulation

District-Sponsored Social Media

AR 1114

Community Relations

Note: The following optional administrative regulation may be revised to reflect district practice and the types of online platforms used by the district.

Definitions

Social media means any online platform for collaboration, interaction, and active participation, including, but not limited to, social networking sites such as Facebook, Twitter, YouTube, LinkedIn, or blogs.

Note: To minimize liability to the district, it is important that the district clearly define the official social media platforms over which it has control and to specify the standards, guidelines, and protocols for their use. The following definition may be revised to reflect district practice. District policy and guidelines do not apply to personal social media platforms that may be created by students, staff members, or other individuals which may sometimes include discussion of district-related issues but are not sponsored by the district.

Official district social media platform is a site authorized by the Superintendent or designee. Sites that have not been authorized by the Superintendent or designee but that contain content related to the district or comments on district operations, such as a site created by a parent-teacher organization, booster club, or other school-connected organization or a student's or employee's personal site, are not considered official district social media platforms.

(cf. 1230 - School-Connected Organizations)

(cf. 1260 - Educational Foundations)

Authorization for Official District Social Media Platforms

The Superintendent or designee shall authorize the development of any official district social media platform. Teachers and coaches shall obtain approval from the principal before creating an official classroom or team social media platform.

Guidelines for Content

The Superintendent or designee shall ensure that official district social media platforms provide current information regarding district programs, activities, and operations, consistent with the goals and purposes of this policy and regulation. Official district social media platforms shall contain content that is appropriate for all audiences.

(cf. 0440 - District Technology Plan)
(cf. 0510 - School Accountability Report Card)
(cf. 1100 - Communication with the Public)
(cf. 1112 - Media Relations)
(cf. 1113 - District and School Web Sites)
(cf. 6020 - Parent Involvement)
(cf. 6145.5 - Student Organization and Equal Access)

Note: Federal copyright law (17 USC 107) and the courts have generally provided that teachers, students, and schools are allowed to make "fair use" of materials for instructional purposes in situations which are not likely to deprive a publisher or an author of income; see BP/AR 6162.6 - Use of Copyrighted Materials. Unless there is a clear statement that text, art, or photos are in the "public domain" and available for free use, such material should not be replicated without prior permission of the owner of the copyright.

The Superintendent or designee shall ensure that copyright laws are not violated in the use of material on official district social media platforms.

(cf. 4132/4232/4332 - Publication or Creation of Materials)
(cf. 6162.6 - Use of Copyrighted Materials)

Note: Because of the open accessibility of social media, content will be posted by members of the public on the district's official platform without prior approval by district staff. By allowing the public to post comments, some legal analysts have opined that a "limited public forum" is created which grants individuals certain freedom of speech rights and limits the district's ability to remove comments or posts.

Note: Decisions by the National Labor Relations Board (NLRB) (e.g., Sears Holdings) point to the need to be cautious in establishing policy related to employee use of electronic communications so as to not interfere with an employee's right to engage in protected, concerted activity granted by 29 USC 157. The NLRB has held that social media policies can prohibit the disclosure of confidential information and address legitimate concerns for managing the workplace, but cannot expressly or by implication prohibit employees from talking with each other about wages, hours, and other terms and conditions of employment.

Note: In addition, Education Code 48907 grants students the right to freedom of speech except for speech which is obscene, libelous, or which so incites students as to create a clear and present danger of the commission of unlawful acts on school premises, violation of lawful school regulations, or substantial disruption of the orderly operation of the school. Also see BP/AR 5145.2 - Freedom of Speech/Expression and BP/AR 6145.5 - Student Organizations and Equal Access.

***Note: Furthermore, if the district chooses to post advertising of a commercial nature on official district social media platforms, then the ability to remove comments of a commercial nature posted by others may be limited. Districts should also be cautious about the use of district resources, such as its official district social media platforms, for political purposes; see

BP 1160 - Political Processes.***

Note: In order to protect against possible constitutional challenges, any removal of content by the district should be based on viewpoint-neutral considerations, such as preventing the violation of laws against discrimination or harassment or the posting of materials that are unrelated to the purpose of the site. The district should consult legal counsel to ensure that its guidelines for removal of posts are consistent with law. Also see the accompanying Board policy.

The Superintendent or designee shall ensure that official district social media platforms are regularly monitored. Staff members responsible for monitoring content may remove posts based on viewpoint-neutral considerations, such as lack of relation to the site's purpose or violation of the district's policy, regulation, or content guidelines.

Each official district social media platform shall prominently display:

1. The purpose of the site along with a statement that users are expected to use the site only for those intended purposes.
2. Information on how to use the security settings of the social media platform.
3. A statement that the site is regularly monitored and that any inappropriate post will be promptly removed. Inappropriate posts include those that:
 - a. Are obscene, libelous, or so incite students as to create a clear and present danger of the commission of unlawful acts on school premises, violation of school rules, or substantial disruption of the school's orderly operation
 - b. Are not related to the stated purpose of the site, including, but not limited to, comments of a commercial nature, political activity, and comments that constitute discrimination or harassment

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 1160 - Political Processes)
(cf. 1325 - Advertising and Promotion)
4. Protocols for users, including expectations that users will communicate in a respectful, courteous, and professional manner.
5. A statement that users are personally responsible for the content of their posts and that the district is not responsible for the content of external online platforms.
6. A disclaimer that the views and comments expressed on the site are those of the users and do not necessarily reflect the views of the district.
7. A disclaimer that any user's reference to a specific commercial product or service does

not imply endorsement or recommendation of that product or service by the district.

8. The individual(s) to contact regarding violation of district guidelines on the use of official district social media platforms.

Appropriate Use by District Employees

Note: For policy language regarding appropriate employee communications and relationships with students, see BP 4119.21/4219.21/4319.21 - Professional Standards and BP 4040 - Employee Use of Technology.

District employees who participate in official district social media platforms shall adhere to all applicable district policies and procedures, including, but not limited to, professional standards related to interactions with students.

(cf. 4040 - Employee Use of Technology)
(cf. 4119.21/4219.21/4319.21 - Professional Standards)

When appropriate, employees using official district social media platforms shall identify themselves by name and district title and include a disclaimer stating that the views and opinions expressed in their post are theirs alone and do not necessarily represent those of the district or school.

All staff shall receive information about appropriate use of the official district social media platforms.

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

Board Policy

Commendations And Awards

BP 1150

Community Relations

Note: The following optional policy addresses commendation of community members and organizations and may be revised to reflect district practice. For policy addressing recognition of employees and students, see BP 4156.2/4256.2/4356.2 - Awards and Recognition and BP/AR 5126 - Awards for Achievement.

To encourage community involvement in district programs and activities, the Governing Board may publicly recognize and commend parents/guardians, community members, businesses, and organizations that make outstanding contributions or provide longstanding service to the district or district students.

(cf. 1000 - Concepts and Roles)

(cf. 1240 - Volunteer Assistance)

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

(cf. 3290 - Gifts, Grants and Bequests)

Any Board member, employee, parent/guardian, student, or community member may recommend an individual or organization for Board recognition. He/she shall submit to the Superintendent or designee the name of the individual or organization and a description of the outstanding contribution or service.

***Note: The following paragraph lists the types of commendations and awards that may be presented by the Board. Gifts of money or gift certificates may be considered an unconstitutional gift of public funds absent specific legislative authority. ***

At the Board's discretion, the Board may present a letter of recognition, Board resolution, plaque, or other award at a public Board meeting or may hold a reception or informal recognition activity. The Board also may designate a day, week, or month for special recognition of volunteers.

The Board encourages similar forms of recognition for achievement or services as part of school-level commendation programs.

(cf. 4156.2/4256.2/4356.2 - Awards and Recognition)

(cf. 5126 - Awards for Achievement)

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

35160.1 Broad authority of school districts

44015 Awards to employees and students

CALIFORNIA CONSTITUTION

Article 16, Section 6 Gifts of public funds

(1/85 12/91) 7/10

Board Policy

Political Processes

BP 1160

Community Relations

***Note: The following optional policy addresses political activities conducted by members of the Governing Board or district staff acting on behalf of the district. It does not apply to individuals acting as private citizens on their own time and at their own expense. When acting as private citizens, individuals have broad rights under the First Amendment to engage in political activities, including taking positions on electoral measures and candidates and establishing and participating in political action committees. ***

***Note: Education Code 7055 authorizes the district to establish reasonable regulations related to employees engaging in political activity. See BP/AR 4119.25/4219.25/4319.25 - Political Activities of Employees for language implementing this statute as well as language regarding activities by employee organizations. ***

The Governing Board has a responsibility to actively advocate fiscal and public policy that supports the district's schools and the children in the community. The Board shall be proactive in defining the district's advocacy agenda based on the district's vision and goals and the needs of the district and community. The Board's advocacy efforts shall be conducted in accordance with legal requirements.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

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

(cf. 9000 - Role of the Board)

(cf. 9010 - Public Statements)

Ballot Measures/Candidates

No district funds, services, supplies, or equipment shall be used to urge the support or defeat of any ballot measure or candidate, including any candidate for election to the Board. (Education Code 7054)

***Note: Whether an activity is an appropriate use of public funds or an impermissible campaign activity is a complicated analysis. In *Vargas v. City of Salinas*, the California Supreme Court created three categories of activities: (1) permissible informational activities, such as resolutions and providing objective analysis; (2) impermissible campaign activities, such as producing or distributing literature that urges a voter to act a certain way; or (3) unclear activities which do not fall into either group and must be analyzed looking at the "style, tenor, and timing" of the activity. The following two paragraphs reflect the court's analysis of permissible activities. District legal counsel should be consulted when there is a question as to

whether an activity is permissible. ***

The Board may discuss and study the potential effect of proposed or qualified ballot measures on the district's schools at an open and agendaized Board meeting. The Board's discussion of the effect of such measures shall include an opportunity for staff and members of the public to speak on all sides of the issue. At that meeting, the Board may adopt a position or resolution in support of or in opposition to a ballot measure. The language in any resolution adopted by the Board shall not urge the public to take any action regarding the measure.

(cf. 9320 - Meetings and Notices)

The Board's position on a ballot measure, including any resolution, shall be publicized only through normal district procedures and consistent with regular district practice for reporting Board actions. Such publicity shall be for informational purposes and shall not attempt to influence voters.

***Note: When it is unclear whether a campaign activity is permissible, the court will analyze the activity based on its "style, tenor and timing" to determine whether it involves an appropriate expenditure of public funds. Examples of things that a court might look for include how the material was distributed (i.e., special edition or regular publication), the language used in the publication (i.e., inflammatory or informational), and whether the distribution was consistent with regular district practice (i.e., regular circulation or special mailing). Districts should be cautious and ensure that any such informational material is an appropriate use of district funds. ***

The Superintendent or designee may use district resources to provide students, parents/guardians, and community members with fair and impartial information related to ballot measures, including information about the impact of ballot measures on the district. (Education Code 7054)

(cf. 1100 - Communication with the Public)

In preparing or distributing such informational material, the Superintendent or designee shall analyze the material to help ensure that it is an appropriate informational activity, provides a fair analysis of the issues, and does not advocate passage or defeat of a measure or candidate.

***Note: In *Vargas v. City of Salinas*, the court offered examples of activities which would be impermissible campaign activities, as reflected in the following paragraph. In addition, 2 CCR 18901.1 prohibits the use of public funds for a newsletter or "mass mailing" which expressly advocates the election or defeat of a ballot measure or candidate or, when taken in context, urges a particular result. Because violation of this regulation could result in enforcement action by the Fair Political Practices Commission (FPPC), districts should proceed with caution and consult with legal counsel, as appropriate. ***

District resources, including email or computer systems, shall not be used to disseminate campaign literature. In addition, district resources shall not be used to purchase advertisements,

bumper stickers, posters, or similar promotional items that advocate an election result or urge voters to take any action in support of or in opposition to a measure.

(cf. 1325 - Advertising and Promotion)

***Note: Both the courts (Santa Barbara County Coalition Against Automobile Subsidies v. Santa Barbara County Association of Governments) and the Attorney General (88 Ops.Cal.Atty.Gen. 46 (2005)) have provided guidance as to the appropriate use of district funds when the district is preparing to submit a bond proposal to the voters for approval. The key distinction is whether the action is taken before or after the measure has been placed on the ballot and whether the activity is directed at swaying voters. Permissible expenditures include researching the need for the measure, formulating and drafting the proposal, and conducting polling and focus groups to assess the feasibility of the measure. Impermissible activities include recruiting and organizing supporters for a campaign, raising funds for the campaign, or hiring a consultant to develop a strategy for building support for the measure. ***

Political activity related to district bond measures shall, in addition to the above, be subject to the following conditions:

1. The Superintendent or designee may research, draft, and prepare a district bond measure or other initiative for the ballot, but shall not use district resources to influence voters or otherwise campaign for the measure.
2. Upon request, Board members and district administrators may appear at any time before a citizens' group to explain why the Board called for an election on a bond measure and to answer questions. (Education Code 7054.1)

If the presentation occurs during working hours, the employee representing the district shall not urge a citizens' group to vote for or against the bond measure.

3. The Board or any individual Board member may file a written argument for the ballot that is either for or against any school measure. (Elections Code 9501)

Legislation

***Note: Pursuant to Government Code 53060.5, the district may engage in legislative activities and lobbying, either directly or through a representative, and the cost of this activity is an appropriate use of district funds. Lobbying activities are regulated by the FPPC (2 CCR 18600-18640) and governed by the Political Reform Act (Government Code 81000-91015). ***

The Board's responsibility as an advocate for the district may include lobbying and outreach at the state, national, and local levels. The Board and Superintendent or designee shall work to establish and maintain ongoing relationships with elected officials, community leaders, and the media in order to communicate district positions and concerns.

(cf. 1112 - Media Relations)

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)
(cf. 7131 - Relations with Local Agencies)

The Board and Superintendent shall develop an advocacy action plan to define expectations and responsibilities. This plan may include, but is not limited to, legislative priorities, strategies for outreach to the media and community, development of key messages and talking points, and adoption of positions on specific legislation, regulations, or budget proposals.

In order to strengthen legislative advocacy efforts, the district may work with organizations and coalitions and may join associations whose representatives lobby on behalf of their members in accordance with Government Code 53060.5.

***Note: Although the district has the authority to lobby the legislature, it cannot use district resources to urge the public to lobby the legislature on its behalf. In *Miller v. Miller* the court concluded that urging the public was impermissible election campaigning because the activity was directed to the public and not the legislature. ***

The district may provide fair and impartial information about legislative issues affecting schools and children and shall inform the community about its advocacy activities. However, informational materials about legislation shall not urge the public to lobby the legislature, Governor, or state agencies on behalf of the district.

***Note: An appellate court held in *League of Women Voters v. Countywide Criminal Justice Coordination Committee* that the drafting of legislative proposals was a permissible use of public funds since it was more similar to the exercise of a local agency's governing authority than a campaign activity. ***

As necessary, the Board may direct the Superintendent or designee to draft legislative or regulatory proposals which serve the district's interests.

Legal Advocacy

***Note: When an issue requires resolution in the courts rather than through legislation, it is permissible for districts to use public funds to initiate or participate in legal advocacy. Toward these ends, districts may choose to join with other districts in a group, such as CSBA's Education Legal Alliance which funds and supports litigation in cases of statewide significance to its members. ***

The Board recognizes that some issues are more appropriately addressed judicially rather than legislatively. When a legal issue is likely to set a state or national precedent, the district may join with other districts or parties in order to resolve the issue through litigation or other appropriate means.

(cf. 9124 - Attorney)
(cf. 9321 - Closed Session Purposes and Agendas)

Political Forums

Forums on political issues may be held in district facilities as long as the forum is made available to all sides of the issue on an equitable basis. (Education Code 7058)

(cf. 1330 - Use of School Facilities)

Legal Reference:

EDUCATION CODE

7050-7058 Political activities of school officers and employees, including:

7054 Use of district property

7054.1 Requested appearance

7056 Soliciting or receiving political funds

35160 Authority of governing boards

35172 Promotional activities

ELECTIONS CODE

9501 School district elections, arguments for or against a measure

GOVERNMENT CODE

8314 Unlawful use of state resources

53060.5 Attendance at legislative body; expenses

54953.5 Right to record proceedings

54953.6 Broadcasts of proceedings

81000-91015 Political Reform Act, including:

82031 Definition of independent expenditure

CODE OF REGULATIONS, TITLE 2

18600-18640 Lobbyists

18901.1 Campaign related mailings sent at public expense

COURT DECISIONS

Vargas v. City of Salinas, (2009) 46 Cal. 4th 1

Santa Barbara County Coalition Against Automobile Subsidies v. Santa Barbara County

Association of Governments, (2008) 167 Cal.App.4th 1229

Yes on Measure A v. City of Lake Forest, (1997) 60 Cal.App.4th 620

Choice-in-Education League et al v. Los Angeles Unified School District, (1993) 17 Cal.App.4th 415

League of Women Voters v. Countywide Criminal Justice Coordination Committee, (1988) 203 Cal.App.3d 529

Miller v. Miller, (1978) 87 Cal.App.3d 762

Stanson v. Mott, (1976) 17 Cal. 3d 206

ATTORNEY GENERAL OPINIONS

88 Ops.Cal.Atty.Gen. 46 (2005)

73 Ops.Cal.Atty.Gen. 255 (1990)

Management Resources:

CSBA PUBLICATIONS

Legal Guidelines: Use of Public Resources for Ballot Measures and Candidates, Fact Sheet, February 2011

Legal Guidelines for Lobbying Activity, Fact Sheet, February 2011

INSTITUTE FOR LOCAL GOVERNMENT PUBLICATIONS

Legal Issues Associated with Use of Public Resources and Ballot Measure Activities, June 2010

WEB SITES

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

Fair Political Practices Commission: <http://www.fppc.ca.gov>

Institute for Local Government: <http://www.ca-ilg.org>

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Board Policy

Citizen Advisory Committees

BP 1220

Community Relations

***Note: The following optional policy may be revised to reflect district practice. Pursuant to Government Code 54952 and Education Code 35147, certain committees may be subject to open meeting law requirements. See the accompanying administrative regulation and BB 9130 - Board Committees. ***

The Governing Board recognizes that citizen advisory committees enable the Board to better understand the interests and concerns of the community.

The Board shall establish citizen advisory committees when required by law, to strengthen the effectiveness of district and school operations, or to enhance student learning. The purpose of any such committees shall be clearly defined and aligned to the district's vision, mission, and goals. The Board may dissolve any advisory committee not required by law when the committee has fulfilled its duties or at any time the Board deems it necessary.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

(cf. 0420 - School Plans/Site Councils)

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

(cf. 2230 - Representative and Deliberative Groups)

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

(cf. 5030 - Student Wellness)

(cf. 6020 - Parent Involvement)

(cf. 6174 - Education for English Learners)

(cf. 6175 - Migrant Education Program)

(cf. 6178 - Career Technical Education)

(cf. 9130 - Board Committees)

The Superintendent or designee may establish advisory committees which shall report to him/her in accordance with law, Board policy, and administrative regulation.

Citizen advisory committees shall serve in an advisory capacity; they may make recommendations, but their actions shall not be binding on the Board or Superintendent.

The membership of citizen advisory committees should reflect the diversity of the community and represent a diversity of viewpoints.

The Superintendent or designee shall provide training and information, as necessary, to enable committee members to understand the goals of the committee and to fulfill their role as

committee members.

Within budget allocations, the Superintendent or designee may approve requests for committee travel and may reimburse committee members for expenses at the same rates and under the same conditions as those provided for district employees.

(cf. 3350 - Travel Expenses)

Legal Reference:

EDUCATION CODE

8070 Career technical education advisory committee
11503 Parent involvement program
15278-15282 Citizens' oversight committee
15359.3 School facilities improvement districts
17387-17391 Advisory committees for use of excess school facilities
35147 School site councils and advisory committees
44032 Travel expense payment
52060 Local Control and Accountability Plan
52063 Local Control and Accountability Plan
52176 Advisory committees, limited-English proficient students program
54425 Advisory committees, compensatory education
54444.1-54444.2 Parent advisory councils, services to migrant children
56190-56194 Community advisory committee, special education
62002.5 Continuing parent advisory committees
64001 School plan for student achievement, consolidated application programs
65000-65001 School site councils

GOVERNMENT CODE

810.2 Tort claims act, definition employee
810.4 Tort claims act, definition employment
815.2 Injuries by employees within scope of employment
820.9 Members of local public boards not vicariously liable
6250-6270 California Public Records Act
54950-54963 Brown Act

UNITED STATES CODE, TITLE 42

1758b Local wellness policy

COURT DECISIONS

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

Management Resources:

WEB SITES

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

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

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Administrative Regulation

Citizen Advisory Committees

AR 1220

Community Relations

Note: The following optional administrative regulation may be modified to reflect district practice.

Note: Pursuant to Government Code 815.2 and 820.9, members of advisory committees are not liable for injuries caused by the act or omission of the district, a committee, or a committee member acting within the scope of his/her role as a member of the committee. However, a committee member may be liable for injury caused by his/her own wrongful conduct.

Committee Charge

Note: Items #1-9 may be modified to reflect district practice.

When committees are appointed, committee members shall receive written information which includes, but is not limited to:

1. The committee members' names
2. The procedure to be used in the selection of the committee chairperson and other committee officers
3. The name(s) and contact information of staff member(s) assigned to support the work of the committee
4. The goals and specific charge(s) of the committee, including its topic(s) for study
5. The specific period of time that the committee is expected to serve
6. Legal requirements regarding meeting conduct and public notifications
7. Resources available to help the committee perform its tasks
8. Timelines for progress reports and/or final report
9. Relevant Board policies and administrative regulations

Committees Subject to Brown Act Requirements

***Note: Generally, any commission, committee, board, or other body created by formal action

of the Governing Board, regardless of whether that body is permanent or temporary, decision-making or advisory, is a "legislative body," as defined in Government Code 54952, and is required to comply with the open meeting laws (Brown Act). However, some committees are by law exempted from the Brown Act. For example, committees specified in Education Code 35147 are not subject to the Brown Act; see "Committees Not Subject to Brown Act Requirements" below. Committees composed solely of Board members who are less than a quorum of the Board may also be exempt from Brown Act requirements in limited circumstances; see BB 9130 - Board Committees.***

Note: Committees listed in items #1-5 below are generally created by formal Board action and thus are subject to the Brown Act. This list should be modified to add any other specific committees in the district created by formal Board action or any committees that the Board has required to follow the Brown Act. This list should be modified to delete any of the committees that were not created by formal Board action (e.g., Superintendent committees) or do not exist within the district. In *Frazer v. Dixon Unified School District*, the court held that the adoption of a Board policy that required the appointment of a committee to advise the Superintendent, and in turn, the Board, was a committee created by "formal Board action" within the meaning of Government Code 54952. Therefore, the committee's meetings were subject to the Brown Act. Districts should consult legal counsel when questions arise regarding the applicability of Brown Act requirements to district or school committees.

Brown Act requirements pertaining to open meetings, notices, and public participation pursuant to Government Code 54950-54963 shall be complied with by any committee created by formal action of the Governing Board, including, but not limited to, the following:

1. Advisory committee established pursuant to Education Code 56190-56194 related to special education

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

2. Advisory committee established pursuant to Education Code 8070 related to career technical education

(cf. 6178 - Career Technical Education)

3. Committee established to assist in development of a student wellness policy pursuant to 42 USC 1758b

(cf. 5030 - Student Wellness)

4. Committee established pursuant to Education Code 17387-17391 related to the use or disposition of excess real property

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

5. Citizens' oversight committee established to examine the expenditure of general

obligation bond or school facilities improvement bond revenues passed with a 55 percent majority of the voters pursuant to Education Code 15278 and 15359.3

(cf. 7213 - School Facilities Improvement Districts)
(cf. 7214 - General Obligation Bonds)
(cf. 9130 - Board Committees)
(cf. 9320 - Meetings and Notices)
(cf. 9321 - Closed Session Purposes and Agendas)
(cf. 9321.1 - Closed Session Actions and Reports)
(cf. 9323 - Meeting Conduct)

Committees Not Subject to Brown Act Requirements

Note: Pursuant to Education Code 35147, school site councils and some advisory committees, as specified in items #1-6 below, are exempt from the Brown Act but must comply with other, less complex procedural requirements (i.e., the "mini" Brown Act). In addition, the Board may require other specific district committees that are not subject to the Brown Act to follow the requirements of the "mini" Brown Act. Such committees should be added to the list below.

The following committees shall comply with procedural meeting requirements established in Education Code 35147:

1. Parent advisory committee and English learner parent advisory committee established pursuant to Education Code 52063 to review and comment on the local control and accountability plan

(cf. 0460 - Local Control and Accountability Plan)

Note: Pursuant to Education Code 35147, school site councils are exempt from the Brown Act and are subject to the procedural meeting requirements in Education Code 35147. However, Education Code 35147 has not yet been amended for consistency with AB 716 (Ch. 471, Statutes of 2018), which repealed Education Code 52852 and moved the requirements related to school site councils to Education Code 65000-65001.

2. School site councils established pursuant to Education Code 65000-65001 to develop and approve a school plan for student achievement

(cf. 0420 - School Plans/Site Councils)

3. District or school advisory committees established pursuant to Education Code 52176 related to programs for English learners

(cf. 6174 - Education for English Learners)

4. School advisory committees established pursuant to Education Code 54425(b) related to

compensatory education

(cf. 6171 - Title I Programs)

5. Any district advisory committee established pursuant to Education Code 54444.2 related to migrant education programs

(cf. 6175 - Migrant Education Program)

6. School committees established pursuant to Education Code 11503 related to parent involvement

(cf. 6020 - Parent Involvement)

Meetings of the above councils or committees shall be open to the public, and any member of the public shall have the opportunity to address the council or committee during the meeting on any item within its jurisdiction. Notice of the meeting shall be posted at the school site or other appropriate accessible location at least 72 hours before the meeting, specifying the date, time, and location of the meeting and containing an agenda that describes each item of business to be discussed or acted upon. (Education Code 35147)

The above councils or committees shall not take action on any item not listed on the agenda unless all members present unanimously find that there is a need to take immediate action and that this need came to the council's or committee's attention after the agenda was posted. In addition to addressing items on the agenda, members of the council, committee, or public may ask questions or make brief statements that do not have a significant effect on district students or employees or that can be resolved solely by providing information. (Education Code 35147)

Any council or committee violating the above procedural requirements must, at the demand of any person, reconsider the item at the next meeting, first allowing for public input on the item. (Education Code 35147)

Any materials provided to a council or committee shall be made available to any member of the public upon request pursuant to the California Public Records Act, Government Code 6250-6270. (Education Code 35147)

(cf. 1340 - Access to District Records)

Committees Created by Superintendent

Committees which are created by the Superintendent or designee to advise the administration, do not report to the Board, and are not specified in Education Code 35147 shall not be subject to the requirements of the Brown Act or Education Code 35147.

(cf. 2230 - Representative and Deliberative Groups)

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Board Policy

School-Connected Organizations

BP 1230

Community Relations

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

Note: For purposes of this Board policy, the term "school-connected organization" includes booster clubs, parent-teacher associations aligned with the California State PTA, or other parent-teacher organizations. These organizations generally raise funds for classroom activities or activities at specific schools. For policy regarding educational foundations, see BP 1260 - Educational Foundation. For policy regarding associated student body organizations, see BP 3452 - Student Activity Funds.

Note: In some districts, there may be legal or equity concerns that result from the benefit provided to a particular school while other schools in the district do not receive the benefit from the additional resources. For example, pursuant to state and federal law (Education Code 200-262.4; 5 CCR 4900-4965; 20 USC 1681-1688), the Governing Board is responsible for ensuring that the district's athletic program provides equivalent opportunities for both males and females. Booster club activities must be included in the district's analysis of the equivalent opportunities provided by each school. See BP/AR 6145.2 - Athletic Competition. Because school-connected organizations are generally separate legal entities, if a concern arises regarding the equitable distribution of funds, the Superintendent or designee should consult with the leadership of such organizations and district legal counsel. For language regarding acceptance of gifts and grants, see BP 3290 - Gifts, Grants, and Bequests.

The Governing Board recognizes that parents/guardians and community members may wish to organize parent organizations and/or booster clubs for the purpose of supporting the district's educational and extracurricular programs. The Board appreciates the contributions made by such organizations toward the Board's vision for student learning and for providing all district students with high-quality educational opportunities.

(cf. 0200 - Goals for the School District)

(cf. 6020 - Parent Involvement)

Note: The following optional paragraph may be revised to reflect district practice. See the accompanying administrative regulation for details regarding the types of information that the district might require to be included in a school-connected organization's request to operate within the district or school.

Persons proposing to establish a school-connected organization shall submit a request to the Board for authorization to operate within the district or at a district school.

Note: Generally, booster and parent clubs are separate legal entities from the district and thus are not under the control or the responsibility of district personnel. The district should consult legal counsel if it has any questions about its appropriate relationship with school-connected organizations.

Note: Certain tax-exempt organizations may be required to register with the state Attorney General's Registry of Charitable Trusts. As part of this registration, the organization may also be required to file copies of the organization's articles of incorporation and other documents governing its operations.

A school-connected organization, including a booster club, parent-teacher association or organization, or other organization that does not include an associated student body or other student organization, shall be established and maintained as a separate entity from the school or district. Each school-connected organization shall be subject to its own bylaws and operational procedures or to the rules or bylaws of its affiliated state or national organization, as applicable.

Note: School-connected organizations are required to comply with applicable laws. For example, food sales by outside organizations must not compete with the district's school nutrition program and must comply with state and/or federal nutritional standards (Education Code 49431-49431.7; 5 CCR 15500-15501, 15575-15578; 7 CFR 210.11, 220.12). See BP/AR 3554 - Other Food Sales.

In addition, activities by school-connected organizations shall be conducted in accordance with law, Board policies, administrative regulations, and any rules of the sponsoring school.

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 3290 - Gifts, Grants and Bequests)
(cf. 3554 - Other Food Sales)
(cf. 5030 - Student Wellness)
(cf. 6145 - Extracurricular and Cocurricular Activities)
(cf. 6145.2 - Athletic Competition)

Note: The following optional paragraph may be revised to reflect district practice. The Fiscal Crisis and Management Assistance Team (FCMAT), in its 2015 ASB Accounting Manual, Fraud Prevention Guide and Desk Reference, suggests rules governing the relationship between the district and booster clubs and other school-connected organizations. For examples of such rules, see the accompanying administrative regulation.

The Superintendent or designee shall establish appropriate rules for the relationship between school-connected organizations and the district.

Note: Education Code 51521 requires that any fundraising activity designed to raise money to benefit a school or its students receive approval from the Board or the Board's designee. The following paragraph delegates this authority to the Superintendent or designee and may be revised to reflect district practice.

A school-connected organization shall obtain the written approval of the Superintendent or designee prior to soliciting funds upon the representation that the funds will be used wholly or in part for the benefit of a district school or the students at that school. (Education Code 51521)

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

(cf. 1330 - Use of School Facilities)

(cf. 3452 - Student Activity Funds)

A school-connected organization may consult with the principal to determine school needs and priorities.

Note: Pursuant to Education Code 49011, the district is permitted to solicit voluntary donations, participate in fundraising activities, or provide prizes or other recognition for participants in fundraising activities. However, the district must not offer or award to a student any course credit or privileges related to educational activities in exchange for voluntary donations or participation in fundraising activities by or on behalf of the student and shall not remove, or threaten to remove, from a student any course credit or privileges related to educational activities, or otherwise discriminate against the student, due to a lack of voluntary donations or participation in fundraising activities by or on behalf of the student. See BP 3260 - Fees and Charges.

Any participation in fundraising activities by students and their parents/guardians and/or any donation of funds or property shall be voluntary. (Education Code 49011)

(cf. 3260 - Fees and Charges)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

35160 Authority of governing boards

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

48931 Authorization for sale of food by student organization

48932 Authorization for fund-raising activities by student organization

49011 Student fees

49431-49431.7 Nutritional standards

51520 Prohibited solicitation on school premises

51521 Fund-raising project

BUSINESS AND PROFESSIONS CODE

17510-17510.95 Solicitations for charitable purposes

25608 Alcohol on school property; use in connection with instruction

GOVERNMENT CODE

12580-12599.7 Fundraisers for Charitable Purposes Act

PENAL CODE

319-329 Lottery, raffle

CODE OF REGULATIONS, TITLE 5

4900-4965 Nondiscrimination in elementary and secondary education programs

15500 Food sales in elementary schools

15501 Food sales in high schools and junior high schools

15575-15578 Requirements for foods and beverages outside the federal meals program

CODE OF REGULATIONS, TITLE 11

300-312.1 Fundraising for charitable purposes

UNITED STATES CODE, TITLE 20

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

CODE OF FEDERAL REGULATIONS, TITLE 7

210.11 Competitive food services

220.12 Competitive food services

COURT DECISIONS

Serrano v. Priest, (1976) 18 Cal. 3d 728

Management Resources:

FISCAL CRISIS AND MANAGEMENT ASSISTANCE TEAM PUBLICATIONS

2015 ASB Accounting Manual, Fraud Prevention Guide and Desk Reference

WEB SITES

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

California Office of the Attorney General, charitable trust registry:

<http://caag.state.ca.us/charities>

California State PTA: <http://www.capta.org>

Fiscal Crisis and Management Assistance Team (FCMAT); <http://www.fcmat.org>

Administrative Regulation

School-Connected Organizations

AR 1230

Community Relations

Note: The following optional administrative regulation should be modified to reflect district practice.

Note: Although school-connected organizations are generally separate legal entities and in some cases may be subject to the financial policies and bylaws of a state or national organization, districts have the authority to approve the ability of a school-connected organization to operate within the district or a district school. The Fiscal Crisis and Management Assistance Team (FCMAT), in its 2015 ASB Accounting Manual, Fraud Prevention Guide and Desk Reference, recommends that persons be required to complete an application, containing at least the information reflected in items #1-10 below, in order to form a school-connected organization. A sample application form is available in the FCMAT manual.

A school-connected organization's request for authorization to operate within the district or at a district school shall contain, as appropriate:

1. The name and purpose of the organization
2. The date of application
3. Bylaws, rules, and procedures under which the organization will operate, including procedures for maintaining the organization's finances, membership qualifications, if any, and an agreement that the group will not engage in unlawful discrimination

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

4. The names, addresses, and phone numbers of all officers
5. A list of specific objectives
6. An agreement to grant the district the right to audit the group's financial records, either by district personnel or a certified public accountant, whenever any concern is raised regarding the use of the funds
7. The name of the bank where the organization's account will be located and the names of those authorized to withdraw funds
8. The signature of the principal of the supporting school

9. Planned use for any money remaining at the end of the year if the organization is not continued or authorized to continue in the future

Note: Education Code 38134 requires school-connected organizations to insure against any liability resulting from the organization's negligence during an organization-sponsored event on school facilities. See BP/AR 1330 - Use of School Facilities.

10. An agreement to provide evidence of liability and/or directors and officers insurance when and in the manner required by law

(cf. 1330 - Use of School Facilities)

Note: The following optional paragraph requires an organization to request renewal of the authorization from the Superintendent or designee on an annual basis. Districts that allow for an automatic renewal or that require approval from the Governing Board should modify the following paragraph accordingly.

Requests for subsequent authorization shall be annually submitted to the Superintendent or designee, along with a financial statement showing all income and expenditures from fundraisers. If the Superintendent or designee proposes to deny the request for reauthorization, he/she shall present his/her recommendation to the Governing Board for approval.

When deemed necessary by the Board or the Superintendent or designee, the authorization for a school-connected organization to conduct activities in the district may be revoked at any time.

Note: Items #1-5 below reflect recommendations in FCMAT's 2015 ASB Accounting Manual, Fraud Prevention Guide and Desk Reference and may be revised to reflect district practice.

Each school-connected organization shall abide by the following rules:

1. The organization shall not act as an agent of the district or school.
2. The organization shall not use the district's tax-exempt status and identification number. It shall be responsible for its own tax status, accounting, internal controls, financial reporting, retention of records, and other operations.
3. The organization shall use a separate name and logo. Any use of a name or logo affiliated with the district, a district school, or a school team shall require the prior consent of the Superintendent or designee.
4. Funds of the school-connected organization shall not be co-mingled with district funds, including associated student body funds.
5. The organization shall not hire or directly pay any district employee. If a

school-connected organization wishes to pay for additional and/or extracurricular services, the person to provide the services shall be hired through the district's personnel department, provided the Board approves the position. At their discretion, employees may volunteer to perform activities for school-connected organizations during nonworking hours.

(cf. 4127/4227/4327 - Temporary Athletic Team Coaches)

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Board Policy

Volunteer Assistance

BP 1240

Community Relations

The Governing Board recognizes that volunteer assistance in schools can enrich the educational program, increase supervision of students, and contribute to school safety while strengthening the schools' relationships with the community. The Board encourages parents/guardians and other members of the community to share their time, knowledge, and abilities with students.

(cf. 1000 - Concepts and Roles)

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

(cf. 4127/4227/4327 - Temporary Athletic Team Coaches)

(cf. 4222 - Teacher Aides/Paraprofessionals)

(cf. 5020 - Parent Rights and Responsibilities)

(cf. 6020 - Parent Involvement)

(cf. 6171 - Title I Programs)

The Superintendent or designee shall develop and implement a plan for recruiting, screening, and placing volunteers, including strategies for reaching underrepresented groups of parents/guardians and community members. He/she may also recruit community members to serve as mentors to students and/or make appropriate referrals to community organizations.

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

***Note: Government Code 12940, as amended by AB 1443 (Ch. 302, Statutes of 2014), prohibits harassment of a volunteer on the basis of the characteristics listed below. Also see BP 0410 - Nondiscrimination in District Programs and Activities. ***

The Board prohibits harassment of any volunteer on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. (Government Code 12940)

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

As appropriate, the Superintendent or designee shall provide volunteers with information about school goals, programs, and practices and an orientation or other training related to their specific responsibilities. Employees who supervise volunteers shall ensure that volunteers are assigned meaningful responsibilities that utilize their skills and expertise and maximize their contribution to the educational program.

Volunteer work shall be limited to those projects that do not replace the normal duties of

classified staff. The Board nevertheless encourages volunteers to work on short-term projects to the extent that they enhance the classroom or school and comply with employee negotiated agreements.

(cf. 4141/4241 - Collective Bargaining Agreement)

Note: Education Code 45347 and 45349 require certain volunteers, depending on the types of duties they will be performing, to meet qualifications pertaining to basic skills proficiency, tuberculosis testing, and/or criminal background checks; see the accompanying administrative regulation. Health and Safety Code 1596.7995, as added by SB 792 (Ch. 807, Statutes of 2015), requires volunteers who provide care and supervision to children at a child care center or preschool to be immunized against influenza, pertussis, and measles, and to subsequently receive an influenza vaccination between August 1 and December 1 of each year; see AR 5148 - Child Care and Development and AR 5148.3 - Preschool/Early Childhood Education.

The Superintendent or designee shall establish procedures for determining whether volunteers possess the qualifications, if any, required by law and administrative regulation for the types of duties they will perform.

Volunteers shall act in accordance with district policies, regulations, and school rules. The Superintendent or designee shall be responsible for investigating and resolving complaints regarding volunteers.

(cf. 3515.2 - Disruptions)

The Board encourages principals to develop a means for recognizing the contributions of each school's volunteers.

(cf. 1150 - Commendations and Awards)

The Superintendent or designee shall periodically report to the Board regarding the district's volunteer assistance program.

(cf. 0500 - Accountability)

Workers' Compensation Insurance

***Note: The following optional section is for use by districts that choose to extend workers' compensation insurance to volunteers as authorized, but not required, pursuant to Labor Code 3352 and 3364.5. Labor Code 3364.5 requires that the Board adopt a resolution to provide such insurance to volunteers. ***

The Board desires to provide a safe environment for volunteers and minimize the district's exposure to liability.

Upon the adoption of a resolution by the Board, volunteers shall be entitled to workers'

compensation benefits for any injury sustained while engaged in the performance of service for the district. (Labor Code 3364.5)

(cf. 3530 - Risk Management/Insurance)
(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)

Legal Reference:

EDUCATION CODE

8482-8484.6 After School Education and Safety program
8484.7-8484.9 21st Century Community Learning Center program
35021 Volunteer aides
35021.1 Automated records check
35021.3 Registry of volunteers for before/after school programs
44010 Sex offense; definition
44814-44815 Supervision of students during lunch and other nutrition periods
45125 Fingerprinting requirements
45125.01 Interagency agreements for criminal record information
45340-45349 Instructional aides
45360-45367 Teacher aides
48981 Parental notifications
49024 Activity Supervisor Clearance Certificate
49406 Examination for tuberculosis

GOVERNMENT CODE

3543.5 Prohibited interference with employees' rights
12940 Prohibited discrimination and harassment

HEALTH AND SAFETY CODE

1596.7995 Immunization requirements for volunteers in child care center or preschool
1596.871 Fingerprints of individuals in contact with child day care facility clients

LABOR CODE

1720.4 Public works; exclusion of volunteers from prevailing wage law
3352 Workers' compensation; definitions
3364.5 Authority to provide workers' compensation insurance for volunteers

PENAL CODE

290 Registration of sex offenders
290.4 Information re: sex offenders
290.95 Disclosure by person required to register as sex offender
626.81 Sex offender; permission to volunteer at school

CODE OF REGULATIONS, TITLE 22

101170 Criminal record clearance
101216 Health screening, volunteers in child care centers

PUBLIC EMPLOYMENT RELATIONS BOARD DECISIONS

Whisman Elementary School District, (1991) PERB Decision No. 868

Management Resources:

WEB SITES

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

California Department of Education, Parents/Family and Community:

<http://www.cde.ca.gov/ls/pf>

California Department of Justice, Megan's Law: <http://www.meganslaw.ca.gov>

California Parent Teacher Association: <http://www.capta.org>

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

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Administrative Regulation

Volunteer Assistance

AR 1240

Community Relations

Duties of Volunteers

The Superintendent or designee may assign volunteers to:

1. Assist certificated personnel in the performance of their duties, including in the supervision of students and in the performance of instructional tasks which, in the judgment of the certificated personnel to which the volunteer is assigned, may be performed by a person not licensed as a classroom teacher (Education Code 35021, 45343, 45344, 45349)

(cf. 4222 - Teacher Aides/Paraprofessionals)

(cf. 5148 - Child Care and Development)

(cf. 5148.2 - Before/After School Programs)

2. Serve as nonteaching aides under the immediate supervision and direction of certificated personnel to perform noninstructional work which assists certificated personnel in the performance of teaching and administrative responsibilities (Education Code 35021)

3. Supervise students during lunch, breakfast, or other nutritional periods (Education Code 35021, 44814, 44815)

4. Work on short-term facilities projects pursuant to the section below entitled "Volunteer Facilities Projects"

5. Perform other duties in support of district or school operations as approved by the Superintendent or designee

(cf. 6163.1 - Library Media Centers)

Volunteers shall not be authorized to assign grades to students, and shall not be used to assist certificated staff in performing teaching or administrative responsibilities in place of regularly authorized classified employees who have been laid off. (Education Code 35021, 45344)

(cf. 4217.3 - Layoff/Rehire)

Basic Skills Proficiency Requirement

Volunteers who supervise or provide instruction to students pursuant to Education Code 45349 shall submit evidence of basic skills proficiency to the Superintendent or designee. (Education

Code 45344.5, 45349)

(cf. 4212 - Appointment and Conditions of Employment)

Criminal Background Check

***Note: Education Code 49024 requires that, prior to beginning volunteer duties working with students in a student activity program, as defined below, a volunteer must either (1) clear a Department of Justice and Federal Bureau of Investigation criminal background check or (2) obtain an Activity Supervisor Clearance Certificate from the Commission on Teacher Credentialing. The following paragraph gives individual volunteers discretion to choose which method to use to meet the requirement, and should be modified by districts that choose to require that a particular method be used by all volunteers in student activity programs. ***

Prior to assuming a volunteer position working with students in a district-sponsored student activity program, a volunteer shall obtain fingerprint clearance through the Department of Justice and Federal Bureau of Investigation. At his/her discretion, the volunteer may choose to meet this requirement by obtaining an Activity Supervisor Clearance Certificate from the Commission on Teacher Credentialing. Student activity programs include, but are not limited to, scholastic programs, interscholastic programs, and extracurricular activities sponsored by the district or a school booster club, such as cheer team, drill team, dance team, and marching band. (Education Code 49024)

(cf. 4112.5/4212.5/4312.5 - Criminal Background Check)

(cf. 4127/4227/4327 - Temporary Athletic Team Coaches)

(cf. 6145 - Extracurricular and Cocurricular Activities)

The Superintendent or designee shall determine which volunteer positions in the district are subject to the above requirement.

The criminal background check requirement shall not apply to volunteer supervisors for breakfast, lunch, or other nutritional periods or to volunteer nonteaching aides under the immediate supervision and direction of certificated personnel pursuant to Education Code 35021, including parents/guardians volunteering in a classroom or on a field trip or community members providing noninstructional services. (Education Code 49024)

Note: Education Code 45125.01 authorizes multiple districts within a county or within contiguous counties to enter into an agreement to share criminal record information of noncertificated employees and volunteers working in a student activity program; see AR 4112.5/4212.5/4312.5 - Criminal Record Check.

Registered Sex Offenders

***Note: To determine whether a potential volunteer is a registered sex offender, the district may check the Department of Justice's Megan's Law web site, request a background check from law enforcement pursuant to Education Code 35021.1, and/or require volunteers to certify as to

their status. The following paragraph should be modified to reflect district practice. ***

The Superintendent or designee may require all volunteers to disclose whether they are a registered sex offender and/or to provide the district with sufficient information in order to allow verification of this status on the Department of Justice's Megan's Law web site.

***Note: Penal Code 626.81, as amended by SB 326 (Ch. 279, Statutes of 2013), requires principals to notify parents/guardians of students at the school whenever a registered sex offender is granted permission to volunteer at the school, as provided below. ***

The principal may grant a registered sex offender, who is not the parent/guardian of a student at the school, permission to come into a school building or upon school grounds to volunteer at the school. At least 14 days prior to the first date for which permission has been granted, the principal or designee shall notify the parent/guardian of each student at the school, using one of the methods specified in Education Code 48981, that a person who is required to register as a sex offender pursuant to Penal Code 290 has been granted permission to come into a school building or upon school grounds, the date(s) and times for which permission has been granted, and the parent/guardian's right to obtain information regarding the person from a designated law enforcement agency. (Penal Code 626.81)

(cf. 5145.6 - Parental Notifications)

However, no person who is required to register as a sex offender pursuant to Penal Code 290 shall be assigned as a volunteer to assist certificated personnel in the performance of their duties; supervise students during lunch, breakfast, or other nutritional period; or serve as a nonteaching aide to perform noninstructional tasks. In addition, a person who is required to register as a sex offender because of a conviction for a crime where the victim was a minor under age 16 shall not serve as a volunteer in any capacity in which he/she would be working directly and in an unaccompanied setting with minors on more than an incidental and occasional basis or have supervision or disciplinary power over minors. (Education Code 35021, 45349; Penal Code 290.95)

(cf. 3515.5 - Sex Offender Notification)

Tuberculosis Assessment/Examination

***Note: As amended by AB 1667 (Ch. 329, Statutes of 2014), Education Code 49406 requires school volunteers, with certain authorized exceptions, to submit to a tuberculosis risk assessment as developed by the California Department of Public Health. If risk factors are identified, then the volunteer is required to submit to an intradermal (skin) tuberculin test or other tuberculin test recommended by the Centers for Disease Control and Prevention. ***

Upon initial volunteer assignment, a volunteer shall have on file with the school a certificate showing that he/she has submitted to a tuberculosis risk assessment and, if tuberculosis risk factors were identified, was examined and found to be free of infectious tuberculosis. (Education Code 49406)

(cf. 4112.4/4212.4/4312.4 - Health Examinations)

***Note: The following paragraph is optional pursuant to Education Code 49406. ***

The Superintendent or designee may exempt from the tuberculosis risk assessment and/or examination those volunteers whose functions do not require frequent or prolonged contact with students. (Education Code 49406)

Note: See AR 5148.2 - Before/After School Programs for information about health screening and fingerprint clearance requirements for volunteers in the After School Education and Safety program and 21st Century Community Learning Center program pursuant to Education Code 8483.4 and 35021.3

Volunteer Facilities Projects

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

***Note: Pursuant to Labor Code 1720.4, volunteers are exempt from laws requiring workers employed in public works projects (e.g., construction and repair work) to be paid at least the general prevailing rate of per diem wages. ***

All volunteer facilities projects shall have approximate start and completion dates and shall be approved by the principal in advance. Projects also shall be approved in advance by the Superintendent or designee if they involve the following types of work:

1. Alterations, additions, or repairs to buildings and grounds
2. Construction involving wall or roof penetration, drilling, or nailing
3. Structural modifications
4. Electrical, electronic, plumbing, or heating and cooling work
5. Painting
6. Installation of carpet, playground equipment, benches, sprinkler systems, marquees or signs
7. Paving
8. Tree planting, pruning, or removal

The Superintendent or designee shall ensure that volunteers possess the appropriate license and/or have sufficient expertise required for the project. He/she shall also ensure that such projects comply with building and safety codes and other applicable laws and collective

bargaining agreements. The district shall provide on-site assistance and supervision for such projects as necessary.

(cf. 3514 - Environmental Safety)

(cf. 3514.1 - Hazardous Substances)

(cf. 7140 - Architectural and Engineering Services)

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Board Policy

Visitors/Outsiders

BP 1250

Community Relations

The Governing Board believes that it is important for parents/guardians and community members to take an active interest in the issues affecting district schools and students. Therefore, the Board encourages interested parents/guardians and community members to visit the schools and participate in the educational program.

(cf. 1240 - Volunteer Assistance)
(cf. 5020 - Parent Rights and Responsibilities)
(cf. 6020 - Parent Involvement)

***Note: In *Reeves v. Rocklin Unified School District*, a California Court of Appeal affirmed districts' authority to establish reasonable regulations for student safety and protection against disruptions on school campuses. ***

To ensure the safety of students and staff and minimize interruption of the instructional program, the Superintendent or designee shall establish procedures which facilitate visits during regular school days. Visits during school hours should be arranged with the principal or designee. When a visit involves a conference with a teacher or the principal, an appointment should be scheduled during noninstructional time.

(cf. 6116 - Classroom Interruptions)

***Note: Penal Code 627.2 requires "outsiders" to register upon entering school grounds during school hours, and Penal Code 627.1 lists individuals who are not "outsiders" for this purpose; see the accompanying administrative regulation. Education Code 32212 authorizes the Governing Board to adopt policy to control classroom interruptions consistent with local circumstances (see AR 6116 - Classroom Interruptions) and Education Code 35160 authorizes the Board to act in any manner not inconsistent with law. Therefore, it appears that a district has the authority to require all visitors, including parents/guardians as well as those not defined as "outsiders" in Penal Code 627.1, to register upon entering school campus and to comply with other reasonable requirements. ***

***Note: Pursuant to Penal Code 627.1, media representatives are not "outsiders." However, the Attorney General has opined (95 Ops.Cal.Atty.Gen. 509 (1996)) that the Board may restrict media representatives' access in the same manner as access by the general public may be limited (e.g., registration or accompaniment by a staff member when on school grounds). Therefore, if a district has developed a policy requiring all visitors or outsiders to register upon entering school grounds, then media may be subject to the same requirements; see BP 1112 - Media Relations. ***

Note: The following options may be revised to reflect district practice. Option 1 requires anyone who is not a student or staff member to register. Option 2 requires registration only for individuals who are not listed in Penal Code 627.1 (i.e., individuals who are "outsiders").

OPTION 1: Any person who is not a student or staff member shall register immediately upon entering any school building or grounds when school is in session.

OPTION 2: All outsiders, as defined in law and administrative regulation, shall register immediately upon entering any school building or grounds when school is in session. (Penal Code 627.2)

(cf. 1112 - Media Relations)

***Note: The remainder of this policy may be used by all districts. ***

The principal or designee may provide a visible means of identification for all individuals who are not students or staff members while on school premises.

No electronic listening or recording device may be used by any person in a classroom without the teacher's and principal's permission. (Education Code 51512)

***Note: Pursuant to Education Code 35160, the Board is responsible for maintaining order in schools under its jurisdiction. Therefore, in accordance with law, the district may authorize school administrators to direct disruptive individuals to leave school grounds; see AR 3515.2 - Disruptions. Penal Code 626.7 provides that a person who is directed to leave the campus and fails to leave, or later reenters without following the school's posted registration requirements, may be guilty of a misdemeanor. ***

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

The Board encourages all individuals to assist in maintaining a safe and secure school environment by behaving in an orderly manner while on school grounds and by utilizing the district's complaint processes if they have concerns with any district program or employee. In accordance with Penal Code 626.7, the principal or designee may request that any individual who is causing a disruption, including exhibiting volatile, hostile, aggressive, or offensive behavior, immediately leave school grounds.

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 1312.2 - Complaints Concerning Instructional Materials)
(cf. 1312.3 - Uniform Complaint Procedures)
(cf. 1312.4 - Williams Uniform Complaint Procedures)
(cf. 3515.2 - Disruptions)

Presence of Sex Offender on Campus

Note: Pursuant to Penal Code 626.81, registered sex offenders are prohibited from school buildings and grounds except for lawful business and with written permission. As amended by SB 326 (Ch. 279, Statutes of 2013), Penal Code 626.81 requires that the written permission indicate the date(s) for which permission is granted. It also authorizes the principal to grant permission to a registered sex offender who is not the parent/guardian of a student at the school to volunteer at the school, provided that the principal notify the parent/guardian of each student at the school; see AR 1240-Volunteer Assistance.

Note: In addition, pursuant to Education Code 49091.10 and 51101, parents/guardians, including those who are required to register as sex offenders, have a prescribed right to be involved in the education of their children. Thus, the district must adopt measures that are effective in maintaining a safe school environment while avoiding a violation of the statutory rights of such parents/guardians.

Any person who is required to register as a sex offender pursuant to Penal Code 290, including a parent/guardian of a district student, shall request written permission from the principal before entering the school campus or grounds. As necessary, the principal shall consult with local law enforcement authorities before allowing the presence of any such person at school or other school activity. The principal also shall report to the Superintendent or designee anytime he/she gives such written permission.

The principal shall indicate on the written permission the date(s) and times for which permission has been granted. (Penal Code 626.81)

Legal Reference:

EDUCATION CODE

32210 Willful disturbance of public school or meeting

32211 Threatened disruption or interference with classes; misdemeanor

32212 Classroom interruptions

35160 Authority of governing boards

35292 Visits to schools (board members)

49091.10 Parental right to inspect instructional materials and observe school activities

51101 Parent Rights Act of 2002

51512 Prohibited use of electronic listening or recording device

EVIDENCE CODE

1070 Refusal to disclose news source

LABOR CODE

230.8 Discharge or discrimination for taking time off to participate in child's educational activities

PENAL CODE

290 Sex offenders

626-626.10 Schools

626.81 Misdemeanor for registered sex offender to come onto school grounds

627-627.10 Access to school premises, especially:

627.1 Definitions

627.2 Necessity of registration by outsider

627.7 Misdemeanors; punishment

COURT DECISIONS

Reeves v. Rocklin Unified School District, (2003) 109 Cal.App.4th 652

ATTORNEY GENERAL OPINIONS

95 Ops.Cal.Atty.Gen. 509 (1996)

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Administrative Regulation

Visitors/Outsiders

AR 1250

Community Relations

***Note: Penal Code 627.6 requires that the following notice be posted at the entrance to each school and school grounds. In addition, Education Code 32211 requires that the notice include the "school hours," defined as the period from one hour before classes begin to one hour after classes end, unless it is otherwise defined by the Governing Board. ***

The Superintendent or designee shall post at every entrance to each school and school grounds a notice describing registration requirements, school hours or hours during which registration is required, the registration location, the route to take to that location, and the penalties for violation of registration requirements. (Education Code 32211; Penal Code 627.6)

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

Unless otherwise directed by the principal or designee, a staff member shall accompany visitors/outsideers while they are on school grounds.

Outsider Registration

***Note: The following section should be used only by districts that select Option 2 of the accompanying Board policy, which requires registration only for "outsiders" as defined in Penal Code 627.2. ***

Outsiders shall register upon entering school premises during school hours. Any person other than the following is considered an outsider: (Evidence Code 1070; Penal Code 627.1, 627.2)

1. A student of the school, unless currently under suspension
2. A parent/guardian of a student of the school
3. A Governing Board member or district employee
4. A public employee whose employment requires being on school grounds, or any person who is on school grounds at the school's request
5. A representative of a school employee organization who is engaged in activities related to the representation of school employees
6. An elected public official

7. A publisher, editor, reporter, or other person connected with or employed by a newspaper, magazine, other periodical publication, press association or wire service, radio station, or television station

(cf. 1112 - Media Relations)

Registration Procedure

***Note: Registration items listed below are those required by Penal Code 627.3 when "outsiders" register at a school. Pursuant to Education Code 32212 which authorizes districts to adopt a policy to control classroom interruptions, any district choosing Option 1 in the accompanying Board policy may also use the following list. When a district choosing Option 1 wishes to require the same information of all visitors, "outsider" should be changed to "visitor" in the following section. ***

In order to register, an outsider shall, upon request, furnish the principal or designee with the following information: (Penal Code 627.3)

1. His/her name, address, and occupation
2. His/her age, if less than 21
3. His/her purpose for entering school grounds
4. Proof of identity
5. Other information consistent with the provisions of law

Principal's Registration Authority

***Note: Pursuant to Penal Code 627.4, the following section applies to districts that choose Option 2 in the accompanying Board policy. However, pursuant to Education Code 32212, districts that choose Option 1 also may use the section, if consistent with their local circumstances. When a district choosing Option 1 wishes to use this section, "outsider" should be changed to "visitor" throughout the following section. ***

The principal or designee may refuse to register any outsider if he/she reasonably concludes that the individual's presence or acts would disrupt the school, students, or employees; would result in damage to property; or would result in the distribution or use of a controlled substance. The principal or designee or school security officer may revoke any outsider's registration if he/she has a reasonable basis for concluding that the individual's presence on school grounds would interfere or is interfering with the peaceful conduct of school activities or would disrupt or is disrupting the school, students, or staff. (Penal Code 627.4)

(cf. 3515.2 - Disruptions)

(cf. 3515.3 - District Police/Security Department)

When an outsider fails to register, or when the principal or designee denies or revokes an outsider's registration privileges, the principal or designee may request that the individual promptly leave school grounds. When an outsider is directed to leave, the principal or designee shall inform him/her that if he/she reenters the school within seven days he/she may be guilty of a misdemeanor subject to a fine and/or imprisonment. (Penal Code 627.7)

Appeal Procedure

Any person who is denied registration or whose registration is revoked may appeal to the Superintendent or principal by submitting, within five days after the person's departure from school, a written request for a hearing. This request must state why he/she believes the denial or revocation was improper and must provide an address to which the hearing notice may be sent. Upon receipt of the request for a hearing, the Superintendent or principal shall promptly mail a notice of the hearing to the person requesting it. A hearing before the Superintendent or principal shall be held within seven days after receipt of the request. (Penal Code 627.5)

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.3 - Uniform Complaint Procedures)

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Board Policy

Educational Foundation

BP 1260

Community Relations

***Note: The following policy is optional and should be revised to reflect district practice. See BP 1230 -School-Connected Organizations for language regarding school-connected organizations, such as booster clubs and parent-teacher organizations. ***

The Governing Board recognizes the importance of community support of district programs, including voluntary financial contributions, to assist the district in achieving its goals for student learning.

(cf. 0200 - Goals for the School District)
(cf. 1230 - School-Connected Organizations)
(cf. 5030 - Student Wellness)
(cf. 6020 - Parent Involvement)
(cf. 6145 - Extracurricular and Cocurricular Activities)
(cf. 6145.2 - Athletic Competition)

Note: An educational foundation is a separate legal entity from the district and thus its activities are not under the control of the district. Certain tax-exempt organizations may be required to register with the state Attorney General's Registry of Charitable Trusts. As part of this registration, organizations may be required to file copies of the organization's articles of incorporation and other documents governing its operations. These documents should also define the Board's relationship with the foundation and specify how foundation directors will be chosen. The California Consortium of Education Foundations provides information on its web site regarding the creation of foundations.

Note: Educational foundations may be created to benefit the entire district, a specific school, or to support or sustain a variety of purposes, such as the arts, music, and/or computer programs; to provide graduating students with scholarships and/or loans; and to develop programs which meet new educational needs. It is strongly recommended that the Board and foundation work cooperatively to identify specific needs and to develop guidelines as to how resources will be used. For language regarding the acceptance of gifts and grants, see BP 3290 - Gifts, Grants and Bequests.

The Board desires to work cooperatively with the educational foundation in determining the purposes for which funds may be used to meet the changing needs of the district and its students. The Board recognizes that an educational foundation is a separate legal entity, independent of the district. However, the foundation is encouraged to provide regular reports to the Board on the status of its work and to communicate ways that the district can help support the foundation's activities.

(cf. 3290 - Gifts, Grants and Bequests)
(cf. 9140 - Board Representatives)

With the consent of the Superintendent or designee, the educational foundation, as appropriate, may use the district's name, a school's name, a school team's name, or any logo attributable to a school or the district.

Note: In some districts, there may be concerns in the community about the equity of some schools benefiting from the money raised by a foundation while other schools in the district may not have access to the same resources. The following optional paragraph reflects the Board's goal that all of the schools within the district share in the benefits provided by the foundation's work.

The Board supports foundation allocations that serve all district schools equitably.

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

Legal Reference:

EDUCATION CODE

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

BUSINESS AND PROFESSIONS CODE

12580-12599.7 Fundraisers for Charitable Purposes Act

17510-17510.95 Solicitations for charitable purposes

25608 Alcohol on school property; use in connection with instruction

PENAL CODE

319-329 Lottery, raffle

CODE OF REGULATIONS, TITLE 11

300-312.1 Fundraising for charitable purposes

COURT DECISIONS

Serrano v. Priest, (1976) 18 Cal. 3d 728

Management Resources:

WEB SITES

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

California Consortium of Education Foundations: <http://www.cceflink.org>

California Office of the Attorney General, charitable trust registry:

<http://caag.state.ca.us/charities>

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Board Policy

Complaints Concerning District Employees

BP 1312.1

Community Relations

Note: The following Board policy may be subject to collective bargaining and should be revised to reflect district practice. See the accompanying administrative regulation for a sample complaint procedure.

The Governing Board recognizes its accountability to the public for the quality of the district's educational program and the performance of district employees. The district shall provide a process by which a complaint submitted by any person regarding an employee can be resolved impartially, expeditiously, and with minimal disruption to district operations and the educational program.

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

Note: In *Baca v. Moreno Valley Unified School District*, a federal district court found that a district policy barring criticism of employees at public board meetings violated the plaintiff's First Amendment rights by restricting the content of speech. The court further noted that the district could not legally prevent a person from speaking in open session, even if the speech was clearly defamatory. Thus, although the Governing Board may inform the speaker of appropriate district complaint procedures, it cannot prohibit public criticism of district employees. See BB 9323 - Meeting Conduct.

When a concern regarding an employee is presented during a Board meeting or to an individual Board member or employee outside of a Board meeting, the complainant shall be informed of the appropriate complaint procedure.

(cf. 9323 - Meeting Conduct)

Any complaint regarding the Superintendent shall be initially filed in writing with the Board. The Board shall consult with legal counsel or appoint an appropriate agent to conduct the investigation.

The Superintendent or designee shall determine whether a complaint against any other employee should be considered a complaint against the district and/or an individual employee, and whether it should be resolved by the district's process for complaints concerning personnel and/or other district procedures. Any complaint of child abuse or neglect alleged against a district employee shall be reported to the appropriate local agencies in accordance with law and BP 5141.4 - Child Abuse Prevention and Reporting. Any complaint alleging that an employee engaged in unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) in district programs and activities shall be filed in accordance with BP/AR 1312.3 - Uniform Complaint Procedures.

Any complaint by an employee, job applicant, volunteer, intern, or independent contractor alleging unlawful discrimination or harassment by an employee shall be filed in accordance with AR 4030 - Nondiscrimination in Employment.

(cf. 1312.2 - Complaints Concerning Instructional Materials)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 3555 - Nutrition Program Compliance)

(cf. 4030 - Nondiscrimination in Employment)

(cf. 4144/4244/4344 - Complaints)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

Any complaint subject to this policy and the accompanying administrative regulation shall be investigated by the principal, the employee's immediate supervisor, the Superintendent or designee, legal counsel, agent of the Board, and/or other appropriate person who is not the subject of the complaint or subordinate to the employee charged in the complaint. The complainant and the employee shall have an opportunity to present information relevant to the complaint.

Note: The following paragraph may be revised to reflect district practice. It is recommended that districts investigate all complaints, including those submitted anonymously, since failure to do so may subject the district to liability depending on the nature of the allegation. For example, the district can be held liable for civil damages for the sexual harassment of a student by an employee if the district is found to have been "deliberately indifferent" in its response to a complaint; see BP 5145.7 - Sexual Harassment.

A complaint that is filed anonymously may be investigated by the Superintendent or designee depending on the specificity and reliability of the information.

If a complainant requests confidentiality, the Superintendent or designee shall inform the complainant that the request may limit the district's ability to investigate the employee's conduct or take other necessary action. However, the Superintendent or designee shall take all reasonable steps to investigate and resolve the complaint without divulging the complainant's identity.

The Board prohibits retaliation against complainants.

Appeals

Note: The following optional section is for use by districts that allow appeals to the Board and may be revised to reflect district practice.

If either the complainant or the employee submits an appeal of the Superintendent's decision to the Board, the Board shall determine whether to uphold the Superintendent's decision without hearing the complaint, appoint an appeals committee to advise the Board, or hear the appeal itself.

(cf. 9130 - Board Committees)

Note: Government Code 54957 authorizes the use of closed session for hearing specific complaints or charges against employees, unless the employee requests an open session. For detailed procedures and notice requirements, see BB 9321 - Closed Session Purposes and Agendas.

If the Board decides to hear the complaint, the matter shall be addressed in closed session in accordance with Government Code 54957 unless the employee requests that it be heard in open session. The Board shall review the original complaint and additional information provided by the Superintendent or designee regarding the steps taken to resolve the issue.

(cf. 9321 - Closed Session Purposes and Agendas)
(cf. 9323 - Meeting Conduct)

The Board's decision shall be final.

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

Legal Reference:

EDUCATION CODE

33308.1 Guidelines on procedure for filing child abuse complaints

35146 Closed sessions

44031 Personnel file contents and inspection

44811 Disruption of public school activities

44932-44949 Resignation, dismissal and leaves of absence (rights of employee; procedures to follow)

48987 Child abuse guidelines

GOVERNMENT CODE

54957 Closed session; complaints re employees

54957.6 Closed session; salaries or fringe benefits

PENAL CODE

273 Cruelty or unjustifiable punishment of child

11164-11174.3 Child Abuse and Neglect Reporting Act

WELFARE AND INSTITUTIONS CODE

300 Minors subject to jurisdiction of juvenile court

COURT DECISIONS

Baca v. Moreno Valley Unified School District, (1996) 936 F. Supp. 719

Administrative Regulation

Complaints Concerning District Employees

AR 1312.1

Community Relations

Note: The following optional administrative regulation outlines a process for handling complaints concerning district personnel and may be subject to collective bargaining. This process should not be used for complaints concerning a Governing Board member; such complaints should be filed in writing directly with the Board.

Note: The following regulation should be modified to reflect district practice.

Every effort should be made to resolve complaints regarding district employees at the earliest possible stage. Any person who complains about a district employee shall be encouraged to resolve the matter informally through direct communication with the employee whenever possible.

If a complainant is unable or unwilling to resolve the complaint directly with the employee, the complainant may submit a written complaint to the principal or other immediate supervisor of the employee. Complaints related to a principal or district administrator shall be initially filed in writing with the Superintendent or designee. If the complainant is unable to prepare the complaint in writing, administrative staff shall provide assistance in the preparation of the complaint.

A written complaint shall include the full name of the employee involved, a brief but specific summary of the complaint and the facts surrounding it, and a description of any prior attempt to discuss the complaint with the employee and the failure to resolve the matter.

To promote prompt and fair resolution of the complaint, the following procedures shall govern the resolution of complaints against district employees:

1. When a written complaint is received, the employee who is the subject of the complaint shall be notified within five days or in accordance with the collective bargaining agreement.
2. The principal or other immediate supervisor of the employee shall investigate and attempt to resolve the complaint to the satisfaction of the parties involved within 30 days. A complaint against a school or district administrator shall be investigated by the Superintendent or designee. The investigation may include interviews of the employee, complainant, or witnesses as necessary and/or a review any documentation relevant to the complaint.
3. Both the complainant and employee shall be notified in writing of the final decision regarding the resolution of the complaint.

4. Either the complainant or the employee against whom the complaint was made may appeal the decision. A decision by the principal or immediate supervisor may be appealed to the Superintendent or designee, who shall attempt to resolve the complaint to the satisfaction of the parties involved within 30 days. Either the complainant or the employee may appeal the Superintendent's decision to the Governing Board.

5. If the decision is appealed to the Board, the Superintendent or designee shall submit to the Board the following information:

a. The full name of each employee involved

b. A brief but specific summary of the complaint and the facts surrounding it, sufficient to inform the Board and the parties as to the precise nature of the complaint and to allow the parties to prepare a response

c. A copy of the signed original complaint

d. A summary of the action taken by the Superintendent or designee and the reasons that the problem has not been resolved

(6/94 3/01) 5/19

Board Policy

Complaints Concerning Instructional Materials

BP 1312.2

Community Relations

***Note: The following optional policy and the accompanying administrative regulation should be revised to reflect district practice. ***

The Governing Board uses a comprehensive process to adopt district instructional materials that is based on selection criteria established by law and Board policy and includes opportunities for the involvement of parents/guardians and community members. Complaints concerning the content or use of instructional materials, including textbooks, supplementary instructional materials, library materials, or other instructional materials and equipment, shall be properly and fairly considered using established complaint procedures.

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

(cf. 6161.11 - Supplementary Instructional Materials)

(cf. 6163.1 - Library Media Centers)

Parents/guardians are encouraged to discuss any concerns regarding instructional materials with their child's teacher and/or the school principal. If the situation remains unresolved, a complaint may be filed using the process specified in the administrative regulation.

The district shall accept complaints concerning instructional materials only from staff, district residents, or the parents/guardians of children enrolled in a district school.

When deliberating upon challenged materials, the Superintendent and/or review committee shall consider the educational philosophy of the district, the professional opinions of teachers of the subject and of other competent authorities, reviews of the materials by reputable bodies, the teacher's stated objectives in using the materials, community standards, and the objections of the complainant.

Complainants are encouraged to accept the Superintendent's or review committee's decision. However, if the complainant finds that decision unsatisfactory, he/she may appeal the decision to the Board.

(cf. 9322 - Agenda/Meeting Materials)

The district's decision shall be based on educational suitability of the materials and the criteria established in Board policy and administrative regulation.

(cf. 6144 - Controversial Issues)

(cf. 9000 - Role of the Board)

(cf. 9005 - Governance Standards)

***Note: The following optional paragraph limits reconsideration within a specified time period and should be modified to reflect district practice. ***

When any challenged instructional material is reviewed by the district, it shall not be subject to further reconsideration for 12 months, unless the Superintendent determines that reconsideration is warranted.

***Note: Education Code 35186 details a specific process that districts must use to resolve complaints regarding sufficiency/availability of instructional materials or textbooks. See AR/E 1312.4 - Williams Uniform Complaint Procedures. ***

Complaints related to sufficiency of textbooks or instructional materials shall be resolved pursuant to the district's Williams uniform complaint procedure at AR 1312.4.

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 1312.3 - Uniform Complaint Procedures)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

Legal Reference:

EDUCATION CODE

18111 Exclusion of books by governing board

35010 Control of district; prescription and enforcement of rules

35186 Williams Uniform Complaint Procedures

44805 Enforcement of course of studies; use of textbooks, rules and regulations

51501 Subject matter reflecting on race, color, etc.

60000-60005 Instructional materials, legislative intent

60040-60048 Instructional requirements and materials

60119 Public hearing on sufficiency of materials

60200-60206 Elementary school materials

60226 Requirements for publishers and manufacturers

60400-60411 High school textbooks

60510-60511 Donation of sale of obsolete instructional materials

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PROGRAM ADVISORIES

1002.90 Selection of Instructional Materials, CIL: 90/91-02

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Standards for Evaluation of Instructional Materials with Respect to Social Content, 1986 edition, revised 2001

WEB SITES

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

California Department of Education, Curriculum and Instruction: <http://www.cde.ca.gov/ci>

(9/88 12/90) 3/06

Administrative Regulation

Complaints Concerning Instructional Materials

AR 1312.2

Community Relations

***Note: The following optional regulation should be modified to reflect district practice. For a specific process that districts must use to resolve complaints regarding sufficiency of instructional materials or textbooks pursuant to Education Code 35186, see AR/E 1312.4 - Williams Uniform Complaint Procedures. ***

Step 1: Informal Complaint

If a staff member, district resident, or parent/guardian of a student enrolled in a district school has a complaint regarding the content or use of any specific instructional material, he/she shall informally discuss the material in question with the principal.

Step 2: Formal Complaint

If the complainant is not satisfied with the principal's initial response, he/she shall present a written complaint to the principal. Complaints regarding printed material shall name the author, title, and publisher and shall identify the objection by page and item numbers. In the case of nonprinted material, written information specifying the precise nature of the objection shall be given. Complainants shall sign all complaints and provide identifying information so that the district is able to make a proper reply. Anonymous complaints will not be accepted.

Upon receiving a complaint, the principal shall acknowledge its receipt and answer any questions regarding procedure. The principal then shall notify the Superintendent or designee and the teacher(s) involved of the complaint.

During the investigation of the complaint, the challenged material may remain in use until a final decision has been reached. However, upon request of the parent/guardian who has filed the complaint, his/her child may be excused from using challenged materials until a resolution has been reached. The teacher shall assign the student an alternate material of equal merit.

Step 3: Superintendent Determination

The Superintendent or designee shall determine whether a review committee should be convened to review the complaint.

If the Superintendent or designee determines that a review committee is not necessary, he/she shall issue a decision regarding the complaint.

Step 4: Review Committee

If the Superintendent or designee determines that a review committee is necessary, he/she shall appoint a committee composed of administrators and staff members selected from relevant instructional and administrative areas. The Superintendent or designee may also appoint community members to serve on the committee.

The review committee shall review the criteria specified in Board policy and shall determine the extent to which the challenged material supports the curriculum, the educational appropriateness of the material, and its suitability for the age level of the student.

Within 30 days of being convened, the review committee shall summarize its findings in a written report. The Superintendent or designee shall notify the complainant of the committee's decision within 15 days of receiving the committee's report.

Step 5: Appeal to the Governing Board

If the complainant remains unsatisfied, he/she may appeal the Superintendent's or the review committee's decision to the Board. The Board's decision shall be final.

(cf. 9322 - Agenda/Meeting Materials)

(12/90) 3/06

Exhibit

Complaints Concerning Instructional Materials

E 1312.2
Community Relations

REQUEST FOR RECONSIDERATION OF INSTRUCTIONAL MATERIALS

This form is for use only by district employees, district residents, or parents/guardians of children enrolled in a district school to challenge the content or use of an instructional material. For complaints regarding sufficiency of instructional materials, please use the Williams Uniform Complaint Procedure complaint form.

Date: _____

Name of person filing complaint: _____
Anonymous complaints will not be accepted.

Group represented (if any): _____

Phone: _____ E-mail address, if any: _____

Address: _____

Material Being Challenged:

Title: _____

Author: _____

Publisher: _____ Date of Edition: _____

Name of school/classroom material was used: _____

1. Please specifically state the nature of your concern or objection and identify your objection by page, tape sequence, video frame, or words, as appropriate. You may use additional pages if necessary.
2. Did you read/view the entire selection?
3. For what age group would you recommend this material?

4. If not, what percentage did you read/view, or what parts?
5. What do you feel might be the result if a student reads/views this material?
6. What would you like the school to do about this material?
- ___ Do not assign it to my child
 - ___ Withdraw it from all students
 - ___ Reconsider it

Signature of complainant

For District Use:

Request received by: Date:

Title: _____

Action taken: Date:

(12/90) 3/06

Board Policy

Uniform Complaint Procedures

BP 1312.3

Community Relations

Note: To address prohibited discrimination and violations of state and federal laws governing educational programs, 5 CCR 4621 mandates districts to adopt uniform complaint procedures (UCP) consistent with the state's complaint procedures specified in 5 CCR 4600-4670. See the section "Complaints Subject to UCP" below for a list of programs and activities subject to these procedures pursuant to state law.

Note: The California Department of Education (CDE) monitors district programs and operations for compliance with these requirements through its Federal Program Monitoring (FPM) process. The FPM consists of a review of (1) written district policies and procedures for required statements, including prohibition of discrimination (such as discriminatory harassment, intimidation, and bullying) against students pursuant to Education Code 234.1; and (2) records of required activities, such as annual notification provided to students, parents/guardians, employees, and other school community members.

Note: The U.S. Department of Education's Office for Civil Rights (OCR) enforces federal anti-discrimination laws, including Title II of the Americans with Disabilities Act (42 USC 12101-12213), Title VI of the Civil Rights Act of 1964 (42 USC 2000d-2000e-17), Title IX of the Education Amendments Act of 1972 (20 USC 1681-1688), Section 504 of the Rehabilitation Act of 1973 (29 USC 794), and the Age Discrimination Act of 1975 (42 USC 6101-6107). Whether a complaint of sexual harassment is addressed through the UCP or the federal Title IX complaint procedures adopted pursuant to 34 CFR 106.44-106.45, as added by 85 Fed. Reg. 30026, is dependent on whether the alleged conduct meets the more stringent federal definition or the state definition of sexual harassment. See the accompanying administrative regulation, BP/AR 5147 - Sexual Harassment, and AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.

Note: The following policy and accompanying administrative regulation reflect all components required by law, 5 CCR 4600-4670, as amended by Register 2020, No. 21, and the 2020-21 FPM instrument. Additional details provided herein may help districts during a compliance check by CDE or in the event that a CDE or OCR investigation occurs.

The Governing Board recognizes that the district has the primary responsibility to ensure compliance with applicable state and federal laws and regulations governing educational programs. The Board encourages early resolution of complaints whenever possible. To resolve complaints which may require a more formal process, the Board adopts the uniform system of complaint processes specified in 5 CCR 4600-4670 and the accompanying administrative regulation.

Complaints Subject to UCP

Note: The FPM process includes a review of a district's policies and procedures to determine whether all district programs and activities that are subject to the UCP, as listed in the FPM instrument, are addressed. Items #1-23 list all programs and activities identified in the FPM instrument. According to CDE, the district's policy must list all such programs and activities and, at the district's discretion, may add a paragraph below the list stating the UCP programs and activities that are implemented in the district.

Note: For further information regarding requirements for the following programs and activities, see the related CSBA policy and/or administrative regulation.

The district's uniform complaint procedures (UCP) shall be used to investigate and resolve complaints regarding the following programs and activities:

1. Accommodations for pregnant and parenting students (Education Code 46015)
(cf. 5146 - Married/Pregnant/Parenting Students)
2. Adult education programs (Education Code 8500-8538, 52334.7, 52500-52617)
(cf. 6200 - Adult Education)
3. After School Education and Safety programs (Education Code 8482-8484.65)
(cf. 5148.2 - Before/After School Programs)
4. Agricultural career technical education (Education Code 52460-52462)
5. Career technical and technical education and career technical and technical training programs (Education Code 52300-52462)
(cf. 6178 - Career Technical Education)
(cf. 6178.1 - Work-Based Learning)
6. Child care and development programs (Education Code 8200-8498)
(cf. 5148 - Child Care and Development)
7. Compensatory education (Education Code 54400)
(cf. 6171 - Title I Programs)
8. Consolidated categorical aid programs (Education Code 33315; 34 CFR 299.10-299.12)
9. Course periods without educational content, when students in grades 9-12 are assigned to

such courses more than one week in any semester or in a course the student has previously satisfactorily completed, unless specified conditions are met (Education Code 51228.1-51228.3)

(cf. 6152 - Class Assignment)

10. Discrimination, harassment, intimidation, or bullying in district programs and activities, including in those programs or activities funded directly by or that receive or benefit from any state financial assistance, based on the person's actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, immigration status, ethnic group identification, age, religion, marital status, pregnancy, parental status, physical or mental disability, medical condition, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55, or based on the person's association with a person or group with one or more of these actual or perceived characteristics (5 CCR 4610)

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

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.7 - Sexual Harassment)

(cf. 5145.71 - Title IX Sexual Harassment Complaint Procedures)

11. Educational and graduation requirements for students in foster care, homeless students, students from military families, students formerly in a juvenile court school, migrant students, and immigrant students participating in a newcomer program (Education Code 48645.7, 48853, 48853.5, 49069.5, 51225.1, 51225.2)

(cf. 6173 - Education for Homeless Children)

(cf. 6173.1 - Education for Foster Youth)

(cf. 6173.2 - Education of Children of Military Families)

(cf. 6173.3 - Education for Juvenile Court School Students)

12. Every Student Succeeds Act (Education Code 52059; 20 USC 6301 et seq.)

13. Local control and accountability plan (Education Code 52075)

(cf. 0460 - Local Control and Accountability Plan)

14. Migrant education (Education Code 54440-54445)

(cf. 6175 - Migrant Education Program)

15. Physical education instructional minutes (Education Code 51210, 51222, 51223)

(cf. 6142.7 - Physical Education and Activity)

16. Student fees (Education Code 49010-49013)

(cf. 3260 - Fees and Charges)

17. Reasonable accommodations to a lactating student (Education Code 222)

18. Regional occupational centers and programs (Education Code 52300-52334.7)

(cf. 6178.2 - Regional Occupational Center/Program)

19. School plans for student achievement as required for the consolidated application for specified federal and/or state categorical funding (Education Code 64001)

(cf. 0420 - School Plans/Site Councils)

20. School safety plans (Education Code 32280-32289)

(cf. 0450 - Comprehensive Safety Plan)

21. School site councils as required for the consolidated application for specified federal and/or state categorical funding (Education Code 65000)

(cf. 0420 - School Plans/Site Councils)

22. State preschool programs (Education Code 8235-8239.1)

(cf. 5148.3 - Preschool/Early Childhood Education)

Note: Pursuant to Education Code 8235.5 and CDE's 2020-21 FPM instrument, the district must use the UCP, with modifications as necessary, to resolve complaints alleging deficiencies in license-exempt California State Preschool Programs related to health and safety issues. Pursuant to 5 CCR 4610, such complaints must be addressed through the procedures described in 5 CCR 4690-4694, as added by Register 2020, No. 21. See the section "Health and Safety Complaints in License-Exempt Preschool Programs" in the accompanying administrative regulations.

23. State preschool health and safety issues in license-exempt programs (Education Code 8235.5)

Note: 5 CCR 4621 mandates that district policy ensure that complainants are protected from retaliation as specified in item #24 below.

24. Any complaint alleging retaliation against a complainant or other participant in the complaint process or anyone who has acted to uncover or report a violation subject to this policy

25. Any other state or federal educational program the Superintendent of Public Instruction or designee deems appropriate

Note: 5 CCR 4631 authorizes the district to utilize alternative dispute resolution (ADR) methods, including mediation, to resolve complaints before initiating a formal investigation. However, the district should ensure that any ADR it uses, particularly "in-person ADR," is appropriate for the particular situation. For example, in some instances (e.g., sexual assault), face-to-face mediation should not be used, even if all parties voluntarily agree, given the risk that a student might feel pressured to "voluntarily" agree to it. The following optional paragraph provides for a neutral mediator and should be revised to reflect district practice.

The Board recognizes that alternative dispute resolution (ADR) can, depending on the nature of the allegations, offer a process for resolving a complaint in a manner that is acceptable to all parties. An ADR process such as mediation may be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. The Superintendent or designee shall ensure that the use of ADR is consistent with state and federal laws and regulations.

Note: The following paragraph is mandated pursuant to 5 CCR 4621. Appropriate disclosure will vary in each case depending on the facts and circumstances.

The district shall protect all complainants from retaliation. In investigating complaints, the confidentiality of the parties involved shall be protected as required by law. For any complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the Superintendent or designee shall keep the identity of the complainant, and/or the subject of the complaint if different from the complainant, confidential when appropriate and as long as the integrity of the complaint process is maintained.

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 5125 - Student Records)
(cf. 9011 - Disclosure of Confidential/Privileged Information)

When an allegation that is not subject to UCP is included in a UCP complaint, the district shall refer the non-UCP allegation to the appropriate staff or agency and shall investigate and, if appropriate, resolve the UCP-related allegation(s) through the district's UCP.

The Superintendent or designee shall provide training to district staff to ensure awareness and knowledge of current law and requirements related to UCP, including the steps and timelines specified in this policy and the accompanying administrative regulation.

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

Note: It is important to maintain records of all UCP complaints and the investigations of those complaints. If the district is investigated by OCR or CDE, these are important documents in demonstrating that the district has complied with federal law, state law, and its own policies and regulations.

The Superintendent or designee shall maintain a record of each complaint and subsequent related actions, including steps taken during the investigation and all information required for compliance with 5 CCR 4631 and 4633.

(cf. 3580 - District Records)

Non-UCP Complaints

The following complaints shall not be subject to the district's UCP but shall be investigated and resolved by the specified agency or through an alternative process:

1. Any complaint alleging child abuse or neglect shall be referred to the County Department of Social Services Protective Services Division or the appropriate law enforcement agency. (5 CCR 4611)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

2. Any complaint alleging health and safety violations by a child development program shall, for licensed facilities, be referred to Department of Social Services. (5 CCR 4611)

Note: Complaints of employment discrimination are not subject to the UCP. Instead, pursuant to 2 CCR 11023, the district must establish an impartial and prompt process for addressing such complaints. In addition, 5 CCR 4611 requires that employment discrimination complaints be referred to the Department of Fair Employment and Housing (DFEH). See AR 4030 - Nondiscrimination in Employment for applicable complaint procedures.

3. Any complaint alleging employment discrimination or harassment shall be investigated and resolved by the district in accordance with the procedures specified in AR 4030 - Nondiscrimination in Employment, including the right to file the complaint with the California Department of Fair Employment and Housing.

Note: 5 CCR 4610, as amended by Register 2020, No. 21, limits the applicability of the UCP for complaints regarding special education and child nutrition, as provided in items #4-6 below.

4. Any complaint alleging a violation of a state or federal law or regulation related to special education, a settlement agreement related to the provision of a free appropriate public education, or a due process hearing order shall be submitted to the California Department of Education (CDE) in accordance with AR 6159.1 - Procedural Safeguards and Complaints for Special Education. (5 CCR 3200-3205)

(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

5. Any complaint alleging noncompliance of the district's food service program with laws regarding meal counting and claiming, reimbursable meals, eligibility of children or adults, or

use of cafeteria funds and allowable expenses shall be filed with or referred to CDE in accordance with BP 3555 - Nutrition Program Compliance. (5 CCR 15580-15584)

6. Any allegation of discrimination based on race, color, national origin, sex, age, or disability in the district's food service program shall be filed with or referred to the U.S. Department of Agriculture in accordance with BP 3555 - Nutrition Program Compliance. (5 CCR 15582)

Note: Education Code 35186 requires the district to use UCP, with modifications, to investigate and resolve complaints related to the issues stated in the following paragraph (i.e., "Williams complaints"). Because Education Code 35186 sets forth different timelines for investigation and resolution of these kinds of complaints than the timelines specified in law for other uniform complaints, CDE has created a separate uniform complaint process for the Williams complaints. See AR 1312.4 - Williams Uniform Complaint Procedures for the separate procedure.

7. Any complaint related to sufficiency of textbooks or instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of students or staff, or teacher vacancies and misassignments shall be investigated and resolved in accordance with AR 1312.4 - Williams Uniform Complaint Procedures. (Education Code 35186)

(cf. 1312.4 - Williams Uniform Complaint Procedures)

Legal Reference:

EDUCATION CODE

200-262.4 Prohibition of discrimination

8200-8498 Child care and development programs

8500-8538 Adult basic education

18100-18203 School libraries

32280-32289 School safety plan, uniform complaint procedures

35186 Williams uniform complaint procedures

46015 Parental leave for students

48853-48853.5 Foster youth

48985 Notices in language other than English

49010-49014 Student fees

49060-49079 Student records, especially:

49069.5 Records of foster youth

49490-49590 Child nutrition programs

49701 Interstate Compact on Educational Opportunity for Military Children

51210 Courses of study grades 1-6

51222 Physical education, secondary schools

51223 Physical education, elementary schools

51225.1-51225.2 Foster youth, homeless children, former juvenile court school students, military-connected students, migrant students, and newly arrived immigrant students; course

credits; graduation requirements
51226-51226.1 Career technical education
51228.1-51228.3 Course periods without educational content
52059.5 Statewide system of support
52060-52077 Local control and accountability plan, especially:
52075 Complaint for lack of compliance with local control and accountability plan requirements
52300-52462 Career technical education
52500-52616.24 Adult schools
54400-54425 Compensatory education programs
54440-54445 Migrant education
54460-54529 Compensatory education programs
59000-59300 Special schools and centers
64000-64001 Consolidated application process; school plan for student achievement
65000-65001 School site councils

GOVERNMENT CODE

11135 Nondiscrimination in programs or activities funded by state
12900-12996 Fair Employment and Housing Act

HEALTH AND SAFETY CODE

1596.792 California Child Day Care Act; general provisions and definitions
1596.7925 California Child Day Care Act; health and safety regulations

PENAL CODE

422.55 Hate crime; definition
422.6 Interference with constitutional right or privilege

CODE OF REGULATIONS, TITLE 2

11023 Harassment and discrimination prevention and correction

CODE OF REGULATIONS, TITLE 5

3200-3205 Special education compliance complaints
4600-4670 Uniform complaint procedures
4680-4687 Williams uniform complaint procedures
4690-4694 Complaints regarding health and safety issues in license-exempt preschool programs
900-4965 Nondiscrimination in elementary and secondary education programs
15580-15584 Child nutrition programs complaint procedures

UNITED STATES CODE, TITLE 20

1221 Application of laws
1232g Family Educational Rights and Privacy Act
1681-1688 Title IX of the Education Amendments of 1972
6301-6576 Title I Improving the Academic Achievement of the Disadvantaged
6801-7014 Title III language instruction for limited English proficient and immigrant students

UNITED STATES CODE, TITLE 29

794 Section 504 of Rehabilitation Act of 1973

UNITED STATES CODE, TITLE 42

2000d-2000e-17 Title VI and Title VII Civil Rights Act of 1964, as amended
2000h-2-2000h-6 Title IX of the Civil Rights Act of 1964
6101-6107 Age Discrimination Act of 1975
11431-11435 McKinney-Vento Homeless Assistance Act

12101-12213 Title II equal opportunity for individuals with disabilities
CODE OF FEDERAL REGULATIONS, TITLE 28
35.107 Nondiscrimination on basis of disability; complaints
CODE OF FEDERAL REGULATIONS, TITLE 34
99.1-99.67 Family Educational Rights and Privacy Act
100.3 Prohibition of discrimination on basis of race, color or national origin
104.7 Designation of responsible employee for Section 504
106.1-106.82 Nondiscrimination on the basis of sex in education programs, especially:
106.8 Designation of responsible employee for Title IX
106.9 Notification of nondiscrimination on basis of sex
110.25 Notification of nondiscrimination on the basis of age

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Uniform Complaint Procedure 2020-21 Program Instrument

Sample UCP Board Policies and Procedures

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

Dear Colleague Letter, September 22, 2017

Dear Colleague Letter: Title IX Coordinators, April 2015

Dear Colleague Letter: Responding to Bullying of Students with Disabilities, October 2014

Dear Colleague Letter: Harassment and Bullying, October 2010

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

Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, January 2001

U.S. DEPARTMENT OF JUSTICE PUBLICATIONS

Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 2002

WEB SITES

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

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

Student Privacy Policy Office: <http://www2.ed.gov/about/offices/list/opepd/sppo>

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

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

Administrative Regulation

Uniform Complaint Procedures

AR 1312.3

Community Relations

Note: 5 CCR 4621 mandates that the district's uniform complaint procedures (UCP) be consistent with the procedures of 5 CCR 4600-4670. Additionally, Education Code 52075 mandates districts to adopt policies and procedures implementing the use of UCP to investigate and resolve complaints alleging noncompliance with requirements related to the local control and accountability plan (LCAP) and Education Code 8235.5 mandates districts to adopt policies and procedures for resolving complaints regarding specified health and safety issues in license-exempt California State Preschool Programs (CSPP). Furthermore, a number of federal civil rights statutes and their implementing regulations mandate districts to adopt policies and procedures for the prompt and equitable resolution of complaints of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying). For example, all districts are mandated pursuant to 28 CFR 35.107 to adopt policy and procedures to address discrimination on the basis of disability, while districts that receive federal financial assistance are mandated pursuant to 34 CFR 106.8 and 34 CFR 110.25 to adopt policies and procedures to address discrimination on the basis of sex and age. Some of the factors considered by the U.S. Department of Education's Office for Civil Rights (OCR) when determining whether a district's procedures are "prompt and equitable" are addressed throughout the following administrative regulation.

Note: Apart from these mandates, state law authorizes the use of UCP to resolve complaints of noncompliance with laws related to the development of a school plan for student achievement and the establishment of school site councils; accommodations for pregnant and parenting students; prohibition against the charging of student fees; educational rights of foster youth, homeless students, former juvenile court school students, children of military families, migrant students, and students participating in a newcomer program for newly arrived immigrants; assignment of students to courses without educational content; and physical education instructional minutes. See the section "Complaints Subject to UCP" in the accompanying Board policy.

Except as the Governing Board may otherwise specifically provide in other district policies, these uniform complaint procedures (UCP) shall be used to investigate and resolve only the complaints specified in BP 1312.3.

(cf. 1312.1 - Complaints Concerning District Employees)
(cf. 1312.2 - Complaints Concerning Instructional Materials)
(cf. 1312.4 - Williams Uniform Complaint Procedures)
(cf. 4030 - Nondiscrimination in Employment)

Compliance Officers

Note: 5 CCR 4621 mandates the district to identify in its policies and procedures the person(s), position(s), or unit(s) responsible for ensuring compliance with applicable state and federal laws and regulations governing educational programs, including the receiving and investigating of complaints alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) and retaliation. During its Federal Program Monitoring (FPM) process, California Department of Education (CDE) staff will check to ensure that the district's procedures list the specific title(s) of the employee(s) responsible for receiving and investigating complaints. Districts should identify the specific title(s) of the compliance officer(s) in the space provided below. If a district identifies multiple compliance officers, it is recommended that one be designated the lead compliance officer.

Note: The following paragraph specifies that the compliance officer will be the same person designated to serve as the Title IX Coordinator for addressing complaints of sexual harassment pursuant to AR 5145.7 - Sexual Harassment and AR 5145.71 - Title IX Sexual Harassment Complaint Procedures. Districts may modify this regulation to designate different district employees to serve these functions.

The district designates the individual(s), position(s), or unit(s) identified below as responsible for coordinating the district's response to complaints and for complying with state and federal civil rights laws. The individual(s), position(s), or unit(s) also serve as the compliance officer(s) specified in AR 5145.3 - Nondiscrimination/Harassment responsible for handling complaints regarding unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) and in AR 5145.7 - Sexual Harassment for handling complaints regarding sexual harassment. The compliance officer(s) shall receive and coordinate the investigation of complaints and shall ensure district compliance with law.

(cf. 5145.3 - Nondiscrimination/Harassment)
(cf. 5145.7 - Sexual Harassment)
(cf. 5145.71 - Title IX Sexual Harassment Complaints Procedures)

(title or position)

(unit or office)

(address)

(telephone number)

(email)

Note: The following paragraph is for use by districts that have designated more than one compliance officer.

The compliance officer who receives a complaint may assign another compliance officer to

investigate and resolve the complaint. The compliance officer shall promptly notify the complainant and respondent, if applicable, if another compliance officer is assigned to the complaint.

In no instance shall a compliance officer be assigned to a complaint in which the compliance officer has a bias or conflict of interest that would prohibit the fair investigation or resolution of the complaint. Any complaint against a compliance officer or that raises a concern about the compliance officer's ability to investigate the complaint fairly and without bias shall be filed with the Superintendent or designee who shall determine how the complaint will be investigated.

Note: 5 CCR 4621 mandates that the district's policy require employees responsible for compliance and/or for investigating and resolving complaints to be knowledgeable about the laws and programs at issue in the complaints they are assigned. OCR requires that the compliance officer(s) involved in implementing discrimination complaint procedures be knowledgeable about the procedures and be able to explain them to parents/guardians and students. They must also have training or experience in handling discrimination complaints, including appropriate investigative techniques and understanding of the applicable legal standards.

The Superintendent or designee shall ensure that employees assigned to investigate and resolve complaints receive training and are knowledgeable about the laws and programs at issue in the complaints to which they are assigned. Training provided to such employees shall cover current state and federal laws and regulations governing the program, applicable processes for investigating and resolving complaints, including those alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), applicable standards for reaching decisions on complaints, and appropriate corrective measures. Assigned employees may have access to legal counsel as determined by the Superintendent or designee.

(cf. 4331 - Staff Development)

(cf. 9124 - Attorney)

The compliance officer or, if necessary, any appropriate administrator shall determine whether interim measures are necessary during and pending the result of an investigation. If interim measures are determined to be necessary, the compliance officer or the administrator shall consult with the Superintendent, the Superintendent's designee, or, if appropriate, the site principal to implement one or more interim measures. The interim measures shall remain in place until the compliance officer determines that they are no longer necessary or until the district issues its final written decision, whichever occurs first.

Notifications

The district's UCP policy and administrative regulation shall be posted in all district schools and offices, including staff lounges and student government meeting rooms. (Education Code 234.1)

***Note: During the FPM process, CDE staff will check to ensure that the district's policy

contains a statement ensuring annual dissemination of notice of the district's UCP to the persons specified below.***

In addition, the Superintendent or designee shall annually provide written notification of the district's UCP to students, employees, parents/guardians of district students, district advisory committee members, school advisory committee members, appropriate private school officials or representatives, and other interested parties. (5 CCR 4622)

(cf. 0420 - School Plans/Site Councils)
(cf. 1220 - Citizen Advisory Committees)
(cf. 4112.9/4212.9/4312.9 - Employee Notifications)
(cf. 5145.6 - Parental Notifications)

Note: 5 CCR 4622 requires the district to include specified information in its annual UCP notice to students, parents/guardians, employees, and others. The following list reflects those required components and additional content of the notice listed in CDE's FPM instrument.

Note: A sample of the annual notice is available through CDE's web site. It is the district's responsibility to update the notice as necessary to reflect new law.

The notice shall include:

1. A statement that the district is primarily responsible for compliance with federal and state laws and regulations, including those related to prohibition of unlawful discrimination, harassment, intimidation, or bullying against any protected group, and a list of all programs and activities that are subject to UCP as identified in the section "Complaints Subject to UCP" in the accompanying Board policy
2. The title of the position responsible for processing complaints, the identity of the person(s) currently occupying that position if known, and a statement that such persons will be knowledgeable about the laws and programs that they are assigned to investigate
3. A statement that a UCP complaint must be filed no later than one year from the date the alleged violation occurred
4. A statement that, in the case of a complaint alleging unlawful discrimination, harassment, intimidation, or bullying, a UCP complaint must be filed no later than six months from the date of the alleged conduct or the date the complainant first obtained knowledge of the facts of the alleged conduct
5. A statement that a student enrolled in a public school shall not be required to pay a fee for participation in an educational activity that constitutes an integral fundamental part of the district's educational program, including curricular and extracurricular activities
6. A statement that a complaint regarding student fees or the local control and accountability plan (LCAP) may be filed anonymously if the complainant provides evidence or

information leading to evidence to support the complaint

(cf. 0460 - Local Control and Accountability Plan)

(cf. 3260 - Fees and Charges)

7. A statement that the district will post a standardized notice of the educational rights of foster youth, homeless students, former juvenile court school students now enrolled in the district, children of military families, migrant students, and immigrant students enrolled in a newcomer program, as specified in Education Code 48853, 48853.5, 49069.5, 51225.1, and 51225.2, and the complaint process

(cf. 6173 - Education for Homeless Children)

(cf. 6173.1 - Education for Foster Youth)

(cf. 6173.2 - Education of Children of Military Families)

(cf. 6173.3 - Education for Juvenile Court School Students)

(cf. 6175 - Migrant Education Program)

8. A statement that complaints will be investigated in accordance with the district's UCP and a written decision will be sent to the complainant within 60 days from the receipt of the complaint, unless this time period is extended by written agreement of the complainant

9. A statement that the complainant has a right to appeal the district's investigation report to CDE for programs within the scope of the UCP by filing a written appeal, including a copy of the original complaint and the district's decision, within 15 days of receiving the district's decision

10. A statement advising the complainant of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal antidiscrimination laws, if applicable

11. A statement that copies of the district's UCP are available free of charge

Note: The following paragraph may be modified to reflect district practice. Pursuant to Education Code 221.61, districts are required to post information related to Title IX on their web sites, including specified information about complaint procedures under Title IX. See AR 5145.3 - Nondiscrimination/Harassment. A district that does not maintain a web site may comply by posting the information on the web site of its county office of education. A comprehensive list of rights based on the provisions of the federal regulations implementing Title IX can be found in Education Code 221.8. In addition, in its April 2015 Dear Colleague Letter: Title IX Coordinators, OCR recommends that districts use web posting and social media to disseminate their nondiscrimination notices, policies, and procedures and communicate current compliance officer(s)' contact information to students, parents/guardians, and employees.

The annual notification, complete contact information of the compliance officer(s), and information related to Title IX as required pursuant to Education Code 221.61 shall be posted on the district web site and may be provided through district-supported social media, if available.

(cf. 1113 - District and School Web Sites)
(cf. 1114 - District-Sponsored Social Media)

Note: Both federal and state laws contain requirements for translation of certain information and documents. Title VI of the Civil Rights Act of 1964 requires districts to ensure meaningful access to their programs and activities by persons with limited English proficiency. OCR has interpreted this to require that, whenever information is provided to parents/guardians, districts must notify limited-English-proficient (LEP) parents/guardians in a language other than English in order to be adequate. OCR enforces this requirement consistent with the Department of Justice's 2002 Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons. Under the Guidance, a recipient of federal funds has an obligation to provide language assistance to LEP individuals based on balancing four factors: (1) the number or proportion of LEP individuals likely to encounter the program, (2) the frequency with which LEP individuals come in contact with the program, (3) the nature and importance of the services provided by the program, and (4) the resources available to the recipient. State law is more specific than federal law: Education Code 48985 requires translation of certain information and documents if 15 percent or more of students enrolled in the school speak a single primary language other than English.

The Superintendent or designee shall ensure that all students and parents/guardians, including students and parents/guardians with limited English proficiency, have access to the relevant information provided in the district's policy, regulation, forms, and notices concerning the UCP.

If 15 percent or more of students enrolled in a particular district school speak a single primary language other than English, the district's policy, regulation, forms, and notices concerning the UCP shall be translated into that language, in accordance with Education Code 234.1 and 48985. In all other instances, the district shall ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

Filing of Complaints

Note: Complaints filed under UCP may be filed directly with a compliance officer or with any site administrator not designated as a compliance officer. For example, acts of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) may initially be reported to a principal. See AR 5145.3 - Nondiscrimination/Harassment and AR 5145.7 - Sexual Harassment. If a site administrator not designated as a compliance officer receives a UCP complaint, the site administrator must notify a compliance officer. A district may also establish a site-level process for receiving informal reports about incidents for which a UCP complaint may be filed and notifying students and parents/guardians of their right to file a UCP complaint. Any site-level process established by a district should be in writing and distributed in the same manner as the grievance procedures listed herein with an explanation of how it interacts with the UCP complaint process.

The complaint shall be presented to the compliance officer who shall maintain a log of

complaints received, providing each with a code number and a date stamp.

All complaints shall be filed in writing and signed by the complainant. If a complainant is unable to put a complaint in writing due to conditions such as a disability or illiteracy, district staff shall assist in the filing of the complaint. (5 CCR 4600)

Complaints shall also be filed in accordance with the following rules, as applicable:

1. A complaint alleging district violation of applicable state or federal law or regulations governing the programs specified in the accompanying Board policy may be filed by any individual, public agency, or organization. (5 CCR 4630)

Note: Education Code 49013 and 52075 mandate districts to adopt procedures that allow for anonymous complaints to be filed when a district allegedly violates the prohibition against the charging of student fees or violates any requirement related to the LCAP.

2. Any complaint alleging noncompliance with law regarding the prohibition against student fees, deposits, and charges or any requirement related to the LCAP may be filed anonymously if the complaint provides evidence, or information leading to evidence, to support an allegation of noncompliance. A complaint about a violation of the prohibition against the charging of unlawful student fees may be filed with the principal of the school or with the Superintendent or designee.

Note: Pursuant to 5 CCR 4630, as amended by Register 2020, No. 21, complaints related to the LCAP must be filed within a year of the date that the reviewing authority approves the district's LCAP. Pursuant to Education Code 52070, the County Superintendent of Schools is the reviewing authority for district LCAPs.

3. A UCP complaint shall be filed no later than one year from the date the alleged violation occurred. For complaints related to the LCAP, the date of the alleged violation is the date when the County Superintendent of Schools approves the LCAP that was adopted by the Board. (5 CCR 4630)

4. A complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) may be filed only by a person who alleges having personally suffered unlawful discrimination, a person who believes that any specific class of individuals has been subjected to unlawful discrimination, or a duly authorized representative who alleges that an individual student has been subjected to discrimination, harassment, intimidation, or bullying. The complaint shall be initiated no later than six months from the date that the alleged unlawful discrimination occurred, or six months from the date that the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension. (5 CCR 4630)

5. When a complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) is filed anonymously, the compliance officer shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the

information provided and the seriousness of the allegation.

Note: OCR's Revised Sexual Harassment Guidance indicates that if a complainant in a sexual harassment case requests that the complainant's name or that of the victim not be revealed to the alleged perpetrator or asks that the complaint not be pursued, the district should first inform the complainant that honoring the request may limit its ability to respond and pursue disciplinary action against the alleged perpetrator. The OCR publication acknowledges that situations may exist in which a district cannot honor a student's request for confidentiality, but cautions that, in all instances, the district must still continue to ensure that it provides a safe and nondiscriminatory environment for all students. Districts should consult legal counsel before honoring a confidentiality request to withhold the victim's name from the alleged perpetrator, especially in the case of alleged sexual assault. These guiding principles would also apply to harassment on the basis of race, gender, disability, or other protected characteristic.

6. When the complainant of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying) or the alleged victim, when not the complainant, requests confidentiality, the compliance officer shall inform the complainant or victim that the request may limit the district's ability to investigate the conduct or take other necessary action. When honoring a request for confidentiality, the district shall nevertheless take all reasonable steps to investigate and resolve/respond to the complaint consistent with the request.

Mediation

Note: The following section should be used only by those districts that have decided to establish procedures for attempting to resolve complaints through alternative dispute resolution procedures such as mediation; see the accompanying Board policy. The following section may be modified to specify the alternative dispute resolution method and timelines used within the district.

Within three business days after receiving the complaint, the compliance officer may informally discuss with all the parties the possibility of using mediation. Mediation shall be offered to resolve complaints that involve more than one student and no adult. However, mediation shall not be offered or used to resolve any complaint involving an allegation of sexual assault or where there is a reasonable risk that a party to the mediation would feel compelled to participate. If the parties agree to mediation, the compliance officer shall make all arrangements for this process.

Before initiating the mediation of a complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the compliance officer shall ensure that all parties agree to make the mediator a party to relevant confidential information. The compliance officer shall also notify all parties of the right to end the informal process at any time.

If the mediation process does not resolve the problem within the parameters of law, the compliance officer shall proceed with an investigation of the complaint.

The use of mediation shall not extend the district's timelines for investigating and resolving the

complaint unless the complainant agrees in writing to such an extension of time. If mediation is successful and the complaint is withdrawn, then the district shall take only the actions agreed upon through the mediation. If mediation is unsuccessful, the district shall then continue with subsequent steps specified in this administrative regulation.

Investigation of Complaint

Note: 5 CCR 4631, which requires the district to provide the complainant with the opportunity to present relevant information, does not provide any timeline. Thus, the timeline specified below may be modified to reflect district practice.

Within 10 business days after the compliance officer receives the complaint, the compliance officer shall begin an investigation into the complaint.

Within one business day of initiating the investigation, the compliance officer shall provide the complainant and/or the complainant's representative with the opportunity to present the information contained in the complaint to the compliance officer and shall notify the complainant and/or representative of the opportunity to present the compliance officer with any evidence, or information leading to evidence, to support the allegations in the complaint. Such evidence or information may be presented at any time during the investigation.

Note: In the investigation, the compliance officer should consider all relevant circumstances, such as how the misconduct affected one or more students' education; the type, frequency, and duration of the misconduct; the identity, age, and sex of the individuals involved in and impacted by the conduct and the relationship between them; the number of persons engaged in the conduct and at whom the conduct was directed; the size of the school, location of the incidents, and context in which they occurred; and other incidents at the school involving different individuals.

In conducting the investigation, the compliance officer shall collect all available documents and review all available records, notes, or statements related to the complaint, including any additional evidence or information received from the parties during the course of the investigation. The compliance officer shall individually interview all available witnesses with information pertinent to the complaint, and may visit any reasonably accessible location where the relevant actions are alleged to have taken place. At appropriate intervals, the compliance officer shall inform both parties of the status of the investigation.

To investigate a complaint alleging retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the compliance officer shall interview the alleged victim(s), any alleged offenders, and other relevant witnesses privately, separately, and in a confidential manner. As necessary, additional staff or legal counsel may conduct or support the investigation.

***Note: 5 CCR 4631 allows the district to dismiss a complaint when the complainant refuses to provide the investigator with relevant documents or otherwise obstructs the investigation. 5 CCR 4631 also provides that, if the district refuses to provide the investigator with access to

records or other documents, the investigator may issue a finding in favor of the complainant. During the FPM process, CDE staff will check to ensure that both of these statements regarding the provision of access to information are included in the district's policy or procedures, as specified below.***

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or engagement in any other obstruction of the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegation. Similarly, a respondent's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or engagement in any other obstruction of the investigation may result in a finding, based on evidence collected, that a violation has occurred and in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

In accordance with law, the district shall provide the investigator with access to records and other information related to the allegation in the complaint and shall not in any way obstruct the investigation. Failure or refusal of the district to cooperate in the investigation may result in a finding based on evidence collected that a violation has occurred and in the imposition of a remedy in favor of the complainant. (5 CCR 4631)

Timeline for Investigation Report

Note: Pursuant to 5 CCR 4631, the district's investigation report must be sent to the complainant within 60 calendar days of receiving the complaint. Option 1 below is for districts that do not allow complainants to appeal the compliance officer's decision to the Governing Board. Option 2 is for districts that allow appeals to the Board, and it requires the compliance officer's decision within 30 calendar days so that the Board's decision can still be given within the 60-day time limit.

Note: Pursuant to 5 CCR 4631, only a complainant has the right to receive the investigation report and to file a complaint with the Board if dissatisfied with the compliance officer's decision. However, OCR has recommended that the same rights be extended to a respondent to a complaint alleging unlawful discrimination to ensure the process is equitable for all involved. Furthermore, OCR recommends notifying the respondent in such a complaint whenever the complainant approves an extension of the timeline. Options 1 and 2 reflect these recommendations and may be modified to reflect district practice.

Note: Pursuant to 5 CCR 4640, when a UCP complaint is erroneously sent to CDE without first being filed with the district, the 60-day period specified in 5 CCR 4631 begins when the district receives the complaint.

OPTION 1:

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant a written investigation report, as described in the section

"Investigation Report" below, within 60 calendar days of the district's receipt of the complaint. (5 CCR 4631)

For any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), the respondent shall be informed of any extension of the timeline agreed to by the complainant. The respondent also shall be sent the investigation report at the same time it is provided to the complainant.

OPTION 2:

Unless extended by written agreement with the complainant, the investigation report shall be sent to the complainant within 60 calendar days of the district's receipt of the complaint. Within 30 calendar days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report, as described in the section "Investigation Report" below. If the complainant is dissatisfied with the compliance officer's decision, the complainant may, within five business days, file the complaint in writing with the Board.

The Board may consider the matter at its next regular Board meeting or at a special Board meeting convened in order to meet the 60-day time limit within which the complaint must be answered. When required by law, the matter shall be considered in closed session. The Board may decide not to hear the complaint, in which case the compliance officer's decision shall be final.

(cf. 9321 - Closed Session)

If the Board hears the complaint, the compliance officer shall send the Board's decision to the complainant within 60 calendar days of the district's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant. (5 CCR 4631)

For any complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), the respondent shall be informed of any extension of the timeline agreed to by the complainant, shall be sent the district's investigation report, and, in the same manner as the complainant, may file a complaint with the Board if dissatisfied with the decision.

Investigation Report

Note: 5 CCR 4631, as amended by Register 2020, No. 21, specify components that should be part of the district's investigation report. Inclusion of these items will help protect the district's position in case of an appeal to CDE, a complaint submitted to OCR, or if litigation is filed.

For all complaints, the district's investigation report shall include: (5 CCR 4631)

1. The findings of fact based on the evidence gathered
2. A conclusion providing a clear determination for each allegation as to whether the district is in compliance with the relevant law

3. Corrective action(s) whenever the district finds merit in the complaint, including, when required by law, a remedy to all affected students and parents/guardians and, for a student fees complaint, a remedy that complies with Education Code 49013 and 5 CCR 4600
4. Notice of the complainant's right to appeal the district's investigation report to CDE, except when the district has used the UCP to address a complaint not specified in 5 CCR 4610
5. Procedures to be followed for initiating an appeal to CDE

The investigation report may also include follow-up procedures to prevent recurrence or retaliation and for reporting any subsequent problems.

Note: The Family Educational Rights and Privacy Act (FERPA) (20 USC 1232g; 34 CFR 99.1-99.67) protects student privacy, including student records containing details of the actions taken in response to a UCP complaint. However, pursuant to 20 USC 1221, FERPA may not "be construed to affect the applicability of Title VI of the Civil Rights Act of 1964, Title IX of Education Amendments of 1972, Title V of the Rehabilitation Act of 1973, the Age Discrimination Act, or other statutes prohibiting discrimination, to any applicable program." In February 2015, the Family Policy Compliance Office (FPCO), now the Student Privacy Protection Office, released a letter concluding that FERPA permits a district to disclose to a student who was subjected to unlawful discrimination certain information about the sanctions imposed upon the offender when the sanctions directly relate to that student. Thus, if properly remedying the impact of discrimination would require disclosing to the alleged victim certain information on how the district disciplined the alleged student offender (e.g., an order that the alleged offender stay away from the alleged victim), FPCO interprets FERPA as allowing the district to disclose that information.

Note: Given the potential liability from improperly disclosing such information, districts are advised to consult with legal counsel when presented with a situation where a victim of unlawful discrimination requests information about sanctions imposed upon the offender.

In consultation with district legal counsel, information about the relevant part of an investigation report may be communicated to a victim who is not the complainant and to other parties who may be involved in implementing the investigation report or are affected by the complaint, as long as the privacy of the parties is protected. In a complaint alleging unlawful discrimination (such as discriminatory harassment, intimidation, and bullying), notice of the investigation report to the alleged victim shall include information about any sanction to be imposed upon the respondent that relates directly to the alleged victim.

Note: Education Code 48985 requires that reports sent to parents/guardians be written in their primary language when 15 percent or more of a school's enrolled students speak a single primary language other than English. During the FPM process, CDE staff will check to ensure compliance with this requirement. Based on Title VI of the Civil Rights Act of 1964, OCR requires districts to ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

If the complaint involves a limited-English-proficient student or parent/guardian and the student involved is enrolled in a school at which 15 percent or more of the students speak a single primary language other than English, then the investigation report shall also be translated into that language pursuant to Education Code 48985. In all other instances, the district shall ensure meaningful access to all relevant information for parents/guardians with limited English proficiency.

Note: During the FPM process, CDE staff will expect to see a statement detailing a complainant's right to pursue civil law remedies (i.e., action in a court of law) in addition to or in conjunction with the right to pursue administrative remedies from CDE.

For complaints alleging unlawful discrimination based on state law (such as discriminatory harassment, intimidation, and bullying), the investigation report shall also include a notice to the complainant that:

1. The complainant may pursue available civil law remedies outside of the district's complaint procedures, including seeking assistance from mediation centers or public/private interest attorneys, 60 calendar days after the filing of an appeal with CDE. (Education Code 262.3)
2. The 60 days moratorium does not apply to complaints seeking injunctive relief in state courts or to discrimination complaints based on federal law. (Education Code 262.3)
3. Complaints alleging discrimination based on race, color, national origin, sex, gender, disability, or age may also be filed with the U.S. Department of Education, Office for Civil Rights at www.ed.gov/ocr within 180 days of the alleged discrimination.

Corrective Actions

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

When a complaint is found to have merit, the compliance officer shall adopt any appropriate corrective action permitted by law. Appropriate corrective actions that focus on the larger school or district environment may include, but are not limited to, actions to reinforce district policies; training for faculty, staff, and students; updates to school policies; or school climate surveys.

(cf. 5137 - Positive School Climate)

For complaints involving retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), appropriate remedies that may be offered to the victim but not communicated to the respondent may include, but are not limited to, the following:

1. Counseling

(cf. 6164.2 - Guidance/Counseling Services)

2. Academic support
3. Health services
4. Assignment of an escort to allow the victim to move safely about campus
5. Information regarding available resources and how to report similar incidents or retaliation
6. Separation of the victim from any other individuals involved, provided the separation does not penalize the victim
7. Restorative justice
8. Follow-up inquiries to ensure that the conduct has stopped and there has been no retaliation

For complaints involving retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), appropriate corrective actions that focus on a student offender may include, but are not limited to, the following:

1. Transfer from a class or school as permitted by law
2. Parent/guardian conference
3. Education regarding the impact of the conduct on others
4. Positive behavior support
5. Referral to a student success team

(cf. 6164.5 - Student Success Teams)

6. Denial of participation in extracurricular or cocurricular activities or other privileges as permitted by law

(cf. 6145 - Extracurricular and Cocurricular Activities)

7. Disciplinary action, such as suspension or expulsion, as permitted by law

(cf. 5144 - Discipline)

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

When an employee is found to have committed retaliation or unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), the district shall take appropriate

disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

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

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

The district may also consider training and other interventions for the larger school community to ensure that students, staff, and parents/guardians understand the types of behavior that constitute unlawful discrimination (such as discriminatory harassment, intimidation, or bullying), that the district does not tolerate it, and how to report and respond to it.

Note: Generally, when a complaint is found to have merit, an appropriate remedy is provided to the complainant or other affected person. However, in certain instances, the law may require a remedy to be provided to all affected persons, not just the complainant or subject of the complaint. For example, pursuant to Education Code 49013 and 5 CCR 4600, if the district, or CDE on appeal, finds merit in the complaint alleging noncompliance with the law regarding student fees and charges, the district is required to provide a remedy to all affected students and parents/guardians, as specified below. The same requirement applies to allegations of noncompliance with the LCAP requirements, pursuant to Education Code 52075, and to noncompliance with required instructional minutes for physical education, pursuant to Education Code 51222 and 51223. Districts that do not maintain elementary schools should delete reference to physical education below.

When a complaint is found to have merit, an appropriate remedy shall be provided to the complainant or other affected person.

However, if a complaint alleging noncompliance with the laws regarding student fees, deposits, and other charges, physical education instructional minutes, courses without educational content, or any requirement related to the LCAP is found to have merit, the district shall provide a remedy to all affected students and parents/guardians subject to procedures established by regulation of the State Board of Education. (Education Code 49013, 51222, 51223, 52075)

For complaints alleging noncompliance with the laws regarding student fees, the district shall attempt in good faith, by engaging in reasonable efforts, to identify and fully reimburse all affected students and parents/guardians who paid the unlawful student fees within one year prior to the filing of the complaint. (Education Code 49013; 5 CCR 4600)

Appeals to the California Department of Education

Note: 5 CCR 4632-4633 provide that complainants may appeal to CDE if they disagree with the district's decision on any matter within the scope of the UCP, as provided below. As amended by Register 2020, No. 21, 5 CCR 4632 changes the timeline for filing an appeal to CDE from 15 calendar days to 30 calendar days.

Any complainant who is dissatisfied with the district's investigation report on a complaint regarding any specified federal or state educational program subject to UCP may file an appeal

in writing with CDE within 30 calendar days of receiving the district's investigation report. (5 CCR 4632)

Note: 5 CCR 4632, as amended by Register 2020, No. 21, expands the bases upon which an appeal may be filed with CDE.

The appeal shall be sent to CDE with a copy of the original locally filed complaint and a copy of the district's investigation report for that complaint. The complainant shall specify and explain the basis for the appeal, including as least one of the following: (5 CCR 4632)

1. The district failed to follow its complaint procedures.
2. Relative to the allegations of the complaint, the district's investigation report lacks material findings of fact necessary to reach a conclusion of law.
3. The material findings of fact in the district's investigation report are not supported by substantial evidence.
4. The legal conclusion in the district's investigation report is inconsistent with the law.
5. In a case in which the district found noncompliance, the corrective actions fail to provide a proper remedy.

Note: 5 CCR 4633, as amended by Register 2020, No. 21, requires the district to submit the following documents to CDE within 10 days after the district has been notified that an appeal has been filed. The district's failure to provide a timely and complete response may result in CDE ruling on the appeal without considering information from the district.

Upon notification by CDE that the district's investigation report has been appealed, the Superintendent or designee shall forward the following documents to CDE within 10 days of the date of notification: (5 CCR 4633)

1. A copy of the original complaint
2. A copy of the district's investigation report
3. A copy of the investigation file including, but not limited to, all notes, interviews, and documents submitted by the parties and gathered by the investigator
4. A report of any action taken to resolve the complaint
5. A copy of the district's UCP
6. Other relevant information requested by CDE

***Note: Pursuant to 5 CCR 4632, as amended by Register 2020, No. 21, if CDE determines

that the district's investigation report failed to address an allegation raised by the complaint and subject to the UCP process, CDE will notify the district and direct the district to investigate and address such allegation(s) as follows.***

If notified by CDE that the district's investigation report failed to address allegation(s) raised by the complaint, the district shall, within 20 days of the notification, provide CDE and the appellant with an amended investigation report that addresses the allegation(s) that were not addressed in the original investigation report. The amended report shall also inform the appellant of the right to separately appeal the amended report with respect to the allegation(s) that were not addressed in the original report. (5 CCR 4632)

Note: Pursuant to 5 CCR 4633, CDE is required to issue a written decision regarding the appeal within 60 days of CDE's receipt of the appeal, unless extended by written agreement with the appellant or documentation by CDE of exceptional circumstances. Within 30 days of the appeal decision, either party may request reconsideration by the Superintendent of Public Instruction or designee.

Note: Pursuant to 5 CCR 4650, CDE may directly intervene in a complaint without waiting for action by the district when certain conditions exist, including the following: (1) the complaint alleges failure to comply with the UCP, including failure to follow the required timelines and failure to implement the final investigation report; (2) the complainant requires anonymity due to the possibility of retaliation and would suffer immediate and irreparable harm if a complaint was filed and the complainant was named; or (3) the complainant would suffer immediate and irreparable harm as a result of an application of a districtwide policy that is in conflict with state or federal law and that filing a complaint would be futile.

Health and Safety Complaints in License-Exempt Preschool Programs

Note: The following section is for use by districts that operate any license-exempt CSPP program. Education Code 8235.5 mandates districts to adopt policies and procedures for resolving complaints regarding specified health and safety issues in a license-exempt CSPP program. Pursuant to Education Code 8235.5, the district must use the UCP, with modifications as necessary, to resolve such complaints. Pursuant to 5 CCR 4610, as amended by Register 2020, No. 21, such complaints must be addressed through the procedures described in 5 CCR 4690-4694.

Note: See the accompanying exhibits for a sample classroom notice and complaint form.

Any complaint regarding health or safety issues in a license-exempt CSPP program shall be addressed through the procedures described in 5 CCR 4690-4694.

In each license-exempt CSPP classroom, a notice shall be posted notifying parents/guardians, students, and teachers of the health and safety requirements of Title 5 regulations that apply to CSPP programs pursuant to Health and Safety Code 1596.7925 and the location at which to obtain a form to file any complaint alleging noncompliance with those requirements.

(Education Code 8235.5; 5 CCR 4690)

The district's annual UCP notification distributed pursuant to 5 CCR 4622 shall clearly indicate which of its CSPP programs are operating as exempt from licensing and which CSPP programs are operating pursuant to requirements under Title 22 of the Code of Regulations. (5 CCR 4691)

Any complaint regarding specified health or safety issues in a license-exempt CSPP program shall be filed with the preschool program administrator or designee, and may be filed anonymously. The complaint form shall specify the location for filing the complaint and shall contain a space to indicate whether the complainant desires a response to the complaint. If it is determined that the complaint is beyond the authority of the preschool program administrator, the matter shall be forwarded to the Superintendent or designee in a timely manner, not to exceed 10 working days, for resolution. (Education Code 8235.5; 5 CCR 4690)

Investigation of a complaint regarding health or safety issues in a license-exempt CSPP program shall begin within 10 days of receipt of the complaint. (Education Code 8235.5; 5 CCR 4692)

The preschool administrator or designee shall remedy a valid complaint within a reasonable time period not to exceed 30 working days from the date the complaint was received. If the complainant has indicated on the complaint form a desire to receive a response to the complaint, the preschool administrator or Superintendent's designee shall, within 45 working days of the initial filing of the complaint, report the resolution of the complaint to the complainant and CDE's assigned field consultant. If the preschool administrator makes this report, the information shall be reported at the same time to the Superintendent or designee. (Education Code 8235.5; 5 CCR 4692)

If a complainant is not satisfied with the resolution of a complaint, the complainant has the right to describe the complaint to the Board at a regularly scheduled meeting and, within 30 days of the date of the written report, may file a written appeal of the district's decision to the Superintendent of Public Instruction in accordance with 5 CCR 4632. (Education Code 8235.5; 5 CCR 4693, 4694)

On a quarterly basis, the Superintendent or designee shall report summarized data on the nature and resolution of all CSPP health and safety complaints, including the number of complaints by general subject area with the number of resolved and unresolved complaints, to the Board at a regularly scheduled Board meeting and to the County Superintendent of Schools. (5 CCR 4693)

(3/19 5/20) 12/20

Exhibit

Uniform Complaint Procedures

E 1312.3

Community Relations

Exhibit 1

Note: Education Code 8235.5 requires that the following notice be posted in each classroom with a license-exempt California State Preschool Program (CSPP) (Education Code 8235-8239.1). The notice must include the health and safety requirements that apply to such CSPP programs pursuant to Health and Safety Code 1596.7925, which may be the subject of a complaint under the uniform complaint procedures.

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

Parents/Guardians, Students, and Teachers:

Pursuant to Education Code 8235.5, you are hereby notified that any California State Preschool Program that is exempt from licensure must have:

1. Outdoor shade that is safe and in good repair
2. Drinking water that is accessible and readily available throughout the day
3. Safe and sanitary restroom facilities with one toilet and handwashing fixture for every 15 children
4. Restroom facilities that are available only for preschoolers and kindergartners
5. Visual supervision of children at all times
6. Indoor and outdoor space that is properly contained or fenced and provides sufficient space for the number of children using the space at any given time
7. Playground equipment that is safe, in good repair, and age appropriate

***Note: Education Code 8235.5 requires that the notice include the location to obtain a complaint form and provides that posting a notice downloadable from the California Department of Education's web site will satisfy this requirement. The law does not require that complaint forms be placed in any specific location. The following paragraph lists locations where complaint forms may be available and should be modified to reflect district practice, including

adding the school and district web site addresses.***

If you choose to file a complaint alleging that any of the above conditions is not being met, your complaint will be addressed through the district's uniform complaint procedures as required by law. A complaint form may be obtained at the school office or district office, or downloaded from the school or district web site. You may also download a copy of the California Department of Education complaint form from the following web site: <http://www.cde.ca.gov/re/cp/uc>. However, a complaint need not be filed using either the district's complaint form or the complaint form from the California Department of Education.

5/20

Exhibit 2

Note: Pursuant to Education Code 8235.5, uniform complaint procedures should be used for complaints alleging that a license-exempt California State Preschool Program (CSPP) does not comply with any of the health and safety requirements specified in Health and Safety Code 1596.7925.

**PRESCHOOL COMPLAINT FORM:
UNIFORM COMPLAINT PROCEDURES**

Education Code 8235.5 requires that the district's uniform complaint procedures be used for the filing of complaints concerning noncompliance with health and safety standards for license-exempt California State Preschool Programs. The complaint and response are public documents as provided by law. Complaints may be filed anonymously. However, if you wish to receive a response to your complaint, you must provide the contact information below.

Response requested? Yes No

Contact information: (if response is requested)

Name: _____

Address: _____

Phone number: Day: _____ Evening: _____

E-mail address, if any: _____

Date problem was observed: _____

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

School name/address: _____

Room number/name of room/location of facility: _____

Only the following issues may be the subject of this complaint process. If you wish to complain

about an issue not specified below, please contact the school or district for the appropriate district complaint procedure.

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

- The preschool does not have outdoor shade that is safe and in good repair.
- Drinking water is not accessible and/or readily available throughout the day.
- The preschool does not provide safe and sanitary restroom facilities with one toilet and handwashing fixture for every 15 children.
- Restroom facilities are not available only for preschoolers and kindergartners.
- The preschool program does not provide visual supervision of children at all times.
- Indoor or outdoor space is not properly contained or fenced or does not provide sufficient space for the number of children using the space at any given time.
- Playground equipment is not safe, in good repair, or age appropriate.

Please describe the issue of your complaint in detail. You may attach additional pages and include as much text as necessary to fully describe the situation.

Note: Education Code 8235.5 requires complaints identified above to be filed with the preschool administrator or designee. Districts should specify the names and/or locations in the spaces below.

Please file this complaint at the following location:

(preschool administrator or designee)

(address)

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

(Date) (Signature)

5/20

Administrative Regulation

Williams Uniform Complaint Procedures

AR 1312.4

Community Relations

Note: Education Code 35186 mandates that districts establish policies and procedures to address complaints regarding insufficiency of textbooks and instructional materials, teacher vacancy or misassignment, and emergency or urgent facilities conditions that pose a threat to the health and safety of students or staff. When such a complaint is filed with the district, the district is required to investigate and resolve the complaint in accordance with the Williams uniform complaint procedures established pursuant to 5 CCR 4680-4687.

Note: It is recommended that districts use these procedures only for complaints specified in law and this administrative regulation. See BP/AR 1312.3 - Uniform Complaint Procedures for a discussion of the types of complaints subject to the uniform complaint procedures established pursuant to 5 CCR 4600-4670. For procedures related to complaints about employees, see BP/AR 1312.1 - Complaints Concerning District Employees. For complaints concerning the district's adoption and selection of specific instructional materials, see BP/AR 1312.2 - Complaints Concerning Instructional Materials. For complaints regarding the district's nutrition program, see BP 3555 - Nutrition Program Compliance.

Types of Complaints

The district shall use the procedures described in this administrative regulation only to investigate and resolve the following:

1. Complaints regarding the insufficiency of textbooks and instructional materials, including any complaint alleging that: (Education Code 35186; 5 CCR 4681)
 - a. A student, including an English learner, does not have standards-aligned textbooks or instructional materials or state- or district-adopted textbooks or other required instructional materials to use in class.
 - b. A student does not have access to textbooks or instructional materials to use at home or after school. This does not require two sets of textbooks or instructional materials for each student.
 - c. Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.
 - d. A student was provided photocopied sheets from only a portion of a textbook or instructional materials to address a shortage of textbooks or instructional materials.

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

2. Complaints regarding teacher vacancy or misassignment, including any complaint alleging that: (Education Code 35186; 5 CCR 4682)

a. A semester begins and a teacher vacancy exists.

b. A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learners in the class.

(cf. 4112.22 - Staff Teaching English Learners)

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

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

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

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

(cf. 4112.2 - Certification)

(cf. 4113 - Assignment)

3. Complaints regarding the condition of school facilities, including any complaint alleging that: (Education Code 35186; 5 CCR 4683)

a. A condition poses an emergency or urgent threat to the health or safety of students or staff.

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

damage creating a hazardous or uninhabitable condition; or any other condition deemed appropriate. (Education Code 17592.72)

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

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

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

Note: The following optional paragraph is for use by districts that maintain any of grades 6-12. Education Code 35292.6 requires a school that serves any of grades 6-12 and meets a 40 percent student poverty threshold, as defined in 20 USC 6314, to stock at least 50 percent of the school's restrooms with feminine hygiene products for use in connection with the menstrual cycle, and to not charge students for such products. See AR 3517 - Facilities Inspection. Although Education Code 35292.6 does not require a complaint process, it is recommended that the Williams uniform complaint procedures be used to address any allegation of noncompliance with Education Code 35292.6 in order to ensure consistency in the procedures that districts use to address allegations of noncompliance with all restroom maintenance requirements.

In any district school serving any of grades 6-12 in which 40 percent or more of the students in the school or school attendance area are from low-income families, as defined in 20 USC 6314, a complaint may be filed alleging noncompliance with the requirement of Education Code 35292.6 to stock, at all times, at least half of the restrooms in the school with feminine hygiene products and to not charge students for the use of such products.

(cf. 3514 - Environmental Safety)
(cf. 3517 - Facilities Inspection)

Forms and Notices

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

Note: Education Code 35186 requires that the district's complaint form contain the elements stated in the following paragraph. In addition, Education Code 35186 requires that a notice be posted in each classroom in each school in the district, as specified below. See the accompanying exhibits for a sample form and classroom notice.

The Superintendent or designee shall ensure that the district's complaint form specifies the

location for filing a complaint and contains a space to indicate whether the complainant desires a response to the complaint. A complainant may add as much text to explain the complaint as desired. (Education Code 35186; 5 CCR 4680)

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

Filing of Complaint

Note: Education Code 35186 requires that complaints be investigated and resolved within the timelines specified below. During the Federal Program Monitoring (FPM) process, CDE staff will expect to see statements regarding the filing of the complaint, the investigation, timelines, and the complainant's right to appeal to the Governing Board and to appeal facilities complaints to CDE, as detailed in the following section and the section "Investigation and Response" below.

A complaint alleging any condition(s) specified in the section "Types of Complaints" above shall be filed with the principal or designee at the school in which the complaint arises. A complaint about problems beyond the authority of the principal shall be forwarded to the Superintendent or designee in a timely manner, but not to exceed 10 working days. Complaints may be filed anonymously. (Education Code 35186; 5 CCR 4680)

Investigation and Response

The principal or a designee of the Superintendent shall make all reasonable efforts to investigate any problem within the principal's or designee's authority. (Education Code 35186; 5 CCR 4685)

The principal or Superintendent's designee shall remedy a valid complaint within a reasonable time period not to exceed 30 working days from the date the complaint was received. (Education Code 35186; 5 CCR 4685)

If the complainant has indicated on the complaint form a desire to receive a response to the complaint, the principal or Superintendent's designee shall report the resolution of the complaint to the complainant within 45 working days of the initial filing of the complaint. If the principal makes this report, the information shall be reported at the same time to the Superintendent or designee. (Education Code 35186; 5 CCR 4680, 4685)

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

When Education Code 48985 is applicable and the complainant has requested a response, the

response shall be written in English and in the primary language in which the complaint was filed. (Education Code 35186)

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

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

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

(cf. 1340 - Access to District Records)

Reports

Note: During the FPM process, CDE staff will expect to see the following statement.

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

Legal Reference:

EDUCATION CODE

234.1 Prohibition of discrimination, harassment, intimidation, and bullying

1240 County superintendent of schools, duties

17592.72 Urgent or emergency repairs, School Facility Emergency Repair Account

33126 School accountability report card

35186 Williams uniform complaint procedures

35292.5-35292.6 Restrooms, maintenance and cleanliness

48985 Notice to parents in language other than English

60119 Hearing on sufficiency of instructional materials

CODE OF REGULATIONS, TITLE 5

4600-4670 Uniform complaint procedures

4680-4687 Williams uniform complaint procedures

UNITED STATES CODE, TITLE 20

6314 Title I schoolwide program

Management Resources:

WEB SITES

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

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

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

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

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Exhibit

Williams Uniform Complaint Procedures

E 1312.4

Community Relations

Exhibit (1) 1312.4

Note: Education Code 35186 requires that the following notice be posted in each K-12 classroom in each school in the district. During the Federal Program Monitoring process, California Department of Education (CDE) staff will check to ensure that a notice is placed in each classroom in each school and that the notice contains all the information described below.

NOTICE TO PARENTS/GUARDIANS, STUDENTS, AND TEACHERS: K-12 COMPLAINT RIGHTS

Parents/Guardians, Students, and Teachers:

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

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

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

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

***Note: Education Code 35186 requires that the notice inform parents/guardians of the

location to obtain a complaint form and provides that posting a notice downloadable from the CDE's web site will satisfy this requirement. The law does not require that complaint form be placed in any specific location. The following paragraph lists locations where complaint forms may be available and should be modified to reflect district practice, including adding the school and district web site addresses.***

If you choose to file a complaint alleging that any of the above conditions is not being met, your complaint will be addressed through the district's Williams uniform complaint procedures as required by law. A complaint form may be obtained at the school office or district office, or downloaded from the school or district web site. You may also download a copy of the California Department of Education complaint form from the following web site: <http://www.cde.ca.gov/re/cp/uc>. However, a complaint need not be filed using either the district's complaint form or the complaint form from the California Department of Education.

(11/07 8/14) 3/19

Exhibit (2) 1312.4

WILLIAMS UNIFORM COMPLAINT PROCEDURES

Note: Education Code 35186 creates the Williams uniform complaint procedures for the filing of complaints concerning deficiencies in textbooks or instructional materials, conditions of facilities that are not maintained in a clean or safe manner or in good repair, or teacher vacancy or misassignment. The following form contains elements required by Education Code 35186 and 5 CCR 4681-4683. During the Federal Program Monitoring process, California Department of Education staff will check to ensure that the complaint form includes all of the elements specified below.

K-12 COMPLAINT FORM: WILLIAMS UNIFORM COMPLAINT PROCEDURES

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

Response requested? Yes No

Contact information: (if response is requested)

Name: _____

Address: _____

Phone number: Day: _____ Evening: _____
E-mail address, if any: _____

Date problem was observed: _____

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

School name/address: _____

Course title/grade level and teacher name: _____

Room number/name of room/location of facility: _____

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

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

1. Textbooks and instructional materials: (Education Code 35186; 5 CCR 4681)

A student, including an English learner, does not have standards-aligned textbooks or instructional materials or state- or district-adopted textbooks or other required instructional materials to use in class.

A student does not have access to textbooks or instructional materials to use at home or after school. This does not require two sets of textbooks or instructional materials for each student.

Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.

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

2. Teacher vacancy or misassignment: (Education Code 35186; 5 CCR 4682)

A semester begins and a teacher vacancy exists. A teacher vacancy is a position to which a single designated certificated employee has not been assigned at the beginning of the school year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.

A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20 percent English learners in the class.

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

3. Facilities conditions: (Education Code 17592.72, 35186, 35292.5, 35292.6; 5 CCR 4683)

___ A condition exists that poses an emergency or urgent threat to the health or safety of students or staff including gas leaks; nonfunctioning heating, ventilation, fire sprinklers, or air-conditioning systems; electrical power failure; major sewer line stoppage; major pest or vermin infestation; broken windows or exterior doors or gates that will not lock and that pose a security risk; abatement of hazardous materials previously undiscovered that pose an immediate threat to students or staff; structural damage creating a hazardous or uninhabitable condition; and any other condition deemed appropriate by the district.

___ A school restroom has not been cleaned or maintained regularly, is not fully operational, or has not been stocked at all times with toilet paper, soap, or paper towels or functional hand dryers.

Note: The following optional item is for districts that choose to use the William uniform complaint procedures to address complaints alleging noncompliance with requirements to stock restrooms at certain schools with feminine hygiene products pursuant to Education Code 35292.6; see the accompanying administrative regulation.

___ For a school that serves students in any of grades 6-12 with 40 percent or more of its students from low-income families, as defined, the school has not stocked at least half of its restrooms with feminine products at all times and made those products available to students at no cost.

___ The school has not kept all restrooms open during school hours when students are not in classes and has not kept a sufficient number of restrooms open during school hours when students are in classes. This does not apply when temporary closing of the restroom is necessary for student safety or to make repairs.

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

***Note: Education Code 35186 requires that complaints be filed with the principal or designee

and that the complaint form specify the location for filing the complaint. Districts should specify the name and/or location in the spaces below.***

Please file this complaint at the following location:

(principal or designee)

(address)

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

(Signature)

(Date)

(11/10 8/14) 3/19

Board Policy

Solicitation Of Funds From And By Students

BP 1321

Community Relations

***Note: The following optional policy applies to solicitations of students on behalf of the school or charitable organizations. For policy regarding solicitation of funds from and by staff members in personal profit-making ventures, see BP 4135/4235/4335 - Soliciting and Selling. For policy regarding distribution of promotional materials to students and parents/guardians, see BP 1325 - Advertising and Promotion. ***

The Governing Board recognizes that student participation in fund-raising activities for the schools and nonprofit, nonpartisan charitable organizations can help develop a sense of social responsibility in students, enhance the relationship between the school and community, and contribute to the improvement of the school program.

(cf. 1325 - Advertising and Promotion)
(cf. 4135/4235/4335 - Soliciting and Selling)
(cf. 5022 - Student and Family Privacy Rights)
(cf. 6142.4 - Service Learning/Community Service Classes)

Whether solicitations are made on behalf of the school or on behalf of a charitable organization, students shall not be barred from an event or activity because they did not participate in fund-raising. Potential donors, including parents/guardians and members of the community, should not be unduly pressured to contribute to the school system or charitable organizations. Staff is expected to emphasize the fact that donations are always voluntary.

The Superintendent or designee shall ensure that parents/guardians are informed of the purpose of fund-raisers.

Solicitations on Behalf of the School

Note: Pursuant to Education Code 51521, prior written approval is required for sales or solicitations whenever any portion of the funds raised is to be applied to the costs of the fund-raiser or to the costs of merchandise sold, such as the sale of candy or wrapping paper. Such approval is not required if the total proceeds of a solicitation are to be delivered to the school without deductions for expenses.

With the prior written approval of the Superintendent or designee, official school-related organizations may organize fund-raising events involving students.

(cf. 0420 - School Plans/Site Councils)
(cf. 1230 - School-Connected Organizations)

(cf. 1260 - Educational Foundation)
(cf. 3290 - Gifts, Grants and Bequests)
(cf. 3554 - Other Food Sales)

Note: The following paragraph is optional.

After the fund-raiser has been held, parents/guardians shall be informed how much money was raised and how it was spent.

Solicitations on Behalf of Charities

Note: Nonprofit organizations and charities conducting fund-raising activities are subject to various state laws regarding those activities. For example, Business and Professions Code 17510.2 and 17510.3 specify that solicitations made by nonprofit community or educational organizations must comply with the state disclosure laws. Business and Professions Code 17510.3 requires volunteers over 18 years old to present potential donors or buyers with information, including the purpose of the solicitation and the address from which further information about revenues and administrative expenses may be obtained. In addition, Penal Code 320.5 provides that, prior to conducting a raffle, a nonprofit organization, unless specifically exempted, must first register with the Attorney General's Registry of Charitable Organizations and file financial disclosure reports on each raffle event.

When approved in advance by the Superintendent or designee, nonprofit, nonpartisan organizations that are properly chartered or licensed by state or federal law may solicit students on school grounds during school hours and within one hour before school has opened and one hour after school has closed. (Education Code 51520)

Legal Reference:

EDUCATION CODE

51520 Prohibited solicitations on school premises

51521 Unlawful solicitations of contribution or purchase of personal property for benefit of public school or student body; exception

BUSINESS AND PROFESSIONS CODE

17510-17510.95 Charitable solicitations

PENAL CODE

319-329 Raffles

REVENUE AND TAX CODE

6361 Sales tax exemption for certain sales

CODE OF REGULATIONS, TITLE 8

11706 Dangerous activities and occupations

Management Resources:

CSBA PUBLICATIONS

Healthy Food Policy Resource Guide, 2003

WEB SITES

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

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Administrative Regulation

Solicitation Of Funds From And By Students

AR 1321

Community Relations

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

The Superintendent or designee shall approve all fund-raising activities at least 15 days before the activity. If the event involves a contract with a commercial vendor, the Superintendent or designee shall review the contract.

In order to minimize interruptions to the educational program, staff shall limit fund-raising activities to appropriate time periods designated by the principal.

(cf. 6116 - Classroom Interruptions)

No student shall be required to raise a specified amount of money in order to participate in an activity sponsored by a school-related organization.

(cf. 1230 - School-Connected Organizations)

Students engaged in fund-raising activities on behalf of the school or for school-related projects are expected to be courteous and respectful towards all individuals and businesses.

Door-to-Door Sales

Note: The following section is optional and should be deleted by districts that do not allow students to engage in door-to-door sales. Items #1-4 below detail the requirements for students participating in such sales as specified in 8 CCR 11706.

Students under 16 years old may engage in door-to-door sales of newspaper or magazine subscriptions, candy, cookies, flowers or other merchandise only under the following conditions:

1. The students shall work in pairs, as a team, on the same or opposite side of the street. (8 CCR 11706)
2. The students shall be supervised by an adult, with one adult for every crew of 10 or fewer students. (8 CCR 11706)
3. The students must be within the sight or sound of their adult supervisor at least once every 15 minutes. (8 CCR 11706)

4. The students shall be returned to their respective homes or meeting places after each day's work. (8 CCR 11706)

***Note: Optional items #5-7 below should be revised to reflect district practice. ***

5. The students shall not engage in door-to-door sales after dark.

6. The students shall not work outside of their immediate neighborhood.

7. Students in grades _____ shall not be involved in any door-to-door sales or solicitations.

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Board Policy

Advertising And Promotion

BP 1325

Community Relations

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

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

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

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

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

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

OPTION 1: Nonpublic Forum

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

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

OPTION 2: Limited Public Forum

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

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

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

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

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

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

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

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

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

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

(cf. 3290 - Gifts, Grants and Bequests)

(cf. 6161.11 - Supplementary Instructional Materials)

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

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

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

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

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

Criteria for Approval

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

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

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

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

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

(cf. 1160 - Political Processes)

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

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

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

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

4. Contain prayer or proselytizing language
5. Position the district on any side of a controversial issue

(cf. 6144 - Controversial Issues)

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

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

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

(cf. 5131.6 - Alcohol and Other Drugs)
(cf. 5131.62 - Tobacco)

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

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

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

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

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

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

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

(cf. 0000 - Vision)

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

Legal Reference:

EDUCATION CODE

7050-7058 Political activities of school officers and employees

35160 Authority of governing boards

35160.1 Broad authority of school districts

35172 Promotional activities

38130-38139 Civic Center Act

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

49431.9 Advertisement of non-nutritious foods

BUSINESS AND PROFESSIONS CODE

25664 Advertisements encouraging minors to drink

CALIFORNIA CONSTITUTION

Article 1, Section 2 Free speech rights

U.S. CONSTITUTION

Amendment 1, Freedom of speech and expression

UNITED STATES CODE, TITLE 42

1751-1769j School Lunch Program

1773 School Breakfast Program

COURT CASES

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

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

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

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

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

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

Management Resources:

WEB SITES

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

Board Policy

Use Of School Facilities

BP 1330

Community Relations

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

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

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)
(cf. 6145.5 - Student Organizations and Equal Access)

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

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

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

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

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

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

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

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

(cf. 6115 - Ceremonies and Observances)

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

(cf. 1325 - Advertising and Promotion)

Note: The following optional paragraph may be modified to reflect district practice. A district may enter into an agreement with another entity for the joint use of school facilities or grounds. For considerations to guide the development of such an agreement, see BP 1330.1 - Joint Use Agreements.

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

(cf. 1330.1 - Joint Use Agreements)

Fees

Note: Education Code 38134 authorizes districts to charge an amount "not exceeding" direct costs for the use of school facilities or grounds by community groups and entities. 5 CCR 14037-14041 contain specific rules adopted by the State Board of Education for determining "direct costs" to be charged for use of school facilities and grounds. See the section "Calculating Direct Costs" below. If the district chooses to charge fees, 5 CCR 14041 requires the Board to adopt a fee schedule that specifies the hourly fee to be charged by the district either for specific school facilities and grounds or for types or categories of school facilities or grounds (e.g., all gymnasiums or playgrounds).

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

(cf. 9320 - Meetings and Notices)

Note: Education Code 38134 mandates each district that chooses to charge the community a fee for the use of school facilities to adopt a policy specifying the activities and organizations that shall be subjected to the fees.

Note: The options below provide suggestions on how districts that choose to charge fees may categorize activities and organizations for that purpose. Option 1 is for use by districts that choose to charge an amount "not exceeding" direct costs to all community groups. Option 2 is for use by districts that choose to grant free use to nonprofit organizations and to groups organized to promote youth and school activities but charge other groups an amount "not exceeding" direct costs. Option 3 is for use by districts that grant free use to school-related organizations only.

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

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

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

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

Note: This option reflects the common practice among districts to allow free use of school facilities by nonprofit organizations and clubs and associations that promote youth and school activities pursuant to Education Code 38134. Districts that wish to allow free use by some groups but charge other groups should proceed cautiously and ensure that such free use or discount is granted on a reasonable and nondiscriminatory basis. It is strongly recommended that districts consult legal counsel before deciding which groups will or will not be charged and, based upon legal counsel's advice, decide whether it would be appropriate to specifically name in the district's policy the community groups that will or will not be charged.

The Board authorizes the use of school facilities or grounds, without charge, by nonprofit organizations and by clubs or associations organized to promote youth and school activities, including, but not limited to, Girl Scouts, Boy Scouts, Camp Fire USA, YMCA, parent-teacher associations, school-community advisory councils, and recreational youth sports leagues that charge participants no more than an average of \$60 per month. Other groups that request the use of school facilities under the Civic Center Act shall be charged an amount not exceeding direct costs determined in accordance with 5 CCR 14037-14041. (Education Code 38134)

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

The Board authorizes the use of school facilities or grounds without charge to school-related

organizations whose activities are directly related to or for the benefit of district schools. All other groups requesting the use of school facilities under the Civic Center Act shall be charged an amount not exceeding direct costs determined in accordance with 5 CCR 14037-14041.

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

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

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

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

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

Calculating Direct Costs

Direct costs to be charged for community use of each, or each type of, school facility or grounds shall be calculated in accordance with 5 CCR 14038 and may reflect the community's proportionate share of the following costs: (Education Code 38134; 5 CCR 14038-14041)

1. Capital direct costs calculated in accordance with 5 CCR 14039, including the estimated costs of maintenance, repair, restoration, and refurbishment of non-classroom space school facilities or grounds
2. Operational direct costs calculated in accordance with 5 CCR 14040, including estimated costs of supplies, utilities, janitorial services, other services performed by district employees and/or contracted workers, and salaries and benefits paid to district employees directly associated with the administration of the Civic Center Act to operate and maintain school facilities and grounds

Note: The following optional paragraph applies to districts that choose to discount direct cost fees based on the type or category of the applicant, such as to groups with tax-exempt status as authorized pursuant to 5 CCR 14041.

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

Expending Funds Collected as Capital Direct Costs

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

Use of School Facility as Polling Place

Note: Pursuant to Elections Code 12283, an elections official requesting the use of a school building as a polling place must include in his/her request a list of the schools needed. Such requests must be made within sufficient time before the start of the school year so that the Board can determine and notify parents/guardians whether (1) the school will remain in session on those days, (2) the school day will be designated for staff training and development, or (3) the school will be closed to students and nonclassified employees. See BP 6111 - School Calendar.

The Board may authorize the use of school buildings as polling places on any election day, and may also authorize the use of school buildings, without cost, for the storage of voting machines and other vote-tabulating devices. However, if a city or county elections official specifically requests the use of a school building as a polling place, the Board shall allow its use for such purpose. If school will be in session, the Superintendent or designee shall identify to elections officials the specific areas of the school buildings not occupied by school activities that will be allowed for use as polling places. (Elections Code 12283)

(cf. 6111 - School Calendar)

When a school is used as a polling place, the Superintendent or designee shall provide the elections official a site with an adequate amount of space that will allow the precinct board to perform its duties in a manner that will not impede, interfere, or interrupt the normal process of voting and shall make a telephone line for Internet access available for use by local elections officials if so requested. He/she shall make a reasonable effort to ensure that the site is accessible to persons with disabilities. (Elections Code 12283)

The Superintendent or designee shall establish procedures to ensure student safety and minimize disruptions whenever school is in session while the facilities are being used as a polling place.

(cf. 3515.2 - Disruptions)

Legal Reference:

EDUCATION CODE

10900-10914.5 Community recreation programs

32282 School safety plan

37220 School holidays

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

BUSINESS AND PROFESSIONS CODE

25608 Alcoholic beverage on school premises

ELECTIONS CODE

12283 Polling places: schools

GOVERNMENT CODE

54950-54963 The Ralph M. Brown Act

MILITARY AND VETERANS CODE

1800 Definitions

CODE OF REGULATIONS, TITLE 5

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

UNITED STATES CODE, TITLE 20

7905 Equal access to public school facilities

COURT DECISIONS

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

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

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

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

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

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

ATTORNEY GENERAL OPINIONS

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

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Management Resources:

CSBA PUBLICATIONS

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

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

WEB SITES

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

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

Administrative Regulation

Use Of School Facilities

AR 1330

Community Relations

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.

Note: 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.***

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

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)

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.

Note: 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 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 drugs 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. One such exception is serving alcohol 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. Although Business and Professions Code 25608 allows this exception, 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 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). Item #4 is optional and may be deleted or revised to reflect any limitations imposed on the facility user.***

4. Any use which involves the possession, consumption, or sale of alcoholic beverages, except for special events approved by the Superintendent or designee pursuant to Business and Professions Code 25608 which are covered by a special events permit pursuant to Division 9 of the Business and Professions Code and which will occur at a time when students are not on the grounds. 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)

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.

Note: 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.

(cf. 3515.21 - Unmanned Aircraft Systems (Drones))

Exhibit

Use Of School Facilities

E 1330

Community Relations

Note: The following exhibit is provided for the management and control of school facilities pursuant to Education Code 38133 and may be modified to reflect other district requirements such as specific restrictions and insurance documents.

_____ SCHOOL DISTRICT

FACILITIES USE STATEMENT

The undersigned, _____, is duly authorized by _____ (name of organization) _____, to act on its behalf in requesting the use of school facilities, including, but not limited to, executing any agreement or undertaking required by law and district policy and regulations governing the use of the facilities.

The organization shall comply with all restrictions placed on the use of the school facilities by law or district policy or regulations.

The organization recognizes that, in accordance with Education Code 38134, it is liable for any damage to the school facilities or for any injury to any person due to the organization's negligence in using the school facilities.

(Signed) _____ (Date)

(Organization)

Board Policy

Joint Use Agreements

BP 1330.1

Community Relations

Note: The following optional policy is for use by districts that elect to establish formal agreements with public or private entities to jointly use either school facilities or community facilities in order to share costs and risks. In adopting policy on this topic, districts are encouraged to review CSBA's policy brief Maximizing Opportunities for Physical Activity Through Joint Use of Facilities and CSBA's publication Building Healthy Communities: A School Leader's Guide to Collaboration and Community Engagement for tips regarding successful collaboration, information about funding sources for joint use, suggested components of joint use agreements, model agreements, and additional resources.

Note: Use of school facilities by the community also may be accomplished through the Civic Center Act (Education Code 38130-38138) and programs such as the After School Education and Safety Program (Education Code 8482-8484.6) and 21st Century Community Learning Centers (20 USC 7171-7176; Education Code 8484.7-8484.9); see BP/AR 1330 - Use of School Facilities and BP/AR 5148.2 - Before/After School Programs.

In order to ensure the efficient use of public resources and increase access to needed services, the Governing Board may enter into an agreement with any public agency, public institution, and/or community organization to use community facilities for school programs or to make school facilities or grounds available for use by those entities. Such an agreement shall be based on an assessment of student and community needs and may be designed to increase access to spaces for recreation and physical activity, library services, school health centers, preschool programs, child care centers, before- or after-school programs, or other programs that benefit students and the community.

(cf. 1330 - Use of School Facilities)

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

(cf. 5030 - Student Wellness)

(cf. 5141.6 - School Health Services)

(cf. 5148 - Child Care and Development)

(cf. 5148.2 - Before/After School Programs)

(cf. 5148.3 - Preschool/Early Childhood Education)

(cf. 6142.7 - Physical Education and Activity)

(cf. 6145.2 - Athletic Competition)

(cf. 6163.1 - Library Media Centers)

(cf. 7000 - Concepts and Roles)

(cf. 7131 - Relations with Local Agencies)

When it is determined that joint use of facilities is in the best interest of the district and

community, the Superintendent or designee shall identify a potential partner agency, institution, or organization. He/she shall involve that partner, appropriate district and school staff, and community members in establishing planning processes, goals and priorities for joint use, locations where programs or facilities are most needed, and protocols for ongoing communication and coordination between the partners.

(cf. 1220 - Citizen Advisory Committees)

The Superintendent or designee shall work with the partner agency, institution, or organization to develop a written site-specific joint use agreement that delineates the terms and conditions for joint use of the district or community facilities and the responsibilities of all parties. As appropriate, the agreement may address:

1. The underlying philosophy or reasons for entering into the joint use agreement
2. The specific district or community facilities or grounds that will be made available to the other party and areas that will be restricted
3. Priorities for use of the property
4. Hours that the property will be available for use by the district, the partner, or other parties
5. Projected capital costs, if any, and operating costs

(cf. 7110 - Facilities Master Plan)

(cf. 7150 - Site Selection and Development)

(cf. 7210 - Facilities Financing)

6. Resources to be allocated by the district and the partner

(cf. 3100 - Budget)

Note: Education Code 38134 authorizes the district to charge a facilities usage fee to nonprofit organizations that promote youth and school activities, provided that the amount does not exceed the district's direct costs and that the Governing Board first adopts a policy specifying which activities will be charged the fee. See BP 1330 - Use of School Facilities for language implementing this mandate.

7. Rental or other fees, if any, to be charged to either party or third parties using the facilities
8. Responsibilities for management, scheduling, maintenance, on-site supervision, accounting, and other operations
9. Procedures and timelines for requesting use of the facilities

10. Code of conduct for users of the facilities and consequences for violations of the code

(cf. 3513.3 - Tobacco-Free Schools)

(cf. 3515.2 - Disruptions)

(cf. 5131 - Conduct)

(cf. 5131.5 - Vandalism and Graffiti)

11. Provision for regular inspection and notification of damage, as well as restitution and repair of property

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

(cf. 3517 - Facilities Inspection)

12. Safety and security measures

(cf. 0450 - Comprehensive School Safety Plan)

(cf. 3515 - Campus Security)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

(cf. 5142 - Safety)

Note: In general, the California Tort Claims Act, also known as the Government Claims Act, (Government Code 814-825.6, 830-840.6) protects the district against liability for injuries to individuals using school property, although some conditions or circumstances could result in the district being held liable in the event of an injury. Education Code 38134 requires the district to bear the cost of insuring and defending itself against any risk caused by the district's negligence in the ownership and maintenance of district property. Education Code 38134 also requires any organized group using the facilities to carry insurance and to defend itself in the event of any injuries arising from the group's negligence in the use of the facility. See AR 1330 - Use of School Facilities.

Note: CSBA's policy brief Maximizing Opportunities for Physical Activity Through Joint Use of Facilities recommends that districts minimize liability by adequately maintaining the property, ensuring they have proper insurance, requiring that organized groups who use the property maintain the proper insurance, and, when feasible, sharing or passing on the risk to the partner through an indemnity clause in the joint use agreement. The district should consult its legal counsel, joint powers authority or insurance carrier, and/or risk manager regarding potential risks and liability prior to entering into a joint use agreement.

13. Liability, insurance, and risk management issues

(cf. 3320 - Claims and Actions Against the District)

(cf. 3530 - Risk Management/Insurance)

(cf. 9260 - Legal Protection)

14. Duration of the agreement, process for amending the agreement, and the bases for

cancelling or terminating the agreement before the expiration date

15. Process for resolving disputes regarding any aspect of the agreement

16. How any equipment purchased or other investments made through the agreement will be disposed of at the termination of the agreement

The agreement shall be reviewed by legal counsel and approved by the Board.

Note: The following optional paragraph should be revised to reflect indicators that will be used to evaluate program effectiveness as agreed upon by the Board and Superintendent and/or program partner.

The Superintendent or designee shall provide regular reports to the Board regarding progress toward project goals, including, but not limited to, levels of participation in joint use programs held at school or community facilities, feedback from program participants, and any report of damage to property or harm to individuals resulting from the joint use. As needed, the Superintendent or designee shall recommend amendments to the joint use agreement.

(cf. 0500 - Accountability)

Legal Reference:

EDUCATION CODE

8482-8484.6 After School Education and Safety Program

8484.7-8484.9 21st Century Community Learning Centers

10900-10914.5 Community recreation programs

17051-17052 Joint use

17077.40-17077.45 Eligibility for joint use funding

17565-17592 Board duties re property maintenance and control

35200-35214 Liabilities

37220 School holidays; use of facilities when school is closed

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

44808 Exemption from liability when students not on school property

BUSINESS AND PROFESSIONS CODE

25608 Alcoholic beverages on school premises

GOVERNMENT CODE

814-825.6 Liability of public entities and employees

830-840.6 Liability; dangerous conditions on property

895-895.8 Liability; agreement between public entities

989-991.2 Local public entity insurance

UNITED STATES CODE, TITLE 20

7171-7176 21st Century Community Learning Centers

7905 Equal access to public facilities

Management Resources:

CSBA PUBLICATIONS

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

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

NATIONAL POLICY AND LEGAL ANALYSIS NETWORK TO PREVENT CHILDHOOD OBESITY PUBLICATIONS

Model California Joint Use Agreements

Liability for Use of School Property After Hours: An Overview of California Law, July 2009

Checklist for Developing Joint Use Agreements, March 2009

PUBLIC HEALTH LAW AND POLICY PUBLICATIONS

Opening School Grounds to the Community After Hours: A Toolkit for Increasing Physical Activity Through Joint Use Agreements, 2010

WEB SITES

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

California Project LEAN (Leaders Encouraging Activity and Nutrition):

<http://www.californiaprojectlean.org>

Cities Counties and Schools Partnership: <http://www.ccspartnership.org>

Joint Use Statewide Task Force: <http://www.jointuse.org>

National Policy and Legal Analysis Network: <http://www.nplan.org>

Public Health Law and Policy: <http://www.phpnet.org>

Board Policy

Access To District Records

BP 1340

Community Relations

Note: The following optional policy and accompanying administrative regulation reflect requirements of the California Public Records Act (CPRA) (Government Code 6250-6270) pertaining to public access to public records of the district. "Public records," as defined by Government Code 6252, include any writing containing information relating to the conduct of the district's business prepared, owned, used, or retained by the district regardless of physical form or characteristics; see "Definitions" in the accompanying administrative regulation. For information regarding retention of records, see BP/AR 3580 - District Records, AR 4112.6/4212.6/4312.6 - Personnel Files, and BP/AR 5125 - Student Records.

The Governing Board recognizes the right of members of the public to have access to public records of the district. The district shall provide any person reasonable access to the public records of the schools and district during normal business hours and within the requirements of law. Public access shall not be given to records listed as exempt from public disclosure in the California Public Records Act and other state or federal law.

(cf. 3553 - Free and Reduced Price Meals)

(cf. 3580 - District Records)

(cf. 4112.5/4212.5/4312.5 - Criminal Record Check)

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

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

(cf. 5020 - Parent Rights and Responsibilities)

(cf. 5125 - Student Records)

(cf. 5125.1 - Release of Directory Information)

(cf. 6162.5 - Student Assessment)

(cf. 9011 - Disclosure of Confidential/Privileged Information)

(cf. 9321 - Closed Session)

Note: In *City of San Jose v. Superior Court*, the California Supreme Court held that communications regarding public business that have been sent, received, or stored by public officials on a personal account or device are not categorically exempt from disclosure under the CPRA (Government Code 6250-6270). The court noted that public agencies are required to disclose all applicable records that can be located "with reasonable effort," including those records contained on a public official's or employee's personal device regardless of whether they were transmitted through district servers. Such searches need not be extraordinarily extensive or intrusive. For further information, see CSBA's Legal Alert: Tips for Governing Boards in Response to Public Records Act Ruling on Electronic Communications. Also see AR 3580 - District Records and BB 9012 - Board Member Electronic Communications.

In response to a public records request, the Superintendent or designee shall make reasonable efforts to locate the requested records, including, but not limited to, any electronic communication substantively related to the records, such as email, text messages, instant messages, and other electronic communications, regardless of whether they are transmitted through a district-provided device or account or through an employee's or Board member's personal device or account.

(cf. 4040 - Employee Use of Technology)

(cf. 9012 - Board Member Electronic Communications)

Note: Government Code 6253 authorizes the district to charge a person requesting a copy of a record a fee covering the direct costs of duplication; however, no fee can be charged to a person who wishes to inspect but not copy a record. In *North County Parents Organization for Children with Special Needs v. Department of Education*, the court determined that direct costs include only the cost of running the copy machine and possibly the expense of the person operating it. Examples of costs that do not fit this definition include costs associated with searching, reviewing, or redacting the record; assisting the requester in formulating the request; responding to the request; or employee time to sit with the requester during inspection of the record. Because it is not clearly authorized by law, districts wishing to charge for the cost of the copy machine operator should consult with legal counsel.

Note: In addition, Government Code 6253 authorizes districts to provide faster access or access to more records than the minimum standards provided by law. According to the court in *North County Parents Organization*, this provision permits a district to waive or reduce its fees, as a reduction in copy fees permits greater access to records. For example, a district may consider waiving fees below a certain dollar threshold because the costs of collecting the fee exceed the fee amount.

Note: Pursuant to Government Code 6253, as amended by AB 1819 (Ch. 695, Statutes of 2019), members of the public who request to inspect a disclosable record of the district have the right to use their own equipment on district premises, without being charged any fees or costs, to photograph, copy, or reproduce the record in a manner that does not require the equipment to make physical contact with the record. For further information about exceptions and limitations on the use of one's own equipment to copy a record of the district, see "Inspection of Records and Requests for Copies" in the accompanying administrative regulation.

The district may charge for copies of public records or other materials requested by individuals or groups, unless they are using their own personal equipment to reproduce the record. The charge shall be based on actual costs of duplication, as determined by the Superintendent or designee and as specified in administrative regulation.

Note: The following paragraph is optional.

In order to help maintain the security of district records, members of the public granted access shall examine records in the presence of a district staff member.

Legal Reference:

EDUCATION CODE

234.7 Student protections relating to immigration and citizenship status

35145 Public meetings

35170 Authority to secure copyrights

35250 Duty to keep certain records and reports

41020 Requirement for annual audit

42103 Publication of proposed budget; hearing

44031 Personnel file contents and inspections

44839 Medical certificates; periodic medical examination

49060-49079 Student records

49091.10 Parental review of curriculum and instruction

GOVERNMENT CODE

3547 Proposals relating to representation

6250-6270 California Public Records Act

6275-6276.48 California Public Records Act; other exemptions from disclosure

8310.3 California Religious Freedom Act

53262 Employment contracts

54957.2 Minute book record of closed sessions

54957.5 Agendas and other writings distributed for discussion or consideration

81008 Political Reform Act, public records; inspection and reproduction

CALIFORNIA CONSTITUTION

Article 1, Section 3 Right of access to governmental information

CODE OF REGULATIONS, TITLE 5

430-438 Individual student records

COURT DECISIONS

City of San Jose v. Superior Court (2017) 2 Cal.5th 608

Los Angeles County Board of Supervisors v. Superior Court (2016) 2 Cal.5th 282

Sacramento County Employees' Retirement System v. Superior Court (2011) 195 Cal. App. 4th 440

International Federation of Professional and Technical Engineers v. The Superior Court of Alameda County, (2007) 42 Cal.4th 319

Los Angeles Times v. Alameda Corridor Transportation Authority, (2001) 88 Cal.App.4th 1381

Kleitman v. Superior Court, (1999) 74 Cal.App. 4th 324

Fairley v. Superior Court, (1998) 66 Cal.App. 4th 1414

North County Parents Organization for Children with Special Needs v. Department of Education, (1994) 23 Cal.App. 4th 144

ATTORNEY GENERAL OPINIONS

71 Ops.Cal.Atty.Gen. 235 (1988)

64 Ops.Cal.Atty.Gen. 186 (1981)

Management Resources:

CSBA PUBLICATIONS

Legal Alert: Tips for Governing Boards in Response to Public Records Act Ruling on Electronic

Communications, March 2017

CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATIONS

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

California Department of Justice Guidelines for Access to Public Records, October 2017

LEAGUE OF CALIFORNIA CITIES PUBLICATIONS

The People's Business: A Guide to the California Public Records Act, rev. April 2017

WEB SITES

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

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

Institute for Local Government: <http://www.cacities.org>

State Bar of California: <http://www.calbar.ca.gov>

(11/08 5/17) 5/20

Administrative Regulation

Access To District Records

AR 1340

Community Relations

Note: Article 1, Section 3 of the California Constitution grants any person the right to access information concerning meetings and writings of state and local government bodies, officials, and agencies as long as the constitutional rights of privacy and due process are protected. Courts broadly interpret rules or laws granting access and narrowly interpret those denying access; thus, the burden is on the district to demonstrate the need for restricting access to public records.

Note: The following optional administrative regulation lists those records defined as public and, in contrast, those defined as confidential to which there is no public access. It is not intended to provide an all-inclusive list of records that may be defined as either public or confidential.

Definitions

Note: Pursuant to Government Code 6252, a "public record" includes any writing that relates to district business as defined below.

Note: Emails and other electronic communications related in a substantive manner to district business are considered public records. Furthermore, in *City of San Jose v. Superior Court*, the California Supreme Court held that using a personal account or personal device to send, receive, or store communications regarding public business does not categorically exclude those records from disclosure upon request under the California Public Records Act (CPRA) (Government Code 6250-6270). The court noted that public agencies are required to disclose all applicable records that can be located "with reasonable effort," including those records contained on a public employee's or official's personal device or account. Such searches need not be extraordinarily extensive or intrusive. For further information, see CSBA's Legal Alert: Tips for Governing Boards in Response to Public Records Act Ruling on Electronic Communications. Also see the accompanying Board policy, AR 3580 - District Records, and BB 9012 - Board Member Electronic Communications.

Public records include any writing containing information relating to the conduct of the district's business prepared, owned, used, or retained by the district regardless of physical form or characteristics. (Government Code 6252)

(cf. 3580 - District Records)

(cf. 9012 - Board Member Electronic Communications)

Writing means any handwriting, typewriting, printing, photostating, photographing,

photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored. (Government Code 6252)

Member of the public means any person, except a member, agent, officer, or employee of the district or a federal, state, or other local agency acting within the scope of such membership, agency, office, or employment. (Government Code 6252)

Public Records

Note: While not specifically enumerated in Government Code 6252, items #1-14 below are items which fall within the definition of "public records."

Public records to which members of the public shall have access include, but are not limited to:

1. Proposed and approved district budgets and annual audits (Education Code 41020, 42103)

(cf. 3100 - Budget)

(cf. 3460 - Financial Reports and Accountability)

2. Statistical compilations

3. Reports and memoranda

4. Notices and bulletins

5. Minutes of public meetings (Education Code 35145)

(cf. 9324 - Minutes and Recordings)

6. Meeting agendas (Government Code 54957.5)

(cf. 9322 - Agenda/Meeting Materials)

7. Official communications between the district and other government agencies

Note: District and school plans (e.g., local control and accountability plan, school plan for student achievement, comprehensive safety plan) must generally be accessible to the public. However, pursuant to Education Code 32281, the Governing Board may choose to prohibit disclosure of those portions of the comprehensive safety plan that include tactical responses to criminal incidents that may result in death or serious bodily injury at the school site. See BP 0450 - Comprehensive Safety Plan.

8. District and school plans, and the information and data relevant to the development and

evaluation of such plans, unless otherwise prohibited by law

- (cf. 0400 - Comprehensive Plans)
- (cf. 0420 - School Plans/Site Councils)
- (cf. 0440 - District Technology Plan)
- (cf. 0450 - Comprehensive Safety Plan)
- (cf. 0460 - Local Control and Accountability Plan)
- (cf. 3516 - Emergencies and Disaster Preparedness Plan)
- (cf. 3543 - Transportation Safety and Emergencies)
- (cf. 7110 - Facilities Master Plan)

9. Initial proposals of exclusive employee representatives and of the district (Government Code 3547)

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

Note: Government Code 6254 exempts from disclosure those records pertaining to pending litigation until the pending litigation or claim has been finally adjudicated or otherwise settled. However, the Attorney General opined in 71 Ops.Cal.Atty.Gen. 235 (1988) that records predating the filing of the lawsuit are subject to disclosure. In Fairley v. Superior Court, a California Court of Appeal concurred and held that documents were exempted only if they were prepared for use in litigation. (See item #2 in the section "Confidential Records" below.) The Board should consult legal counsel if it believes that any document related to litigation should not be disclosed.

10. Records pertaining to claims and litigation against the district which have been adjudicated or settled (Government Code 6254, 6254.25)

(cf. 3320 - Claims and Actions Against the District)

11. Statements of economic interests required by the Conflict of Interest Code (Government Code 81008)

(cf. 9270 - Conflict of Interest)

Note: Generally, the names and salaries of public employees are subject to disclosure under the CPRA. In Sacramento County Employees Retirement System v. Superior Court, a California Court of Appeal held that the names and corresponding pension benefits of members of a county retirement system are subject to disclosure and are not considered "individual records of members" protected by Government Code 31532. However, in International Federation of Professional and Technical Engineers v. The Superior Court of Alameda County, the California Supreme Court recognized that, in some instances, the salaries of certain employees might be exempt from disclosure, depending on the facts and circumstances. The Board should consult legal counsel if it believes that any document related to the names and salaries of public employees should not be disclosed.

12. Documents containing names, salaries, and pension benefits of district employees

13. Employment contracts and settlement agreements (Government Code 53262)

(cf. 2121 - Superintendent's Contract)

(cf. 4117.5/4217.5/4317.5 - Termination Agreements)

(cf. 4141/4241 - Collective Bargaining Agreement)

14. Instructional materials including, but not limited to, textbooks (Education Code 49091.10)

(cf. 5020 - Parent Rights and Responsibilities)

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

Access to public records of the district shall be granted to Governing Board members on the same basis as any other member of the public. When Board members are authorized to access public records in the administration of their duties, the Superintendent or designee shall not discriminate among any of the Board members as to which record, or portion of the record, will be made available, or when it will be made available. (Government Code 6252.5, 6252.7)

Note: Government Code 6254.29 specifies that the CPRA does not require a district to disclose a social security number and states the Legislature's intent that districts will redact social security numbers from any records being disclosed to the public. In addition, Government Code 6254.3 prohibits disclosure of an employee's personal cell phone number and birth date.

When disclosing to a member of the public any record that contains personal information, including, but not limited to, an employee's home address, home telephone number, social security number, personal cell phone number, or birth date, the Superintendent or designee shall ensure that such personal information is redacted from that record. (Government Code 6254.29, 6254.3)

Confidential Public Records

Note: Education Code 234.7 prohibits the collection of information or documents regarding the citizenship or immigration status of students or their family members. If the district becomes aware of the citizenship or immigration status of any student, it is prohibited from disclosing that information to U.S. Immigration and Customs Enforcement (ICE), as such disclosure is not among the limited exceptions specified in law for which student records may be released without parental consent or a lawful judicial order. An ICE "administrative warrant" is not a court order that would allow a district to disclose student records without parent/guardian consent. See BP/AR 5125 - Student Records, BP/AR 5145.13 - Response to Immigration Enforcement, and the Office of the Attorney General's publication Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues.

***Note: In addition, pursuant to Government Code 8310.3, districts are prohibited from

collecting or disclosing to federal government authorities any personal information regarding an individual's religious beliefs, practices, or affiliation for the purpose of compiling a list, registry, or database of individuals based on religious affiliation, national origin, or ethnicity.***

Unless otherwise authorized or required by law, information regarding an individual's citizenship or immigration status or religious beliefs, practices, or affiliation shall not be disclosed to federal government authorities. (Education Code 234.7; Government Code 8310.3)

(cf. 5145.13 - Response to Immigration Enforcement)

Records to which the members of the public shall not have access include, but are not limited to:

1. Preliminary drafts, notes, and interagency or intradistrict memoranda that are not retained by the district in the ordinary course of business, provided that the public interest in withholding these records clearly outweighs the public interest in disclosure (Government Code 6254)

(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)
(cf. 9011 - Disclosure of Confidential/Privileged Information)

2. Records specifically generated in connection with or prepared for use in litigation to which the district is a party or to respond to claims made against the district pursuant to the Tort Claims Act, until the litigation or claim has been finally adjudicated or otherwise settled, or beyond, if the records are protected by some other provision of law (Government Code 6254, 6254.25)

3. Personnel records, medical records, or similar materials, the disclosure of which would constitute an unwarranted invasion of personal privacy (Government Code 6254)

(cf. 4112.5/4212.5/4312.5) - Criminal Record Check)
(cf. 4112.6/4212.6/4312.6 - Personnel Files)

The home addresses, home telephone numbers, personal cell phone numbers, or birth date of employees may only be disclosed as follows: (Government Code 6254.3)

- a. To an agent or a family member of the employee
- b. To an officer or employee of a state agency or another school district or county office of education when necessary for the performance of official duties
- c. To an employee organization pursuant to regulations and decisions of the Public Employment Relations Board, except that the home address and any telephone number for an employee who performs law enforcement-related functions, or the birth date of any employee, shall not be disclosed

Upon written request of any employee, the district shall not disclose the employee's home address, home telephone number, personal cell phone number, personal email address, or birth

date, and the district shall remove the home address, home telephone number, and personal cell phone number from any mailing list of the district except a list used exclusively to contact the employee.

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

d. To an agent or employee of a health benefit plan providing health services or administering claims for health services to district employees and their enrolled dependents, for the purpose of providing the health services or administering claims for employees and their enrolled dependents

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

4. Student records, except directory information and other records to the extent permitted by law and district policy

(cf. 5125 - Student Records)

(cf. 5125.1 - Release of Directory Information)

(cf. 5125.3 - Challenging Student Records)

5. Test questions, scoring keys, and other examination data except as provided by law (Government Code 6254)

(cf. 6162.51 - State Academic Achievement Tests)

6. Without affecting the law of eminent domain, the contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the district relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained (Government Code 6254)

7. Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in an unfair competitive disadvantage to the person supplying the information (Government Code 6254)

8. Library circulation and patron use records of a borrower or patron including, but not limited to, name, address, telephone number, email address, borrowing information, or use of library information resources, except when disclosure is to persons acting within the scope of their duties in the administration of the library; to persons authorized in writing, by the individual to whom the records pertain, to inspect the records; or by court order (Government Code 6254, 6267)

(cf. 6163.1 - Library Media Centers)

***Note: The following exemption protects attorney-client privileged communications and attorney work product, as well as other work product prepared for use in pending litigation or

claims. Pursuant to the Rules of Professional Conduct of the State Bar of California, when an attorney has been hired to represent the district as a whole, this privilege may only be waived by the Board.***

Note: In Los Angeles County Board of Supervisors v. Superior Court, the California Supreme Court held that invoices for the services of district counsel, or portions of those invoices, may be privileged and therefore exempt from disclosure. The Board should consult with legal counsel to determine what records to disclose in response to a CPRA request for such invoices.

9. Records for which the disclosure is exempted or prohibited pursuant to state or federal law, including, but not limited to, provisions of the Evidence Code relating to privilege (Government Code 6254)

(cf. 9124 - Attorney)

10. Documents prepared by or for the district to assess its vulnerability to terrorist attack or other criminal acts intended to disrupt district operations and that are for distribution or consideration in closed session (Government Code 6254)

11. Recall petitions, petitions for special elections to fill Board vacancies, or petitions for the reorganization of the school district (Government Code 6253.5)

(cf. 9223 - Filling Vacancies)

12. Minutes of Board meetings held in closed session (Government Code 54957.2)

(cf. 9321 - Closed Session)

13. Computer software developed by the district (Government Code 6254.9)

14. Information security records, the disclosure of which would reveal vulnerabilities to, or otherwise increase potential for an attack on, the district's information technology system (Government Code 6254.19)

15. Records that contain individually identifiable health information, including records that may be exempt pursuant to physician-patient privilege, the Confidentiality of Medical Information Act, and the Health Insurance Portability and Accountability Act (Government Code 6254, 6255)

(cf. 5141.6 - School Health Services)

16. Any other records listed as exempt from public disclosure in the California Public Records Act or other statutes

***Note: Item #17 below reflects an exemption often referred to as the "catch-all" or "public

interest" exemption pursuant to Government Code 6255. This exemption allows a district to withhold a record based on analysis of the specific facts of the situation and in light of the competing public interests. This exemption also includes the "deliberative process privilege" which is designed to protect a district's decision-making process in order to encourage candid discussions within the district. Legal counsel should be consulted to determine whether a request for a record falls under this exemption.***

17. Any other records for which the district can demonstrate that, based on the particular facts of the case, the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record (Government Code 6255)

Inspection of Records and Requests for Copies

Note: Court decisions have held that a public record request may be made orally, by phone, or in writing, including by email, fax, or hand delivery. The district may ask, but not require, that the person put an oral request in writing.

Any person may request a copy or inspection of any district record that is not exempt from disclosure. (Government Code 6253)

Within 10 days of receiving any request to inspect or copy a district record, the Superintendent or designee shall determine whether the request seeks release of a disclosable public record in the district's possession. The Superintendent or designee shall promptly inform the person making the request of the determination and the reasons for the decision. (Government Code 6253)

In unusual circumstances, the Superintendent or designee may extend the 10-day limit for up to 14 days by providing written notice to the requester setting forth the reasons for the extension and the date on which a determination is expected to be made. Unusual circumstances include the following, but only to the extent reasonably necessary to properly process the request: (Government Code 6253)

1. The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request
2. The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request
3. The need for consultation, which shall be conducted with all practicable speed, with another agency (e.g., a state agency or city) having a substantial interest in the determination of the request or among two or more components of the district (e.g., two different school sites) with substantial interest in the request
4. In the case of electronic records, the need to compile data, write programming language or a computer program, or construct a computer report to extract data

If the Superintendent or designee determines that the request seeks disclosable public records, the determination shall state the estimated date and time when the records will be made available. (Government Code 6253)

Public records shall be open to inspection at all times during district office hours. Any reasonably segregable portion of a record shall be made available for inspection by any person requesting the record after deletion of the portions that are exempted by law. (Government Code 6253)

Note: Government Code 6253 states that copies of records must be provided "promptly." The term "promptly" is not defined in law, but Government Code 6253 also states that a district may not delay or obstruct the inspection or copying of records. Thus, if the records are held in a manner that allows for prompt disclosure, the records generally should not be withheld because of the 10-day response period or the 14-day extension detailed above.

Upon request for a copy that reasonably describes an identifiable record, an exact copy shall be promptly provided unless it is impracticable to do so. (Government Code 6253)

Note: The following optional paragraph is for use by districts that charge for copies. See the accompanying Board policy.

The Superintendent or designee shall charge an amount for copies that reflects the direct costs of duplication. Written requests to waive the fee shall be submitted to the Superintendent or designee.

Note: Pursuant to Government Code 6253, as amended by AB 1819 (Ch. 695, Statutes of 2019), members of the public have the right to use their own equipment on district premises to copy a disclosable record, without being charged any fees or costs. The record must be reproduced in a manner as specified below.

Without charging any fees or costs, the Superintendent or designee shall allow members of the public to use their own equipment on district premises to photograph or otherwise copy or reproduce a disclosable record as long as the means of copy or reproduction: (Government Code 6253)

1. Do not require the equipment to make physical contact with the record
2. Will not result in damage to the record
3. Will not result in unauthorized access to the district's computer systems or secured networks by using software, equipment, or any other technology capable of accessing, altering, or compromising the district's electronic records

Note: Government Code 6253, as amended by AB 1819, authorizes the district to impose reasonable limits on the use of personal equipment by members of the public to copy disclosable records, as specified below.

The Superintendent or designee may impose any reasonable limit on the use of personal equipment to photograph, copy, or reproduce a disclosable record that is necessary to protect the safety of the records, or to prevent the copying of records from being an unreasonable burden to the orderly function of the district and its employees. The Superintendent or designee may also impose any limit that is necessary to maintain the integrity of, or ensure the long-term preservation of, historic or high-value records. (Government Code 6253)

In addition to maintaining public records for public inspection during district office hours, the district may comply with public records requests by posting any public record on the district's web site and, in response to a public records request, directing the member of the public to the location on the web site where the record can be found. However, if the member of the public is unable to access or reproduce the record from the web site, the district shall promptly provide an exact copy of the public record upon payment of duplication fees, if applicable, unless it is impracticable to provide an exact copy. (Government Code 6253)

If any person requests that a public record be provided in an electronic format, the district shall make that record available in any electronic format in which it holds the information. The district shall provide a copy of the electronic record in the format requested as long as the requested format is one that has been used by the district to create copies for its own use or for use by other agencies. (Government Code 6253.9)

The cost of duplicating an electronic record shall be limited to the direct cost of producing a copy of the record in electronic format. However, the requester shall bear the cost of producing the copy of the electronic record, including the cost to construct the record and the cost of programming and computer services necessary to produce the copy, under the following circumstances: (Government Code 6253.9)

1. The electronic record is one that is produced only at otherwise regularly scheduled intervals.
2. The request would require data compilation, extraction, or programming to produce the record.

Assistance in Identifying Requested Records

Note: Government Code 6253.1 requires the district to assist a person requesting to inspect or obtain a copy of a public record as specified below. This assistance is not required if the district grants the request and the records are made available or if the request is denied on the grounds that the records are confidential.

If the Superintendent or designee denies a request for disclosable records, the requester shall be assisted in making a focused and effective request that reasonably describes an identifiable record. To the extent reasonable under the circumstances, the Superintendent or designee shall do all of the following: (Government Code 6253.1)

1. Assist in identifying records and information responsive to the request or the purpose of the request, if specified

If, after making a reasonable effort to elicit additional clarifying information from the requester to help identify the record, the Superintendent or designee is still unable to identify the information, this requirement shall be deemed satisfied.

2. Describe the information technology and physical location in which the records exist

3. Provide suggestions for overcoming any practical basis for denying access to the records or information sought

Provisions of the Public Records Act shall not be construed so as to delay or obstruct the inspection or copying of public records. Any notification denying a request for public records shall state the name and title of each person responsible for the denial. (Government Code 6253)

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Board Policy

Relations Between Other Governmental Agencies And The Schools

BP 1400

Community Relations

Note: The following optional policy may be revised to reflect district practice. Welfare and Institutions Code 18986-18986.30 encourage the development of a comprehensive and collaborative delivery system of services to children and youth at the local level. For further information about establishing collaborative structures among the leadership of local governments, see the Cities, Counties and Schools Partnership's web site.

The Governing Board believes that district efforts to provide a high-quality education for students in the community can be enhanced by collaboration with other government and public agencies that are responsible for the health, safety, and well-being of children and youth. The district shall initiate and maintain good working relationships with representatives of local agencies to maximize student and family access to support services that will help students achieve to their highest potential.

(cf. 0450 - Comprehensive Safety Plan)
(cf. 5030 - Student Wellness)
(cf. 5131.6 - Alcohol and Other Drugs)
(cf. 5141.32 - Health Screening for School Entry)
(cf. 5141.4 - Child Abuse Prevention and Reporting)
(cf. 5141.52 - Suicide Prevention)
(cf. 5141.6 - School Health Services)
(cf. 5146 - Married/Pregnant/Parenting Students)
(cf. 5148 - Child Care and Development)
(cf. 5148.2 - Before/After School Programs)
(cf. 5148.3 - Preschool/Early Childhood Education)
(cf. 6164.2 - Guidance/Counseling Services)
(cf. 6173 - Education for Homeless Children)
(cf. 6173.1 - Education for Foster Youth)

Note: In addition to any collaborative efforts that the district may initiate, there are a number of county structures in which district participation is appropriate. For example, if the County Board of Supervisors has established an Interagency Children's Services Coordinating Council pursuant to Welfare and Institutions Code 18986.10-18986.15, that council must include at least one superintendent of a unified school district within the county. In addition, Welfare and Institutions Code 18980-18983.8 provide for the development of a Child Abuse Prevention Coordinating Council within each county and encourage representatives of public and private schools to be included on these councils. Pursuant to Health and Safety Code 130100-130155, counties also have established First 5 County Commissions which work to help children enter school physically and emotionally healthy and ready to succeed.

The Board shall initiate or participate in collaborative relationships with city and county elected officials to design and coordinate multi-agency programs that respond to the needs of children and families and provide more efficient use of district and community resources. To further such collaborations, the Board may establish or participate in formal structures for governance teams to regularly meet and discuss issues of mutual concern.

(cf. 0200 - Goals for the School District)
(cf. 9140 - Board Representatives)

The Superintendent and appropriate staff shall cooperate with government and public agencies in the planning and implementation of joint projects or activities within the community. The Superintendent or designee may designate a coordinator to ensure effective implementation of the district's responsibilities in any such collaborative project.

In order to identify priorities for services, the Board shall encourage a periodic assessment of children's needs within the community, which may include, but not be limited to, needs based on poverty, child abuse and neglect, poor physical or mental health, substance abuse, violence, homelessness, placement in foster care, or lack of access to child care. The needs assessment should also examine the extent to which those needs are being met through existing services in the district and in the community, the costs of providing those services, and any gaps, delay, or duplication of services.

The Board shall approve the services to be offered by the district, the resources that will be allocated to support collaboration, any use of school facilities for services, and any development or joint use of facilities with other jurisdictions. All agreements with other agencies to coordinate services or share resources shall be in writing. The Board may establish joint powers agreements or memorandums of understanding, when feasible, to formalize the responsibilities and liabilities of all parties in a collaborative activity.

(cf. 1330 - Use of School Facilities)
(cf. 1330.1 - Joint Use Agreements)
(cf. 3100 - Budget)

The Superintendent or designee shall work with interagency partners to explore funding opportunities available through each agency, state and national grant programs, and/or private foundations for youth service coordination and delivery.

Note: Education Code 49075 authorizes districts to permit access to student records to any person for whom a parent/guardian has provided written consent; see BP/AR 5125 - Student Records.

In order to facilitate service delivery or determination of eligibility for services, the district may share information with other appropriate agencies as long as the parent/guardian consents and the information is shared in accordance with laws pertaining to confidentiality and privacy.

(cf. 3553 - Free and Reduced Price Meals)
(cf. 5125 - Student Records)

The Board shall receive regular reports of progress toward the identified goals of the collaborative effort. The reports may include, but not be limited to, feedback from staff and families regarding service delivery, numbers of children and families served, specific indicators of conditions of children, and indicators of system efficiency and cost effectiveness.

(cf. 0500 - Accountability)

The Board shall communicate with the community about the district's collaborative efforts and the conditions of children within the schools. The Board may advocate for local, state, and national policies, programs, and initiatives designed to improve the conditions of children and youth.

(cf. 1100 - Communication with the Public)
(cf. 1160 - Political Processes)
(cf. 9000 - Role of the Board)
(cf. 9322 - Agenda/Meeting Materials)

Legal Reference:

EDUCATION CODE

8800-8807 Healthy Start support services for children
10900-10914.5 Cooperative community recreation programs
49073 Privacy of student records
49075 Parent/guardian permission for release of student records
49557.2 Sharing of information for MediCal eligibility

HEALTH AND SAFETY CODE

120440 Immunization records; release to local health departments
130100-130155 Early childhood development; First 5 Commission

WELFARE AND INSTITUTIONS CODE

5850-5883 Mental Health Services Act
18961.5 Computerized database; families at risk for child abuse; sharing of information
18980-18983.8 Child Abuse Prevention Coordinating Council
18986-18986.30 Interagency Children's Services Act
18986.40-18986.46 Multidisciplinary services teams
18986.50-18986.53 Integrated day care program
18987.6-18987.62 Family-based services

Management Resources:

CITIES, COUNTIES AND SCHOOLS PARTNERSHIP PUBLICATIONS

Healthy Children, Healthy Communities: An Action Guide for California Communities, 2006
Stretching Community Dollars: Cities, Counties and School Districts Building for the Future, 2006

YOUTH LAW CENTER PUBLICATIONS

Model Form for Consent to Exchange Confidential Information among the Members of an Interagency Collaborative, 1995

WEB SITES

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

California Department of Education, Learning Support: <http://www.cde.ca.gov/ls>

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

California Department of Social Services: <http://www.dss.cahwnet.gov>

California State Association of Counties: <http://www.csac.counties.org>

Children Now: <http://www.childrennow.org>

Cities, Counties and Schools Partnership: <http://www.ccspartnership.org>

First 5 California: <http://www.cfcf.ca.gov>

League of California Cities: <http://www.cacities.org>

Youth Law Center: <http://www.ylc.org>

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Board Policy

Waivers

BP 1431

Community Relations

Note: The following optional policy covers waiver requests that the State Board of Education (SBE) generally has legal authority to grant (general waivers). In order to provide districts with flexibility without undermining the basic intent of the law, Education Code 33050-33053 permit the Governing Board to request that SBE waive sections of the Education Code and Title 5 of the California Code of Regulations. Education Code 33050 exempts certain sections of the Education Code from SBE's authority to grant waivers. SB 75 (Ch. 51, Statutes of 2019) amended Education Code 33050 to prohibit the waiver of specified provisions relating to funding for charter schools.

Note: This policy does not address waivers expressly authorized by law for specific programs and situations (specific waivers) such as the waiver of Education Code 56101 for students with disabilities, the waiver of specified school site council provisions pursuant to Education Code 65001, waivers that may be granted by the Commission on Teacher Credentialing, or waivers that may be specifically granted by the Superintendent of Public Instruction such as waivers for alternative schools. See BP 6181 - Alternative Schools/Programs of Choice. For any such waiver, the process for obtaining the waiver would be as specified in the provision of law governing the program.

The Governing Board recognizes that circumstances may arise in the operation of the district that require a waiver from state law or regulation. When it is in the interest of district students, the Board may request that the State Board of Education (SBE) waive any provision of state law or regulation which SBE has authority to waive pursuant to Education Code 33050.

Note: The California Department of Education (CDE) web site contains an online waiver request system as well as guidance and Frequently Asked Questions to help expedite the waiver submission process. Prior to submitting a waiver request, the district should confirm that it has gathered all the data required and has complied with all the legal requirements for the request. The district should also review Education Code 33051 which specifies the reasons for which SBE may deny the request.

Any waiver request to be submitted to SBE shall first be approved by the Board. The Superintendent or designee shall ensure that each proposed waiver request includes all information necessary for the Board to analyze the need for the waiver and make an informed decision.

If the proposed waiver request affects a program that requires the existence of a school site council, the Superintendent or designee shall obtain the school site council's approval of the request before presenting it to the Board. As appropriate, other councils or advisory committees,

including bilingual advisory committees, shall be provided adequate opportunity to review a proposed waiver request, and the request shall include a written summary of any objections to the request by the councils or advisory committees. (Education Code 33051)

(cf. 0420 - School Plans/Site Councils)
(cf. 1220 - Citizen Advisory Committees)

Note: The following optional paragraph is for use by districts with an employee organization certified to represent the district's employees in negotiations with the district.

In addition, the Superintendent or designee shall consult with the exclusive representative of district employees in the development of the waiver request, and shall include in the request the exclusive representative's position regarding the waiver. (Education Code 33050, 33051)

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

Note: The following paragraph is for use by districts that participate in a joint powers entity to operate a regional occupational center or program. See BP 6178.2 - Regional Occupational Center/Program.

A request for a waiver related to a regional occupational center or program operated by a joint powers agency shall be submitted as a joint waiver request with other participating school districts upon approval of a unanimous vote of the governing board of the joint powers agency. (Education Code 33050)

(cf. 6178.2 - Regional Occupational Center/Program)

Note: Education Code 33050 does not include specific requirements in regard to the public hearing that must be held before the Board submits a waiver request. CDE's General Waiver Instructions, located on its web site, state that the public hearing must be properly noticed and held during a board meeting.

To receive public testimony on each proposal for a waiver request, the Board shall hold a properly noticed public hearing during a Board meeting. (Education Code 33050)

Note: Education Code 33050 does not specify the length of the advanced notice required for the public hearing described above. However, CSBA believes that the notice must allow sufficient time to enable members of the public adequate opportunity to participate in the waiver request process.

Note: CDE's General Waiver Instructions provide that distribution of the board meeting agenda is insufficient to constitute proper notice for the public hearing. The notice must specifically invite public testimony, and can be advertised by (1) printing a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation, or (2) in small districts, posting a formal notice at each school and three public places in the district.

Note: The following optional paragraph may be revised to specify the length of the notice in accordance with district practice, and should be modified appropriately depending on the size of the district.

The notice, which shall state the time, date, location, and subject of the public hearing and invite public testimony, may be printed in a newspaper of general circulation and/or posted at each school and three public places in the district.

(cf. 9320 - Meetings and Notices)

Note: Pursuant to Education Code 33051, any general waiver which has been granted for two consecutive years, or which is initially granted for two years, may be regarded as "permanent" for as long as the information on the waiver request remains current. However, SBE may require updated information for a general waiver whenever it determines that information to be necessary. SBE may also rescind a waiver if additional information supporting a recession is made available to SBE.

If the district determines that a waiver is needed for more than one year, the Board shall reapply to SBE. When the Board has requested and received the same general waiver from SBE for two consecutive years, the Board does not subsequently need to reapply annually provided that the information contained on the request remains current, except that the district shall apply annually for the renewal of any waiver regarding teacher credentialing. (Education Code 33051)

Legal Reference:

EDUCATION CODE

33050-33053 General waiver authority

48800 Attendance at community college

51747.3 Charter school independent study funding

56000-56867 Special education programs

65001 School site councils

Management Resources:

WEB SITES

California Department of Education, Waiver Office: <http://www.cde.ca.gov/re/lr/wr>

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

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Board Policy

Relations Between Private Industry And The Schools

BP 1700

Community Relations

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

The Governing Board recognizes that private industry and the schools have a mutual interest in maximizing student achievement in order to prepare students to be productive citizens and contribute to the economic health of the community. The Board shall encourage local business involvement in efforts that support the core mission and goals of the district and promote the academic, social, and physical well-being of students.

(cf. 0000 - Vision)

(cf. 0200 - Goals for the School District)

(cf. 6142.3 - Civic Education)

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

The Board and the Superintendent or designee shall develop strategies to initiate business partnerships and shall communicate with business partners about district needs and priorities. The Superintendent or designee may assign district staff to coordinate community/business outreach efforts on behalf of the district and work to ensure equitable distribution of business involvement across all district schools.

(cf. 9000 - Role of the Board)

Businesses and industry and/or their representatives may support district schools and programs by:

1. Volunteering in the classroom or school, providing special instructional programs or assemblies, and serving as tutors or mentors for individual students

(cf. 1240 - Volunteer Assistance)

(cf. 1250 - Visitors/Outsiders)

Note: Education Code 41032 authorizes the Governing Board to accept gifts and to prescribe conditions for their acceptance; see BP 3290 - Gifts, Grants and Bequests.

2. Donating funds, products, instructional materials, or services that serve an educational purpose

(cf. 1260 - Educational Foundation)

(cf. 3290 - Gifts, Grants and Bequests)

(cf. 6161.1- Selection and Evaluation of Instructional Materials)
(cf. 9270 - Conflict of Interest)

Note: Item #3 below is for use by districts that allow paid advertisement by commercial enterprises in school-sponsored publications or on school property and have set criteria for approval of such advertising; see AR 1325 - Advertising and Promotion.

3. Purchasing advertisements in school-sponsored publications or on school property in accordance with law and Board policy

(cf. 1325 - Advertising and Promotion)
(cf. 3312 - Contracts)

4. Serving on advisory committees in order to provide business expertise or perspectives

(cf. 1220 - Citizen Advisory Committees)
(cf. 5030 - Student Wellness)

Note: Item #5 below is for use by districts that offer career technical education and/or work experience education programs in any of grades 7-12. Districts offering career technical education are required by Education Code 8070 to establish an advisory committee which must include business representation. 20 USC 2354 requires involvement of business representatives in the planning, development, implementation, and evaluation of career technical education programs funded by the Strengthening Career and Technical Education for the 21st Century Act; see BP/AR 6178 - Career Technical Education.

5. Working with district staff to ensure the relevance and rigor of the district's career technical education program and providing work opportunities for students enrolled in these programs

(cf. 5113.2 - Work Permits)
(cf. 6178 - Career Technical Education)
(cf. 6178.1 - Work Based Learning)

6. Engaging in other activities approved by the Superintendent or designee that are designed to increase student learning or support school operations

The Board urges employers to further support the schools by recognizing their employees' needs as parents/guardians, accommodating their needs for child care, and supporting their involvement with their children's schools.

(cf. 5020 - Parent Rights and Responsibilities)
(cf. 6020 - Parent Involvement)

The Superintendent or designee may publicly acknowledge the support of a business partner in district communications and/or by allowing the use of the business name or logo on donated

products or materials, but shall not unduly promote or endorse any commercial activity or products. He/she also may recommend Board commendation to those individuals and/or businesses that have made extraordinary contributions to the district.

(cf. 1150 - Commendation and Awards)

The Superintendent or designee shall regularly report to the Board regarding the district's progress in establishing and sustaining business partnerships and the ways in which businesses have supported district programs.

(cf. 0500 - Accountability)

Legal Reference:

EDUCATION CODE

8070 Career technical education advisory committee

35160 Authority of governing boards

35160.1 Broad authority of school districts

41030-41037 Gifts and bequests

51760-51769.5 Work experience education

52300-52499.66 Career technical education

UNITED STATES CODE, TITLE 20

2301-2414 Strengthening Career and Technical Education for the 21st Century Act, especially:

2354 Local application for career technical education, business involvement

Management Resources:

CSBA PUBLICATIONS

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

COUNCIL FOR CORPORATE AND SCHOOL PARTNERSHIPS PUBLICATIONS

A How-To Guide for School-Business Partnerships

NATIONAL ASSOCIATION OF STATE BOARDS OF EDUCATION PUBLICATIONS

Building Business Support for School Health Programs, 1999

WEB SITES

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

California Consortium of Education Foundations: <http://www.cceflink.org>

California Department of Education, Parents/Family and Community:

<http://www.cde.ca.gov/ls/pf>

Council for Corporate and School Partnerships: <http://www.corpschoolpartners.org>

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

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