

- b. DHCS reserves the right to approve or disapprove the selection of subgrantee and with advance written notice, require the substitution of subgrantee and require the Grantee to terminate subcontracts entered into in support of this Agreement.
  - i. Upon receipt of a written notice from DHCS requiring the substitution and/or termination of a subcontract, the Grantee shall take steps to ensure the completion of any work in progress and select a replacement, if applicable, within 30 calendar days, unless a longer period is agreed to by DHCS.
- c. Actual subcontracts (i.e., written agreement between the Grantee and a subGrantee) of \$5,000 or more are subject to the prior review and written approval of DHCS. DHCS may, at its discretion, elect to waive this right. All such waivers shall be confirmed in writing by DHCS.
- d. Grantee shall maintain a copy of each subcontract entered into in support of this Agreement and shall, upon request by DHCS, make copies available for approval, inspection, or audit.
- e. DHCS assumes no responsibility for the payment of subgrantee used in the performance of the Agreement. Grantee accepts sole responsibility for the payment of subgrantee used in the performance of this Agreement.
- f. The Grantee is responsible for all performance requirements under this Agreement even though performance may be carried out through a subcontract.
- g. The Grantee shall ensure that all subcontracts for services include provision(s) requiring compliance with applicable terms and conditions specified in this Agreement.
- h. The Grantee agrees to include the following clause, relevant to record retention, in all subcontracts for services: "(SubGrantee Name) agrees to maintain and preserve, until three years after termination of (Agreement Number) and final payment from DHCS to the Grantee, to permit DHCS or any duly authorized representative, to have access to, examine or audit any pertinent books, documents, papers and records related to this subcontract and to allow interviews of any employees who might reasonably have information related to such records."
- i. Unless otherwise stipulated in writing by DHCS, the Grantee shall be the subGrantees sole point of contact for all matters related to performance and payment under this Agreement.

- j. Grantee shall, as applicable, advise all subgrantee of their obligations pursuant to the following numbered provisions of this Exhibit: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 17, 21, and/or other numbered provisions herein that are deemed applicable.

**5. Income Restrictions**

Unless otherwise stipulated in this Agreement, the Grantee agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Grantee under this Agreement shall be paid by the Grantee to DHCS, to the extent that they are properly allocable to costs for which the Grantee has been reimbursed by DHCS under this Agreement.

**6. Audit and Record Retention**

(Applicable to agreements over \$10,000.)

- a. The Grantee and/or SubGrantee shall maintain books, records, documents, and other evidence, accounting procedures, and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this Agreement, including any matching costs and expenses. The foregoing constitutes "records" for the purposes of this provision.
- b. The Grantee's and/or SubGrantee's facility or office or such part thereof as may be engaged in the performance of this Agreement and his/her records shall be subject at all reasonable times to inspection, audit, and reproduction.
- c. Grantee agrees that DHCS, the Department of General Services, the Bureau of State Audits, or their designated representatives shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Grantee agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Grantee agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, CCR Title 2, Section 1896.77)
- d. The Grantee and/or SubGrantee shall preserve and make available his/her records (1) for a period of three years from the date of final payment under this Agreement, and (2) for such longer period, if any, as is required by applicable statute, by any other provision of this Agreement, or by subparagraphs (1) or (2) below.
  - i. If this Agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting final settlement.

- ii. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.
- e. The Grantee and/or SubGrantee may, at its discretion, following receipt of final payment under this Agreement, reduce its accounts, books and records related to this Agreement to microfilm, computer disk, CD ROM, DVD, or other data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, the Grantee and/or subGrantee must supply or make available applicable devices, hardware, and/or software necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to, microfilm readers and microfilm printers, etc.

**7. Site Inspection**

The State, through any authorized representatives, has the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed hereunder including subcontract supported activities and the premises in which it is being performed. If any inspection or evaluation is made of the premises of the Grantee or SubGrantee, the Grantee shall provide and shall require the Subgrantee to provide all reasonable facilities and assistance for the safety and convenience of the authorized representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

**8. Intellectual Property Rights**

a. Ownership

- i. Except where DHCS has agreed in a signed writing to accept a license, DHCS shall be and remain, without additional compensation, the sole owner of any and all rights, title and interest in all Intellectual Property, from the moment of creation, whether or not jointly conceived, that are made, conceived, derived from, or reduced to practice by Grantee or DHCS and which result directly or indirectly from this Agreement.
- ii. For the purposes of this Agreement, Intellectual Property means recognized protectable rights and interest such as: patents, (whether or not issued) copyrights, trademarks, service marks, applications for any of the foregoing, inventions, trade secrets, trade dress, logos, insignia, color combinations, slogans, moral rights, right of publicity, author's rights, contract and licensing rights, works, mask works, industrial design rights, rights of priority, know how, design flows, methodologies, devices, business processes, developments, innovations, goodwill and all other legal rights protecting intangible proprietary information as may exist

now and/or hereafter come into existence, and all renewals and extensions, regardless of whether those rights arise under the laws of the United States, or any other state, country or jurisdiction.

1. For the purposes of the definition of Intellectual Property, "works" means all literary works, writings and printed matter including the medium by which they are recorded or reproduced, photographs, art work, pictorial and graphic representations and works of a similar nature, film, motion pictures, digital images, animation cells, and other audiovisual works including positives and negatives thereof, sound recordings, tapes, educational materials, interactive videos and any other materials or products created, produced, conceptualized and fixed in a tangible medium of expression. It includes preliminary and final products and any materials and information developed for the purposes of producing those final products. Works does not include articles submitted to peer review or reference journals or independent research projects.
- iii. In the performance of this Agreement, Grantee will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this Agreement. In addition, under this Agreement, Grantee may access and utilize certain of DHCS' Intellectual Property in existence prior to the effective date of this Agreement. Except as otherwise set forth herein, Grantee shall not use any of DHCS' Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of DHCS. Except as otherwise set forth herein, neither the Grantee nor DHCS shall give any ownership interest in or rights to its Intellectual Property to the other Party. If during the term of this Agreement, Grantee accesses any third-party Intellectual Property that is licensed to DHCS, Grantee agrees to abide by all license and confidentiality restrictions applicable to DHCS in the third- party's license agreement.
  - iv. Grantee agrees to cooperate with DHCS in establishing or maintaining DHCS' exclusive rights in the Intellectual Property, and in assuring DHCS' sole rights against third parties with respect to the Intellectual Property. If the Grantee enters into any agreements or subcontracts with other parties in order to perform this Agreement, Grantee shall require the terms of the Agreement(s) to include all Intellectual Property provisions. Such terms must include, but are not limited to, the subGrantee assigning and agreeing to assign to DHCS all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subGrantee, Grantee or DHCS and which result directly or indirectly from this Agreement or any subcontract.

- v. Grantee further agrees to assist and cooperate with DHCS in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce DHCS' Intellectual Property rights and interests.

**b. Retained Rights / License Rights**

- i. Except for Intellectual Property made, conceived, derived from, or reduced to practice by Grantee or DHCS and which result directly or indirectly from this Agreement, Grantee shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this Agreement. Grantee hereby grants to DHCS, without additional compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose Grantee's Intellectual Property with the right to sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the Intellectual Property resulting from this Agreement, unless Grantee assigns all rights, title and interest in the Intellectual Property as set forth herein.
- ii. Nothing in this provision shall restrict, limit, or otherwise prevent Grantee from using any ideas, concepts, know-how, methodology or techniques related to its performance under this Agreement, provided that Grantee's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of DHCS or third party, or result in a breach or default of any provisions of this Exhibit or result in a breach of any provisions of law relating to confidentiality.

**c. Copyright**

- i. Grantee agrees that for purposes of copyright law, all works [as defined in Section a, subparagraph
- ii. (a) of this provision] of authorship made by or on behalf of Grantee in connection with Grantee's performance of this Agreement shall be deemed "works made for hire". Grantee further agrees that the work of each person utilized by Grantee in connection with the performance of this Agreement will be a "work made for hire," whether that person is an employee of Grantee or that person has entered into an agreement with Grantee to perform the work. Grantee shall enter into a written agreement with any such person that: (i) all work performed for Grantee

shall be deemed a "work made for hire" under the Copyright Act and (ii) that person shall assign all right, title, and interest to DHCS to any work product made, conceived, derived from, or reduced to practice by Grantee or DHCS and which result directly or indirectly from this Agreement.

- iii. All materials, including, but not limited to, visual works or text, reproduced or distributed pursuant to this Agreement that include Intellectual Property made, conceived, derived from, or reduced to practice by Grantee or DHCS and which result directly or indirectly from this Agreement, shall include DHCS' notice of copyright, which shall read in 3mm or larger typeface: "© [Enter Current Year e.g., 2010, etc.], California Department of Health Care Services. This material may not be reproduced or disseminated without prior written permission from the California Department of Health Care Services." This notice should be placed prominently on the materials and set apart from other matters on the page where it appears. Audio productions shall contain a similar audio notice of copyright. Materials posted on the DHCS CalHOPE website will be deemed to comply with this requirement.

**d. Patent Rights**

With respect to inventions made by Grantee in the performance of this Agreement, which did not result from research and development specifically included in the Agreement's scope of work, Grantee hereby grants to DHCS a license as described under Section b of this provision for devices or material incorporating, or made through the use of such inventions. If such inventions result from research and development work specifically included within the Agreement's scope of work, then Grantee agrees to assign to DHCS, without additional compensation, all its right, title and interest in and to such inventions and to assist DHCS in securing United States and foreign patents with respect thereto.

**e. Third-Party Intellectual Property**

Except as provided herein, Grantee agrees that its performance of this Agreement shall not be dependent upon or include any Intellectual Property of Grantee or third party without first: (i) obtaining DHCS' prior written approval; and (ii) granting to or obtaining for DHCS, without additional compensation, a license, as described in Section b of this provision, for any of Grantee's or third-party's Intellectual Property in existence prior to the effective date of this Agreement. If such a license upon these terms is unattainable, and DHCS determines that the Intellectual Property should be included in or is required for Grantee's performance of this Agreement, Grantee shall obtain a license under terms acceptable to DHCS.

**f. Warranties**

- i. Grantee represents and warrants that:
1. It is free to enter into and fully perform this Agreement.
  2. It has secured and will secure all rights and licenses necessary for its performance of this Agreement.
  3. Neither Grantee's performance of this Agreement, nor the exercise by either Party of the rights granted in this Agreement, nor any use, reproduction, manufacture, sale, offer to sell, import, export, modification, public and private display/performance, distribution, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Grantee or DHCS and which result directly or indirectly from this Agreement will infringe upon or violate any Intellectual Property right, non-disclosure obligation, or other proprietary right or interest of any third party or entity now existing under the laws of, or hereafter existing or issued by, any state, the United States, or any foreign country. There is currently no actual or threatened claim by any such third party based on an alleged violation of any such right by Grantee.
  4. Neither Grantee's performance nor any part of its performance will violate the right of privacy of, or constitute a libel or slander against any person or entity.
  5. It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.
  6. It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to DHCS in this Agreement.
  7. It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
  8. It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever

that could affect in any way Grantee's performance of this Agreement.

- ii. DHCS makes no warranty that the intellectual property resulting from this agreement does not infringe upon any patent, trademark, copyright or the like, now existing or subsequently issued.

**g. Intellectual Property Indemnity**

- i. Grantee shall indemnify, defend and hold harmless DHCS and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnitees") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action, or proceeding, commenced or threatened) to which any of the Indemnitees may be subject, whether or not Grantee is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Grantee pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of DHCS' use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Grantee or DHCS and which result directly or indirectly from this Agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that issued after the effective date of this Agreement. DHCS reserves the right to participate in and/or control, at Grantee's expense, any such infringement action brought against DHCS.
- ii. Should any Intellectual Property licensed by the Grantee to DHCS under this Agreement become the subject of an Intellectual Property infringement claim, Grantee will exercise its authority reasonably and in good faith to preserve DHCS' right to use the licensed Intellectual Property in accordance with this Agreement at no expense to DHCS. DHCS shall have the right to monitor and appear through its own counsel (at Grantee's expense) in any such claim or action. In the defense or settlement of the claim, Grantee may obtain the right for DHCS to continue using the licensed Intellectual Property; or, replace or modify the licensed Intellectual Property so that the replaced or modified



Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, DHCS shall be entitled to a refund of all monies paid under this Agreement, without restriction or limitation of any other rights and remedies available at law or in equity.

- iii. Grantee agrees that damages alone would be inadequate to compensate DHCS for breach of any term of this Intellectual Property Exhibit by Grantee. Grantee acknowledges DHCS would suffer irreparable harm in the event of such breach and agrees DHCS shall be entitled to obtain equitable relief, including without limitation an injunction, from a court of competent jurisdiction, without restriction or limitation of any other rights and remedies available at law or in equity.

**h. Federal Funding**

In any agreement funded in whole or in part by the federal government, DHCS may acquire and maintain the Intellectual Property rights, title, and ownership, which results directly or indirectly from the Agreement; except as provided in 37 Code of Federal Regulations part 401.14; however, the federal government shall have a non-exclusive, non transferable, irrevocable, paid-up license throughout the world to use, duplicate, or dispose of such Intellectual Property throughout the world in any manner for governmental purposes and to have and permit others to do so.

**i. Survival**

The provisions set forth herein shall survive any termination or expiration of this Agreement or any project schedule.

**9. Prior Approval of Training Seminars, Workshops or Conferences**

The Grantee and its employees, agents, or subgrantee shall protect from unauthorized disclosure names and other identifying information concerning persons either receiving services pursuant to this Agreement or persons whose names or identifying information become available or are disclosed to the Grantee, his/her employees, agents, or subgrantee as a result of services performed under this Agreement, except for statistical information not identifying any such person. The Grantee and its employees, agents, or subgrantee shall not use such identifying information for any purpose other than carrying out the Grantee's obligations under this Agreement.

**10. Confidentiality of Information**

- a. The Grantee and its employees, agents, or subgrantee shall protect from unauthorized disclosure names and other identifying information concerning persons either receiving services pursuant to this Agreement or persons whose names or identifying information become available or are disclosed to the

Grantee, his/her employees, agents, or subgrantee as a result of services performed under this Agreement, except for statistical information not identifying any such person.

- b. The Grantee and its employees, agents, or subgrantee shall not use such identifying information for any purpose other than carrying out the Grantee's obligations under this Agreement.
- c. The Grantee and its employees, agents, or subgrantee shall promptly transmit to the DHCS Program Contract Manager all requests for disclosure of such identifying information not emanating from the client or person. The requirements in this paragraph (c) shall not apply to general student record requests subject to the Federal Educational Rights and Privacy Act (FERPA), (Title 20 of the United States Code, section 1232g; Title 34 of the Code of Federal Regulations, Part 99), except if the requests are specifically targeted at obtaining information related to the services provided in connection with this agreement.
- d. The Grantee shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the client, any such identifying information to anyone other than DHCS without prior written authorization from the DHCS Program Contract Manager, except if disclosure is required by State or Federal law.
- e. For purposes of this provision, identity shall include, but not be limited to name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.
- f. As deemed applicable by DHCS, this provision may be supplemented by additional terms and conditions covering personal health information (PHI) or personal, sensitive, and/or confidential information (PSCI). Said terms and conditions will be outlined in one or more exhibits that will either be attached to this Agreement or incorporated into this Agreement by reference.

#### **11. Documents, Publications and Written Reports**

(Applicable to agreements over \$5,000 under which publications, written reports and documents are developed or produced. Government Code Section 7550.)

Any document or written report prepared for or under the direction of DHCS (excluding progress reports, financial reports and normal contract communications) shall contain, in a separate section preceding the main body of the document, the number and dollar amounts of all contracts and subcontracts relating to the preparation of such document or report, if the total cost for work by nonemployees of the State exceeds \$5,000.

#### **12. Dispute Resolution Process**

- a. A Grantee grievance exists whenever there is a dispute arising from DHCS' action in the administration of an agreement. If there is a dispute or grievance between the Grantee and DHCS, the Grantee must seek resolution using the procedure outlined below.
  - i. The Grantee should first informally discuss the problem with the DHCS Program Contract Manager. If the problem cannot be resolved informally, the Grantee shall direct its grievance together with any evidence, in writing, to the program Branch Chief. The grievance shall state the issues in dispute, the legal authority or other basis for the Grantee's position and the remedy sought. The Branch Chief shall render a decision within ten (10) working days after receipt of the written grievance from the Grantee. The Branch Chief shall respond in writing to the Grantee indicating the decision and reasons therefore. If the Grantee disagree with the Branch Chief's decision, the Grantee may appeal to the second level.
  - ii. When appealing to the second level, the Grantee must prepare an appeal indicating the reasons for disagreement with Branch Chief's decision. The Grantee shall include with the appeal a copy of the Grantee's original statement of dispute along with any supporting evidence and a copy of the Branch Chief's decision. The appeal shall be addressed to the Deputy Director of the division in which the branch is organized within ten (10) working days from receipt of the Branch Chief's decision. The Deputy Director of the division in which the branch is organized or his/her designee shall meet with the Grantee to review the issues raised. A written decision signed by the Deputy Director of the division in which the branch is organized or his/her designee shall be directed to the Grantee within twenty (20) working days of receipt of the Grantee's second level appeal.
- b. If the Grantee wishes to appeal the decision of the Deputy Director of the division in which the branch is organized or his/her designee, the Grantee shall follow the procedures set forth in Health and Safety Code Section 100171.
- c. Unless otherwise stipulated in writing by DHCS, all dispute, grievance and/or appeal correspondence shall be directed to the DHCS Program Contract Manager.
- d. There are organizational differences within DHCS' funding programs and the management levels identified in this dispute resolution provision may not apply in every contractual situation. When a grievance is received and organizational differences exist, the Grantee shall be notified in writing by the DHCS Program Contract Manager of the level, name, and/or title of the appropriate management official that is responsible for issuing a decision at a given level.

### 13. Financial and Compliance Audit Requirements

- a. The definitions used in this provision are contained in Section 38040 of the Health and Safety Code, which by this reference is made a part hereof.
- b. Direct service contract means a contract or agreement for services contained in local assistance or subvention programs or both (see Health and Safety [H&S] Code Section 38020). Direct service contracts shall not include contracts, agreements, grants, or subventions to other governmental agencies or units of government nor contracts or agreements with regional centers or area agencies on aging (See H&S Code Section 38030). The Grantee, as indicated below, agrees to obtain one of the following audits:
  - i. If the Grantee is a nonprofit organization (as defined in H&S Code Section 38040) and receives \$25,000 or more from any State agency under a direct service contract or agreement; the Grantee agrees to obtain an annual single, organization wide, financial and compliance audit. Said audit shall be conducted according to Generally Accepted Auditing Standards. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Grantee's fiscal year, and/or
  - ii. If the Grantee is a nonprofit organization (as defined in H&S Code Section 38040) and receives less than \$25,000 per year from any State agency under a direct service contract or agreement, the Grantee agrees to obtain a biennial single, organization wide financial and compliance audit, unless there is evidence of fraud or other violation of state law in connection with this Agreement. This audit does not fulfill the audit requirements of Paragraph c(3) below. The audit shall be completed by the 15th day of the fifth month following the end of the Grantee's fiscal year, and/or
  - iii. If the Grantee is a State or Local Government entity or Nonprofit organization (as defined by the Federal Office of Management and Budget [OMB] Circular A-133) and expends \$500,000 or more in Federal awards, the Grantee agrees to obtain an annual single, organization wide, financial and compliance audit according to the requirements specified in OMB Circular A-133 entitled "Audits of States, Local Governments, and Non-Profit Organizations". An audit conducted pursuant to this provision will fulfill the audit requirements outlined in Paragraphs c(1) and c(2) above. The audit shall be completed by the end of the ninth month following the end of the audit period. The requirements of this provision apply if:

1. The Grantee is a recipient expending Federal awards received directly from Federal awarding agencies, or
  2. The Grantee is a subrecipient expending Federal awards received from a pass-through entity such as the State, County or community based organization.
- iv. If the Grantee submits to DHCS a report of an audit other than an OMB A-133 audit, the Grantee must also submit a certification indicating the Grantee has not expended \$500,000 or more in federal funds for the year covered by the audit report.
- c. Two copies of the audit report shall be delivered to the DHCS program funding this Agreement. The audit report must identify the Grantee's legal name and the number assigned to this Agreement. The audit report shall be due within 30 days after the completion of the audit. Upon receipt of said audit report, the DHCS Program Contract Manager shall forward the audit report to DHCS' Audits and Investigations Unit if the audit report was submitted under Section 13c(3), unless the audit report is from a City, County, or Special District within the State of California whereby the report will be retained by the funding program.
  - d. The cost of the audits described herein may be included in the funding for this Agreement up to the proportionate amount this Agreement represents of the Grantee's total revenue. The DHCS program funding this Agreement must provide advance written approval of the specific amount allowed for said audit expenses.
  - e. The State or its authorized designee, including the Bureau of State Audits, is responsible for conducting agreement performance audits which are not financial and compliance audits. Performance audits are defined by Generally Accepted Government Auditing Standards.
  - f. Nothing in this Agreement limits the State's responsibility or authority to enforce State law or regulations, procedures, or reporting requirements arising thereto.
  - g. Nothing in this Agreement limits the authority of the State to make audits of this Agreement, provided however, that if independent audits arranged for by the Grantee meet Generally Accepted Governmental Auditing Standards, the State shall rely on those audits and any additional audit work and shall build upon the work already done.
  - h. The State may, at its option, direct its own auditors to perform either of the audits described above. The Grantee will be given advance written notification, if the State chooses to exercise its option to perform said audits.

**14. Novation Requirements**

If the Grantee proposes any novation agreement, DHCS shall act upon the proposal within 60 days after receipt of the written proposal. DHCS may review and consider the proposal, consult and negotiate with the Grantee, and accept or reject all or part of the proposal. Acceptance or rejection of the proposal may be made orally within the 60-day period and confirmed in writing within five days of said decision. Upon written acceptance of the proposal, DHCS will initiate an amendment to this Agreement to formally implement the approved proposal.

**15. Payment Withholds**

(Applicable only if a final report is required by this Agreement. Not applicable to government entities.)

Unless waived or otherwise stipulated in this Agreement, DHCS may, at its discretion, withhold 10 percent (10%) of the face amount of the contract, 50 percent (50%) of the final invoice, or \$3,000 whichever is greater, until DHCS receives a final report that meets the terms, conditions and/or scope of work requirements of this Agreement.

**16. Performance Evaluation**

(Not applicable to grant agreements.)

DHCS may, at its discretion, evaluate the performance of the Grantee at the conclusion of this Agreement. If performance is evaluated, the evaluation shall not be a public record and shall remain on file with DHCS. Negative performance evaluations may be considered by DHCS prior to making future contract awards.

**17. Officials Not to Benefit**

No members of or delegate of Congress or the State Legislature shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom. This provision shall not be construed to extend to this Agreement if made with a corporation for its general benefits.

**18. Four Digit Date Compliance**

(Applicable to agreements in which Information Technology (IT) services are provided to DHCS or if IT equipment is procured.)

Grantee warrants that it will provide only Four Digit Date Compliant (as defined below) Deliverables and/or services to the State. "Four Digit Date compliant" Deliverables and services can accurately process, calculate, compare, and sequence date data, including without limitation date data arising out of or relating to leap years and changes in centuries. This warranty and representation is subject to the warranty terms and conditions of this Contract and does not limit the generality of warranty obligations set forth elsewhere herein.

**19. Union Organizing**

(Applicable only to grant agreements.)

Grantee, by signing this Agreement, hereby acknowledges the applicability of Government Code Sections 16645 through 16649 to this Agreement. Furthermore, Grantee, by signing this Agreement, hereby certifies that:

- a. No state funds disbursed by this grant will be used to assist, promote or deter union organizing.
- b. Grantee shall account for state funds disbursed for a specific expenditure by this grant, to show those funds were allocated to that expenditure.
- c. Grantee shall, where state funds are not designated as described in b herein, allocate, on a pro- rata basis, all disbursements that support the grant program.
- d. If Grantee makes expenditures to assist, promote or deter union organizing, Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee shall provide those records to the Attorney General upon request.

**20. Contract Uniformity (Fringe Benefit Allowability)**

(Applicable only to nonprofit organizations.)

Pursuant to the provisions of Article 7 (commencing with Section 100525) of Chapter 3 of Part 1 of Division 101 of the Health and Safety Code, DHCS sets forth the following policies, procedures, and guidelines regarding the reimbursement of fringe benefits.

- a. As used herein fringe benefits shall mean an employment benefit given by one's employer to an employee in addition to one's regular or normal wages or salary.
- b. As used herein, fringe benefits do not include:
  - i. Compensation for personal services paid currently or accrued by the Grantee for services of employees rendered during the term of this Agreement, which is identified as regular or normal salaries and wages, annual leave, vacation, sick leave, holidays, jury duty and/or military leave/training.
  - ii. Directors and executive committee member's fees.
  - iii. Incentive awards and/or bonus incentive pay.
  - iv. Allowances for off-site pay.
  - v. Location allowances.

- vi. Hardship pays.
  - vii. Cost-of-living differentials.
- c. Specific allowable fringe benefits include:
- i. Fringe benefits in the form of employer contributions for the employer's portion of payroll taxes (i.e., FICA, SUI, SDI), employee health plans (i.e., health, dental and vision), unemployment insurance, worker's compensation insurance, and the employer's share of pension/retirement plans, provided they are granted in accordance with established written organization policies and meet all legal and Internal Revenue Service requirements.
- d. To be an allowable fringe benefit, the cost must meet the following criteria:
- i. Be necessary and reasonable for the performance of the Agreement.
  - ii. Be determined in accordance with generally accepted accounting principles.
  - iii. Be consistent with policies that apply uniformly to all activities of the Grantee.
  - iv. Grantee agrees that all fringe benefits shall be at actual cost.
- e. Earned/Accrued Compensation
- i. Compensation for vacation, sick leave and holidays is limited to that amount earned/accrued within the agreement term. Unused vacation, sick leave and holidays earned from periods prior to the agreement term cannot be claimed as allowable costs. See Provision f (3)(a) for an example.
  - ii. For multiple year agreements, vacation and sick leave compensation, which is earned/accrued but not paid, due to employee(s) not taking time off may be carried over and claimed within the overall term of the multiple years of the Agreement. Holidays cannot be carried over from one agreement year to the next. See Provision f (3)(b) for an example.
  - iii. For single year agreements, vacation, sick leave and holiday compensation that is earned/accrued but not paid, due to employee(s) not taking time off within the term of the Agreement, cannot be claimed as an allowable cost. See Provision f (3)(c) for an example.



1. **Example No. 1:**  
If an employee, John Doe, earns/accrues three weeks of vacation and twelve days of sick leave each year, then that is the maximum amount that may be claimed during a one year agreement. If John Doe has five weeks of vacation and eighteen days of sick leave at the beginning of the Agreement, the Grantee during a one-year agreement term may only claim up to three weeks of vacation and twelve days of sick leave actually used by the employee. Amounts earned/accrued in periods prior to the beginning of the Agreement are not an allowable cost.
2. **Example No. 2:**  
If during a three-year (multiple year) agreement, John Doe does not use his three weeks of vacation in year one, or his three weeks in year two, but he does actually use nine weeks in year three; the Grantee would be allowed to claim all nine weeks paid for in year three. The total compensation over the three-year period cannot exceed 156 weeks (3 x 52 weeks).
3. **Example No. 3:**  
If during a single year agreement, John Doe works fifty weeks and used one week of vacation and one week of sick leave and all fifty-two weeks have been billed to DHCS, the remaining unused two weeks of vacation and seven days of sick leave may not be claimed as an allowable cost.

## **21. Prohibited Use of State Funds for Software**

(Applicable to agreements in which computer software is used in performance of the work.)

Grantee certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

## **22. Suspension or Stop Work Notification**

- a. DHCS may, at any time, issue a notice to suspend performance or stop work under this Agreement. The initial notification may be a verbal or written directive issued by the funding Program's Contract Manager. Upon receipt of said notice, the Grantee is to suspend and/or stop all, or any part, of the work called for by this Agreement.

- b. Written confirmation of the suspension or stop work notification with directions as to what work (if not all) is to be suspended and how to proceed will be provided within 30 working days of the verbal notification. The suspension or stop work notification shall remain in effect until further written notice is received from DHCS. The resumption of work (in whole or part) will be at DHCS' discretion and upon receipt of written confirmation.
  - i. Upon receipt of a suspension or stop work notification, the Grantee shall immediately comply with its terms and take all reasonable steps to minimize or halt the incurrence of costs allocable to the performance covered by the notification during the period of work suspension or stoppage.
  - ii. Within 90 days of the issuance of a suspension or stop work notification, DHCS shall either:
    - 1. Cancel, extend, or modify the suspension or stop work notification; or
    - 2. Terminate the Agreement as provided for in the Cancellation / Termination clause of the Agreement.
- c. If a suspension or stop work notification issued under this clause is canceled or the period of suspension or any extension thereof is modified or expires, the Grantee may resume work only upon written concurrence of funding Program's Contract Manager.
- d. If the suspension or stop work notification is canceled and the Agreement resumes, changes to the services, deliverables, performance dates, and/or contract terms resulting from the suspension or stop work notification shall require an amendment to the Agreement.
- e. If a suspension or stop work notification is not canceled and the Agreement is canceled or terminated pursuant to the provision entitled Cancellation / Termination, DHCS shall allow reasonable costs resulting from the suspension or stop work notification in arriving at the settlement costs.
- f. DHCS shall not be liable to the Grantee for loss of profits because of any suspension or stop work notification issued under this clause.

### **23. Public Communications**

Electronic and printed documents developed and produced, for public communications shall follow the following requirements to comply with Section 508 of the Rehabilitation Act and the American with Disabilities Act:

- a. Ensure visual-impaired, hearing-impaired and other special needs audiences are provided material information in formats that provide the most assistance in making informed choices.

## CSBA UPDATE CHECKLIST – September 2024

District Name: Cuyama Joint Unified School District

Contact Name: Alfonso Gamino Phone: 661-766-2642 Email: agamino@cuyamaunified.org

POLICY	TITLE	OPTIONS/BLANKS	ADOPT DATE
BP 0510	School Accountability Report Card		
AR 0510	School Accountability Report Card	<b>NEW REGULATION</b>	
BP 1114	District-Sponsored Social Media		
AR 1114	District-Sponsored Social Media		
AR 1312.4	William's Uniform Complaint Procedures		
E(1) 1312.4	William's Uniform Complaint Procedures		
E(2) 1312.4	William's Uniform Complaint Procedures	<b>Fill in Blanks</b> contact information _____ _____ _____	
AR 3517	Facilities Inspection		
E(1) 3517	Facilities Inspection	<b>Fill in Blanks</b> contact person _____ _____ _____	
BP 4040	Employee Use of Technology		
E(1) 4040	Employee Use of Technology	<b>Fill in Blanks</b> Contact person _____ _____ _____	
BP 5144.1	Suspension and Expulsion/Due Process		
AR 5144.1	Suspension and Expulsion/Due Process		
AR 5144.2	Suspension and Expulsion/Due Process (Students with Disabilities)		
BP 5147	Dropout Prevention		

## CSBA UPDATE CHECKLIST – September 2024

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

POLICY	TITLE	OPTIONS/BLANKS	ADOPT DATE
BP 6112	School Day		
AR 6112	School Day		
BP 6142.92	Mathematics Instruction		
BP 6152.1	Placement in Mathematics Courses		
AR 6152.1	Placement in Mathematics Courses		
BP 6163.4	Student Use of Technology		
E(1) 6163.4	Student Use of Technology	<p><b>Fill in Blanks</b>  <i>Student/parent                      acknowledge</i></p> <hr/> <hr/>	
BB 9010	Public Statements		
BB 9012	Board Member Electronic Communications		

**CSBA POLICY GUIDE SHEET**  
**September 2024**

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

**Board Policy 0510 - School Accountability Report Card**

Policy updated to reflect that when 15 percent or more of a school's students speak a single primary language other than English, the school accountability report card (SARC) is required to be translated into that other language. Additionally, policy updated to reflect that the SARC is required to be provided in an understandable and uniform format and, to the extent practicable, provided in a language that parents/guardians can understand.

**NEW - Administrative Regulation 0510 - School Accountability Report Card**

New regulation provides required contents of the school accountability report card.

**Board Policy 1114 - District-Sponsored Social Media**

Policy updated to align with current terms, language, and practice related to the use of social media. Additionally, policy updated to expand the Governing Board's philosophical statement to recognize the value of sharing district information with families and the community, and the requirement to ensure that content posted by the district on an official district social media account is accessible to individuals with disabilities. In addition, policy updated to clarify that an official district social media account does not create an open public forum or otherwise guarantee an individual's right to free speech even if one or more features on the account permit interaction with and between members of the public. Policy also updated to expand instances where students or staff are subject to discipline to include engaging with an official district social media account in a manner that violates board policies and administrative regulations.

**Administrative Regulation 1114 - District-Sponsored Social Media**

Regulation updated to align with current terms, language, and practice. Additionally, regulation updated to clarify that a social media account that contains content related to the district or comments about district operations but that has not been created based on authorization or direction from the Superintendent or designee is not an official district social media account. In addition, regulation updated to reflect **NEW COURT DECISION (Lindke v. Freed)**, in which the U.S. Supreme Court held that a district official who limits or prevents critics from speaking, such as by blocking them on social media or deleting their posts, violates the First Amendment only if the official (1) has been granted the power to speak on behalf of the district and (2) claims to be actually exercising that power. Regulation also updated to clarify and expand the conditions under which a user may interact with an official district social media account, including that violations may be reported to the appropriate social media platform, law enforcement, or other third parties, as appropriate, consistent with the Cyberbullying Protection Act, and that a user may be suspended when the listed conditions are met.

**Administrative Regulation 1312.4 - Williams Uniform Complaint Procedures**

Regulation updated to reflect **NEW LAW (AB 230, 2023)** which extends the requirement to stock the school's restrooms with menstrual products for use in connection with the menstrual cycle free of charge to include schools that serve students in any of grades 3-12, and **NEW LAW (SB 760, 2023)** which requires, starting July 1, 2026, any school that has more than one female and more than one male restroom designated exclusively for student use to provide and maintain one all-gender restroom for student use, as specified. Additionally, regulation updated to clarify that only complaints concerning a facilities condition that poses an emergency or urgent threat to the health or safety of students or staff may be appealed to the Superintendent of Public Instruction.

**Exhibit(1) 1312.4 - Williams Uniform Complaint Procedures**

Exhibit updated to reflect the California Department of Education's 2024-25 Federal Program Monitoring Instrument which provides that the Williams Uniform Complaint Procedures be used to address deficiencies

related to the identification and resolution of emergency or urgent facilities conditions that pose a threat to the health and safety of students and staff.

**Exhibit(2) 1312.4 - Williams Uniform Complaint Procedures**

Exhibit updated to reflect the California Department of Education's 2024-25 Federal Program Monitoring Instrument which (1) provides that the Williams Uniform Complaint Procedures (UCP) be used to address deficiencies related to the identification and resolution of emergency or urgent facilities conditions that pose a threat to the health and safety of students and staff, (2) clarifies that the use of the Williams UCP to address deficiencies related to teachers who lack credentials or training to teach English learners does not relieve the district from complying with state or federal law regarding teachers of English learners, (3) specifies that the use of the Williams UCP to address deficiencies related to facilities conditions is in regard to an existing condition that poses an emergency or urgent threat to the health or safety of students or staff while at school, and (4) includes that a complainant may use as much text as is wished to fully describe the situation related to a Williams UCP complaint. Additionally, exhibit updated to reflect **NEW LAW (AB 230, 2023)** which extends the requirement to stock the school's restrooms with menstrual products for use in connection with the menstrual cycle free of charge to include schools that serve students in any of grades 3-12, and **NEW LAW (SB 760, 2023)** which requires, starting July 1, 2026, any school that has more than one female and more than one male restroom designated exclusively for student use to provide and maintain one all-gender restroom for student use, as specified.

**Administrative Regulation 3517 - Facilities Inspection**

Regulation updated to reflect **NEW LAW (SB 760, 2023)** which (1) authorizes districts to temporarily close a restroom due to a documented student safety concern, an immediate threat to student safety, or the need to repair the facility, and (2) requires, starting July 1, 2026, any school that has more than one female and more than one male restroom designated exclusively for student use to provide and maintain one all-gender restroom for student use, as specified. Additionally, regulation updated to reflect **NEW LAW (AB 230, 2023)** which extends the requirement to stock the school's restrooms with menstrual products for use in connection with the menstrual cycle free of charge to include schools that serve students in any of grades 3-12.

**Exhibit(1) 3517 - Facilities Inspection**

Exhibit updated to reflect **NEW LAW (AB 230, 2023)** which extends the requirement to stock the school's restrooms with menstrual products for use in connection with the menstrual cycle free of charge to include schools that serve students in any of grades 3-12.

**Board Policy 4040 - Employee Use of Technology**

Policy updated to provide guidance related to the appropriate use of artificial intelligence (AI) by employees. Additionally, policy updated to expand the Governing Board's philosophical statement related to the recognition that technological resources enhance employee performance to include the enrichment of curriculum and the enhancement of student learning. In addition, policy updated to include "software as a service" and "AI apps" in the definition of "district technology," specify the prohibited and permitted uses of technology, and provide for professional development in the appropriate use of technology resources. Policy also updated to (1) add material related to the regular review of current guidance regarding cybersecurity, data privacy, and digital media awareness and incorporate recommended practices into the districts processes and procedures, and (2) provide that employees may access their mobile or other communications device if there is a need to seek emergency assistance, assess the safety of a situation, or communicate with a person to confirm their safety.

**Exhibit(1) 4040 - Employee Use of Technology**

Exhibit updated to incorporate by reference the accompanying Board policy, BP 4040 - Employee Use of Technology. Additionally, exhibit updated to include that districts may not prevent or restrict access to an employee's mobile or other communications device(s) if there is a need to seek emergency assistance, assess the safety of a situation, or communicate with a person to confirm the person's safety. In addition, exhibit

updated to include internet searches, browsing history, and use of artificial intelligence in the list of district technology that districts may monitor and record, and expand the list of security problems an employee may become aware of, and is then required to report, to include a cyberattack or phishing.

**Board Policy 5144.1 - Suspension and Expulsion/Due Process**

Policy updated to reflect **NEW LAW (SB 274, 2023)** which (1) extends the prohibition from suspending a student for disruption or willful defiance, formerly applicable to students in grades K-8, to all students, with the prohibition being effective until July 1, 2029, and (2) prohibits a district from suspending or expelling a student solely on the fact that they are truant, tardy, or otherwise absent from school activities. Additionally, policy updated to clarify that no preschool student may be expelled or unenrolled except in accordance with law and as specified in administrative regulation, and to reflect **NEW LAW (SB 114, 2023)** which defines numerically significant subgroups to include long-term English learners.

**Administrative Regulation 5144.1 - Suspension and Expulsion/Due Process**

Regulation updated to reflect **NEW LAW (SB 274, 2023)** which extends the prohibition from suspending a student for disruption or willful defiance, formerly applicable to students in grades K-8, to all students, with the prohibition being effective until July 1, 2029. Additionally, regulation update to reflect **NEW LAW (AB 1165, 2023)** which encourages districts to have a student who has been suspended, or for whom other means of correction have been implemented for an incident of racist bullying, harassment, or intimidation, as well as the victim, to engage in a restorative justice practice suitable to address the needs of both the victim and the perpetrator, to require the perpetrator to engage in a culturally sensitive program that promotes racial justice and equity and combats racism and ignorance, and to regularly check on the victim to ensure that the victim is not in danger of suffering from any long-lasting mental health issues. In addition, regulation updated to clarify that the suspension notice to parents/guardians is required to include the date and time when the student may return to school.

**Administrative Regulation 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities)**

Regulation updated to clarify that (1) the Superintendent, principal, or designee may suspend a student from school for up to five consecutive school days, unless the suspension has been extended following a recommendation for expulsion, (2) a student may usually be suspended from school for up to 20 cumulative school days, or 30 cumulative school days as permitted by Education Code 48903, in a school year as long as the pattern of suspension(s) does not constitute a change in placement, (3) a change of placement is deemed to occur if a decision is made that would result in the removal of the student for more than 10 consecutive school days, and (4) manifestation determination procedural safeguards apply when a decision has been made to suspend a student with a disability.

**Board Policy 5147 - Dropout Prevention**

Policy updated to include parents/guardians and school staff in collaborative efforts to develop strategies to support student attendance. Additionally, policy updated to reflect **NEW LAW (SB 153, 2024)** which enables the district to implement attendance recovery programs in order to make up lost instructional time and offset absences, and that any attendance recovery program be provided as a voluntary, limited-term option for a classroom-based, regular education program for students in grades Transitional Kindergarten-12. In addition, policy updated to expand the strategies to support students at risk of dropping out of school to include attendance recovery programs; expanded school and/or community support services such as a school nurse, school social worker, school counselor, school psychologist, or other student support personnel for case management and counseling; tracking student attendance and identifying students with attendance problems as early as possible so the school may provide appropriate support services and interventions; creating small, personalized learning communities to facilitate monitoring and support; or offering courses or programs that connect schoolwork with college and career success, including career technical education. Policy also updated to reflect the 2024-25 Federal Program Monitoring Instrument which requires that documentation be maintained for students who transfer from or otherwise withdraw from a school in the district.

**Board Policy 6112 - School Day**

Policy updated to reflect **NEW LAW (SB 291, 2023)** and **NEW LAW (SB 153, 2024)** which require districts that maintain any of grades K-6 to provide at least one or more periods of recess that total at least 30 minutes on regular instructional days and 15 minutes on early release days. Additionally, policy updated to add



availability of equipment to the list of considerations when the Superintendent or designee is establishing the instructional schedule for secondary schools in order to account for sufficient technology and other equipment that is integral to the instructional program.

**Administrative Regulation 6112 - School Day**

Regulation updated to clarify the instructional minute requirements for students in grades 9-12 who are in the independent study program, Additionally, regulation updated to delete adult education from the list of programs that have a minimum school day of 180 minutes since adult education programs are now governed by regions with consortia made up of community colleges, county offices of education and/or districts that determine how adult education will be designed and implemented.

**Board Policy 6142.92 - Mathematics Instruction**

Policy updated to incorporate the, "2023 Mathematics Framework for California Public Schools: Kindergarten through Grade 12," including the framework's goal of removing barriers to students' mathematics success and ensuring access and opportunity for all students to receive high level mathematics instruction.

**Board Policy 6152.1 - Placement in Mathematics Courses**

Policy updated to incorporate the, "2023 Mathematics Framework for California Public Schools: Kindergarten through Grade 12," including the encouragement for districts to offer alternative pathways of courses designed in a manner that provides maximum opportunities for students to access advanced mathematics courses during high school.

**Administrative Regulation 6152.1 - Placement in Mathematics Courses**

Regulation updated to clarify that when a student and the student's parent/guardian disagree with a placement decision and appeal the decision to the Superintendent or designee, the decision of the Superintendent or designee is final.

**Board Policy 6163.4 - Student Use of Technology**

Policy updated to provide guidance related to the appropriate use of artificial intelligence (AI). Additionally, policy updated to expand the Governing Board's philosophical statement to include the effective use of technology; promotion of digital citizenship; access to the latest digital tools; the alignment of technological resources with district goals, objectives and academic standards; and the use of technology to augment Board adopted instructional materials. In addition, policy updated to include "software as a service" and "AI apps" in the definition of "district technology," and provide that student use of technology be in accordance with district policies on academic honesty, data privacy, nondiscrimination, and copyright laws. Policy also updated to add material related to the regular review of current guidance regarding cybersecurity, data privacy, and digital media awareness and incorporate recommended practices into the districts processes and procedures.

**Exhibit(1) 6163.4 - Student Use of Technology**

Exhibit updated to incorporate by reference the accompanying Board policy, BP 6163.4 - Student Use of Technology. Additionally, exhibit updated to include that (1) the district makes no guarantee that the functions or services provided by or through the district are without defect, (2) that the district is not responsible for financial obligations arising from the unauthorized use, or misuse, of the system, and (3) that students may not gain unauthorized access, as specified. In addition, exhibit updated to add that students are prohibited from using district technology to create material that is discriminatory, libelous, defamatory, obscene, sexually explicit, or disruptive; share confidential information or personally identifiable information with an open AI system; adjust the privacy settings on any technology tool or AI app unless directed to do so by a teacher or staff member; or violate the direction by teachers or other staff members, age restrictions, or intended use of the technology. In addition, exhibit updated to include internet searches, browsing history, and use of artificial intelligence in the list of district technology that districts may monitor and record, and expand the list of security problems a student may become aware of, and is then required to report, to include a cyberattack or phishing.

**Board Bylaw 9010 - Public Statements**

Bylaw updated to focus on public statements by Governing Board spokespersons made on behalf of the Board or by individual Board members. Additionally, bylaw updated to permit a Board spokesperson to disclose confidential information or information received in closed session when authorized by law. In addition, bylaw updated to reflect **NEW COURT DECISION (Lindke v. Freed)**, in which the U.S. Supreme Court held that a district official who limits or prevents critics from speaking, such as by blocking them on social media or deleting their posts, violates the First Amendment only if the official (1) has been granted the power to speak on behalf of the district and (2) claims to be actually exercising that power. Bylaw also updated to suggest that a Board member make clear when they are speaking as an individual, and not on behalf of the district, such as by adding a disclaimer to the member's social media page.

**Board Bylaw 9012 - Board Member Electronic Communications**

Bylaw updated to reference suggestions regarding how to avoid Governing Board member electronic communications that violate the Brown Act. Additionally, bylaw updated to provide that Board members shall make every effort to ensure that their electronic communications conform to Board Bylaw 9010 - Public Statements. In addition, bylaw updated to reference that the Public Records Act applies even to Board member electronic communications regarding district business sent or received on a Board members' personal account or device. Bylaw also updated to reflect **NEW COURT DECISION (Lindke v. Freed)**, in which the U.S. Supreme Court held that a district official who limits or prevents critics from speaking, such as by blocking them on social media or deleting their posts, violates the First Amendment only if the official (1) has been granted the power to speak on behalf of the district and (2) claims to be actually exercising that power, and provide that the bylaw does not apply to Board member electronic communications not related to district business or not conducted by a Board member in the Board member's official capacity.

**Policy 0510: School Accountability Report Card**

**Status:** ADOPTED

**Original Adopted Date:** 11/01/2003 | **Last Revised Date:** ~~03/09/01/2008~~ 2024 | **Last Reviewed Date:** ~~03/09/01/2008~~ 2024

CSBA NOTE: The following optional policy may be revised to reflect district practice. Education Code 35256 requires the Governing Board to annually issue a school accountability report card (SARC) for each school site, reporting all conditions listed in Education Code 33126 and 41409.3. The goal of the SARC is to provide data by which parents/guardians can make meaningful comparisons between schools, thus enabling them to make informed decisions regarding which school they wish their children to attend.

In addition, pursuant to 20 USC 6311, any district that receives Title I, Part A funding (see BP/AR 6171 - Title I Programs) ~~must~~ is required to prepare and disseminate an annual report card which includes specified information. ~~As amended by the Every Student Succeeds Act (P.L. 114-95), Districts are authorized, pursuant to 20 USC 6311 expands the required content of the report card but no longer requires that it include annual measurable objectives, adequate yearly progress, or teacher quality information. Rather than issuing a district-level report card, districts are allowed by 20 USC 6311, to incorporate the information required to be in the annual report card into the SARC, rather than issuing a separate district-level report card. For more information on requirements for schools that receive Title I funding, see BP/AR 6171 - Title I Programs.~~

The Governing Board recognizes its responsibility to inform parents/guardians and the community about the conditions, needs, and progress at each district school and to provide data by which parents/guardians can make meaningful comparisons between schools. The process of gathering and analyzing data also provides opportunities for school and district staff to review achievements and identify areas for improvement.

The Board shall annually issue a school accountability report card (SARC) for each school site. (Education Code 35256)

CSBA NOTE: Education Code 33126.1 requires that the California Department of Education (CDE) develop a standardized template for use by districts in creating their SARCs. This template is posted on the CDE's web site; ~~districts may download it and then enter SARC data electronically.~~ website. The template lists the specific legal requirements and definitions (including federal Title I requirements for district report cards pursuant to 20 USC 6311), as well as references to help access the data.

In preparing the district's report cards, the Superintendent or designee may choose to use or adapt the model template provided by the California Department of Education. If the model template is not used, the Superintendent or designee shall ensure that data ~~are~~ is reported in a manner that is consistent with the definitions for school conditions as provided in the template. At least every three years, the Board shall compare the content of the district's ~~report cards~~ SARCs to the state's model template, recognizing that variances are allowed by law as necessary to meet local needs. (Education Code 33126.1, 35256)

The Board shall annually approve the SARC for all district schools and shall evaluate the data contained in the SARC as part of the Board's regular review of the effectiveness of the district's programs, personnel, and fiscal operations.

The Superintendent or designee shall develop strategies for communicating the information contained in the SARC to all stakeholders, including opportunities for staff and the community to discuss their content.

### Notification and Dissemination of SARC

CSBA NOTE: Education Code 35256 requires districts to notify parents/guardians about the availability of the SARC and to provide a paper copy of the SARC upon request. Education Code 35258 requires any district that is connected Pursuant to the Internet to make the information contained in the SARC available via the Internet; some county offices of education make SARC available on their web sites for district schools within the county. AB 1061 (Ch. 530, Statutes of 2007) amended Education Code 35256 and 35258 to require that, commencing in the 2008-09 school year, districts must are required to make the SARC available, in both hard copy and on the Internet their website as applicable, by February 1 of each year; some county offices of education make SARC for district schools within the county available on their websites. Districts are not required to submit their SARC to the CDE, but are required by Education Code 33126.1 to ensure that the CDE has the district's current SARC web site website address for linkage from the CDE's web site website. Districts that are may submit SARC by utilizing CDE's online electronic SARC template available on myCDEconnect accounts, which submits the entirety of the SARC to CDE. Districts may also elect not connected to the Internet may modify the following paragraph accordingly. use the template and instead use a myCDEconnect account to upload an accurate URL where the SARC has been posted on the school or district website. Both methods of submission fulfill the requirement pursuant to Education Code 33126.1.

Additionally, 20 USC 6311 requires districts receiving Title I, Part A funds to disseminate the Title I report card information to all district schools and to all parents/guardians of students attending those schools. Pursuant to 20 USC 6311, the district's Title I report card must be concise; presented in an understandable and to make uniform format, and to the extent practicable, in a language that parents can understand; and be accessible to the public, including posting the report card on the district's website. Districts without a website may publicize the report card by providing the information widely available through public means, such as posting on the Internet, distribution to the media, and distribution through to the public agencies. In its nonregulatory guidance Report Cards, dated September 12, 2003, the U.S. Department of Education states that because not all parents/guardians have access to the Internet, the Internet alone is not a sufficient means of disseminating report cards. The in another manner as determined by the district. CDE has interpreted this recommendation, in conjunction with state law, to require recommends that all parents/guardians be notified of the availability of the full report and be provided information as to how they can access the full report on the Internet or request a paper copy. The CDE also encourages, and that districts to provide an abbreviated copy make copies of the SARC available in the school office and at public forums, such as part of this notice parent information nights.

The Superintendent or designee shall annually publicize the issuance of the SARC and notify parents/guardians that a paper copy will be provided upon request. On Annually, on or before February 1 of each year, the Superintendent or designee shall publicize the issuance of the SARC, make the SARC available in paper copy and on the Internet district's website, and notify

parents/guardians that a hard copy shall be provided upon request. (Education Code 33126, 35256), 35258)

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

Additionally, when 15 percent or more of a school's students speak a single primary language other than English, the SARC shall be translated into that other language. (Education Code 48985)

In addition, the SARC shall be provided in an understandable and uniform format and, to the extent practicable, provided in a language that parents/guardians can understand. (Education Code 33126, 35256; 20 USC 6311)

**Policy Reference UPDATE Service**

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**Policy Reference Disclaimer:**

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

**State**

CA Constitution Article 16,  
Section 8.5(e)

Ed. Code 1240

Ed. Code 17002

Ed. Code 17014

Ed. Code 17032.5

Ed. Code 17070.15

Ed. Code 17089

Ed. Code 33126

Ed. Code 33126.1

Ed. Code 33126.15

Ed. Code 33126.2

Ed. Code 35256

**Description**

Allocations to State School Fund

County superintendent of schools; duties

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

Plan for building maintenance

Portable classroom maintenance

School Facilities Act; definitions

Portable classroom maintenance

School accountability report card

School Accountability Report Card model template

School Accountability Report Card template

Secretary of Education school accountability report card study

School Accountability Report Card

Ed. Code 35256.1	Information required in the School Accountability Report Card
Ed. Code 35258	Internet access to the School Accountability Report Card
Ed. Code 41409	Calculation of statewide averages
Ed. Code 41409.3	Salary information required in the School Accountability Report Card
Ed. Code 46112	Minimum school day for grades 1 through 3
Ed. Code 46113	Minimum school day for grades 4 through 8
Ed. Code 46117	Minimum kindergarten school day
Ed. Code 46141	Minimum school day (high school)
Ed. Code 51225.3	High school graduation requirements
Ed. Code 52052	Accountability; numerically significant student subgroups
Ed. Code 60119	Textbook sufficiency
Ed. Code 60600-60618	General provisions
Ed. Code 60640-60648.5	California Assessment of Student Performance and Progress
Ed. Code 60800	Physical fitness testing

**Federal**

20 USC 6311

**Description**

State plan

**Management Resources**

U.S. DOE, Guidance

**Description**

Report Cards, September 12, 2003 [Opportunities and Responsibilities for State and Local Report Cards under the Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act, September 2019 \(https://www2.ed.gov/policy/elsec/leg/essa/report-card-guidance-final.pdf\)](https://www2.ed.gov/policy/elsec/leg/essa/report-card-guidance-final.pdf)

[California Department of Education Publication](#)

[Frequently Asked Questions about the School Accountability Report Card \(https://www.cde.ca.gov/ta/ac/sa/questions.asp\)](https://www.cde.ca.gov/ta/ac/sa/questions.asp)

[California Department of Education Publication](#)

[SARC Preparation Guide for Public Schools \(https://www.cde.ca.gov/ta/ac/sa/publicschlguide.asp\)](https://www.cde.ca.gov/ta/ac/sa/publicschlguide.asp)

[California Department of Education Publication](#)

[Adjusted Cohort Graduation Rate Federal Program Monitoring Instrument \(https://www.cde.ca.gov/ta/cr/\)](https://www.cde.ca.gov/ta/cr/)

Website

CSBA District and County Office of Education Legal Services

Website

California Department of Education, School Accountability Report Card

Website

[CSBA, SARC Select](#)

Website

U.S. Department of Education

## **Cross References**

<b>Code</b>	<b>Description</b>
0420	School Plans/Site Councils
0420	School Plans/Site Councils
0420.4	Charter School Authorization
0420.4	Charter School Authorization
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0500	Accountability
1000	Concepts And Roles
1100	Communication With The Public
1112	Media Relations
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
3517	Facilities Inspection
3517-E(1)	Facilities Inspection
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
6000	Concepts And Roles
6117	Year-Round Schedules
6142.7	Physical Education And Activity
6142.7	Physical Education And Activity
6162.5	Student Assessment
6190	Evaluation Of The Instructional Program
9000	Role Of The Board

**Administrative Regulation 0510: School Accountability Report Card** Status: ADOPTED

**Original Adopted Date:** 09/01/2024 | **Last Reviewed Date:** 09/01/2024

Contents

CSBA NOTE: The following optional administrative regulation includes a non-exhaustive list of the components which the law explicitly requires be included in each school site's school accountability report card (SARC) and may be revised to reflect district practice.

Each year the principal or designee at each school shall prepare a school accountability report card (SARC), which shall include, but is not limited to: (Education Code 33126)

1. Student achievement by grade level, as measured by the results of the statewide assessment

CSBA NOTE: Pursuant to 20 USC 6311, a district that receives Title I Funds is required to include high school graduation rates, including a four-year adjusted cohort graduate rate, on its annual report card. The California Department of Education monitors district programs and operations for compliance with these requirements through its Federal Program Monitoring (FPM) process. The FPM process includes a review of a district's written policies and procedures to maintain required documentation for students who transfer or withdraw from a district school, including the exit reasons and documentation to support the exit reasons.

2. Progress toward reducing dropout rates, including the one-year dropout rate listed in the California Basic Educational Data System (CBEDS) for the school over the most recent three-year period, and the graduation rate, as defined by the State Board of Education, over the most recent three-year period when available pursuant to Education Code 52052
3. Estimated expenditures per student and types of services funded, including the actual salaries of personnel assigned to the school

The assessment of estimated expenditures per student shall be reported in total, in subtotal by restricted and by unrestricted source, and include a reporting of the average of actual salaries paid to certificated instructional personnel at that school.

4. Progress toward reducing class sizes and teaching loads, including the average class size and the distribution of class sizes at the school by grade level, using CBEDS for the most recent three-year period



5. The total number of the school's fully credentialed teachers, the number of teachers relying upon emergency credentials, the number of teachers working without credentials, any assignment of teachers outside their subject areas of competence, misassignments, including misassignments of teachers of English learners, and the number of vacant teacher positions for the most recent three-year period
6. The quality and currency of textbooks and other instructional materials, including whether textbooks and other materials meet state standards, the ratio of textbooks per student, and the year the textbooks were adopted
7. The availability of sufficient textbooks and other instructional materials, as determined pursuant to Education Code 60119, for each student, including English learners, in each of the areas of the core curriculum areas of reading/language arts, mathematics, science, and history/social science; world language and health; science laboratory equipment for grades 9 to 12, inclusive, as appropriate; and visual and performing arts

If the Governing Board determines, pursuant to Education Code 60119, that there are insufficient textbooks or instructional materials, or both, it shall include information for each school in which an insufficiency exists, identifying the percentage of students who lack sufficient standards-aligned textbooks or instructional materials in each subject area identified above.

8. The availability of qualified personnel to provide counseling and other student support services, including the ratio of academic counselors per student
9. Safety, cleanliness, and adequacy of school facilities, including any needed maintenance to ensure good repair
10. The annual number of school days dedicated to staff development for the most recent three-year period
11. Suspension and expulsion rates for the most recent three-year period

CSBA NOTE: Education Code 33126 requires schools to include the Academic Performance Index (API) in each SARC. However, the API was replaced in 2017 with the new accountability and continuous improvement system known as the California School Dashboard.

Additionally, pursuant to Education Code 33126, the data in the SARC is required to be disaggregated for each numerically significant subgroup, as defined in Education Code 52052, which, as amended by SB 114 (Ch. 48, Statutes of 2023), includes "long-term English learners." Pursuant to Education Code 52052, as amended by SB 141 (Ch. 194, Statutes of 2023), a "long-term English learner" is defined as a student who has not attained English language proficiency within seven years of initial classification as an English learner.

12. The Academic Performance Index, which is reflected in the California School Dashboard, including the disaggregation of student subgroups identified in Education Code 52052, the decile rankings, and a comparison of schools
13. Contact information for organized opportunities for parent/guardian involvement

CSBA NOTE: The following two criteria apply to schools serving students in grades 9-12.

14. For secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University, including the course requirements for high school graduation pursuant to Education Code 51225.3, and the percentage of students enrolled in those courses, as reported by CBEDS
15. The number of advanced placement courses offered, by subject
16. Career technical education (CTE) data measures, including:
  - a. A list of programs offered by the district that students at the school may participate in and are aligned to the model curriculum standards adopted pursuant to Education Code 51226 and program sequences offered by the district  

The list shall identify which courses are conducted by a regional occupational center or program and those that are conducted directly by the district.
  - b. A list of the district's primary representative of the CTE advisory committee and the industries represented
  - c. The number of students participating in CTE
  - d. The percentage of students that complete a CTE program and earn a high school diploma
  - e. The percentage of CTE courses that are sequenced or articulated between a school and postsecondary education schools

CSBA NOTE: Pursuant to Education Code 41409.3, the following requirements do not apply to single school districts and should be deleted by such districts.

Additionally, each SARC shall also include the following information: (Education Code 41409.3)

1. The beginning, median, and highest salary paid to teachers in the district, as reflected in the district's salary scale
2. The average salary for school-site principals in the district

3. The salary of the Superintendent
4. The percentage expended for the salaries of administrative personnel, as specified
5. The percentage expended for the salaries of teachers
6. For Items #1-5 above, the statewide average in districts of the same size and type based on information provided by the State

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**Policy Reference Disclaimer:**

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

<b>State</b>	<b>Description</b>
CA Constitution Article 16, Section 8.5(e)	Allocations to State School Fund
Ed. Code 1240	County superintendent of schools; duties
Ed. Code 17002	State School Building Lease-Purchase Law, including definition of good repair
Ed. Code 17014	Plan for building maintenance
Ed. Code 17032.5	Portable classroom maintenance
Ed. Code 17070.15	School Facilities Act; definitions
Ed. Code 17089	Portable classroom maintenance
Ed. Code 33126	School accountability report card
Ed. Code 33126.1	School Accountability Report Card model template
Ed. Code 33126.15	School Accountability Report Card template
Ed. Code 33126.2	Secretary of Education school accountability report card study
Ed. Code 35256	School Accountability Report Card
Ed. Code 35256.1	Information required in the School Accountability Report Card

Ed. Code 35258	Internet access to the School Accountability Report Card
Ed. Code 41409	Calculation of statewide averages
Ed. Code 41409.3	Salary information required in the School Accountability Report Card
Ed. Code 46112	Minimum school day for grades 1 through 3
Ed. Code 46113	Minimum school day for grades 4 through 8
Ed. Code 46117	Minimum kindergarten school day
Ed. Code 46141	Minimum school day (high school)
Ed. Code 51225.3	High school graduation requirements
Ed. Code 52052	Accountability; numerically significant student subgroups
Ed. Code 60119	Textbook sufficiency
Ed. Code 60600-60618	General provisions
Ed. Code 60640-60648.5	California Assessment of Student Performance and Progress
Ed. Code 60800	Physical fitness testing

**Federal**

20 USC 6311

**Management Resources**

U.S. DOE Guidance

California Department of Education  
Publication

California Department of Education  
Publication

California Department of Education  
Publication

Website

**Description**

State plan

**Description**

Opportunities and Responsibilities for State and Local Report Cards under the Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act, September 2019  
(<https://www2.ed.gov/policy/elsec/leg/essa/report-card-guidance-final.pdf>)

Frequently Asked Questions about the School Accountability Report Card (<https://www.cde.ca.gov/ta/ac/sa/questions.asp>)

SARC Preparation Guide for Public Schools  
(<https://www.cde.ca.gov/ta/ac/sa/publicschguide.asp>)

Adjusted Cohort Graduation Rate Federal Program Monitoring Instrument (<https://www.cde.ca.gov/ta/cr/>)

CSBA District and County Office of Education Legal Services

Website California Department of Education, School Accountability Report Card

Website U.S. Department of Education

### **Cross References**

<b>Code</b>	<b>Description</b>
0420	School Plans/Site Councils
0420	School Plans/Site Councils
0420.4	Charter School Authorization
0420.4	Charter School Authorization
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1113	District And School Websites
1113-E(1)	District And School Websites
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
3517	Facilities Inspection
3517-E(1)	Facilities Inspection
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
6000	Concepts And Roles
6117	Year-Round Schedules
6142.7	Physical Education And Activity

6142.7	Physical Education And Activity
6162.5	Student Assessment
6190	Evaluation Of The Instructional Program
9000	Role Of The Board

**Policy 1114: District-Sponsored Social Media**

**Status:** ADOPTED

**Original Adopted Date:** 07/01/2011 | **Last Revised Date:** 09/01/2024 | **Last Reviewed Date:** 07/09/01/2011-2024

CSBA NOTE: The following optional policy is for use by districts that have created an official district (i.e., district-sponsored) social media platform account. "Social media" is defined in the accompanying administrative regulation as an online platform for collaboration, interaction, and/or active participation, or that allows users to post content, including social networking sites such as Instagram, TikTok, Facebook, X/Twitter, SnapChat, YouTube, LinkedIn, or blogs. Districts that have not created such platforms should delete this policy and regulation. etc.

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~~With The Public.

The Governing Board recognizes the value of technology such as social media platforms in promoting to share district information with families and the community and promote community involvement and collaboration: in district decisions. The purpose of any official district social media platform account shall be to further the district's vision and mission, to support student learning and staff professional development, and to enhance communication and engagement with students, parents/guardians/families, staff, and community members. The Superintendent or designee shall ensure that the content posted by the district on an official district social media account is accessible to individuals with disabilities.

CSBA NOTE: To minimize liability to the district, it is important that the district's social media policy to clearly define the official social media platforms over accounts which it has control the district sponsors and to specify the standards, guidelines, and protocols for their use. An "official district social media platform" is defined in the accompanying Board policies and administrative regulation. District policy and guidelines/regulations do not apply to personal social media platforms/accounts 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/accounts to ensure the public access, appropriate and responsible use of these resources, and compliance with law, Board/board policy, and administrative regulation.

**Guidelines for Content**

CSBA NOTE: Because of the open accessibility of social/Social media, platforms typically allow users to post or reply to content will be posted by members of on users' accounts, which is or can be made viewable to other users and even 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, This may create 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/Any removal of content by the district should be based on viewpoint-neutral considerations, such as prohibitions of posts to protect

against possible legal challenges. This may include, but is not limited to, removing content that violate laws against constitutes discrimination or, harassment, or bullying, as specified in the accompanying administrative regulation, or that are unrelated to the purpose of the site. In addition, account. Additionally, in order to help maintain the district's ability to remove content, users should be informed of the purpose of the site account(s) and the limited nature of the discussion and district. District staff should regularly monitor sites all such accounts so that materials are removed in an even-handed and consistent manner as permitted by law. See the accompanying administrative regulation for language regarding removal of posts and monitoring of sites accounts. It is recommended that the districts consult CSBA's District and County Office of Education Legal Services or 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 accounts 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 This policy is not intend intended to create a limited an open public forum or otherwise guarantee an individual's right to free speech on any of the official district social media accounts even if one or more features on the account that permit interaction with and between members of the public are enabled.

The Superintendent or designee shall ensure that the limited purpose of the official district social media platforms accounts is clearly communicated to users. Each site account shall contain a statement that specifies specifying the site's purposes along with a statement of the account, that users are expected to use the site account shall only be used for those such purposes. Each site shall also contain a statement that users are personally responsible for the content of their posts, and any other user expectations or conditions as specified in the accompanying administrative regulation.

Official district social media platforms accounts 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.

CSBA NOTE: Staff and students who post prohibited content on official district social media platforms accounts are subject to discipline in accordance with district board policies and administrative regulations. Pursuant to Education Code 48900(r), a student may be subject to suspension or expulsion if he/she the student 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 Pursuant to Education Code 32261 to include, an "electronic act" includes, but is not limited to, posts on a social networking site.

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 or otherwise engage with an official district social media account in a manner that violates board policies and administrative regulations shall be subject to discipline in accordance with district such applicable policies and administrative regulations.



**CSBA 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 7920.000 - 7930.170).

Users of official district social media ~~platforms~~ accounts, and anyone who posts, replies, or otherwise leaves a digital footprint on an official district social media account, should be aware of the public nature and accessibility of social media and that such information posted or left on an official district social media account 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.~~

**Privacy**

~~The~~ To the extent practicable, 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 accounts.

As it pertains to the posting of student photographs and the privacy of telephone numbers, home addresses, and email addresses, as ~~specified~~ official district social media accounts shall operate in accordance with Board Policy 1113 - District and School Web Sites, shall also apply to official district social media platforms. Websites.

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.

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<b>State</b>	<b>Description</b>
Ed. Code 32260-32262	Interagency School Safety Demonstration Act of 1985
Ed. Code 35182.5	Contracts for advertising
Ed. Code 48900	Grounds for suspension or expulsion
Ed. Code 48907	Exercise of free expression; time, place, and manner rules and regulations

Ed. Code 48950  
Ed. Code 49061  
Ed. Code 49073  
Ed. Code 60048  
Gov. Code 3307.5  
Gov. Code 54952.2  
Gov. Code 7920.000-7930.215

Speech and other communication  
Definitions; directory information  
Release of directory information  
Commercial brand names, contracts or logos  
Publishing identity of public safety officers  
Brown Act; definition of meeting  
California Public Records Act

**Federal**

17 USC 101-1101  
20 USC 1232g  
29 USC 157  
29 USC 794  
34 CFR 99.1-99.67

**Description**

Federal copyright law  
Family Educational Rights and Privacy Act (FERPA) of 1974  
Employee rights to engage in concerted, protected activity  
Rehabilitation Act of 1973; Section 504  
Family Educational Rights and Privacy

**Management Resources**

Court Decision

**Description**

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

Court Decision

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

[Court Decision](#)

[Lindke v. Freed \(2024\) 601 U.S. 187](#)

Court Decision

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

Court Decision

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

Court Decision

Downs v. Los Angeles Unified School District (9th Cir. 2000) 228 F.3d 1003

Facebook Publication

Facebook for Educators Guide, ~~2011~~2013  
<https://cdpsdocs.state.co.us/safeschools/Resources/Facebook%20Guide%20for%20Educators.pdf>

National Labor Relations Board Decision  
18-CA-1908

Sears Holdings, December 4, 2009

Website

CSBA District and County Office of Education Legal Services

Website

[Facebook for Educators](#)[Meta in Education](#)

Website

[Facebook in Education](#)

Website

Facebook, privacy resources

Website

California School Public Relations Association

Website

CSBA

### **Cross References**

<b>Code</b>	<b>Description</b>
0000	Vision
0410	Nondiscrimination In District Programs And Activities
0440	District Technology Plan
0440	District Technology Plan
0510	School Accountability Report Card
1100	Communication With The Public
1112	Media Relations
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1160	Political Processes
1230	School-Connected Organizations
1230	School-Connected Organizations
1260	Educational Foundation
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1325	Advertising And Promotion
3515.7	Firearms On School Grounds
3516	Emergencies And Disaster Preparedness Plan
3516	Emergencies And Disaster Preparedness Plan
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4040	Employee Use Of Technology
4040-E(1)	Employee Use Of Technology
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action

4119.21	Professional Standards
4119.21-E(1)	Professional Standards
4119.23	Unauthorized Release Of Confidential/Privileged Information
4131	Staff Development
4132	Publication Or Creation Of Materials
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.21	Professional Standards
4219.21-E(1)	Professional Standards
4219.23	Unauthorized Release Of Confidential/Privileged Information
4231	Staff Development
4232	Publication Or Creation Of Materials
4319.21	Professional Standards
4319.21-E(1)	Professional Standards
4319.23	Unauthorized Release Of Confidential/Privileged Information
4331	Staff Development
4332	Publication Or Creation Of Materials
5022	Student And Family Privacy Rights
5022	Student And Family Privacy Rights
5125	Student Records
5125	Student Records
5125.1	Release Of Directory Information
5125.1	Release Of Directory Information
5125.1-E(1)	Release Of Directory Information
5131	Conduct
5142.2	Safe Routes To School Program
5142.2	Safe Routes To School Program
5144	Discipline
5144	Discipline
5144.1	Suspension And Expulsion/Due Process
5144.1	Suspension And Expulsion/Due Process

5145.2	Freedom Of Speech/Expression
5145.2	Freedom Of Speech/Expression
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u> Sexual Harassment
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u> Sexual Harassment
6020	Parent Involvement
6020	Parent Involvement
6145.5	Student Organizations And Equal Access
6145.5	Student Organizations And Equal Access
6162.6	Use Of Copyrighted Materials
6162.6	Use Of Copyrighted Materials
6163.4	Student Use Of Technology
6163.4-E(1)	Student Use Of Technology
9010	Public Statements
9012	Board Member Electronic Communications

**Regulation 1114: District-Sponsored Social Media**

**Status:** ADOPTED

Original Adopted Date: 07/01/2011 | Last Revised Date: 09/01/2024 | Last Reviewed Date: 07/02/2011-2024

CSBA NOTE: The following optional administrative regulation may be revised to reflect district practice and the types of online platforms social media accounts used by the district.

**Definitions**

*Social media* means any online platform for collaboration, interaction, and/or active participation, or that allows users to post content, including, but not limited to, social networking sites such as Instagram, TikTok, Facebook, X/Twitter, SnapChat, YouTube, and LinkedIn; or blogs.

CSBA NOTE: To minimize liability to the district, it is important that the district clearly define the official social media platforms/accounts 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/Board policies and guidelines/administrative regulations do not apply to personal social media platforms/accounts 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 An official district social media account is an account on a social media platform is a site authorized by the Superintendent or designee. Sites

An account that have not been authorized by the Superintendent or designee but that contains/contains content related to the district or comments on/about district operations but that has not been created based on authorization or direction from the Superintendent or designee, such as a site/an account created by a parent-teacher organization, booster club, or other school-connected organization or a student's or employee's personal site, are/account, is not considered official district social media platforms.

**Authorization for Official District Social Media Platforms**

The Superintendent or designee shall authorize the development of any official district social media platform. Teachers/an official district social media account.

School-level employees such as teachers and coaches shall obtain approval authorization from the school principal before creating an official classroom or team social media platform/account.

**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 Each official district social media account shall contain content that is useful and appropriate for all audiences.

CSBA 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. However, as this is a fact-specific determination, it is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel.

The Superintendent or designee District employees or agents in charge of posting or adding information to an official district social media account shall ensure that copyright laws are not violated in the use of material on official district social media platforms/accounts.

CSBA NOTE: Because of the open accessibility of social Social media, platforms typically allow users to post or reply to content will on each other's accounts, which is or can be posted by members of made viewable to other users and even 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, This may create 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.

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 Any removal of content by the district should be based on viewpoint-neutral considerations to protect against possible legal challenges. This may include, but is not limited to, removing content that constitutes discrimination, harassment, or bullying, as specified in the accompanying Bboard Policy, or that is unrelated to the purpose of the account. Additionally, in order to help maintain the district's ability to remove content, users should be informed of the purpose of the account(s) and the limited nature of the discussion. District staff should regularly monitor all such accounts so that materials are removed as permitted by law. It is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel to ensure that any provisions related to removal of posts or discipline of students or staff are consistent with law.

In Sears, the National Labor Relations Board (NLRB) advised caution when establishing policy related to employee use of electronic communications as it might 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.

In addition Additionally, 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.

Furthermore, if the district chooses to post advertising of a commercial nature on an official

district social media ~~platforms~~ account, then the ability to remove comments of a commercial nature posted by others may be limited as removing some commercial content and not others may constitute viewpoint discrimination. Districts should also be cautious about the use of district resources, such as its official district social media ~~platforms~~ account, for political purposes; see BP 1160 - Political Processes.

In order Pursuant to protect against possible constitutional challenges, any removal of content by the U.S. Supreme Court's decision in Lindke v. Freed, a district should be based on viewpoint-neutral considerations official who limits or prevents critics from speaking, such as preventing by blocking them on social media or deleting their posts, violates the violation of laws against discrimination or harassment or First Amendment only if the posting of materials that are unrelated to official (1) has been granted the purpose power to speak on behalf of the site. The district should and (2) claims to be actually exercising that power. Because the determination as to whether a public official's action meets these two conditions is a fact-specific undertaking, it is recommended that districts with questions regarding this issue consult CSBA's District and County Office of Education Legal Services or district 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~~ accounts are regularly monitored. Staff members responsible for monitoring content may remove posts or even suspend users from interacting with the account only based on viewpoint-neutral considerations, such as lack of relation to the site's account's purpose or violation of the district's policy, regulation, or content guidelines board policies or administrative regulations.

Each official district social media ~~platform~~ account shall, as appropriate, prominently display: a link to this regulation or a statement that includes Items #1-10, below:

1. The purpose(s) of the site along with a statement that users are expected to account, such as providing information to a class, school community, athletic team, or student club; engaging with the public regarding district decisions and Governing Board meetings; and sharing information regarding employment opportunities with the district
2. Information on how to use the security settings of the social media platform.
2. Users shall use the site only for those intended purposes.
3. A statement that the site The account is regularly monitored and that any inappropriate post interaction will be promptly removed: , blocked, or similarly addressed. Inappropriate posts interactions include those, but are not limited to, interactions 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 district premises, violation of district or school rules, or substantial disruption of to the district or school's orderly operation
  - b. Are not related to the stated purpose of the site account, including, but not limited to, threats, comments of a commercial nature, political activity, and comments that constitute discrimination or harassment prohibited by board policies and administrative regulations



4. ~~Protocols for users, including expectations that users will~~ Users are expected to communicate in a respectful, courteous, and professional manner and are personally responsible for their use of the account
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~~ The district is not responsible for the content posted by other users or how other users interact with the account
6. ~~A disclaimer that the~~ The views and comments expressed by other users on the site are account belong to those of the users and do not necessarily reflect the views of the district.
7. ~~A disclaimer that any~~ 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.~~ accounts

CSBA NOTE: The Cyberbullying Protection Act (Business and Professions Code 22589-22589.4) requires a social media platform, as defined, to establish a mechanism that allows any individual, including the district, to report cyberbullying or any content that violates the existing terms of service. Although not directly applicable to districts, it is good guidance for districts seeking to create a safe online space.

9. Violations may be reported to the appropriate social media platform, law enforcement, or other third parties, as appropriate

CSBA NOTE: Item #10 details the length of and preconditions for a user's suspension and should be modified to reflect district practice.

10. A user may be suspended from interacting with the account for one month upon three prior violations and for six months upon two prior one-month suspensions

#### **Appropriate Use by District Employees**

CSBA 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~~ accounts shall adhere to all applicable ~~district~~ board policies and ~~procedures~~ administrative regulations, including, but not limited to, professional standards related to interactions with students.

When appropriate, employees ~~using~~ posting, replying, or otherwise interacting with the public outside of their professional duties or responsibilities on official district social media ~~platforms~~ accounts 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~~accounts.

#### Policy Reference UPDATE Service

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#### Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

#### State

Ed. Code 32260-32262

#### Description

Interagency School Safety Demonstration Act of 1985

Ed. Code 35182.5

Contracts for advertising

Ed. Code 48900

Grounds for suspension or expulsion

Ed. Code 48907

Exercise of free expression; time, place, and manner rules and regulations

Ed. Code 48950

Speech and other communication

Ed. Code 49061

Definitions; directory information

Ed. Code 49073

Release of directory information

Ed. Code 60048

Commercial brand names, contracts or logos

Gov. Code 3307.5

Publishing identity of public safety officers

Gov. Code 54952.2

Brown Act; definition of meeting

Gov. Code 7920.000-7930.215

California Public Records Act

#### Federal

17 USC 101-1101

#### Description

Federal copyright law

20 USC 1232g

Family Educational Rights and Privacy Act (FERPA) of 1974

29 USC 157

Employee rights to engage in concerted, protected activity

29 USC 794

Rehabilitation Act of 1973; Section 504

34 CFR 99.1-99.67

Family Educational Rights and Privacy

#### Management Resources

Court Decision

#### Description

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

Court Decision

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

Court Decision

Lindke v. Freed (2024) 601 U.S. 187

Court Decision	Page v. Lexington County School District (2008, 4th Cir.) 531 F.3d 275
Court Decision	Perry Education Association v. Perry Local Educators' Association (1983) 460 U.S. 37
Court Decision	Downs v. Los Angeles Unified School District (9th Cir. 2000) 228 F.3d 1003
Facebook Publication	Facebook for Educators Guide, <del>2011</del> 2013 ( <a href="https://cdpsdocs.state.co.us/safeschools/Resources/Facebook%20Guide%20for%20Educators.pdf">https://cdpsdocs.state.co.us/safeschools/Resources/Facebook%20Guide%20for%20Educators.pdf</a> )
National Labor Relations Board Decision 18-CA-1908	Sears Holdings, December 4, 2009
Website	CSBA District and County Office of Education Legal Services
Website	<u>Facebook for Educators</u> Meta in Education
Website	<u>Facebook in Education</u>
Website	Facebook, privacy resources
Website	California School Public Relations Association
Website	CSBA

**Cross References**

<b>Code</b>	<b>Description</b>
0000	Vision
0410	Nondiscrimination In District Programs And Activities
0440	District Technology Plan
0440	District Technology Plan
0510	School Accountability Report Card
1100	Communication With The Public
1112	Media Relations
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1160	Political Processes
1230	School-Connected Organizations
1230	School-Connected Organizations
1260	Educational Foundation
1312.3	Uniform Complaint Procedures

1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1325	Advertising And Promotion
3515.7	Firearms On School Grounds
3516	Emergencies And Disaster Preparedness Plan
3516	Emergencies And Disaster Preparedness Plan
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4040	Employee Use Of Technology
4040-E(1)	Employee Use Of Technology
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.21	Professional Standards
4119.21-E(1)	Professional Standards
4119.23	Unauthorized Release Of Confidential/Privileged Information
4131	Staff Development
4132	Publication Or Creation Of Materials
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.21	Professional Standards
4219.21-E(1)	Professional Standards
4219.23	Unauthorized Release Of Confidential/Privileged Information
4231	Staff Development
4232	Publication Or Creation Of Materials
4319.21	Professional Standards
4319.21-E(1)	Professional Standards
4319.23	Unauthorized Release Of Confidential/Privileged Information
4331	Staff Development
4332	Publication Or Creation Of Materials
5022	Student And Family Privacy Rights

5022	Student And Family Privacy Rights
5125	Student Records
5125	Student Records
5125.1	Release Of Directory Information
5125.1	Release Of Directory Information
5125.1-E(1)	Release Of Directory Information
5131	Conduct
5142.2	Safe Routes To School Program
5142.2	Safe Routes To School Program
5144	Discipline
5144	Discipline
5144.1	Suspension And Expulsion/Due Process
5144.1	Suspension And Expulsion/Due Process
5145.2	Freedom Of Speech/Expression
5145.2	Freedom Of Speech/Expression
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u> Sexual Harassment
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u> Sexual Harassment
6020	Parent Involvement
6020	Parent Involvement
6145.5	Student Organizations And Equal Access
6145.5	Student Organizations And Equal Access
6162.6	Use Of Copyrighted Materials
6162.6	Use Of Copyrighted Materials
6163.4	Student Use Of Technology
6163.4-E(1)	Student Use Of Technology
9010	Public Statements
9012	Board Member Electronic Communications

**Regulation 1312.4: Williams Uniform Complaint Procedures**

**Status:** ADOPTED

**Original Adopted Date:** 11/01/2010 | **Last Revised Date:** ~~10/09/01/2023~~2024 | **Last Reviewed Date:** ~~10/09/01/2023~~2024

CSBA 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.

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, and for license-exempt preschool programs pursuant to 5 CCR 4690-4694. 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:

CSBA NOTE: Education Code 242, as added by AB 1078 (Ch. 229, Statutes of 2023), requires the California Department of Education (CDE) to develop, by July 1, 2025, guidance and public educational materials to ensure that all Californians can access information about educational laws and policies that safeguard the right to an accurate and inclusive curriculum.

Pursuant to Education Code 60119, boards are required to hold a public hearing annually regarding the sufficiency of instructional materials. If, at the public hearing, the Governing Board makes a determination of "insufficient materials", Education Code 1240, as amended by AB 1078, requires the Board to take certain actions and specifies potential consequences for not remedying the deficiency as required by law; see BP 6161.1 - Selection and Evaluation of Instructional Materials. [For more information regarding the Board's responsibilities regarding the sufficiency of instructional materials, see CSBA's Governance Brief, "Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities," and Fact Sheet, "Instructional Materials Adoptions: Local governing board responsibilities."](#)

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.~~

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.
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:

**CSBA NOTE:** Education Code 35186, as amended by SB 114 (Ch. 48, Statutes of 2023), requires that the Williams uniform complaint procedure be used to address a complaint related to teacher misassignment that claims that a teacher who lacks credentials or training to teach English learners is assigned to teach a class with one or more English learners in the class.

- b. A teacher who lacks credentials or training to teach English learners is assigned to teach a class with one or more English learners in the class.
- 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 time period from the first day students attend classes for a year-long course or semester-long course, though not later than 20 business days afterwards. (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)

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, and paper towels or functional hand dryers. (Education Code 35292.5)

CSBA NOTE: Pursuant to Education Code 35292.5, as amended by SB 760 (Ch. 227, Statutes of 2023), districts may temporarily close a restroom for (1) a documented student safety concern, (2) an immediate threat to student safety, or (3) to repair the facility.

- e. \_\_\_\_\_ *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 a documented student safety concern, an immediate threat to student safety, or to repair the facility. (Education Code 35292.5)

CSBA NOTE: The following optional paragraph is for use by districts that maintain any of grades ~~6~~3-12, and may be revised to reflect the grade levels served by the district.

Pursuant to Education Code 35292.6 a school that serves any of grades 6-12 is required, ~~as amended by AB 230 (Ch. 421, Statutes of 2023), the requirement~~ to stock the school's restrooms with menstrual products, for use in connection with the menstrual cycle, free of charge ~~has been expanded to include schools that serve students in any of grades 3-12~~. 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. However, pursuant to 5 CCR 4610, CDE will not accept an appeal of any such district-permitted complaint may not be appealed to CDE.

In any school serving students any of grades ~~6~~3-12, a complaint may be filed alleging noncompliance with the requirement of Education Code 35292.6 to, at all times, stock and make available and accessible free of cost, an adequate supply of menstrual products in every women's and all gender restroom, and in at least one men's restroom. (Education Code 35292.6)



CSBA NOTE: Beginning July 1, 2026, Education Code 35292.5, as amended by SB 760, requires each school to provide and maintain at least one all-gender restroom for student use, as described below. The district is required to ensure that an employee is designated as a point of contact to implement these requirements for each school, and that a notice regarding the requirements be posted in a prominent and conspicuous location outside the all-gender restroom, including contact information for the designated point of contact. CDE is required to post on its website guidance for implementation of the requirements specified in Education Code 35292.5, including examples of signage and best practices.

As with Education Code 35292.6 described above, Education Code 35292.5, as amended by SB 760, does not require a complaint process. However, it is recommended that the Williams complaint procedures be used to address allegations of noncompliance with Education Code 35292.5 in order to ensure consistency in the procedures districts use to address allegations of noncompliance with all restroom maintenance requirements. Like complaints alleging noncompliance with Education Code 35292.6, CDE will not accept an appeal of a complaint alleging noncompliance with Education Code 35292.5.

Additionally, starting July 1, 2026, in any school that has more than one female and more than one male restroom designated exclusively for student use, a complaint may be filed alleging noncompliance with the requirements specified in Education Code 35292.5 to maintain at least one all-gender restroom for student use. (Education Code 35292.5)

### **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)

CSBA 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 **complaint** 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**

CSBA 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 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)

CSBA NOTE: Pursuant to Education Code 35186, as amended by AB 1078, complaints related to instructional materials alleging that more than one student does not have sufficient textbooks or instructional materials as the result of an act by the Board, or the Board's failure to remedy the deficiency, may be filed with the Superintendent of Public Instruction (SPI) directly in addition to or in lieu of being filed with the district, and the SPI may directly intervene without waiting for an investigation, as described in the section "Investigation and Response" below.

Pursuant to Education Code 60150, as added by AB 1078, if the SPI finds that a district has not provided sufficient textbooks or instructional materials as required, CDE is required to take all remedial actions as specified in Education Code 1240, including purchasing textbooks and instructional materials. Additionally, the SPI is required to assess a financial penalty against the district's local control funding formula allocation.

A complaint alleging that more than one student does not have sufficient textbooks or instructional materials as the result of an act by the Governing Board, or the Board's failure to remedy the deficiency, may be filed with the Superintendent of Public Instruction (SPI) directly in addition to or in lieu of being filed with the district. Any such complaint shall identify the basis and provide evidence to support its filing directly with the SPI. (Education Code 35186)

If the Superintendent or designee becomes aware that a complaint alleging insufficient textbooks or instructional materials ~~that~~ has been filed directly with the SPI but not with the district, the Superintendent or designee may initiate an investigation in accordance with this administrative regulation, as described below, if there is sufficient evidence to do so.

### **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 send written resolution of the complaint to the mailing address of the complainant as indicated on the complaint 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)

CSBA 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 SPI 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 4610, 4687)

However, no other type of complaint regarding the condition of school facilities as described in the section "Types of Complaints" above may be appealed to the SPI. (Education Code 35186; 5 CCR 4610, 4687)

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

**Reports**

CSBA 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 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)

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**State**

5 CCR 4600-4670

**Description**

Uniform complaint procedures

5 CCR ~~4600~~4680-4687

~~Uniform~~Williams uniform complaint procedures and ~~Williams~~ complaints

5 CCR 4690-4694	Health and safety complaints in license-exempt preschool programs
Ed. Code 1240	County superintendent of schools; duties
Ed. Code 17592.72	Urgent or emergency repairs; School Facility Emergency Repair Account
Ed. Code 200- <del>262.4</del> 270	Prohibition of discrimination
Ed. Code 234.1	Student protections relating to discrimination, harassment, intimidation, and bullying
Ed. Code 33126	School accountability report card
Ed. Code 35186	Williams uniform complaint procedures
Ed. Code 35292.5-35292.6	Restrooms; maintenance and cleanliness
Ed. Code 48907	Exercise of free expression; time, place, and manner rules and regulations
Ed. Code 48950	Speech and other communication
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 51501	Nondiscriminatory subject matter
Ed. Code 60010	Instructional materials; definition
Ed. Code 60040-60052	Requirements for instructional materials
Ed. Code 60119	Hearing on sufficiency of instructional materials
Ed. Code 60150	Penalty for insufficiency of textbooks and instructional materials

**Federal**

20 USC 6314

**Description**

Title I schoolwide program

**Management Resources**

[CSBA Publication](#)

**Description**

[Instructional Materials Adoptions: Local governing board responsibilities, Fact Sheet, February 2024](#)  
[https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD- IM-LocalRoles.ashx?la=en&rev=94453dc92df043379995b07589a4d558#:~:text=Local%20boards%20have%20a%20responsibility,been%20approved%20by%20the%20SBE.](https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-IM-LocalRoles.ashx?la=en&rev=94453dc92df043379995b07589a4d558#:~:text=Local%20boards%20have%20a%20responsibility,been%20approved%20by%20the%20SBE.)  
[Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities, Governance Brief, February 2024](#)  
<https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-instructional-materials>

[CSBA Publication](#)

	<a href="https://oag.ca.gov/system/files/attachments/press-docs/Legal%20Alert%20Re%20Inclusive%20Curricula.1.9.24.1157CLEAN.pdf">brief.ashx?la=en&amp;rev=9880900e6d334c81a7f64d637e40dc56)</a>
<a href="#">CA Office of the Attorney General Publication</a>	<a href="#">Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books, Legal Alert, January 2024</a>
	<a href="https://oag.ca.gov/system/files/attachments/press-docs/Legal%20Alert%20Re%20Inclusive%20Curricula.1.9.24.1157CLEAN.pdf">https://oag.ca.gov/system/files/attachments/press-docs/Legal%20Alert%20Re%20Inclusive%20Curricula.1.9.24.1157CLEAN.pdf)</a>
Website	California County Superintendents Educational Services Association
Website	CSBA District and County Office of Education Legal Services
Website	State Allocation Board, Office of Public School Construction
Website	Department of Justice
Website	U.S. Department of Education, Office for Civil Rights
Website	CSBA
Website	California Department of Education

**Cross References**

<b>Code</b>	<b>Description</b>
0410	Nondiscrimination In District Programs And Activities
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
1100	Communication With The Public
1250	Visitors/Outsiders
1250	Visitors/Outsiders
1312.2	Complaints Concerning Instructional Materials
1312.2	Complaints Concerning Instructional Materials
1312.2-E(1)	Complaints Concerning Instructional Materials
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1340	Access To District Records
1340	Access To District Records
3270	Sale And Disposal Of Books, Equipment And Supplies

3270	Sale And Disposal Of Books, Equipment And Supplies
3514	Environmental Safety
3514	Environmental Safety
3514.2	Integrated Pest Management
3517	Facilities Inspection
3517-E(1)	Facilities Inspection
3550	Food Service/Child Nutrition Program
3550	Food Service/Child Nutrition Program
4112.2	Certification
4112.2	Certification
4112.22	Staff Teaching English Learners
4113	Assignment
4113	Assignment
4144	Complaints
4144	Complaints
4244	Complaints
4244	Complaints
4344	Complaints
4344	Complaints
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
6142.92	Mathematics Instruction
6143	Courses Of Study
6143	Courses Of Study
6161.1	Selection And Evaluation Of Instructional Materials
6161.1	Selection And Evaluation Of Instructional Materials
6161.1-E(1)	Selection And Evaluation Of Instructional Materials
6161.11	Supplementary Instructional Materials
6161.2	Damaged Or Lost Instructional Materials
6163.1	Library Media Centers
9000	Role Of The Board

9012

Board Member Electronic Communications

9200

Limits Of Board Member Authority

9322

Agenda/Meeting Materials

**Exhibit 1312.4-E(1): Williams Uniform Complaint Procedures**

Status: ADOPTED

Original Adopted Date: 11/01/2007 | Last Revised Date: ~~10/09/01/2023~~2024 | Last Reviewed Date: ~~10/09/01/2023~~2024

CSBA 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.

CSBA NOTE: Pursuant to Education Code 35292.5, as amended by SB 760 (Ch. 227, Statutes of 2023), districts may temporarily close a restroom for (1) a documented student safety concern, (2) an immediate threat to student safety, or (3) to repair the facility.

2. School facilities must be clean, safe, and maintained in good repair

This includes the identification and resolution of emergency or urgent facilities conditions that pose a threat to the health and safety of students or staff.

CSBA NOTE: Education Code 35186, as amended by SB 114 (Ch. 48, Statutes of 2023), requires that the Williams uniform complaint procedure be used to address a complaint related to teacher misassignment that claims that a teacher who lacks credentials or training to teach English learners is assigned to teach a class with one or more English learners in the class.

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.

CSBA 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 website will satisfy this requirement. The law does not require that the 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 website 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 website. You may also download a copy of the California Department of Education (CDE) complaint form from CDE's website when available. However, a complaint need not be filed using either the district's complaint form or the complaint form from CDE.

**Policy Reference UPDATE Service**

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**Policy Reference Disclaimer:**

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

<b>State</b>	<b>Description</b>
5 CCR 4600-4670	Uniform complaint procedures
5 CCR <del>4600</del> <u>4680</u> -4687	<del>Uniform</del> <u>Williams</u> <del>uniform</del> complaint procedures and <b>Williams complaints</b>
5 CCR 4690-4694	Health and safety complaints in license-exempt preschool programs
Ed. Code 1240	County superintendent of schools; duties
Ed. Code 17592.72	Urgent or emergency repairs; School Facility Emergency Repair Account
Ed. Code <del>200-262</del> <u>4270</u>	Prohibition of discrimination
Ed. Code 234.1	Student protections relating to discrimination, harassment, intimidation, and bullying
Ed. Code 33126	School accountability report card
Ed. Code 35186	Williams uniform complaint procedures
Ed. Code 35292.5-35292.6	Restrooms; maintenance and cleanliness

Ed. Code 48907	Exercise of free expression; time, place, and manner rules and regulations
Ed. Code 48950	Speech and other communication
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 51501	Nondiscriminatory subject matter
Ed. Code 60010	Instructional materials; definition
Ed. Code 60040-60052	Requirements for instructional materials
Ed. Code 60119	Hearing on sufficiency of instructional materials
Ed. Code 60150	Penalty for insufficiency of textbooks and instructional materials
<b>Federal</b>	<b>Description</b>
20 USC 6314	Title I schoolwide program
<b>Management Resources</b>	<b>Description</b>
<u><a href="#">CSBA Publication</a></u>	<u><a href="https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-IM-LocalRoles.ashx?la=en&amp;rev=94453dc92df043379995b07589a4d558#:~:text=Local%20boards%20have%20a%20responsibility,been%20approved%20by%20the%20SBE.">Instructional Materials Adoptions: Local governing board responsibilities, Fact Sheet, February 2024</a></u> <u><a href="https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-IM-LocalRoles.ashx?la=en&amp;rev=94453dc92df043379995b07589a4d558#:~:text=Local%20boards%20have%20a%20responsibility,been%20approved%20by%20the%20SBE.">https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-IM-LocalRoles.ashx?la=en&amp;rev=94453dc92df043379995b07589a4d558#:~:text=Local%20boards%20have%20a%20responsibility,been%20approved%20by%20the%20SBE.</a></u>
<u><a href="#">CSBA Publication</a></u>	<u><a href="https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-instructional-materials-brief.ashx?la=en&amp;rev=9880900e6d334c81a7f64d637e40dc56">Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities, Governance Brief, February 2024</a></u> <u><a href="https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-instructional-materials-brief.ashx?la=en&amp;rev=9880900e6d334c81a7f64d637e40dc56">https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-instructional-materials-brief.ashx?la=en&amp;rev=9880900e6d334c81a7f64d637e40dc56</a></u>
<u><a href="#">CA Office of the Attorney General Publication</a></u>	<u><a href="https://oag.ca.gov/system/files/attachments/press-docs/Legal%20Alert%20Re%20Inclusive%20Curricula.1.9.24.1157CLEAN.pdf">Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books, Legal Alert, January 2024</a></u> <u><a href="https://oag.ca.gov/system/files/attachments/press-docs/Legal%20Alert%20Re%20Inclusive%20Curricula.1.9.24.1157CLEAN.pdf">https://oag.ca.gov/system/files/attachments/press-docs/Legal%20Alert%20Re%20Inclusive%20Curricula.1.9.24.1157CLEAN.pdf</a></u>
Website	California County Superintendents Educational Services Association
Website	CSBA District and County Office of Education Legal Services
Website	State Allocation Board, Office of Public School Construction
Website	Department of Justice
Website	U.S. Department of Education, Office for Civil Rights

Website	CSBA
Website	California Department of Education

**Cross References**

<b>Code</b>	<b>Description</b>
0410	Nondiscrimination In District Programs And Activities
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
1100	Communication With The Public
1250	Visitors/Outsiders
1250	Visitors/Outsiders
1312.2	Complaints Concerning Instructional Materials
1312.2	Complaints Concerning Instructional Materials
1312.2-E(1)	Complaints Concerning Instructional Materials
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1340	Access To District Records
1340	Access To District Records
3270	Sale And Disposal Of Books, Equipment And Supplies
3270	Sale And Disposal Of Books, Equipment And Supplies
3514	Environmental Safety
3514	Environmental Safety
3514.2	Integrated Pest Management
3517	Facilities Inspection
3517-E(1)	Facilities Inspection
3550	Food Service/Child Nutrition Program
3550	Food Service/Child Nutrition Program
4112.2	Certification
4112.2	Certification
4112.22	Staff Teaching English Learners

4113	Assignment
4113	Assignment
4144	Complaints
4144	Complaints
4244	Complaints
4244	Complaints
4344	Complaints
4344	Complaints
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
6142.92	Mathematics Instruction
6143	Courses Of Study
6143	Courses Of Study
6161.1	Selection And Evaluation Of Instructional Materials
6161.1	Selection And Evaluation Of Instructional Materials
6161.1-E(1)	Selection And Evaluation Of Instructional Materials
6161.11	Supplementary Instructional Materials
6161.2	Damaged Or Lost Instructional Materials
6163.1	Library Media Centers
9000	Role Of The Board
9012	Board Member Electronic Communications
9200	Limits Of Board Member Authority
9322	Agenda/Meeting Materials

**Exhibit 1312.4-E(2): Williams Uniform Complaint Procedures**

**Status:** ADOPTED

**Original Adopted Date:** 11/01/2010 | **Last Revised Date:** ~~10/09/01/2023~~ 2024 | **Last Reviewed**  
**Date:** ~~10/09/01/2023~~ 2024

CSBA 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, including emergency or urgent facilities conditions that pose a threat to the health and safety of students or staff, 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.)

4. 1. Textbooks and instructional materials: (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.~~

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:

2. 2. Teacher vacancy or misassignment: (Education Code 35186; 5 CCR 4682)

- a. 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. (5 CCR 4600)

CSBA NOTE: Education Code 35186, as amended by SB 114 (Ch. 48, Statutes of 2023), requires that the Williams uniform complaint procedure be used to address a complaint related to teacher misassignment that claims that a teacher who lacks credentials or training to teach English learners is assigned to teach a class with one or more English learners in the class.

- ⊖ b. A teacher who lacks credentials or training to teach English learners is assigned to teach a class with one or more English learners in the class:

This does not relieve the district from complying with state or federal law regarding teachers of English Learners.

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

3. 3. Facilities conditions: (Education Code 17592.72, 35186, 35292.5, 35292.6; 5 CCR 4683)

- ⊖ a. A condition exists that poses an emergency or urgent threat to the health or safety of students or staff while at school 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:

- ⊖ b. \_\_\_\_\_ 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, and paper towels or functional hand dryers:

CSBA NOTE: The following optional item is for districts that choose to use the Williams uniform complaint procedures to address complaints alleging noncompliance with requirements the requirement to stock restrooms at certain schools with menstrual products pursuant to Education Code 35292.6, which, as amended by AB 230 (Ch. 421, Statutes of 2023), has been expanded to include schools that serve students in any of grades 3-12; see the accompanying administrative regulation.

- ⊖ c. \_\_\_\_\_ For a school serving students in any of grades 6-12, the school has not, at all times, stocked and made available and accessible free of cost, an adequate supply of menstrual products in every women's and all-gender restroom, and in at least one men's restroom:

CSBA NOTE: The following optional item is for districts that choose to use the Williams uniform complaint procedures to address complaints alleging noncompliance with the requirement, beginning July 1, 2026, to provide and maintain at least one all-gender restroom for student use pursuant to Education Code 35292.5, as amended by SB 760 (Ch. 227, Statutes of 2023); see the accompanying administrative regulation.

- d. Starting July 1, 2026, for a school that has more than one female and more than one male restroom designated exclusively for student use, the school has not maintained at least one all-gender restroom for student use in accordance with Education Code 35292.5

CSBA NOTE: Pursuant to Education Code 35292.5, as amended by SB 760 (Ch. 227, Statutes of 2023), districts may temporarily close a restroom for (1) a documented student safety concern, (2) an immediate threat to student safety, or (3) to repair the facility.

- ⊖ e. \_\_\_\_\_ 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 a documented student safety concern, an immediate threat to student safety, or to repair the facility.

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_





5 CCR <del>4600</del> <u>4680</u> -4687	<del>Uniform</del> <u>Williams uniform</u> complaint procedures and <del>Williams complaints</del>
5 CCR 4690-4694	Health and safety complaints in license-exempt preschool programs
Ed. Code 1240	County superintendent of schools; duties
Ed. Code 17592.72	Urgent or emergency repairs; School Facility Emergency Repair Account
Ed. Code <del>200-262.4</del> <u>270</u>	Prohibition of discrimination
Ed. Code 234.1	Student protections relating to discrimination, harassment, intimidation, and bullying
Ed. Code 33126	School accountability report card
Ed. Code 35186	Williams uniform complaint procedures
Ed. Code 35292.5-35292.6	Restrooms; maintenance and cleanliness
Ed. Code 48907	Exercise of free expression; time, place, and manner rules and regulations
Ed. Code 48950	Speech and other communication
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 51501	Nondiscriminatory subject matter
Ed. Code 60010	Instructional materials; definition
Ed. Code 60040-60052	Requirements for instructional materials
Ed. Code 60119	Hearing on sufficiency of instructional materials
Ed. Code 60150	Penalty for insufficiency of textbooks and instructional materials

**Federal**

20 USC 6314

**Description**

Title I schoolwide program

**Management Resources**

CSBA Publication

**Description**

Instructional Materials Adoptions: Local governing board responsibilities, Fact Sheet, February 2024  
<https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD- IM-LocalRoles.aspx?la=en&rev=94453dc92df043379995b07589a4d558#:~:text=Local%20boards%20have%20a%20responsibility,been%20approved%20by%20the%20SBE.>  
Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities, Governance Brief, February 2024

CSBA Publication

CA Office of the Attorney General  
Publication

[https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-instructional-materials-brief.ashx?la=en&rev=9880900e6d334c81a7f64d637e40dc56\)](https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-instructional-materials-brief.ashx?la=en&rev=9880900e6d334c81a7f64d637e40dc56)

Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books, Legal Alert, January 2024

<https://oag.ca.gov/system/files/attachments/press-docs/Legal%20Alert%20Re%20Inclusive%20Curricula.1.9.24.1157CLEAN.pdf>

Website California County Superintendents Educational Services Association

Website CSBA District and County Office of Education Legal Services

Website State Allocation Board, Office of Public School Construction

Website Department of Justice

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

Website CSBA

Website California Department of Education

### **Cross References**

<b>Code</b>	<b>Description</b>
0410	Nondiscrimination In District Programs And Activities
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
1100	Communication With The Public
1250	Visitors/Outsiders
1250	Visitors/Outsiders
1312.2	Complaints Concerning Instructional Materials
1312.2	Complaints Concerning Instructional Materials
1312.2-E(1)	Complaints Concerning Instructional Materials
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1340	Access To District Records

1340	Access To District Records
3270	Sale And Disposal Of Books, Equipment And Supplies
3270	Sale And Disposal Of Books, Equipment And Supplies
3514	Environmental Safety
3514	Environmental Safety
3514.2	Integrated Pest Management
3517	Facilities Inspection
3517-E(1)	Facilities Inspection
3550	Food Service/Child Nutrition Program
3550	Food Service/Child Nutrition Program
4112.2	Certification
4112.2	Certification
4112.22	Staff Teaching English Learners
4113	Assignment
4113	Assignment
4144	Complaints
4144	Complaints
4244	Complaints
4244	Complaints
4344	Complaints
4344	Complaints
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
6142.92	Mathematics Instruction
6143	Courses Of Study
6143	Courses Of Study
6161.1	Selection And Evaluation Of Instructional Materials
6161.1	Selection And Evaluation Of Instructional Materials
6161.1-E(1)	Selection And Evaluation Of Instructional Materials
6161.11	Supplementary Instructional Materials
6161.2	Damaged Or Lost Instructional Materials

6163.1	Library Media Centers
9000	Role Of The Board
9012	Board Member Electronic Communications
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**Regulation 3517: Facilities Inspection**

**Status:** ADOPTED

**Original Adopted Date:** 11/01/2006 | **Last Revised Date:** 06/09/01/20222024 | **Last Reviewed Date:** 06/09/01/20222024

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

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

1. Gas Leaks: Gas systems and pipes appear and smell safe, functional, and free of leaks.
2. Mechanical Systems: Heating, ventilation, and air conditioning systems, as applicable, are functional and unobstructed; appear to supply an adequate amount of air to all classrooms, work spaces, and facilities; and maintain interior temperatures within normally acceptable ranges.
3. Windows and Doors: Windows and doors are intact, functional, and open, close, and lock as designed, unless there is a valid reason they should not function as designed.
4. Fences and Gates: Fences and gates are intact, functional, and free of holes and other conditions that could present a safety hazard to students, staff, or others. ~~Locks and other security hardware function as designed.~~

Locks and other security hardware function as designed.

5. Interior Surfaces (~~walls~~; Walls, floors, and ceilings): ~~Interior surfaces~~ are free of safety hazards from tears, holes, missing floor and ceiling tiles, torn carpet, water damage, or other cause. ~~Ceiling tiles are intact.~~

Ceiling tiles are intact. Surfaces display no evidence of mold or mildew.

6. Hazardous Materials: Hazardous and flammable materials are stored properly.

No evidence of peeling, chipping, or cracking paint is apparent. No indicators of mold, mildew, or asbestos exposure are evident. There does not appear to be evidence of

hazardous materials that may pose a threat to the health and safety of students or staff.

7. Structures: Posts, beams, supports for portable classrooms and ramps, and other structures appear intact, secure, and functional as designed:

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

8. Fire Safety and Emergency Equipment: Fire sprinklers, fire extinguishers, emergency alarm systems, and all emergency equipment and systems appear to be functioning properly:

Fire alarm pull stations are clearly visible. Fire extinguishers are current and placed in all required areas, including every classroom and assembly area. Emergency exits are clearly marked and unobstructed.

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

10. Lighting: Interior and exterior lighting appears to be adequate and working properly:

\_\_\_\_ Lights do not flicker, dim, or malfunction, and there is no unusual hum or noise from light fixtures.

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

12. Drinking Fountains: Interior and exterior drinking fountains are functional, accessible, and free of leaks:

Drinking water pressure is adequate. Fountain water is clear and without unusual taste or odor, and moss, mold, or excessive staining is not evident.

**CSBA NOTE: Pursuant to Education Code 35292.5, as amended by SB 760 (Ch. 227, Statutes of 2023), districts may temporarily close a restroom due to (1) a documented student safety concern, (2) an immediate threat to student safety, or (3) the need to repair the facility.**

13. Restrooms: Restrooms **and restroom fixtures** are fully operational, maintained and cleaned regularly, and stocked at all times with supplies (including toilet paper, soap, and paper towels or functional hand dryers), in accordance with Education Code 35292.5:

The school keeps all restrooms open during school hours when students are not in classes and keeps a sufficient number of restrooms open during school hours when students are in classes, except when necessary to temporarily close a restroom **for due to a documented student safety concern, an immediate threat to student safety, or the need** to repair the facility.

CSBA NOTE: Pursuant to Education Code 35292.6, as added/amended by AB 367230 (Ch. 664421, Statutes of 2021), before the start of the 2022-23 school year, a school that serves any of grades 6-12 is required (2023), the requirement to stock the school's restrooms with free menstrual products for use in connection with the menstrual cycle, and to post a notice as described below, has been expanded to include schools that serve students in grades 3-12. See the accompanying exhibit for a sample notice. The following paragraph should be revised to reflect the grade levels served by the district.

addition. Additionally, any school serving students in any of grades 6-12 shall, at all times, stock and make available and accessible free of cost, an adequate supply of menstrual products in every women's and all-gender restroom, and in at least one men's restroom. The district shall post in a prominent and conspicuous location in every restroom required to stock menstrual products a notice regarding this requirement that includes an email address and telephone number for a designated individual responsible for maintaining the requisite supply of menstrual products. (Education Code 35292.6)

CSBA NOTE: Beginning July 1, 2026, Education Code 35292.5, as amended by SB 760, requires each school to provide and maintain at least one all-gender restroom for student use, as described below. The district is required to ensure that an employee is designated as a point of contact to implement these requirements for each school, and that a notice regarding the requirements be posted in a prominent and conspicuous location outside the all-gender restroom, including contact information for the designated point of contact. The California Department of Education is required to post on its website guidance for implementation of the requirements specified in Education Code 35292.5, including examples of signage and best practices.

In addition, starting July 1, 2026, any school that has more than one female and more than one male restroom designated exclusively for student use shall provide and maintain at least one all-gender restroom for student use. The district shall use signage that identifies the bathroom facility as being open to all genders and is in accordance with 24 CCR 11B-703; ensure that it is available for use consistent with the requirements specified above and is unlocked, unobstructed, easily accessible by any student, and consistent with existing access to sex-segregated restrooms; stock the bathroom facility with menstrual products in accordance with Education Code 35292.6, as specified above; and, ensure that the bathroom facility is available during school hours and school functions when students are present. The district shall post in a prominent and conspicuous location outside at least one all-gender restroom a notice regarding these requirements that includes contact information for the staff member designated as the point of contact responsible for implementing such requirements.

14. Sewers: The sanitary sewer system controls odors as designed, displays no signs of stoppage, backup, or flooding in school facilities or on school grounds, and appears to be functioning properly.
15. Roofs: Roofs, gutters, roof drains, and downspouts appear to be functioning properly and are free of visible damage and evidence of disrepair when observed from the ground from inside and outside the building
16. Drainage: School grounds do not exhibit signs of drainage problems, such as visible evidence of flooded areas, eroded soil, water damage to asphalt playgrounds or parking areas, or

clogged storm drain inlets:

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

18. Overall Cleanliness: School grounds, buildings, common areas, and individual rooms appear to have been cleaned regularly and are free of accumulated refuse and unabated graffiti:

Restrooms, drinking fountains, and food preparation or serving areas appear to have been cleaned each day that school is in session.

CSBA NOTE: Although the FIT does not specifically require districts to test for the presence of lead in drinking water, soil, or painted surfaces, such testing is recommended by the U.S. Environmental Protection Agency due to the health risks posed by lead exposure, especially for young children. Schools and child care facilities that maintain their own public water systems must test for lead pursuant to the Safe Drinking Water Act (42 USC 300f-300j-27-), and licensed day care centers located in buildings that were constructed before January 1, 2010 are required to test for lead pursuant to Health and Safety Code 1597.16. See AR 3514 - Environmental Safety for further information about lead testing and abatement in schools.

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

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

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

CSBA NOTE: Education Code 35186 provides that the Williams uniform complaint procedures should be used for any complaint alleging a school facility condition that poses an emergency or urgent threat, as defined in Education Code 17592.72, or any complaint that a school restroom is not clean, maintained, or kept open, as defined in Education Code 35292.5. See ~~E/~~; see AR/E(1)/E(2) 1312.4 - Williams Uniform Complaint Procedures.

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

CSBA NOTE: Education Code 1240 requires the County Superintendent of Schools to visit low-performing schools to determine (1) the status of any facility condition that may create an emergency or urgent threat to the health or safety of students or staff and (2) the accuracy of data reported on the school accountability report card with respect to the safety, cleanliness, and adequacy of school facilities. Education Code ~~1240~~ 320 requires that the County Superintendent



provide a quarterly report to the Governing Board on the results of any county office of education (COE) visit. Education Code 1240 provides that, if the County Superintendent determines that a facility condition poses an emergency or urgent threat, or is not in good repair, the County Superintendent may return to the school to verify repairs and/or prepare a report that identifies areas of noncompliance if the district has not provided evidence that the repairs will be made within 30 days or, for major repairs, in a timely manner. The County Superintendent may then present the report to the Board at a public meeting and post the report on the COE's web site website.

The Superintendent or designee shall provide the Governing Board with regular reports regarding the district's facility inspections and updates of any visits to district schools by the County Superintendent of Schools to review school facilities.

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<b>State</b>	<b>Description</b>
2 CCR 1859.300-1859.330	Emergency Repair Program
<u>24 CCR 11B-703</u>	<u>Signage for all gender restrooms</u>
Ed. Code 1240	County superintendent of schools; duties
Ed. Code 17002	State School Building Lease-Purchase Law, including definition of good repair
Ed. Code 17070.10-17077.10	Leroy F. Greene School Facilities Act of 1998
Ed. Code 17565-17591	Property maintenance and control; <u>duties of governing board</u>
Ed. Code 17592.72	<u>Urgent or emergency repairs</u> ; School Facility Emergency Repair Account; <u>urgent or emergency repairs</u>
Ed. Code 33126	School accountability report card
Ed. Code 35186	Complaints <u>regarding related to instructional materials, teacher vacancy or misassignment, and facility conditions that pose emergency or urgent threat</u>
Ed. Code 35292.5-35292.6	Restrooms; maintenance and cleanliness
<u>Health and Safety Code 1597.16</u>	<u>Licensed day care centers; testing for lead in water</u>
<b>Federal</b>	<b>Description</b>
20 USC 6314	Schoolwide programs
42 USC 300f-300j-27	Safe Drinking Water Act
<b>Management Resources</b>	<b>321</b> <b>Description</b>

State Allocation Board, Public School Construction <u>Publication</u>	Facility Inspection Tool: School Facility Conditions Evaluation ( <a href="https://www.dgs.ca.gov/-/media/Divisions/OPSC/Forms/Facility-Inspection-Tool---SAB-Approved-04-27-2022.pdf">https://www.dgs.ca.gov/-/media/Divisions/OPSC/Forms/Facility-Inspection-Tool---SAB-Approved-04-27-2022.pdf</a> )
Website	CSBA District and County Office of Education Legal Services
Website	State Allocation Board, Office of Public School Construction
Website	California Department of Education, <u>Williams Case</u> ( <a href="https://www.cde.ca.gov/">https://www.cde.ca.gov/</a> )
Website	Coalition for Adequate School Housing
Website	California County Superintendents
Website	CSBA

**Cross References**

<b>Code</b>	<b>Description</b>
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
0510	School Accountability Report Card
1312.4	Williams Uniform Complaint Procedures
1312.4-E(1)	Williams Uniform Complaint Procedures
1312.4-E(2)	Williams Uniform Complaint Procedures
1330.1	Joint Use Agreements
3000	Concepts And Roles
3311	Bids
3311	Bids
3511.1	Integrated Waste Management
3511.1	Integrated Waste Management
3514	Environmental Safety
3514	Environmental Safety
3514.2	Integrated Pest Management
3516	Emergencies And Disaster Preparedness Plan
3516	Emergencies And Disaster Preparedness Plan
3550	Food Service/Child Nutrition Program
3550	Food Service/Child Nutrition Program

5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
6117	Year-Round Schedules
7110	Facilities Master Plan
7111	Evaluating Existing Buildings
9000	Role Of The Board

**Exhibit 3517-E(1): Facilities Inspection**

**Status:** ADOPTED

Original Adopted Date: 06/01/2022 | Last Revised Date: 09/01/2024 | Last Reviewed Date:  
06/01/2022

CSBA NOTE: Education Code 35292.6 requires that the following notice be posted in a prominent and conspicuous location in each restroom where menstrual products are required to be stocked.

**NOTICE REGARDING MENSTRUAL PRODUCTS**

Education Code 35292.6 requires that:

CSBA NOTE: Pursuant to Education Code 35292.6, as amended by AB 230 (Ch. 421, Statutes of 2023), the requirement to stock the school's restrooms with free menstrual products for use in connection with the menstrual cycle has been expanded to include schools that serve students in grades 3-12.

- a. On or before the start of the ~~2022-23~~2024-25 school year, a public school, including a school operated by a school district, county office of education, or charter school, maintaining any combination of classes from grades ~~6~~3 to 12, inclusive, shall stock the school's restrooms at all times with an adequate supply of menstrual products, available and accessible, free of cost, in all women's restrooms and all-gender restrooms, and in at least one men's restroom.
- b. A public school described in subdivision (a) shall not charge for any menstrual products provided to pupils.
- c. A public school described in subdivision (a) shall post a notice regarding the requirements of this section in a prominent and conspicuous location in every restroom required to stock menstrual products, available and accessible, free of cost, pursuant to this section.

— This notice shall include the text of this section and contact information, including an email address and telephone number, for a designated individual responsible for maintaining the requisite supply of menstrual products.

- d. For purposes of this section, "menstrual products" means menstrual pads and tampons for use in connection with the menstrual cycle.
- e. This section shall become operative on July 1, ~~2022~~2024

The name and contact information for the individual responsible for maintaining the requisite supply of menstrual products is:

(name and/or title/position)

[Redacted]

(telephone number)

[Redacted]

(email address)

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Ed. Code 17592.72	<u>Urgent or emergency repairs</u> ; School Facility Emergency Repair Account; <u>urgent or emergency repairs</u>
Ed. Code 33126	School accountability report card
Ed. Code 35186	Complaints <u>regarding related to instructional materials, teacher vacancy or misassignment, and facility conditions that pose emergency or urgent threat</u>
Ed. Code 35292.5-35292.6	Restrooms; maintenance and cleanliness
<u>Health and Safety Code 1597.16</u>	<u>Licensed day care centers; testing for lead in water</u>
<b>Federal</b>	<b>Description</b>
20 USC 6314	Schoolwide programs
42 USC 300f-300j-27	Safe Drinking Water Act
<b>Management Resources</b>	<b>Description</b>
State Allocation Board, Public School Construction <u>Publication</u>	Facility Inspection Tool: School Facility Conditions Evaluation ( <a href="https://www.dgs.ca.gov/-/media/Divisions/OPSC/Forms/Facility-Inspection-Tool---SAB-Approved-04-27-2022.pdf">https://www.dgs.ca.gov/-/media/Divisions/OPSC/Forms/Facility-Inspection-Tool---SAB-Approved-04-27-2022.pdf</a> )

Website	CSBA District and County Office of Education Legal Services
Website	State Allocation Board, Office of Public School Construction
Website	California Department of Education, <u>Williams Case</u> ( <a href="https://www.cde.ca.gov/">https://www.cde.ca.gov/</a> )
Website	Coalition for Adequate School Housing
Website	California County Superintendents
Website	CSBA

### **Cross References**

<b>Code</b>	<b>Description</b>
0460	Local Control And Accountability Plan
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1330.1	Joint Use Agreements
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3514	Environmental Safety
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3516	Emergencies And Disaster Preparedness Plan
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5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
6117	Year-Round Schedules

7110	Facilities Master Plan
7111	Evaluating Existing Buildings
9000	Role Of The Board

**Policy 4040: Employee Use Of Technology**

**Status:** ADOPTED

**Original Adopted Date:** 07/01/2001 | **Last Revised Date:** 07/09/01/20152024 | **Last Reviewed Date:** 07/09/01/20152024

CSBA NOTE: This policy addresses employee use of technology, including artificial intelligence (AI), and may be modified to reflect district practice. The U.S. Department of Education, Office of Educational Technology's, "Artificial Intelligence and the Future of Teaching and Learning: Insights and Recommendations," provides information related to the opportunities for using AI to improve education, the challenges in doing so, and recommendations to guide further policy development. Districts are encouraged to continue to monitor the development of new technologies, including AI.

The Governing Board recognizes that technological resources enhance employee performance by offering effective tools to assist in providing a quality instructional program; facilitating communications with parents/guardians, students, and the community; supporting district and school operations; and improving access to and exchange of information. The Board expects all employees to learn to use the available technological resources that will assist them in the performance of their job responsibilities. As needed, employees shall receive professional development in the appropriate use of these resources.

Employees shall be responsible for the appropriate use of technology and shall use district technology primarily for purposes related to their employment.

District technology includes, but is not limited to, computers, the district's computer network including servers and wireless computer networking technology (wi-fi), the Internet, email, USB drives, wireless access points (routers), tablet computers, smartphones and smart devices, telephones, cellular telephones, personal digital assistants, pagers, MP3 players, wearable technology, any wireless communication device including emergency radios, and/or future technological innovations, whether accessed on or off site or through district-owned or personally owned equipment or devices improving access to and exchange of information; enriching curriculum; and enhancing student learning.

District technology includes, but is not limited to, computer hardware, software, or software as a service provided or paid for by the district, whether accessed on or off site or through district-owned or personally owned equipment or devices, including tablets and laptops; computer servers, wireless access points (routers), and wireless computer networking technology (wi-fi); the Internet; email; applications (apps), including artificial intelligence (AI) apps; telephones, cellular or mobile telephones, smartphones, smart devices, and wearable technology; or any wireless communication device, including radios.

Employees shall review the prohibited and permitted uses of technology as specified in Board Policy 5131.9 - Academic Honesty, be responsible for the appropriate use of technology, and use district



technology primarily for purposes related to their employment consistent with board policies and administrative regulations.

CSBA NOTE: The following optional paragraphs address employee use of technology, particularly AI applications, are permissive as they relate to such use, and should be modified to reflect district practice.

An employee may use technology, including AI apps, to assist the employee in the performance of the employee's professional duties, including, but not limited to, the following specific tasks: developing syllabi, creating curriculum, reviewing student work, suggesting instructional strategies, and researching academic content or instructional techniques. Any employee using technology, including AI, shall review and be responsible for any final product or document; not share confidential student records with a third party, such as an AI app, except as permitted by law; use the technology in accordance with Board Policy 6162.6 - Use of Copyrighted Materials, and in a manner otherwise consistent with law, board policies, and administrative regulations. If an employee is unsure about the appropriate use of technology, the employee shall confer with the Superintendent or designee before using.

As determined by the Superintendent or designee, employees shall receive professional development in the appropriate use of these resources, including in the use of AI apps.

CSBA NOTE: The following paragraph is optional and may be revised to reflect district practice. It is recommended that districts develop an "Acceptable Use Agreement" containing rules for the use of district technology, which should be signed by each employee. See the accompanying Exhibit for an example of an "Acceptable Use Agreement" for employees.

The Superintendent or designee shall establish an Acceptable Use Agreement which outlines employee obligations and responsibilities related to the use of district technology, including the use of AI apps. Upon employment and whenever significant changes are made to the district's Acceptable Use Agreement, employees shall be required to acknowledge in writing that they have read and agreed to the Acceptable Use Agreement.

CSBA NOTE: The following paragraphs may be revised to reflect district practice.

To qualify for federal universal service discounts for Internet access, Internet services, or internal connections (E-rate discounts), districts are **mandated** by 47 USC 254 to adopt an Internet safety policy that includes, but is not limited to, provisions addressing access by minors to "inappropriate matter" on the Internet; see BP 6163.4 - Student Use ~~of~~**Of** Technology. Consistent with those requirements, the following paragraph provides that employees shall not use district technology to access inappropriate matter. "Inappropriate matter" is not defined in the law and the determination of what matter is considered inappropriate is, to an extent, a local decision to be made by the district. Penal Code 313 provides a definition of "harmful matter" as specified below. Districts that have adopted their own definition should revise the following paragraphs as appropriate.

Employees shall not use district technology to access, post, submit, publish, ~~or~~**display**, or otherwise engage with harmful or inappropriate matter that is threatening, obscene, disruptive, sexually explicit, or unethical or that promotes any activity prohibited by law, ~~Board~~**board** policy, or

administrative regulations.

Harmful matter includes matter, taken as a whole, which to the average person, applying contemporary statewide standards, appeals to the prurient interest and is matter which depicts or describes, in a patently offensive way, sexual conduct and which lacks serious literary, artistic, political, or scientific value for minors. (Penal Code 313)

CSBA NOTE: 47 USC 254 **mandates** that the district's Internet safety policy for E-rate discounts include the operation and enforcement of a "technology protection measure" that protects against Internet access to visual depictions that are obscene, child pornography, or harmful to minors. Similarly, as a condition of using federal Student Support and Academic Achievement Grants (20 USC 7101-7122) for the purpose of purchasing computers with Internet access or paying for direct costs associated with Internet access, 20 USC 7131 **mandates** that districts adopt an Internet safety policy that includes the operation of a technology protection measure that protects against access to visual depictions that are obscene or child pornography. Although these requirements focus on measures designed to protect students using district technology (~~see BP 6163.4 - Student Use of Technology~~), they also require policy that affects Internet access by adults; see BP 6163.4 - Student Use Of Technology.

The following paragraph is for use by districts that desire to use E-rate or federal technology funding sources and may be adapted by other districts that choose to install technology protection measures

The Superintendent or designee shall ensure that all district computers with Internet access have a technology protection measure that protects against access to visual depictions that are obscene, child pornography, or harmful to minors and that the operation of such measures is enforced. The Superintendent or designee may disable the technology protection measure during use by an adult to enable access for bona fide research or other lawful purpose. (20 USC 7131; 47 USC 254)

CSBA NOTE: Government Code 11549.3 authorizes districts, at district expense, to request the Military Department, in consultation with the California Cybersecurity Integration Center, to perform an independent security assessment of the district or individual district school. It is recommended that districts consult with the California Office of Emergency Services (OES) and utilize resources such as the State Threat Assessment System and Regional Fusion Centers to help assess potential threats. For more information, see OES' website.

The Superintendent or designee shall regularly review current guidance regarding cybersecurity, data privacy, and digital media awareness and incorporate recommended practices into the district's processes and procedures related to the protection of the district's network infrastructure, the monitoring and response to cyberattacks, ensuring data privacy, and managing suspicious and/or threatening digital media content, in accordance with Board Policy 3580 - District Records.

CSBA NOTE: The following optional paragraphs may be revised to reflect district practice.

Although 20 USC 7131 and 47 USC 254 require districts receiving Student Support and Academic Achievement Grants or E-rate discounts to enforce the operation of technology protection

measures, the legislation clarifies that nothing in the Children's Internet Protection Act shall be construed to require the tracking of individual students' or adults' Internet use. Thus, it appears to be left to the discretion is recommended that districts consult with CSBA's District and County Office of districts as to whether they wish to track Education Legal Services or district legal counsel before tracking Internet use through personally identifiable web monitoring software or other means.

~~It is recommended that districts notify employees that they should have no expectation of privacy when using district equipment or technological resources.~~

In *City of Ontario v. Quon*, the U.S. Supreme Court held that a search of an employee's pager messages was reasonable because the search was motivated by a legitimate work-related purpose and was not excessive in scope. In addition, the city had adopted a policy stating that employees should have no expectation of privacy or confidentiality when using city equipment. The following paragraph, which may be modified to reflect district practice, includes a statement that employees should have no expectation of privacy when using district technology.

The Superintendent or designee shall annually notify employees in writing that they have no reasonable expectation of privacy in the use of any ~~equipment or other technological resources provided by or maintained by the district, including, but not limited to, computer files, email, text messages, instant messaging, and other electronic communications, even when provided their own password.~~ district technology, as defined above, even when using their personal devices. To ensure proper use, the Superintendent or designee may monitor employee usage of district technology at any time without advance notice or consent and for any reason allowed by law.

CSBA NOTE: In *City of San Jose v. Superior Court*, the California Supreme Court held that a government employee's communications about public business are not excluded from a request under the California Public Records Act (CPRA) simply because they have been sent or received on a personal account or personal device. Thus, employees should be aware that if they use personal accounts or devices to communicate about district business, they may be required to temporarily provide the district with access to their personal accounts or devices. Alternatively, employees may search their personal communications and provide using reasonable effort, sign a sworn declaration stating a sufficient factual basis for determining whether regarding the nature of their search, and provide any responsive communications are district-related communications subject to the CPRA, personal nondisclosable materials, or materials otherwise exempt under the CPRA to the district as directed. The court observed that the CPRA requires districts to use "reasonable effort" to locate existing records in response to a public records request, but that such searches need not be extraordinary or intrusive. For further information, see CSBA's-, "Legal Alert: Tips for Governing Boards in Response to Public Records Act Ruling on Electronic Communications-."

In addition, employees shall be notified that records, including communications, maintained on any personal device ~~accounts or messages sent or received on a personal device that is being~~ devices used to conduct district business ~~may be~~ are subject to disclosure, at the district's request, and pursuant to a subpoena or other lawful request.

Employees shall report any security problem or misuse of district technology to the Superintendent or designee.

Inappropriate use of district technology may result in a cancellation of the employee's user privileges, disciplinary action, and/or legal action in accordance with law, ~~Board~~board policy, and administrative regulation.

CSBA NOTE: Labor Code 1139 prohibits an employer from preventing any employee from accessing the employee's mobile device or other communications device for seeking emergency assistance, assessing the safety of the situation, or communicating with a person to confirm the person's safety.

Employees may access their mobile or other communications device if there is a need to seek emergency assistance, assess the safety of a situation, or communicate with a person to confirm the person's safety. (Labor Code 1139)

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<b>State</b>	<b>Description</b>
Gov. Code 3543.1	Rights of employee organizations
Gov. Code 7920.000-7930.170	California Public Records Act
<u>Gov. Code 11549.3</u>	<u>Cybersecurity</u>
<u>Labor Code 1139</u>	<u>Emergency assistance</u>
Pen. Code 502	Computer crimes; remedies
Pen. Code 632	Eavesdropping on or recording confidential communications
Veh. Code 23123	Wireless telephones in vehicles
Veh. Code 23123.5	Mobile communication devices; text messaging while driving
Veh. Code 23125	Wireless telephones in school buses
<b>Federal</b>	<b>Description</b>
20 USC 7101-7122	Student Support and Academic Enrichment Grants
20 USC 7131	Internet Safety
47 CFR 54.520	Internet safety policy and technology protection measures; E-rate discounts
<b>Management Resources</b>	<b>Description</b>

Court Decision	City of San Jose v. Superior Court (2017) 2 Cal.5th 608
Court Decision	City of Ontario v. Quon et al. (2010) 000 U.S. 08-1332
<u>California Department of Education Publication</u>	<u>Artificial Intelligence: Learning With AI Learning About AI</u> ( <a href="https://www.cde.ca.gov/ci/pl/documents/cdeairesourcekit.pdf">https://www.cde.ca.gov/ci/pl/documents/cdeairesourcekit.pdf</a> )
<u>U.S. Department of Education Publication</u>	<u>2024 National Education Technology Plan</u> ( <a href="https://tech.ed.gov/netp/">https://tech.ed.gov/netp/</a> )
<u>Publication</u>	<u>Artificial Intelligence and the Future of Teaching and Learning: Insights and Recommendations</u> ( <a href="https://www2.ed.gov/documents/ai-report/ai-report.pdf">https://www2.ed.gov/documents/ai-report/ai-report.pdf</a> )
<u>Publication</u>	<u>Guidelines for AI integration throughout education in the commonwealth of Virginia</u> ( <a href="https://www.education.virginia.gov/media/governorviriniago v/secretary-of-education/pdf/AI-Education-Guidelines.pdf">https://www.education.virginia.gov/media/governorviriniago v/secretary-of-education/pdf/AI-Education-Guidelines.pdf</a> )
Website	CSBA District and County Office of Education Legal Services
Website	Federal Communications Commission
Website	American Library Association
Website	California Department of Education
<u>Website</u>	<u>California Governor's Office of Emergency Services</u> ( <a href="https://www.caloes.ca.gov/">https://www.caloes.ca.gov/</a> )
Website	CSBA
Website	U.S. Department of Education

**Cross References**

<b>Code</b>	<b>Description</b>
0410	Nondiscrimination In District Programs And Activities
0440	District Technology Plan
0440	District Technology Plan
1100	Communication With The Public
1113	District And School Websites
1113	District And School Websites
1113-E(1)	istrict And School Websites
1114	District-Sponsored Social Media

1114	District-Sponsored Social Media
1340	Access To District Records
1340	Access To District Records
2121	Superintendent's Contract
3512	Equipment
3512-E(1)	Equipment
3516.2	Bomb Threats
3580	District Records
3580	District Records
4032	Reasonable Accommodation
4113.5	Working Remotely
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.1	Civil And Legal Rights
4119.11	<del>Sex Discrimination and Sex-Based Harassment</del> Sexual <u>Harassment</u>
4119.11	<del>Sex Discrimination and Sex-Based Harassment</del> Sexual <u>Harassment</u>
4119.21	Professional Standards
4119.21-E(1)	Professional Standards
4119.23	Unauthorized Release Of Confidential/Privileged Information
4119.25	Political Activities Of Employees
4119.25	Political Activities Of Employees
4131	Staff Development
4132	Publication Or Creation Of Materials
4136	Nonschool Employment
4213.5	Working Remotely
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action

4219.1	Civil And Legal Rights
4219.11	<u>Sex Discrimination and Sex-Based Harassment</u> Sexual Harassment
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4231	Staff Development
4232	Publication Or Creation Of Materials
4236	Nonschool Employment
4313.5	Working Remotely
4319.1	Civil And Legal Rights
4319.11	<u>Sex Discrimination and Sex-Based Harassment</u> Sexual Harassment
4319.11	<u>Sex Discrimination and Sex-Based Harassment</u> Sexual Harassment
4319.21	Professional Standards
4319.21-E(1)	Professional Standards
4319.23	Unauthorized Release Of Confidential/Privileged Information
4319.25	Political Activities Of Employees
4319.25	Political Activities Of Employees
4331	Staff Development
4332	Publication Or Creation Of Materials
4336	Nonschool Employment
5125	Student Records
5125	Student Records

5125.1	Release Of Directory Information
5125.1	Release Of Directory Information
5125.1-E(1)	Release Of Directory Information
<u>5131.9</u>	<u>Academic Honesty</u>
6116	Classroom Interruptions
6162.6	Use Of Copyrighted Materials
6162.6	Use Of Copyrighted Materials
6163.4	Student Use Of Technology
6163.4-E(1)	Student Use Of Technology



**Exhibit 4040-E(1): Employee Use Of Technology**

**Status:** ADOPTED

**Original Adopted Date:** 07/01/2015 | **Last Revised Date:** 09/01/2024 | **Last Reviewed Date:** 07/09/01/2015 2024

ACCEPTABLE USE AGREEMENT  
AND RELEASE OF DISTRICT FROM LIABILITY (EMPLOYEES)

CSBA NOTE: The following Exhibit presents a sample Acceptable Use Agreement outlining obligations and responsibilities of employees using the district's technological resources. It is recommended that the district consult CSBA's District and County Office of Education Legal Services or district legal counsel in the development of such an agreement.

Districts using an Acceptable Use Agreement should require all employees who use district technology to sign the agreement as an acknowledgment that they have read and understood the contents of this agreement and Board Policy 4040 – Employee Use of Technology. As appropriate, the district may also require contractors and affiliated third parties to sign the Acceptable Use Agreement.

For a sample Acceptable Use Agreement for students, see E(1) 6163.4 - Student Use of Technology.

The [REDACTED] School District authorizes district employees to use district technology owned or otherwise provided by the district, as necessary to fulfill the requirements defined in Board Policy 4040 – Employee Use of their position Technology. The use of district technology is a privilege permitted at the district's discretion and is subject to the conditions and restrictions set forth in applicable Board board policies, administrative regulations, and this Acceptable Use Agreement. The district reserves the right to suspend access at any time, without notice, for any reason.

The district expects all employees to use technology responsibly in order to avoid potential problems and liability. The district may place reasonable restrictions on the sites, material, and/or information that employees may access through the system.

However, the district shall not prevent or restrict access to an employee's mobile or other communications device(s) if there is a need to seek emergency assistance, assess the safety of a situation, or communicate with a person to confirm the person's safety.

The district makes no guarantee that the functions or services provided by or through the district will be without defect. In addition, the district is not responsible for financial obligations arising from unauthorized use, or misuse, of the system.

Each employee who is authorized to use district technology shall sign this Acceptable Use Agreement as an indication, which indicates that he/she the employee has read and understands the agreement.

## Definitions

*District technology* includes, but is not limited to, computers, the district's computer network including servers this Agreement and wireless computer networking technology (wi-fi), the Internet, email, USB drives, wireless access points (routers), tablet computers, smartphones and smart devices, telephones, cellular telephones, personal digital assistants, pagers, MP3 players, wearable technology, any wireless communication device including emergency radios, and/or future technological innovations, whether accessed on or off site or through district-owned or personally owned equipment or devices. Board Policy 4040 – Employee Use of Technology.

## Employee Obligations and Responsibilities

Employees are expected to use district technology safely, responsibly, and primarily for work-related purposes: and in accordance with the accompanying board policy and applicable copyright laws. Any incidental personal use of district technology shall not interfere with district business and operations, the work and productivity of any district employee, or the safety and security of district technology. The district is not responsible for any loss or damage incurred by an employee as a result of his/her the employee's personal use of district technology.

The employee in whose name district technology is issued is responsible for its proper use at all times. Employees shall not share their assigned online services account information, passwords, or other information used for identification and authorization purposes, and shall use the system only under the account to which they have been assigned.

Employees shall not gain unauthorized access to the files or equipment of others, access electronic resources by using another person's name or electronic identification, or send anonymous electronic communications. Furthermore, employees shall not attempt to access any data, documents, emails, or programs in the district's system for which they do not have authorization.

Employees are prohibited from using district technology for improper purposes, including, but not limited to, use of district technology to:

1. Access, post, display, create, or otherwise use material that is discriminatory, defamatory, obscene, sexually explicit, harassing, intimidating, threatening, or disruptive
2. Disclose or in any way cause to be disclosed confidential or sensitive district, employee, or student information without prior authorization from a supervisor, including sharing confidential information or personally identifiable information with an open artificial intelligence system

3. Engage in personal commercial or other for-profit activities without permission of the Superintendent or designee
4. Engage in unlawful use of district technology for political lobbying
5. Infringe on copyright, license, trademark, patent, or other intellectual property rights
6. Intentionally disrupt or harm district technology or other district operations (such as destroying district equipment, placing a virus on district computers, adding or removing a computer program without permission, changing settings on shared computers)
7. Install unauthorized software
8. Engage in or promote unethical practices or violate any law or Board policy, administrative regulation, or district practice

### **Privacy**

Since the use of district technology is intended for use in conducting district business, no employee should have any expectation of privacy in any use of district technology.

The district reserves the right to monitor and record all use of district technology, including, but not limited to, access to the Internet or social media, Internet searches, browsing history, use of artificial intelligence, communications sent or received from district technology, or other uses within the jurisdiction of the district. Such monitoring/recording may occur at any time without prior notice for any legal purposes including, but not limited to, record retention and distribution and/or investigation of improper, illegal, or prohibited activity. Employees should be aware that, in most instances, their use of district technology (such as web searches or emails) cannot be erased or deleted.

All passwords created for or used on any district technology are the sole property of the district. The creation or use of a password by an employee on district technology does not create a reasonable expectation of privacy.

### **Personally Owned Devices**

If an employee uses a personally owned device to access district technology or conduct district business, ~~he/she~~ the employee shall abide by all applicable Board policies, administrative regulations, and this Acceptable Use Agreement. Any such use of a personally owned device may subject the contents of the device and any communications sent or received on the device to disclosure pursuant to a lawful subpoena or public records request.

### **Records**

Any electronically stored information generated or received by an employee which constitutes a district or student record shall be classified, retained, and destroyed in accordance with BP/AR Board Policy/Administrative Regulation 3580 - District Records, BP/AR Board

Policy/Administrative Regulation 5125 - Student Records, or other applicable policies and regulations addressing the retention of district or student records.

### Reporting

If an employee becomes aware of any security problem (such as including, but not limited to, a cyberattack, phishing, or any compromise of the confidentiality of any login or account information)), or misuse of district technology, he/she/the employee shall immediately report such information to the Superintendent or designee.

### Consequences for Violation

Violations of the law, Board/board policy, or this Acceptable Use Agreement may result in revocation of an employee's access to district technology and/or discipline, up to and including termination. In addition, violations of the law, Board/board policy, or this agreement may be reported to law enforcement agencies as appropriate.

### Employee Acknowledgment

I have received, read, understand, and agree to abide by this Acceptable Use Agreement, BP Board Policy 4040 - Employee Use of Technology, and other applicable laws and district policies and regulations governing the use of district technology. I understand that there is no expectation of privacy when using district technology or when my personal electronic devices use district technology. I further understand that any violation may result in revocation of user privileges, disciplinary action, and/or appropriate legal action.

I hereby release the district and, its personnel, and the Governing Board from any and all claims and damages arising from my use of district technology or from the failure of any technology protection measures employed by the district.

Name: \_\_\_\_\_ Position: \_\_\_\_\_  
(Please print)

School/Work Site: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

### Policy Reference UPDATE Service

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### Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

<b>State</b>	<b>Description</b>
Gov. Code 3543.1	Rights of employee organizations
Gov. Code 7920.000-7930.170	California Public Records Act
<u>Gov. Code 11549.3</u>	<u>Cybersecurity</u>
<u>Labor Code 1139</u>	<u>Emergency assistance</u>
Pen. Code 502	Computer crimes; remedies
Pen. Code 632	Eavesdropping on or recording confidential communications
Veh. Code 23123	Wireless telephones in vehicles
Veh. Code 23123.5	Mobile communication devices; text messaging while driving
Veh. Code 23125	Wireless telephones in school buses
<b>Federal</b>	<b>Description</b>
20 USC 7101-7122	Student Support and Academic Enrichment Grants
20 USC 7131	Internet Safety
47 CFR 54.520	Internet safety policy and technology protection measures; E-rate discounts
<b>Management Resources</b>	<b>Description</b>
Court Decision	City of San Jose v. Superior Court (2017) 2 Cal.5th 608
Court Decision	City of Ontario v. Quon et al. (2010) 000 U.S. 08-1332
<u>California Department of Education Publication</u>	<u>Artificial Intelligence: Learning With AI Learning About AI (<a href="https://www.cde.ca.gov/ci/pl/documents/cdeairesourcekit.pdf">https://www.cde.ca.gov/ci/pl/documents/cdeairesourcekit.pdf</a>)</u>
<u>U.S. Department of Education Publication</u>	<u>2024 National Education Technology Plan (<a href="https://tech.ed.gov/netp/">https://tech.ed.gov/netp/</a>)</u>
<u>Publication</u>	<u>Artificial Intelligence and the Future of Teaching and Learning: Insights and Recommendations (<a href="https://www2.ed.gov/documents/ai-report/ai-report.pdf">https://www2.ed.gov/documents/ai-report/ai-report.pdf</a>)</u>
<u>Publication</u>	<u>Guidelines for AI integration throughout education in the commonwealth of Virginia (<a href="https://www.education.virginia.gov/media/governorvirginiago&lt;br/&gt;v/secretary-of-education/pdf/AI-Education-Guidelines.pdf">https://www.education.virginia.gov/media/governorvirginiago v/secretary-of-education/pdf/AI-Education-Guidelines.pdf</a>)</u>
Website	CSBA District and County Office of Education Legal Services
Website	Federal Communications Commission
Website	American Library Association

Website	California Department of Education
Website	<u>California Governor's Office of Emergency Services</u> ( <a href="https://www.caloes.ca.gov/">https://www.caloes.ca.gov/</a> )
Website	CSBA
Website	U.S. Department of Education

### Cross References

<b>Code</b>	<b>Description</b>
0410	Nondiscrimination In District Programs And Activities
0440	District Technology Plan
0440	District Technology Plan
1100	Communication With The Public
1113	District And School Websites
1113	District And School Websites
1113-E(1)	istrict And School Websites
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
1340	Access To District Records
1340	Access To District Records
2121	Superintendent's Contract
3512	Equipment
3512-E(1)	Equipment
3516.2	Bomb Threats
3580	District Records
3580	District Records
4032	Reasonable Accommodation
4113.5	Working Remotely
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.1	Civil And Legal Rights

4119.11	<del>Sex Discrimination and Sex-Based Harassment</del> Sexual Harassment
4119.11	<del>Sex Discrimination and Sex-Based Harassment</del> Sexual Harassment
4119.21	Professional Standards
4119.21-E(1)	Professional Standards
4119.23	Unauthorized Release Of Confidential/Privileged Information
4119.25	Political Activities Of Employees
4119.25	Political Activities Of Employees
4131	Staff Development
4132	Publication Or Creation Of Materials
4136	Nonschool Employment
4213.5	Working Remotely
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.1	Civil And Legal Rights
4219.11	<del>Sex Discrimination and Sex-Based Harassment</del> Sexual Harassment
4219.11	<del>Sex Discrimination and Sex-Based Harassment</del> Sexual Harassment
4219.21	Professional Standards
4219.21-E(1)	Professional Standards
4219.23	Unauthorized Release Of Confidential/Privileged Information
4219.25	Political Activities Of Employees
4219.25	Political Activities Of Employees
4231	Staff Development
4232	Publication Or Creation Of Materials
4236	Nonschool Employment
4313.5	Working Remotely

4319.1	Civil And Legal Rights
4319.11	<del>Sex Discrimination and Sex-Based Harassment</del> Sexual Harassment
4319.11	<del>Sex Discrimination and Sex-Based Harassment</del> Sexual Harassment
4319.21	Professional Standards
4319.21-E(1)	Professional Standards
4319.23	Unauthorized Release Of Confidential/Privileged Information
4319.25	Political Activities Of Employees
4319.25	Political Activities Of Employees
4331	Staff Development
4332	Publication Or Creation Of Materials
4336	Nonschool Employment
5125	Student Records
5125	Student Records
5125.1	Release Of Directory Information
5125.1	Release Of Directory Information
5125.1-E(1)	Release Of Directory Information
<u>5131.9</u>	<u>Academic Honesty</u>
6116	Classroom Interruptions
6162.6	Use Of Copyrighted Materials
6162.6	Use Of Copyrighted Materials
6163.4	Student Use Of Technology
6163.4-E(1)	Student Use Of Technology



**Policy 5144.1: Suspension And Expulsion/Due Process**

**Status:** ADOPTED

**Original Adopted Date:** 12/01/2014 | **Last Revised Date:** 03/09/01/2020 **2024** | **Last Reviewed Date:** 03/09/01/2020 **2024**

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

While recognizing that suspension or expulsion of students is sometimes necessary, legislative, administrative, regulatory, civic, and educational leaders are united in the belief that instructional time should be used for student learning purposes and that school discipline should be imposed in a way that, as much as possible, does not exclude students from school or limit their ability or opportunity to learn. According to the U.S. Department of Justice's Civil Rights Division (DOJ) Education's (USDOE) March 2023, "Guiding Principles for Creating Safe, Inclusive, Supportive, and the U.S. Department of Education's Office for Civil Rights (OCR), in their joint January 2014 Dear Colleague Letter on the Nondiscriminatory Administration of Fair School Discipline (which has been under review by DOJ and OCR since July 30, 2021), studies suggest a correlation between exclusionary Climates," states that unfair student discipline policies and practices (such as suspension and expulsion) can result in a negative school climate, and an array of serious educational, economic, and social, and emotional problems, including school avoidance and diminished educational engagement, decreased academic achievement, increased behavior problems, and an increased likelihood of repeating a grade or dropping out, substance abuse, and involvement with the juvenile justice system. Consequently, they recommend that USDOE recommends districts adopt alternative disciplinary measures that provide ensure the fair administration of student discipline in ways that treat students with appropriate dignity and respect while using a continuum of supports to increase student success and promote positive and supportive school environments that support students and keep them in the classroom learning as much as possible. Additionally, USDOE recommends schools to adopt a coordinated system of whole school evidence-based intervention practices that are more effective than exclusionary discipline in addressing student behavior and improving school climate and safety, such as positive behavioral interventions and supports as a means for preventing and addressing student misbehaviors; trauma-informed practices; social and emotional wellbeing; and restorative practices.

Pursuant to Education Code 48900.5, a district is not authorized to suspend a student for certain specified violations unless the student has been subjected to other means of correction which have failed to bring about proper conduct. Such other means of correction include, but are not limited to, conferences between school personnel, the student, and the student's parent/guardian; use of study, guidance, or other intervention teams to develop a plan to address the behavior in partnership with the student; referral for behavioral supports; and participation in restorative justice programs. Additionally, pursuant to Education Code 48900.5, as amended by AB 1165 (Ch. 22, Statutes of 2023), districts are encouraged to have a student who has been suspended, or for whom other means of correction have been implemented, for an incident of racist bullying,

harassment, or intimidation, as well as the victim, to engage in a restorative justice practice suitable to address the needs of both the victim and the perpetrator, as specified in the accompanying administrative regulation. For further information about specific disciplinary strategies, including alternatives to class or school removals, see BP/AR 5144 - Discipline.

Education Code 48900.5 authorizes a district to document in a student's records the alternative means of correction used to address the student's behavior. Furthermore, when a student is being suspended by the Superintendent, principal, or designee, Education Code 48911 requires that the student be informed, during the informal conference that precedes the suspension, of the other means of correction that were attempted before the suspension.

Pursuant to Education Code 48913.5, when a student in any of grades 1-12 has been suspended for two or more school days, the student's parent/guardian, or other person holding the right to make educational decisions for the student, may request homework that the student would otherwise have been assigned, and the student's teacher is required to provide such homework; see BP 6154 - Homework/Makeup Work.

The Governing Board desires to provide district students access to educational opportunities in an orderly school environment that protects their safety and security, ensures their welfare and well-being, and promotes their learning and development. The Board shall develop rules and regulations setting the standards of behavior expected of district students and the disciplinary processes and procedures for addressing violations of those standards, including suspension and/or expulsion.

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

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

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

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

CSBA NOTE: The following paragraph addresses the problem of unlawful discrimination in the administration of student discipline. In their joint January 2014 Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline (which has been under review by DOJ and OCR since July 30, 2021), DOJ and OCR noted that, based on the civil rights data collection conducted by OCR, students of certain racial or ethnic groups tended to be disciplined more, and sometimes more harshly, than their similarly situated peers in violation of federal nondiscrimination laws. The letter warned that any district determined to have engaged in unlawful discrimination could be subject to OCR investigation and significant remedial action. March 2023 publication, "Resource on Confronting Racial Discrimination in Student Discipline," the USDOE Office for Civil Rights and Department of Justice, Civil Rights Division noted that, based on decades of enforcement activity, discrimination based on race, color, and national origin in student discipline continues to be a significant concern and that disparities by race have persisted in the application of student discipline in schools.

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

### Appropriate Use of Suspension Authority

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

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

CSBA NOTE: The following optional paragraph may be revised to reflect district practice.

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

CSBA NOTE: Education Code 48900(k) prohibits a district, as amended by SB 274 (Ch. 597, Statutes of 2023), extends the prohibition from suspending students in grades K-8 a student for disruption or willful defiance :

A district may, but is not required to, suspend, formerly applicable to students in grades K-8, to all students. Suspension of a student in grades ~~9-12~~ for disruption or willful defiance. Even with this authority, districts should be careful in using these grounds, as available data have indicated a disproportionate use with certain student subgroups. Option 1 below is is prohibited until July 1, 2029. However, teachers may still suspend a student from class for use by any district that chooses to suspend willful defiance pursuant to Education Code section 48910. As part of the other means of correction specified in Education Code 48900.5, employees may also refer students for timely in grades 9-12-school interventions or supports for disruption and/or willful defiance as authorized pursuant to Education Code 48900(k). Any district that chooses to eliminate disruption and/or willful defiance as reasons for suspending any of its students from school should select Option 2 below. Such districts should also delete the section titled "Additional Grounds for Suspension and Expulsion: Grades 9-12" in the accompanying administrative regulation.

Each option below reflects an exception granted to teachers pursuant to Education Code 48910 to suspend students, including a K-3 student, from class; see section.

Pursuant to Education Code 48900, if a student is referred on this basis, school administrators, are required to inform the referring employee within five business days, verbally or in writing, of the actions taken and, if none, the rationale for not providing any timely in-school interventions or supports. See "Suspension from Class by a Teacher" in the accompanying administrative regulation.

**OPTION 1: (Students in grades 9-12 may be suspended for disruption and/or willful defiance)**

No student in grades K-8 may be suspended for disruption or willful defiance, except by a teacher pursuant to Education Code 48910. (Education Code 48900)

**OPTION 1 ENDS HERE**

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

**OPTION 2 ENDS HERE**

CSBA NOTE: The following optional paragraph reflects the Legislature's intent, expressed in Pursuant to Education Code 48900, concerning disciplinary actions against (w), as amended by SB 274, a student may not be suspended or expelled based solely on the fact that they are truant, tardy, or otherwise absent students. Since these are not enumerated offenses, a district does not have the authority to suspend or expel students for committing any of these acts: from school activities.

Students shall not be suspended or expelled for based solely on a student's truancy, tardiness, or absenteeism from assigned school activities. (Education Code 48900)

### On-Campus Suspension

CSBA NOTE: As an alternative to off-campus suspension, Education Code 48911.1 authorizes a supervised suspension classroom program for students who pose no imminent danger to anyone at school and who have not been recommended for expulsion, as specified below.

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

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

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

conduct. (Education Code 48900.5)

### Authority to Expel

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

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

1. Possessing a firearm which is not an imitation firearm, as verified by a certificated employee, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence
2. Selling or otherwise furnishing a firearm
3. Brandishing a knife at another person
4. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
5. Committing or attempting to commit a sexual assault as defined in Penal Code 261, 266c, 286, 287, 288, or 289, or former 288a, or committing a sexual battery as defined in Penal Code 243.4
6. Possessing an explosive as defined in 18 USC 921

For all other violations listed in the accompanying administrative regulation, the Superintendent or principal shall have the discretion to recommend expulsion of a student. If expulsion is recommended, the Board shall order the student expelled only if it makes a finding of either or both of the following: (Education Code 48915(b) and (e))

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

A vote to expel a student shall be taken in an open session of a Board meeting. (Education Code 48918(j))

CSBA NOTE: Pursuant to Education Code 48917, the Board may decide to suspend the enforcement of an ~~order for~~ expulsion order as long as a student satisfies specific criteria. See "Decision to Suspend Expulsion Order" in the accompanying administrative regulation for criteria. In addition, the Attorney General opined, in 80 Ops.Cal.Atty.Gen. 85 (1997), that the enforcement of an expulsion order may be suspended even in those cases where the student has committed an offense for which expulsion is required by law. CSBA's District and County Office of Education Legal Services or district legal counsel should be consulted as appropriate.

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

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

CSBA NOTE: The following paragraph is for use by districts that contract with the California Department of Education (CDE) to operate a California State Preschool Program. Education Code 8489.1, as added by AB 2806 (Ch. 915, Statutes of 2022), prohibits the expulsion or disenrollment of a child in a preschool program unless the district has taken specified steps, the child's continued enrollment would present a serious safety threat to the child or other enrolled children, and the district refers the child's parents/guardians to other appropriate placements. For further details regarding the steps the district must take prior to expelling a child, see **BP**AR 5148.3 - Preschool/Early Childhood Education.

No child enrolled in a preschool program shall be expelled or unenrolled except under limited circumstances in accordance with Education Code 8489.1 and as specified in **AR**Administrative Regulation 5148.3 - Preschool/Early Childhood Education.

### Due Process

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

### Maintenance and Monitoring of Outcome Data

CSBA NOTE: Education Code 48900.8 and 48916.1 require the district to maintain data related to suspensions and expulsions as provided below. Pursuant to Education Code 48916.1, the Superintendent of Public Instruction may require submission of such data as part of the Federal Program Monitoring process. In addition, 20 USC 7961 requires districts to submit to CDE a description of the circumstances surrounding any expulsions based on bringing or possessing a firearm on campus, including the name of the school, the number of students expelled, and the type of firearms involved.

The Superintendent or designee shall maintain outcome data related to student suspensions and expulsions in accordance with Education Code 48900.8 and 48916.1, including, but not limited to, the number of students recommended for expulsion, the grounds for each recommended expulsion, the actions taken by the Board, the types of referral made after each expulsion, and the disposition of the students after the expulsion period. For any expulsion that involves the possession of a firearm, such data shall include the name of the school and the type of firearm involved, as required pursuant to 20 USC 7961. Suspension and expulsion data shall be reported to the Board annually and to the California Department of Education when so required.

CSBA NOTE: Pursuant to Education Code 52060, districts are required to address school climate in the local control and accountability plan, as measured by student suspension and expulsion rates and other local measures for each school and each numerically significant student subgroup. As defined in Education Code 52052, as amended by SB 114 (Ch. 48, Statutes of 2023), defines numerically significant subgroups to include ethnic subgroups, socioeconomically disadvantaged students, English learners, long-term English learners, students with disabilities, foster youth, and homeless students, when there are at least 30 students in the subgroup or at least 15 foster youth or homeless students.

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

**Policy Reference UPDATE Service**

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**Policy Reference Disclaimer:**

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<b>State</b>	<b>Description</b>
Civ. Code 47	Privileged communication
Civ. Code 48.8	Defamation liability
Code of Civil Procedure 1985-1997	Production of evidence; means of production
Ed. Code 17292.5	Program for expelled students; facilities
Ed. Code 1981-1983	Enrollment of students in community school
Ed. Code 212.5	Sexual harassment
Ed. Code 233	Hate violence
Ed. Code 32260-32262	Interagency School Safety Demonstration Act of 1985
Ed. Code 35145	Open board meetings
Ed. Code 35146	Closed sessions regarding suspensions
Ed. Code 35291	Rules for government and discipline of schools
Ed. Code 35291.5	Rules and procedures on school discipline
Ed. Code 48645.5	Former juvenile court school students; enrollment
Ed. Code 48660-48666	Community day schools
Ed. Code 48853-48853.5	Foster youth
Ed. Code 48900-48927	Suspension and expulsion
Ed. Code 48950	Speech and other communication
Ed. Code 48980	Parent/Guardian notifications
Ed. Code 49073-49079	Privacy of student records
Ed. Code 52052	Numerically significant student subgroups

Ed. Code 52060-52077	Local control and accountability plan
Ed. Code 64000-64001	Consolidated application
Ed. Code 8489-8489.1	Prohibition against expulsion of preschool student
Gov. Code 11455.20	Informal hearing procedures
Gov. Code 54950-54963	The Ralph M. Brown Act
H&S Code 11014.5	Drug paraphernalia
H&S Code 11053-11059	Controlled substances; standards and schedules
Lab. Code 230.7	Employee time off to appear in school on behalf of a child
Pen. Code 240	Assault defined
Pen. Code 241.2	Assault fines
Pen. Code 242	Battery defined
Pen. Code 243.2	Battery on school property
Pen. Code 243.4	Sexual battery
Pen. Code 245	Assault with deadly weapon
Pen. Code 245.6	Hazing
Pen. Code 261	Rape defined
Pen. Code 266c	Unlawful sexual intercourse
Pen. Code 286	Sodomy defined
Pen. Code 287	Oral Copulation
Pen. Code 288	Lewd or lascivious acts with child under age 14
Pen. Code 289	Penetration of genital or anal openings
Pen. Code 31	Principal of a crime; defined
Pen. Code 417.27	Laser pointers
Pen. Code 422.55	Definition of hate crime
Pen. Code 422.6	Crimes; harassment
Pen. Code 422.7	Aggravating factors for punishment
Pen. Code 422.75	Enhanced penalties for hate crimes
Pen. Code 626.10	Dirks, daggers, knives, razors, or stun guns
Pen. Code 626.2	Entry upon campus after written notice of suspension or dismissal without permission
Pen. Code 626.9	Gun-Free School Zone Act of 1995
Pen. Code 868.5	Supporting person; attendance during testimony of witness



W&I Code 224.1	Indian child; definition
W&I Code 729.6	Counseling
<b>Federal</b>	<b>Description</b>
18 USC 921	Definitions; firearms and ammunition
20 USC 1415(K)	Students with disabilities; placement in alternative educational setting
20 USC 7961	Gun-Free Schools Act
42 USC 11431-11435	Education of homeless children and youths
<b>Management Resources</b>	<b>Description</b>
Attorney General Opinion	80 Ops.Cal.Atty.Gen. 348 (1997)
Attorney General Opinion	80 Ops.Cal.Atty.Gen. 85 (1997)
Attorney General Opinion	80 Ops.Cal.Atty.Gen. 91 (1997)
Attorney General Opinion	84 Ops.Cal.Atty.Gen. 146 (2001)
Court Decision	Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H. (2001) 85 Cal.App.4th 1321
Court Decision	Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 1182
Court Decision	Garcia v. Los Angeles Board of Education (1981) 123 Cal. App. 3d 807
Court Decision	John A. v. San Bernardino School District (1982) 33 Cal. 3d 301
Court Decision	T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267
Court Decision	Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421
<u>U.S. DOE Publication</u>	<u>Guiding Principles for Creating Safe, Inclusive, Supportive, and Fair School Climates, March 2023</u> ( <a href="https://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf">https://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf</a> )
U.S. DOE, Office for Civil Rights and U.S. Department of Justice, Civil Rights Division Publication	Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014 <u>Resource on Confronting Racial Discrimination in Student Discipline, May 2023</u> ( <a href="https://www2.ed.gov/about/offices/list/ocr/docs/tvi-student-discipline-resource-202305.pdf">https://www2.ed.gov/about/offices/list/ocr/docs/tvi-student-discipline-resource-202305.pdf</a> )
<u>U.S. DOE Publication</u>	<u>School Climate and Student Discipline Resources</u> ( <a href="https://www2.ed.gov/policy/gen/guid/school-discipline/index.html">https://www2.ed.gov/policy/gen/guid/school-discipline/index.html</a> )

Website	CSBA District and County Office of Education Legal Services
Website	U.S. Department of Education, Office of Safe and Healthy Students
Website	California Attorney General's Office
Website	California Department of Education
Website	CSBA
Website	U.S. Department of Education, Office for Civil Rights

### **Cross References**

<b>Code</b>	<b>Description</b>
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1313	Civility
3513.3	Tobacco-Free Schools
3513.3	Tobacco-Free Schools
3513.4	Drug And Alcohol Free Schools
3515	Campus Security
3515	Campus Security
3515.21	Unmanned Aircraft Systems (Drones)
3515.3	District Police/Security Department
3515.3	District Police/Security Department
3515.31	School Resource Officers
3515.4	Recovery For Property Loss Or Damage
3515.4	Recovery For Property Loss Or Damage

3516.2	Bomb Threats
4158	Employee Security
4158	Employee Security
4258	Employee Security
4258	Employee Security
4358	Employee Security
4358	Employee Security
5000	Concepts And Roles
5112.1	Exemptions From Attendance
5112.1	Exemptions From Attendance
5112.5	Open/Closed Campus
5113	Absences And Excuses
5113	Absences And Excuses
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy
5113.11	Attendance Supervision
5116.2	Involuntary Student Transfers
5117	Interdistrict Attendance
5117	Interdistrict Attendance
5119	Students Expelled From Other Districts
5125	Student Records
5125	Student Records
5125.2	Withholding Grades, Diploma Or Transcripts
5131	Conduct
5131.1	Bus Conduct
5131.1	Bus Conduct
5131.2	Bullying
5131.2	Bullying
5131.4	Student Disturbances
5131.4	Student Disturbances
5131.5	Vandalism And Graffiti

5131.6	Alcohol And Other Drugs
5131.6	Alcohol And Other Drugs
5131.62	Tobacco
5131.62	Tobacco
5131.63	Steroids
5131.63	Steroids
5131.7	Weapons And Dangerous Instruments
5131.7	Weapons And Dangerous Instruments
5137	Positive School Climate
5138	Conflict Resolution/Peer Mediation
5142	Safety
5142	Safety
5144	Discipline
5144	Discipline
5144.2	Suspension And Expulsion/Due Process (Students With Disabilities)
5144.4	Required Parental Attendance
5144.4	Required Parental Attendance
5145.12	Search And Seizure
5145.12	Search And Seizure
5145.2	Freedom Of Speech/Expression
5145.2	Freedom Of Speech/Expression
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u> Sexual Harassment
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u> Sexual Harassment
5145.71	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u> Title IX Sexual Harassment Complaint Procedures

5145.71-E(1)	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u> <u>Title IX Sexual Harassment Complaint Procedures</u>
5145.9	Hate-Motivated Behavior
5148.3	Preschool/Early Childhood Education
5148.3	Preschool/Early Childhood Education
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
6145.2	Athletic Competition
6145.2	Athletic Competition
6145.5	Student Organizations And Equal Access
6145.5	Student Organizations And Equal Access
6145.8	Assemblies And Special Events
6153	School-Sponsored Trips
6153	School-Sponsored Trips
6154	Homework/Makeup Work
6158	Independent Study
6158	Independent Study
6161.2	Damaged Or Lost Instructional Materials
6163.4	Student Use Of Technology
6163.4-E(1)	Student Use Of Technology
6164.6	Identification And Education Under Section 504
6164.6	Identification And Education Under Section 504
6173	Education For Homeless Children
6173	Education For Homeless Children
6173-E(1)	Education For Homeless Children
6173-E(2)	Education For Homeless Children
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
6173.4	Education For American Indian Students
6184	Continuation Education
6184	Continuation Education

6185	Community Day School
6185	Community Day School
9000	Role Of The Board
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session
9322	Agenda/Meeting Materials

**Regulation 5144.1: Suspension And Expulsion/Due Process**

**Status:** ADOPTED

**Original Adopted Date:** 12/01/2014 | **Last Revised Date:** 03/09/01/2023 ~~2023~~ **2024** | **Last Reviewed Date:** 03/09/01/2023 ~~2023~~ **2024**

CSBA NOTE: CSBA recommends that this administrative regulation be approved by the Governing Board, regardless of regular district practice regarding the approval of administrative regulations.

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

**Definitions**

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

1. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Governing Board for students of the same grade level
2. Referral to a certificated employee designated by the principal to advise students
3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code 48910, so long as removal from a particular class does not occur more than once every five school days:

*Expulsion* means removal of a student from the immediate supervision and control or the general supervision of school personnel. (Education Code 48925)

**Notice of Regulations**

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

**Grounds for Suspension and Expulsion: Grades K-12**

CSBA NOTE: The acts for which students may be suspended or expelled are specified in law, the following section, and the sections below titled "Additional Grounds for Suspension and Expulsion:"

Grades 4-12," and "~~Additional Grounds for Suspension and Expulsion: Grades 9-12~~." ~~below~~. The Board does not have authority to add to those enumerated acts. However, the Board has authority to prohibit suspension or expulsion for certain acts for which suspension or expulsion is permissible rather than mandatory. The Board may consider limiting the use of suspension and expulsion for such offenses as part of the district plan to address school climate within the local control and accountability plan required pursuant to Education Code 52060. ~~In addition~~ **Additionally**, pursuant to Education Code 48900.5, a district is not authorized to suspend a student for certain specified violations unless other means of correction have failed to bring about proper conduct.

Acts for which a student, including a student with disabilities, may be suspended or expelled shall be only those specified as follows and in the sections "~~Additional Grounds for Suspension and Expulsion: Grades 4-12~~" and "~~Additional Grounds for Suspension and Expulsion: Grades 9-12~~," below:

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

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

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

2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence (Education Code 48900(b))
3. Unlawfully possessed, used, sold, otherwise furnished, or was under the influence of any controlled substance as defined in Health and Safety Code 11053-11059, alcoholic beverage, or intoxicant of any kind (Education Code 48900(c))
4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code 11053-11059, alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the same as a controlled substance, alcoholic beverage, or intoxicant (Education Code 48900(d))
5. Committed or attempted to commit robbery or extortion (Education Code 48900(e))



6. Caused or attempted to cause damage to school property or private property (Education Code 48900(f))
7. Stole or attempted to steal school property or private property (Education Code 48900(g))
8. Possessed or used tobacco or products containing tobacco or nicotine products, including, but not limited to, cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel, except that this restriction shall not prohibit a student from using or possessing prescription products (Education Code 48900(h))
9. Committed an obscene act or engaged in habitual profanity or vulgarity (Education Code 48900(i))
10. Unlawfully possessed, offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5 (Education Code 48900(j))
11. Knowingly received stolen school property or private property (Education Code 48900(l))
12. Possessed an imitation firearm (Education Code 48900(m))

*Imitation firearm* means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm. (Education Code 48900(m))

13. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 287, 288, 289, or former 288a, or committed a sexual battery as defined in Penal Code 243.4 (Education Code 48900(n))
14. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness (Education Code 48900(o))
15. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma (Education Code 48900(p))
16. Engaged in, or attempted to engage in, hazing (Education Code 48900(q))

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

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

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

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

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

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

*Bullying* also includes an act of cyber sexual bullying by a student through the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording that depicts a nude, semi-nude, or sexually explicit photograph or other visual recording of an identifiable minor, when such dissemination is to another student or to school personnel by means of an electronic act and has or can be reasonably predicted to have one or more of the effects of bullying described above. Cyber sexual bullying does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.

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

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

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

*Burn page* means an internet ~~web site~~ website created for the purpose of causing a reasonable student any of the effects of bullying described above. (Education Code 48900(r))

*Credible impersonation* means to knowingly and without consent impersonate a student for the purpose of bullying the student and such that the student would reasonably believe, or has reasonably believed, that the student was or is the student who was impersonated. (Education Code 48900(r))

*False profile* means a profile of a fictitious student or profile using the likeness or attributes of an actual student other than the student who created the false profile. (Education Code 48900(r))

An electronic act is not considered pervasive conduct solely on the basis that it has been transmitted to the internet or is currently posted on the internet. (Education Code 48900(r))

CSBA NOTE: The following paragraph may be revised to reflect district practice. Pursuant to Education Code 48900.5, as amended by AB 1165 (Ch. 22, Statutes of 2023), the district is encouraged to have a student who has been suspended, or for whom other means of correction have been implemented pursuant to Education Code 48900.5 for an incident of racist bullying, harassment, or intimidation, as well as the victim, to engage in a restorative justice practice suitable to address the needs of both the victim and the perpetrator, in addition to the other measures specified in the following paragraph.

When a student has been suspended, or other means of correction have been implemented against the student, for an incident of racist bullying, harassment, or intimidation, the principal or designee may, as appropriate, engage both the victim and perpetrator in a restorative justice practice suitable to the needs of the students. The principal or designee shall also require the perpetrator to engage in a culturally sensitive program that promotes racial justice and equity and combats racism and ignorance and shall regularly check on the victim to ensure that the victim is not in danger of suffering from any long-lasting mental health issues. (Education Code 48900.5)

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

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

18. Aided or abetted the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31 (Education Code 48900(t))
19. Made terrorist threats against school officials and/or school property (Education Code 48900.7)

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

CSBA NOTE: Pursuant to Education Code 48900, as amended by SB 274 (Ch. 597, Statutes of 2024), until July 1, 2029, a district may not suspend a student in grades 6-12 for disruption or willful defiance. Together with previous amendments, this means that no K-12 student may be suspended for disruption or willful defiance.

However, pursuant to Education Code 48900, as amended by SB 274, a certificated or classified employee may refer a student for appropriate and timely in-school interventions or supports as specified in Education Code 48900.5 for disruption or willful defiance. By the end of the fifth business day, a school administrator is required to inform the referring employee, verbally or in writing, of the actions taken and if none, the rationale for not providing any timely in-school interventions or supports.

A student may not be suspended or expelled for disruption or willful defiance. (Education Code 48900)

#### **Additional Grounds for Suspension and Expulsion: Grades 4-12**

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

As discussed in Item #17 of "Grounds for Suspension and Expulsion: Grades K-12" above, although Education Code 48900(r) defines bullying to include acts involving Items #1-3 below, Education Code 48900.2-48900.4 provide that only students in grades 4-12 may be suspended or expelled for the individual acts that constitute sexual harassment, hate violence, and harassment. Because the interplay between "bullying" and Items #1-3 can raise complex legal issues, districts should consult CSBA's District and County Office of Education Legal Services or district legal counsel, as appropriate.

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

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

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

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

*Hate violence* means any act punishable under Penal Code 422.6, 422.7, or 422.75. Such acts include injuring or intimidating a victim, interfering with the exercise of a victim's civil rights, or damaging a victim's property because of the victim's race, ethnicity, religion, nationality, disability, gender, gender identity, gender expression, or sexual orientation; a perception of the presence of any of those characteristics in the victim; or the victim's association with a person or group with one or more of those actual or perceived characteristics. (Education Code 233; Penal Code 422.55)

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

#### **Additional Grounds for Suspension and Expulsion: Grades 9-12 from Class by a Teacher**

**CSBA NOTE:** Pursuant to Education Code 48900(k), students in grades K-8 must not be suspended for disruption of school activities or willful defiance of school authority, and students in grades K-12 must not be expelled on these grounds. Since districts are authorized but not required to suspend students in grades 9-12 based on these grounds, the following section is for use only by districts that selected Option 1 in the section "Appropriate Use of Suspension Authority" in the accompanying Board policy. Districts that selected Option 2 in the accompanying Board policy, thereby prohibiting the use of these reasons for suspending students at any grade level, should delete the following section:

None of the prohibitions or restrictions in Education Code 48900(k) affect a teacher's authority to remove a student from class for one day pursuant to Education Code 48910. See the section "Suspension from Class by a Teacher" below. **CSBA NOTE: The following section is optional and may be revised to reflect district practice. As stated above, Education Code 48900(k), as amended by SB 274, extends the prohibition from suspending a student in grades K-12 for disruption or willful defiance, formerly applicable to students in grades K-8, to all students. Suspension of a student in grades 6-12 for disruption or willful defiance is prohibited until July 1, 2029. However, teachers may still suspend a student from class for disruption or willful defiance pursuant to Education Code 48910. As part of the other means of correction specified in Education Code 48900.5, employees may also refer students for timely in-school interventions or supports for disruption or willful defiance. Pursuant to Education Code 48900, if a student is referred on this basis, school administrators, are required to inform the referring employee within five business days, verbally or in writing, of the actions taken and, if none, the rationale for not providing any timely in-school interventions or supports.**

Any student in grades 9-12 may be suspended, but not expelled, for disrupting school activities or otherwise willfully defying the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties. (Education Code 48900(k))

#### **Suspension from Class by a Teacher**

**CSBA NOTE:** The following section is optional and may be revised to reflect district practice. While Education Code 48900(k) prohibits a district from suspending students in grades K-8 for disruption or willful defiance, it still allows for a teacher to suspend a K-8 student on these grounds.

A teacher may suspend a student from class for the remainder of the day and the following day for any of the acts specified in Education Code 48900 and listed as Items #1-19 under "Grounds for Suspension and Expulsion: Grades K-12" above or for disruption or willful defiance at any grade level, including grades K-8. (Education Code 48910)

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

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

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

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

A teacher may also refer a student, for any of the acts specified above in Education Code 48900, to the principal or designee for consideration of a suspension from school. (Education Code 48910)

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

### **Suspension by Superintendent, Principal or Principal's Designee**

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

The Superintendent, principal, or designee shall immediately suspend any student found at school or at a school activity away from school to have committed any of the acts listed in the Board policy under "Authority to Expel" for which a recommendation of expulsion is required. (Education Code

48915(c))

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

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

**CSBA NOTE:** Pursuant to Education Code 48900 and 48915, except for certain egregious acts or offenses for which suspension is permissible or mandatory, as specified above pursuant to Education Code 48915(a) or (c), the Superintendent or principal is authorized to provide an alternative, age-appropriate disciplinary measure that is tailored to correct a student's specific misbehavior. In addition, the U.S. Department of Justice's Civil Rights Division (DOJ) and the U.S. Department of Education's Office for Civil Rights (OCR), in their joint January 2014 Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline (which has been under review by DOJ and OCR since July 30, 2021), recommend that effective alternatives to suspension and expulsion be implemented for correcting student misbehavior. For a list of appropriate alternatives, see AR 5144 - Discipline.

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

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

### **Length of Suspension**

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

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

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

### **Due Process Procedures for Suspension**

**CSBA NOTE:** District disciplinary procedures are generally subject to basic constitutional due process requirements, such as the provision of notice and/or hearing, especially with respect to

suspension, involuntary transfer, expulsion, or other serious disciplinary actions. However, when dealing with certain categories of students, additional procedures apply. For example, when considering suspension of a student who is a foster youth or Indian child, as defined in Welfare and Institutions Code 224.1, Education Code 48853.5, 48911, 48911.1, and 48915.5; as amended by AB 740 (Ch. 400, Statutes of 2022), require that the foster youth's educational rights holder, attorney, and county social worker receive specified notifications in relation to the suspension, and for an Indian child, the child's tribal social worker, and if applicable, county social worker. See Items #1, 3, 5, and 6 below.

Suspensions shall be imposed in accordance with the following procedures:

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

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

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

2. Administrative Actions: All requests for student suspension are to be processed by the principal or designee. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee. (Education Code 48911)
3. Notice to Parents/Guardians: At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian, or if the student is a foster youth, the foster youth's educational rights holder, attorney, and county social worker, or if the student is an Indian child, the Indian child's tribal social worker, and, if applicable, the county social worker, in person, by email, or by telephone. Whenever a student is suspended, the parent/guardian, or, if applicable, the foster youth's educational rights holder, attorney, and county social worker, or the Indian child's tribal social worker and, if applicable, the county social worker, shall also be notified in writing of the suspension. (Education Code 48911)

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

CSBA NOTE: The following optional paragraph may be revised to reflect district practice.



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

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

If school officials request to meet with the parent/guardian, a foster youth's educational rights holder, attorney, and county social worker, or an Indian child's tribal social worker, and, if applicable, the county social worker, the notice may state that the law requires such individuals to respond to the request without delay. However, the student shall not be penalized for the failure of the parent/guardian, a foster youth's educational rights holder, attorney, and county social worker, or an Indian child's tribal social worker, and, if applicable, the county social worker, to attend such a conference. The student may not be denied reinstatement solely because such individuals failed to attend the conference. (Education Code 48911)

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

a. The extension of the original period of suspension is preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard:

This conference may be held in conjunction with a meeting requested by the student or parent/guardian to challenge the original suspension.

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

CSBA NOTE: When the student being considered for expulsion is a foster youth or Indian child, Education Code 48911 and 48918.1, as amended by AB 740, require the district to invite the foster youth's educational rights holder, attorney, and county social worker, or the Indian child's tribal social worker or, if applicable, the county social worker, to the meeting specified above. See the section below titled "Additional Notice of Expulsion Hearing for Foster Youth, Homeless Students, and Indian Children, below."

c. If the student involved is a foster youth or Indian child, the Superintendent or designee shall notify the district's educational liaison of the need to invite the foster youth's educational rights holder, attorney and county social worker, or the Indian child's tribal social worker or, if applicable, the county social worker, to attend the meeting: (Education Code 48853.5, 48911, 48918.1)

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

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

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

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

### Suspension by the Board

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

The Board may suspend a student for any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12," and "Additional Grounds for Suspension and Expulsion: Grades 4-12," and "~~Additional Grounds for Suspension and Expulsion: Grades 9-12~~" above and within the limits specified under "Suspension by Superintendent, Principal, or Designee" above. (Education Code 48912)

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

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

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

## On-Campus Suspension

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

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

1. The on-campus suspension classroom shall be staffed in accordance with law.
2. The student shall have access to appropriate counseling services.
3. The on-campus suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.
4. The student shall be responsible for contacting the student's teacher(s) to receive assignments to be completed in the supervised suspension classroom. ~~The~~ and the teacher(s) shall provide all assignments and tests that the student will miss while suspended.

\_\_\_\_\_ If no such work is assigned, the person supervising the suspension classroom shall assign schoolwork.

CSBA NOTE: ~~Education Code 48911.1, as amended by AB 740, requires notification to a foster youth's educational rights holder, attorney, and county social worker, and an Indian child's tribal social worker and, if applicable, county social worker, of a student's assignment to an on-campus suspension classroom.~~

At the time a student is assigned to an on-campus suspension classroom, the principal or designee shall notify the student's parent/guardian, or if the student is a foster youth, the foster youth's educational rights holder, attorney, and county social worker, or, if the student is an Indian child, the Indian child's tribal social worker and, if applicable, county social worker, in person, by email, or by telephone. When the assignment is for longer than one class period, this notification shall be made in writing. (Education Code 48911.1)

## Superintendent or Principal's Authority to Recommend Expulsion

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

1. Causing serious physical injury to another person, except in self-defense
2. Possession of any knife or other dangerous object of no reasonable use to the student
3. Unlawful possession of any controlled substance as listed in Health and Safety Code 11053-11059, except for:
  - a. The first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis
  - b. The student's possession of over-the-counter medication for use by the student for medical purposes
  - c. Medication prescribed for the student by a physician
4. Robbery or extortion
5. Assault or battery, as defined in Penal Code 240 and 242, upon any school employee

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

### **Student's Right to Expulsion Hearing**

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

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

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

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

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

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

### **Stipulated Expulsion**

CSBA NOTE: The following section is optional and may be revised to reflect district practice. "Stipulated expulsion" is for districts that have adopted an expedited procedure which allows a student to waive the right to a pre-expulsion hearing in exchange for an agreement as to the terms of the expulsion. Such waivers are not specifically addressed in law and districts should ensure that the due process rights of students are included in the stipulated agreement and are clearly explained to them before the agreement is signed. Districts should consult with CSBA's District and County Office of Education Legal Services or district legal counsel as appropriate.

After a determination that a student has committed an offense for which the student may be expelled, the Superintendent, principal, or designee shall offer the student, the student's parent/guardian, or, when applicable, other person holding the right to make educational decisions for the student, the option to waive a hearing and stipulate to the expulsion or to a suspension of the expulsion under certain conditions. The offer shall be made only after written notice of the expulsion hearing pursuant to Education Code 48918 has been given.

The stipulation agreement shall be in writing and shall be signed by the student, the student's parent/guardian, or, when applicable, the person holding the right to make educational decisions for the student. The stipulation agreement shall include notice of all the rights that the student is waiving, including the waiving of the right to have a full hearing, to appeal the expulsion to the County Board of Education, and to consult legal counsel.

A stipulated expulsion agreed to by the student, the student's parent/guardian, or, when applicable, the person holding the right to make educational decisions for the student, shall be effective upon approval by the Board.

### **Rights of Complaining Witness**

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

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

Whenever the Superintendent or designee recommends an expulsion hearing that addresses

allegations of sexual assault or sexual battery, the Superintendent or designee shall give the complaining witness a copy of the district's suspension and expulsion policy and regulation and shall advise the witness of the right to: (Education Code 48918.5)

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

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

#### **Written Notice of the Expulsion Hearing**

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

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

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

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

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

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

Nonattorney adviser means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case and has been selected by the student or student's

parent/guardian to provide assistance at the hearing.

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

### **Additional Notice of Expulsion Hearing for Foster Youth, Homeless Students, and Indian Children**

CSBA NOTE: Prior to conducting an expulsion hearing to determine whether a foster youth or Indian child should be expelled, Education Code 48918.1, as amended by AB 740, requires the district to notify the foster youth's educational rights holder, attorney, and county social worker, or an Indian child's tribal social worker and, if applicable, county social worker, provided that the violation does not require a mandatory recommendation for expulsion. Pursuant to Education Code 48918.1, such additional notice must be given to the district liaison for homeless students when the student involved is a homeless child or youth experiencing homelessness and the violation does not require a mandatory recommendation for expulsion. While such a notice is not required if the offense requires a mandatory recommendation for expulsion, it is nonetheless recommended and the following section reflects this recommendation.

If the student facing expulsion is a foster student or Indian child, the Superintendent or designee shall also send notice of the hearing to the foster youth's youth's educational rights holder, attorney, and county social worker, or the Indian child's tribal social worker and, if applicable, county social worker, at least 10 calendar days prior to the hearing. (Education Code 48918.1)

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

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

### **Conduct of Expulsion Hearing**

CSBA NOTE: Education Code 48918 mandates that the Board adopt procedures that include the following items.

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

1. Closed Session: Notwithstanding Education Code 35145, the Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public

meeting. If such a request is made, the meeting shall be public to the extent that privacy rights of other students are not violated. (Education Code 48918)

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

2. Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to deliberate and determine whether the student should be expelled. If the Board admits any other person to this closed session, the parent/guardian, the student, and the counsel of the student also shall be allowed to attend the closed session. (Education Code 48918(c))

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

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

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

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

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

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



If the Board determines, or if the hearing officer or administrative panel finds and submits to the Board, that a witness would be subject to unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as described in Item #6 below. (Education Code 48918(i))

5. ~~4.~~ Presentation of Evidence: Technical rules of evidence shall not apply to the expulsion hearing, but relevant evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Board to expel shall be supported by substantial evidence that the student committed any of the acts pursuant to Education Code 48900 and listed in "Grounds for Suspension and Expulsion: Grades K-12," ~~and~~ "Additional Grounds for Suspension and Expulsion: Grades 4-12," and ~~"Additional Grounds for Suspension and Expulsion: Grades 9-12"~~ above. (Education Code 48918(h))

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

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

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

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

7. ~~5.~~ Testimony by Complaining Witnesses: The following procedures shall be observed when a hearing involves allegations of sexual assault or sexual battery by a student: (Education Code 48918, 48918.5)
- a. Any complaining witness shall be given five days' notice before being called to testify.
  - b. Any complaining witness shall be entitled to have up to two adult support persons, including, but not limited to, a parent/guardian or legal counsel, present during the testimony.
  - c. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.

- d. The person presiding over the hearing may remove a support person who is disrupting the hearing:
- e. If one or both support persons are also witnesses, the hearing shall be conducted in accordance with Penal Code 868.5:
- f. Evidence of specific instances of prior sexual conduct of a complaining witness shall be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances require the evidence to be heard:

\_\_\_\_\_ Before such a determination is made, the complaining witness shall be given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this evidence, the complaining witness shall be entitled to be represented by a parent/guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of a complaining witness shall not be admissible for any purpose.

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

- i. The district shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony:

- ii. At the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which the complaining witness may leave the hearing room:

- iii. The person conducting the hearing may:

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

- b. Limit the time for taking the testimony of a complaining witness to normal school hours, if there is no good cause to take the testimony during other hours

- c. Permit one of the support persons to accompany the complaining witness to the witness stand

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

## Alternative Expulsion Hearing: Hearing Officer or Administrative Panel

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

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

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

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

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

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

In accordance with Board policy, the hearing officer or administrative panel may recommend that the Board suspend the enforcement of the expulsion. If the hearing officer or administrative panel recommends that the Board expel a student but suspend the enforcement of the expulsion, the student shall not be reinstated and permitted to return to the classroom instructional program from

which the referral was made until the Board has ruled on the recommendation. (Education Code 48917, 48918)

### Final Action by the Board

CSBA NOTE: Education Code 48918 mandates that the Board adopt procedures that include the following paragraph.

Whether the expulsion hearing is conducted in closed or open session by the Board, a hearing officer, or an administrative panel or is waived through the signing of a stipulated expulsion agreement, the final action to expel shall be taken by the Board in public. (Education Code 48918(j))

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

CSBA NOTE: 20 USC 7961 requires the district, in the consolidated application for federal funding, to provide an assurance that it will comply with the state requirement to expel, for a period not less than one year, any student who brings a firearm to school or possesses a firearm at school.

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

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

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

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

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

### Written Notice to Expel

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

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed above under "Grounds for Suspension and Expulsion: Grades K-12," "~~Additional Grounds for Suspension and Expulsion: Grades 4-12,"~~ or "Additional Grounds for Suspension and Expulsion: Grades ~~4-12~~" (Education Code 48900.8)
2. The fact that a description of readmission procedures will be made available to the student and parent/guardian (Education Code 48916)
3. Notice of the right to appeal the expulsion to the County Board (Education Code 48918)
4. Notice of the alternative educational placement to be provided to the student during the time of expulsion (Education Code 48918)
5. Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1 (Education Code 48918)

#### **Decision to Suspend Expulsion Order**

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

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

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

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

1. The Board may, as a condition of the suspension of enforcement, assign the student to a school, class, or program appropriate for the student's rehabilitation.

This rehabilitation program may provide for the involvement of the student's parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the student has satisfactorily completed the rehabilitation program. (Education Code 48917)

2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status: (Education Code 48917)
  
3. The suspension of the enforcement of an expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12," "~~Additional Grounds for Suspension and Expulsion: Grades 4-12,"~~" or "Additional Grounds for Suspension and Expulsion: Grades 9-12" above, or violates any of the district's rules and regulations governing student conduct: (Education Code 48917)
  
4. When the suspension of enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order: (Education Code 48917)
  
5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a district school:  
  
 \_\_\_\_\_ Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings. (Education Code 48917)
  
6. The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian:  
  
 \_\_\_\_\_ The notice shall inform the parent/guardian of the right to appeal the expulsion to the County Board, the alternative educational placement to be provided to the student during the period of expulsion, and the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1(b). (Education Code 48918(j))
  
7. Suspension of the enforcement of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board: (Education Code 48917)

### **Appeal**

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

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

### **Notification to Law Enforcement Authorities**

CSBA NOTE: Education Code 48902 requires the principal or designee to notify law enforcement authorities when a student possesses a firearm, explosive or sells or furnishes a firearm at school.

However, when the student involved in such a case is a student with a disability, Education Code 49076 requires any law enforcement authority to which student information is disclosed to certify that those records will not be disclosed to another party without the prior written consent of the student's parent/guardian or other person invested with the student's educational right; see AR 5144.2 - Suspension and ~~And~~ Expulsion/Due Process (Students ~~with~~ With Disabilities).

When submitting the consolidated application for federal funding, the district must provide assurance that it has adopted a policy requiring referral to the criminal justice system or juvenile delinquency system of any student who brings a firearm or weapon to a school. The following section fulfills this requirement.

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

The principal or designee shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a controlled substance, or of any student acts involving the possession, sale, or furnishing of firearms, explosives, or other dangerous weapons in violation of Education Code 48915(c)(1) or (5) or Penal Code 626.9 and 626.10. (Education Code 48902)

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

### **Placement During Expulsion**

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

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

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

1. Appropriately prepared to accommodate students who exhibit discipline problems

2. Not provided at a comprehensive middle, junior, or senior high school or at any elementary school, unless the program is offered at a community day school established at any of these
3. Not housed at the school site attended by the student at the time of suspension

When the placement described above is not available and when the County Superintendent so certifies, students expelled for only acts described in Items #6-12 under "Grounds for Suspension and Expulsion: Grades K-12" and Items #1-3 under "Additional Grounds for Suspension and Expulsion: Grades 4-12" above may be referred to a program of study that is provided at another comprehensive middle, junior, or senior high school or at an elementary school. (Education Code 48915)

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

### Readmission After Expulsion

CSBA NOTE: Education Code 48916 mandates that the Board adopt rules and regulations establishing a procedure for filing and processing requests for readmission and a process for Board review of all expelled students for readmission. The following section is consistent with the intent of AB 740 to afford protections specific to foster youth and Indian children. Items #1-2 below should be revised to reflect district practice.

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

1. The Superintendent or designee shall hold a conference with the student's parent/guardian, or other person holding the right to make educational decisions for the student, and the student:

\_\_\_\_\_ At the conference, the student's rehabilitation plan shall be reviewed and the Superintendent or designee shall verify that the provisions of this plan have been met. School regulations shall be reviewed and the student and the student's parent/guardian or other person holding the right to make educational decisions for the student shall be asked to indicate in writing their willingness to comply with these regulations.

2. The Superintendent or designee shall transmit to the Board a recommendation regarding readmission:

\_\_\_\_\_ The Board shall consider this recommendation in closed session. If a written request for open session is received from the student's parent/guardian or other person holding the right to make educational decisions for the student, or adult student, it shall be honored to the extent that privacy rights of other students are not violated.

3. If the readmission is granted, the Superintendent or designee shall notify the student and the student's parent/guardian, or other person holding the right to make educational decisions for the student, by registered mail, of the Board's decision regarding readmission:
4. The Board may deny readmission only if it finds that the student has not satisfied the conditions of the rehabilitation plan or that the student continues to pose a danger to



campus safety or to other district students or employees. (Education Code 48916)

5. If the Board denies the readmission of a student, the Board shall determine either to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school.

6. The Board shall provide written notice to the expelled student and the student's parent/guardian, or other person holding the right to make educational decisions for the student, describing the reasons for denying readmittance into the regular program.

\_\_\_\_\_ This notice shall indicate the Board's determination of the educational program which the Board has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district.

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

#### **Maintenance of Records**

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

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

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

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

#### **Policy Reference UPDATE Service**

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#### **Policy Reference Disclaimer:**

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

#### **State**

Civ. Code 47

#### **Description**

Privileged communication

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Civ. Code 48.8	Defamation liability
Code of Civil Procedure 1985-1997	Production of evidence; means of production
Ed. Code 17292.5	Program for expelled students; facilities
Ed. Code 1981-1983	Enrollment of students in community school
Ed. Code 212.5	Sexual harassment
Ed. Code 233	Hate violence
Ed. Code 32260-32262	Interagency School Safety Demonstration Act of 1985
Ed. Code 35145	Open board meetings
Ed. Code 35146	Closed sessions regarding suspensions
Ed. Code 35291	Rules for government and discipline of schools
Ed. Code 35291.5	Rules and procedures on school discipline
Ed. Code 48645.5	Former juvenile court school students; enrollment
Ed. Code 48660-48666	Community day schools
Ed. Code 48853-48853.5	Foster youth
Ed. Code 48900-48927	Suspension and expulsion
Ed. Code 48950	Speech and other communication
Ed. Code 48980	Parent/Guardian notifications
Ed. Code 49073-49079	Privacy of student records
Ed. Code 52052	Numerically significant student subgroups
Ed. Code 52060-52077	Local control and accountability plan
Ed. Code 64000-64001	Consolidated application
Ed. Code 8489-8489.1	Prohibition against expulsion of preschool student
Gov. Code 11455.20	Informal hearing procedures
Gov. Code 54950-54963	The Ralph M. Brown Act
H&S Code 11014.5	Drug paraphernalia
H&S Code 11053-11059	Controlled substances; standards and schedules
Lab. Code 230.7	Employee time off to appear in school on behalf of a child
Pen. Code 240	Assault defined
Pen. Code 241.2	Assault fines
Pen. Code 242	Battery defined
Pen. Code 243.2	Battery on school property

Pen. Code 243.4	Sexual battery
Pen. Code 245	Assault with deadly weapon
Pen. Code 245.6	Hazing
Pen. Code 261	Rape defined
Pen. Code 266c	Unlawful sexual intercourse
Pen. Code 286	Sodomy defined
Pen. Code 287	Oral Copulation
Pen. Code 288	Lewd or lascivious acts with child under age 14
Pen. Code 289	Penetration of genital or anal openings
Pen. Code 31	Principal of a crime; defined
Pen. Code 417.27	Laser pointers
Pen. Code 422.55	Definition of hate crime
Pen. Code 422.6	Crimes; harassment
Pen. Code 422.7	Aggravating factors for punishment
Pen. Code 422.75	Enhanced penalties for hate crimes
Pen. Code 626.10	Dirks, daggers, knives, razors, or stun guns
Pen. Code 626.2	Entry upon campus after written notice of suspension or dismissal without permission
Pen. Code 626.9	Gun-Free School Zone Act of 1995
Pen. Code 868.5	Supporting person; attendance during testimony of witness
W&I Code 224.1	Indian child; definition
W&I Code 729.6	Counseling
<b>Federal</b>	<b>Description</b>
18 USC 921	Definitions; firearms and ammunition
20 USC 1415(K)	Students with disabilities; placement in alternative educational setting
20 USC 7961	Gun-Free Schools Act
42 USC 11431-11435	Education of homeless children and youths
<b>Management Resources</b>	<b>Description</b>
Attorney General Opinion	80 Ops.Cal.Atty.Gen. 348 (1997)
Attorney General Opinion	80 Ops.Cal.Atty.Gen. 85 (1997)
Attorney General Opinion	80 Ops.Cal.Atty.Gen. 91 (1997)
Attorney General Opinion	84 Ops.Cal.Atty.Gen. 146 (2001)

Court Decision	Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H. (2001) 85 Cal.App.4th 1321
Court Decision	Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 1182
Court Decision	Garcia v. Los Angeles Board of Education (1981) 123 Cal. App. 3d 807
Court Decision	John A. v. San Bernardino School District (1982) 33 Cal. 3d 301
Court Decision	T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267
Court Decision	Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421
<a href="#"><u>U.S. DOE Publication</u></a>	<a href="#"><u>Guiding Principles for Creating Safe, Inclusive, Supportive, and Fair School Climates, March 2023</u></a> ( <a href="https://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf">https://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf</a> )
U.S. DOE, Office for Civil Rights <a href="#"><u>and U.S. Department of Justice, Civil Rights Division</u></a> Publication	<a href="#"><u>Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014</u></a> <a href="#"><u>Resource on Confronting Racial Discrimination in Student Discipline, May 2023</u></a> ( <a href="https://www2.ed.gov/about/offices/list/ocr/docs/tvi-student-discipline-resource-202305.pdf">https://www2.ed.gov/about/offices/list/ocr/docs/tvi-student-discipline-resource-202305.pdf</a> )
<a href="#"><u>U.S. DOE Publication</u></a>	<a href="#"><u>School Climate and Student Discipline Resources</u></a> ( <a href="https://www2.ed.gov/policy/gen/guid/school-discipline/index.html">https://www2.ed.gov/policy/gen/guid/school-discipline/index.html</a> )
Website	CSBA District and County Office of Education Legal Services
Website	U.S. Department of Education, Office of Safe and Healthy Students
Website	California Attorney General's Office
Website	California Department of Education
Website	CSBA
Website	U.S. Department of Education, Office for Civil Rights

**Cross References**

<b>Code</b>	<b>Description</b>
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0450	Comprehensive Safety Plan
0460	Local Control And Accountability Plan

0460	Local Control And Accountability Plan
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1313	Civility
3513.3	Tobacco-Free Schools
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3513.4	Drug And Alcohol Free Schools
3515	Campus Security
3515	Campus Security
3515.21	Unmanned Aircraft Systems (Drones)
3515.3	District Police/Security Department
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3515.31	School Resource Officers
3515.4	Recovery For Property Loss Or Damage
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3516.2	Bomb Threats
4158	Employee Security
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5112.1	Exemptions From Attendance
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5113	Absences And Excuses

5113	Absences And Excuses
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5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u> Sexual Harassment
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u> Sexual Harassment
5145.71	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u> Title IX Sexual Harassment Complaint Procedures
5145.71-E(1)	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u> Title IX Sexual Harassment Complaint Procedures
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**Regulation 5144.2: Suspension And Expulsion/Due Process (Students With Disabilities)** Status: ADOPTED

Original Adopted Date: 11/01/2006 | Last Revised Date: 0309/01/20232024 | Last Reviewed Date: 0309/01/20232024

CSBA NOTE: Education Code 35291 requires the Governing Board to prescribe rules and regulations for maintaining discipline in the schools under its jurisdiction. While many of the required rules and regulations are in BP/AR 5144.1 - Suspension and And Expulsion/Due Process, the following administrative regulation addresses special procedures required when disciplining students who have been identified for special education and related services. This administrative regulation reflects the federal Individuals with Disabilities Education Act (IDEA) (20 USC 1400-1482), implementing federal regulations (34 CFR 300.1-300.818), and conforming state legislation. Note that in cases where state law provides greater protections to students, state law supersedes federal law.

The U.S. Department of Education's, Office of Special Education and Rehabilitative Services (OSERS), "Positive, Proactive Approaches to Supporting Children with Disabilities: A Guide for Stakeholders," recommends that districts identify ways to significantly reduce the use of exclusionary discipline, and its disproportionate effect on students with disabilities. See BP 6120 - Response to Instruction and And Intervention and BP/AR 6164.5 - Student Success Teams.

Neither state nor federal law requires that these procedures apply to students identified under Section 504 of the federal Rehabilitation Act of 1973 (29 USC 794). However, the U.S. Department of Education's, Office for Civil Rights, (OCR), "Fact Sheet: Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline Under Section 504 of the Rehabilitation Act of 1973," provides that, for a student with a disability under Section 504, schools are required to conduct a manifestation determination before implementing a disciplinary removal that will significantly change the placement of the student due to discipline for (1) removal from class or school for more than 10 consecutive school days, or (2) a series of removals from class or school that together total more than 10 school days in a school year and constitute a pattern of removal. Districts that wish to apply all IDEA procedures to Section 504 students should modify the following regulation accordingly.

OSER's 2022, "Dear Colleague Letter on Implementation of IDEA Discipline Provisions," cautions that while IDEA does not preclude a district from disciplining a child with a disability, disparities in the use of discipline may arise when implementing IDEA's discipline provisions. OCR and the U.S. Department of Justice, Civil Rights Division's May 2023, "Resource on Confronting Racial Discrimination in Student Discipline," provides additional resources and findings which address unlawful discrimination in the administration of student discipline.

Additionally, the U.S. Department of Education's 2023 publication, "Guiding Principles for Creating Safe, Inclusive, Supportive, and Fair School Climates," provides that schools should objectively define disciplinary infractions in order to reduce subjectivity and ensure that consequences are

administered consistently and fairly without regard to race, sex, disability, or other student characteristics.

Due to the complexity of the issue, districts should proceed carefully when suspending or expelling students with disabilities; and consult CSBA's District and County Office of Education Legal Services or district legal counsel as appropriate.

A student identified as an individual with a disability pursuant to the Individuals with Disabilities Education Act (IDEA), 20 USC 1400-1482, is subject to the same grounds and procedures for suspension and expulsion which apply to students without disabilities, except as otherwise specified in this administrative regulation.

Suspension or expulsion of a student with disabilities shall be in accordance with Board Policy 5144.1 - Suspension ~~and~~ And Expulsion/Due Process and this administrative regulation.

When a student with disabilities exhibits behavior which impedes the student's own learning or that of others, the student's individualized education program (IEP) team shall consider positive behavioral interventions and supports, and other strategies, to address the behavior. (Education Code 56521.2; 20 USC 1414)

## Suspension

CSBA NOTE: Pursuant to 20 USC 1415(k)(1), 34 CFR 300.530, and at the 1988 U.S. Supreme Court decision (*Honig v. Doe*), districts receiving funds under the IDEA may suspend a student with a disability for ~~no more than~~ up to 10 consecutive school days, as long as the removal does not constitute a change in placement pursuant to 34 CFR 300.536. ~~Education Code 48903 specifies that a student may not~~ However, pursuant to Education Code 48911, unless the student has been recommended for expulsion or suspended directly by the Board, a student may be suspended for no more than five consecutive school days for a given incident. The more restrictive law, which in this case is state law, applies. Pursuant to Education Code 48903, a student may not typically be suspended for more than 20 cumulative school days in a school year.

The Analysis of Comments to the federal regulations, 71 Fed. Reg. 156, pg. 46715, explains that whether a bus suspension or "in-school suspension" would count as a day of suspension affecting the cumulative total depends on the unique circumstances of each case, such as whether bus transportation is part of the student's individualized education program (IEP). An "in-school suspension" or "supervised suspension classroom" as authorized by Education Code 48911.1 would not count towards the ~~10 consecutive or 20 cumulative school day~~ limit as long as the student is afforded the opportunity to continue to appropriately participate in the general curriculum, receive the services specified in the student's IEP, and participate with nondisabled students to the extent the student would have in the current placement. The district should be careful that such actions do not constitute a change of placement and carefully monitor such suspensions.

It is recommended that districts with questions regarding suspension of a student with disabilities consult CSBA's District and County Office of Education Legal Services or district legal counsel.

The Superintendent, principal, or designee may suspend a student with a disability from school for up to ~~10~~ five consecutive school days, unless the suspension has been extended following a recommendation for a single incident of misconduct, ~~and~~ expulsion. (Education Code 48911)

A student may usually be suspended from school for up to 20 cumulative school days, or 30 cumulative school days as permitted by Education Code 48903, in a school year as long as the pattern of suspension(s) does not constitute a change in placement pursuant to 34 CFR 300.536. (Education Code 48903; 34 CFR 300.530)

The Superintendent or designee shall determine, on a case-by-case basis, whether a pattern of removals of a student from the student's current educational placement for disciplinary reasons constitutes a change of placement.

CSBA NOTE: Pursuant to 34 CFR 300.536, a change of placement is deemed to occur when a student with disabilities is removed for more than 10 consecutive school days. However, Education Code 48911 limits the suspension of a student to no more than five consecutive school days, unless that suspension is imposed directly by the Board pursuant to Education Code 48912 or the student's suspension has been extended pending expulsion. Because the more restrictive law applies, which in this case is state law, a student may usually be suspended for no more than five consecutive school days.

A change of placement shall be deemed to have occurred under either of the following circumstances: (34 CFR 300.536)

1. The decision has been made that would result in the removal of the student for more than 10 consecutive school days
2. The student has been subjected to a series of removals that constitute a pattern because of all of the following:
  - a. The series of removals total more than 10 school days in a school year
  - b. The student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals
  - c. Additional factors, such as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another

CSBA NOTE: Pursuant to 20 USC 1412(a)(1)(A) and 34 CFR 300.530, a "free appropriate public education" (FAPE) must be available to all students, including any student with a disability who has been suspended for more than 10 school days in the same school year. The Analysis of Comments to the federal regulations, 71 Fed. Reg. 156, pg. 46716, clarifies that the district is not required to provide a student who has been suspended for more than 10 school days in a school year for disciplinary reasons exactly the same services in exactly the same setting as the student was receiving prior to the imposition of discipline. However, the special education and related services the student does receive must enable the student to continue to participate in the general curriculum and to progress toward meeting the goals set out in the student's IEP. The Analysis of Comments, 71 Fed. Reg. 156, pg. 46717, clarifies that services need not be provided when a student is removed for 10 school days or less, as long as the district does not provide services to nondisabled students removed for the same amount of time.

If a student's removal is determined to be a change of placement as specified in Items #1-2 above, the student's IEP team shall determine the appropriate educational services. Such services shall be designed to enable the student to continue to participate in the general education curriculum in another setting, to progress toward meeting the goals set out in the student's IEP, and to address the student's behavior violation so that it does not recur. (20 USC 1412(a)(1)(A); 34 CFR 300.530)

If the IEP of a student with a disability requires the district to provide the student with transportation, the district shall provide the student with an alternative form of transportation at no cost to the student or the student's parent/guardian when, as a result of a suspension, the student is excluded from school bus transportation. (Education Code 48915.5)

**CSBA NOTE:** The following paragraph is optional.

The principal or designee shall monitor the number of days, including portions of days, in which a student with an IEP has been suspended during the school year.

### **Interim Alternative Educational Placement Due to Dangerous Behavior**

**CSBA NOTE:** 20 USC 1415(k) and 34 CFR 300.530 permit an interim alternative placement for 45 school days when a student with a disability, while on school grounds, while going to or coming from school, or at a school function, either (1) carries or possesses a weapon, (2) knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance, or (3) inflicts serious bodily injury upon another person. "Serious bodily injury" is defined in 18 USC 1365 as bodily injury which involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty. This alternative placement decision may be made unilaterally by the district.

The term "weapon," as used below, refers to a "dangerous weapon" as defined in 18 USC 930 and includes any device which is capable of causing death or serious bodily injury. The term does not include a pocket knife with a blade of less than 2 1/2 inches in length.

The district may unilaterally place a student with a disability in an appropriate interim alternative educational setting for up to 45 school days, without regard to whether the behavior is a manifestation of the student's disability, when the student commits one of the following acts while at school, going to or from school, or at a school-related function: (20 USC 1415(k)(1)(G); 34 CFR 300.530)

1. Carries or possesses a weapon, as defined in 18 USC 930
2. Knowingly possesses or uses illegal drugs
3. Sells or solicits the sale of a controlled substance as identified in 21 USC 812(c), Schedules I-V
4. Inflicts serious bodily injury upon another person as defined in 18 USC 1365

The student's interim alternative educational setting shall be determined by the student's IEP team. (20 USC 1415(k)(1)(G); 34 CFR 300.531)

CSBA NOTE: For requirements of the procedural safeguards notice, see AR 6159.1 - Procedural Safeguards and And Complaints for For Special Education.

On the date the decision to take disciplinary action is made, the student's parent/guardian shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR 300.504. (20 USC 1415(k)(1)(H); 34 CFR 300.530)

A student who has been removed from the student's current placement because of dangerous behavior shall receive services, although in another setting, to the extent necessary to allow the student to participate in the general education curriculum and to progress toward meeting the goals set out in the IEP. As appropriate, the student shall also receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation, so that it does not recur. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

### Manifestation Determination

CSBA NOTE: CSBA NOTE: Pursuant to 34 CFR 300.530 and 300.536, a manifest determination meeting must be held within 10 school days of the decision to change a student's placement. A change of placement occurs when a student is, or would be, removed for more than 10 consecutive school days or the student has been subjected to a series of removals that constitute a pattern. However, Education Code 48911 limits the suspension of a student to no more than five consecutive school days, unless the student has been recommended for expulsion, or the student has been suspended by the Board pursuant to Education Code 48912.

A student with a disability who is also a foster youth or Indian child is afforded additional due process safeguards. Pursuant to Education Code 48853.5 and 48915.5, as amended by AB 740 (Ch. 400, Statutes of 2022), a foster youth's educational rights holder, attorney, and county social worker, and an Indian child's tribal social worker and, if applicable, county social worker, have the same rights as a parent/guardian to receive a suspension notice, expulsion notice, manifestation determination notice and invitation to the manifestation determination meeting, involuntary transfer notice, and other documents and related information, as reflected in Items #1 and 2 below. See AR 5144.1 - Suspension and And Expulsion/Due Process and BP/AR 6184 - Continuation Education.

The following procedural safeguards shall apply when a decision has been made to suspend a student with a disability is suspended for more than 10 consecutive school days, when a series of removals of a student constitutes a pattern, or when a change of placement of a student is contemplated due to a violation of the district's code of conduct:

1. Notice: On the date the decision to take disciplinary action is made, the student's parent/guardian shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR 300.504.

\_\_\_\_\_ If the student is a foster youth, the notice shall be given to the student's educational rights holder, attorney, and county social worker, and, if the student is an Indian child, the student's tribal social worker and, if applicable, county social worker. (Education Code 48853.5; 20 USC 1415(k)(1)(H); 34 CFR 300.530)

2. **Manifestation Determination Review:** Immediately if possible, but in no case later than 10 school days after the date the decision to take disciplinary action is made, a manifestation determination review shall be made of the relationship between the student's disability and the behavior subject to the disciplinary action. (20 USC 1415(k)(1)(E); 34 CFR 300.530)

If the student is a foster youth or Indian child, the foster youth's educational rights holder, attorney, or county social worker, or the Indian child's tribal social worker and, if applicable, county social worker, shall be invited to participate in the manifestation determination review. (Education Code 48915.5)

At the manifestation determination review, the district, the student's parent/guardian, and relevant members of the IEP team (as determined by the district and parent/guardian) shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents/guardians, to determine whether the conduct in question was either of the following: (20 USC 1415(k)(1)(E); 34 CFR 300.530)

- a. Caused by or had a direct and substantial relationship to the student's disability
- b. A direct result of the district's failure to implement the student's IEP, in which case the district shall take immediate steps to remedy those deficiencies

If the manifestation review team determines that either of the above conditions applies, the student's conduct shall then be determined to be a manifestation of the student's disability. (20 USC 1415(k)(1)(E); 34 CFR 300.530)

3. **Determination that Behavior is a Manifestation of the Student's Disability:** When the student's conduct has been determined to be a manifestation of the student's disability, the IEP team shall conduct a functional behavioral assessment, unless one had been conducted before the occurrence of the behavior that resulted in the change of placement, and shall implement a behavioral intervention plan for the student:

\_\_\_\_\_ If a behavioral intervention plan has already been developed, the IEP team shall review the behavioral intervention plan and modify it as necessary to address the behavior. (20 USC 1415(k)(1)(F); 34 CFR 300.530)

The student shall be returned to the placement from which the student was removed, unless the parent/guardian and Superintendent or designee agree to a change of placement as part of the modification of the behavioral intervention plan. (20 USC 1415(k)(1)(F); 34 CFR 300.530)

4. **Determination that Behavior is Not a Manifestation of the Student's Disability:** When it has been determined that the student's conduct was not a manifestation of the disability, the student may be disciplined in accordance with the procedures for students without disabilities:

\_\_\_\_\_ However, the student's IEP team shall determine services necessary to enable the student to participate in the general education curriculum in another setting and to allow the student to progress toward meeting the goals set out in the IEP. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

As appropriate, the student also shall receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

### Due Process Appeals

CSBA NOTE: As specified below, 34 CFR 300.532 provides that either the district or the parent/guardian may appeal a placement decision by filing a due process complaint pursuant to 34 CFR 300.507 and 300.508. For details regarding the due process complaint, see BP/AR 6159.1 - Procedural Safeguards and ~~And~~ ~~Complaints for~~ ~~For~~ Special Education. In addition, the district may file a request that the hearing officer order a change of placement to an interim alternative setting for up to 45 days when the hearing officer determines that maintaining the current placement is substantially likely to result in injury to the student or others.

The Analysis of Comments to the federal regulations, 71 Fed. Reg. 156, pg. 46723, clarifies that the burden of proof in due process hearings is on the party that is responsible for the issue going forward to the due process hearing officer, consistent with the U.S. Supreme Court's decision in *Schaffer v. Weast*. Thus, if the district has requested that a hearing officer remove a student to an interim alternative educational setting, the burden of persuasion at the hearing is on the district.

If the parent/guardian disagrees with any district decision regarding placement under 34 CFR 300.530 (suspension and removal for dangerous circumstances), 34 CFR 300.531 (interim alternative placement), or the manifestation determination under 34 CFR 300.530(e), the parent/guardian may appeal the decision by requesting a hearing. The district may request a hearing if the district believes that maintaining the student's current placement is substantially likely to result in injury to the student or others. In order to request a due process hearing, the requesting party shall file a complaint pursuant to 34 CFR 300.507 and 300.508(a) and (b). (20 USC 1415(k)(3); 34 CFR 300.532)

CSBA NOTE: Pursuant to 34 CFR 300.532, this due process hearing is the same as the impartial due process hearing held for other special education matters, except that the law specifies expedited timelines. For other due process hearing requirements, see BP/AR 6159.1 - Procedural Safeguards and ~~And~~ ~~Complaints for~~ ~~For~~ Special Education.

Whenever a hearing is requested as specified above, the parent/guardian or the district shall have an opportunity for an expedited due process hearing consistent with requirements specified in 34 CFR 300.507, 300.508 (a)-(c), and 300.510-300.514.

If the student's parent/guardian or the district has initiated a due process hearing under 34 CFR 300.532 as detailed above, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the 45-day time period, whichever occurs first, unless the parent/guardian and district agree otherwise. (20 USC 1415(k)(4); 34 CFR 300.533)

### Readmission

CSBA NOTE: There is no state or federal law that requires special procedures for readmission of expelled students with disabilities; however, districts have an ongoing obligation to make FAPE available to students with disabilities.

Readmission procedures for students with disabilities shall be the same as those adopted for students without disabilities. Upon readmission of a student with disabilities, an IEP team meeting

shall be convened to review and, as necessary, modify the student's IEP.

### **Decision Not to Enforce Expulsion Order**

CSBA NOTE: For district criteria applicable to all students when the Board is considering whether to suspend the enforcement of an expulsion order, see BP 5144.1 - Suspension ~~and~~ And Expulsion/Due Process. The district should consult CSBA's District and County Office of Education Legal Services or district legal counsel when considering the suspension of an expulsion order involving a special education student.

The Governing Board's criteria for suspending the enforcement of an expulsion order shall be applied to students with disabilities in the same manner as they are applied to all other students. (Education Code 48917)

### **Notification to Law Enforcement Authorities**

CSBA NOTE: Pursuant to 20 USC 1415(k)(6) and 34 CFR 300.535, the district is authorized to report crimes by students with disabilities to law enforcement in accordance with state law. Education Code 48902 provides procedures for these required notifications and Education Code 49076, requires any law enforcement authority to which information regarding a student with disabilities is disclosed to certify that those records will not be disclosed to another party without the prior written consent of the student's parent/guardian or other person invested with the student's educational right. See also AR 5144.1 - Suspension ~~and~~ And Expulsion/Due Process and BP 5131.7 - Weapons ~~and~~ And Dangerous Instruments.

Law enforcement notification requirements involving students with disabilities shall be the same as those specified for all students in AR Administrative Regulation 5144.1 - Suspension ~~and~~ And Expulsion/Due Process.

When giving any required notification concerning a student with disabilities to any law enforcement official, the principal or designee shall require the law enforcement official to certify in writing that the student's information or records will not be disclosed to any other person without the prior written consent of the student's parent/guardian. (Education Code 49076)

### **Report to County Superintendent of Schools**

CSBA NOTE: Education Code 48203 requires the Superintendent to report to the County Superintendent of Schools when any special education student has been expelled or suspended for more than 10 school days. Education Code 48203 specifies that it is the duty of the County Superintendent to examine the reports and, if any case exists in which the interest of the student or welfare of the state may need further examination, bring the reports to the attention of the Board and the County Board of Education.

The Superintendent or designee shall report to the County Superintendent of Schools when any special education student has been expelled or suspended for more than 10 school days. The report shall include the student's name, last known address, and the reason for the action. (Education Code 48203)

### **Procedures for Students Not Yet Eligible for Special Education Services**

A student who has not been determined to be eligible for special education and related services and



who has violated the district's code of student conduct may nevertheless assert any of the protections under IDEA, if the district had knowledge of the student's disability. (20 USC 1415(k)(5); 34 CFR 300.534)

*Knowledge* means that, before the occurrence of the behavior that precipitated the disciplinary action, one of the following occurred: (20 USC 1415(k)(5); 34 CFR 300.534)

1. The parent/guardian, in writing, has expressed concern to district supervisory or administrative personnel, or to a teacher of the student, that the student is in need of special education or related services
2. The parent/guardian has requested an evaluation of the student for special education pursuant to 20 USC 1414(a)(1)(B) or 34 CFR 300.300-300.311
3. The teacher of the student or other district personnel has expressed specific concerns directly to the district's director of special education or other supervisory district personnel about a pattern of behavior demonstrated by the student

However, the district shall not be deemed to have knowledge of a student's disability if the student's parent/guardian has not allowed the student to be evaluated for special education services or has refused services or, after evaluating the student pursuant to 34 CFR 300.300-300.311, the district determined that the student was not an individual with a disability. (20 USC 1415(k)(5); 34 CFR 300.534)

When the district is deemed to not have knowledge of a student's disability, the student shall be disciplined in accordance with procedures established for students without disabilities who engage in comparable behavior. (20 USC 1415(k)(5); 34 CFR 300.534)

If a request is made for an evaluation of a student during the time period in which the student is subject to disciplinary measures pursuant to 34 CFR 300.530, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities. (20 USC 1415(k)(5); 34 CFR 300.534)

#### **Policy Reference UPDATE Service**

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#### **Policy Reference Disclaimer:**

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

<b>State</b>	<b>Description</b>
Ed. Code 35146	Closed sessions regarding suspensions
Ed. Code 35291	Rules of governing board
Ed. Code 48203	Reports of severance of attendance of disabled students

Ed. Code 48853.5	Foster youth and Indian child's representatives' right to receive notices
Ed. Code 48900-48925	Suspension and expulsion
Ed. Code 49076	Access to student records
Ed. Code 56000	Special education; legislative findings and declarations
Ed. Code 56320	Educational needs; requirements
Ed. Code 56321	Development or revision of individualized education program
Ed. Code 56329	Independent educational assessment
Ed. Code 56340-56347	Individualized education program teams
Ed. Code 56505	State hearing
Ed. Code 56521.2	Behavioral interventions
Pen. Code 245	Assault with deadly weapon
Pen. Code 626.10	Dirks, daggers, knives, razors, or stun guns
Pen. Code 626.2	Entry upon campus after written notice of suspension or dismissal without permission
Pen. Code 626.9	Gun-Free School Zone Act of 1995
<b>Federal</b>	<b>Description</b>
18 USC 1365	Serious bodily injury
18 USC 930	Weapons
20 USC 1412	State eligibility
20 USC 1414	Evaluations, eligibility determinations, individualized education programs, and educational placements
20 USC 1415	Procedural safeguards
21 USC 812	Schedule of controlled substances
29 USC 794	Rehabilitation Act of 1973; Section 504
34 CFR 104.35	Evaluation and placement
34 CFR 104.36	Procedural safeguards
34 CFR 300.1-300.818	Assistance to states for the education of students with disabilities
34 CFR 300.530-300.537	Discipline procedures
<b>Management Resources</b>	<b>Description</b>
Court Decision	Honig v. Doe (1988) 484 U.S. 305
Court Decision	M.P. v. Governing Board of Grossmont Union High School District (1994) 858 F.Supp. 1044

Court Decision	Parents of Student W. v. Puyallup School District (1994 9th Cir.) 31 F.3d 1489
Court Decision	Schaffer v. Weast (2005) 546 U.S. 49
Federal Register	Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845
Ofc of Special Education & Rehabilitative Svcs Pub	Letter Commenting on Hearing Officer Authority to Determine whether Conduct is a Violation of Student Code of Conduct, July 2012
Ofc of Special Education & Rehabilitative Svcs Pub	Dear Colleague Letter on <del>Supporting the Needs of</del> <u>Ensuring Equity and Providing Behavioral Support to</u> Students with Disabilities, July 2022 <u>August 2016</u> ( <a href="https://sites.ed.gov/idea/files/dcl-on-pbis-in-ieps-08-01-2016.pdf">https://sites.ed.gov/idea/files/dcl-on-pbis-in-ieps-08-01-2016.pdf</a> )
Ofc of Special Education & Rehabilitative Svcs Pub	Dear Colleague Letter on <del>Supporting the Needs</del> <u>Implementation of</u> Students with Disabilities <u>IDEA Discipline Provisions</u> , July 2022 ( <a href="https://sites.ed.gov/idea/files/dcl-implementation-of-idea-discipline-provisions.pdf">https://sites.ed.gov/idea/files/dcl-implementation-of-idea-discipline-provisions.pdf</a> )
Ofc of Special Education & Rehabilitative Svcs Pub	Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions, July 2022 ( <a href="https://sites.ed.gov/idea/files/guide-positive-proactive-approaches-to-supporting-children-with-disabilities.pdf">https://sites.ed.gov/idea/files/guide-positive-proactive-approaches-to-supporting-children-with-disabilities.pdf</a> )
Ofc of Special Education & Rehabilitative Svcs Pub	Positive, Proactive Approaches to Supporting Children with Disabilities: A Guide for Stakeholders, July 2022 ( <a href="https://sites.ed.gov/idea/files/guide-positive-proactive-approaches-to-supporting-children-with-disabilities.pdf">https://sites.ed.gov/idea/files/guide-positive-proactive-approaches-to-supporting-children-with-disabilities.pdf</a> )
Office of Administrative Hearings	Parent v. Fairfield-Suisun Unified School District (2012) Case No. 2012030917
U.S. DOE, Office for Civil Rights Publication	<u>Fact Sheet</u> : Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973 ( <a href="https://www2.ed.gov/about/offices/list/ocr/docs/504-discipline-factsheet.pdf">https://www2.ed.gov/about/offices/list/ocr/docs/504-discipline-factsheet.pdf</a> )
<u>U.S. DOE, Office for Civil Rights and U.S. Department of Justice, Civil Rights Division Publication</u>	<u>Resource on Confronting Racial Discrimination in Student Discipline</u> , May 2023 ( <a href="https://www2.ed.gov/about/offices/list/ocr/docs/tvi-student-discipline-resource-202305.pdf">https://www2.ed.gov/about/offices/list/ocr/docs/tvi-student-discipline-resource-202305.pdf</a> )
<u>U.S. DOE</u>	<u>Guiding Principles for Creating Safe, Inclusive, Supportive, and Fair School Climates</u> , March 2023 ( <a href="https://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf">https://www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf</a> )

Website	CSBA District and County Office of Education Legal Services
Website	U.S. Department of Education, Office of Special Education and Rehabilitative Services
Website	California Department of Education, Special Education
Website	U.S. Department of Education, Office for Civil Rights

### **Cross References**

<b>Code</b>	<b>Description</b>
0430	Comprehensive Local Plan For Special Education
0430	Comprehensive Local Plan For Special Education
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
3513.4	Drug And Alcohol Free Schools
3541.2	Transportation For Students With Disabilities
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4158	Employee Security
4158	Employee Security
4258	Employee Security
4258	Employee Security
4358	Employee Security
4358	Employee Security
5113.11	Attendance Supervision
5116.2	Involuntary Student Transfers
5125	Student Records
5125	Student Records
5131	Conduct
5131.2	Bullying
5131.2	Bullying
5131.4	Student Disturbances

5131.4	Student Disturbances
5131.62	Tobacco
5131.62	Tobacco
5131.7	Weapons And Dangerous Instruments
5131.7	Weapons And Dangerous Instruments
5137	Positive School Climate
5138	Conflict Resolution/Peer Mediation
5144	Discipline
5144	Discipline
5144.1	Suspension And Expulsion/Due Process
5144.1	Suspension And Expulsion/Due Process
5144.4	Required Parental Attendance
5144.4	Required Parental Attendance
5145.2	Freedom Of Speech/Expression
5145.2	Freedom Of Speech/Expression
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5145.7	<u>Sex Discrimination and Sex-Based HarassmentSexual Harassment</u>
5145.7	<u>Sex Discrimination and Sex-Based HarassmentSexual Harassment</u>
5145.9	Hate-Motivated Behavior
6120	Response To Instruction And Intervention
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
6145.2	Athletic Competition
6145.2	Athletic Competition
6159	Individualized Education Program
6159	Individualized Education Program
6159.1	Procedural Safeguards And Complaints For Special Education

6159.1	Procedural Safeguards And Complaints For Special Education
6159.3	Appointment Of Surrogate Parent For Special Education Students
6159.3	Appointment Of Surrogate Parent For Special Education Students
6159.4	Behavioral Interventions For Special Education Students
6163.4	Student Use Of Technology
6163.4-E(1)	Student Use Of Technology
6164.4	Identification And Evaluation Of Individuals For Special Education
6164.4	Identification And Evaluation Of Individuals For Special Education
6164.5	Student Success Teams
6164.5	Student Success Teams
6164.6	Identification And Education Under Section 504
6164.6	Identification And Education Under Section 504
6173	Education For Homeless Children
6173	Education For Homeless Children
6173-E(1)	Education For Homeless Children
6173-E(2)	Education For Homeless Children
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
6173.4	Education For American Indian Students
6184	Continuation Education
6184	Continuation Education
6185	Community Day School
6185	Community Day School
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session

**Policy 5147: Dropout Prevention**

**Status:** ADOPTED

**Original Adopted Date:** 07/01/2005 | **Last Revised Date:** 08/09/01/2014 2024 | **Last Reviewed Date:** 08/09/01/2014 2024

CSBA NOTE: The following optional policy may be modified to reflect district practice.

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

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

CSBA NOTE: The California Department of Education (CDE) has identified strategies that have a positive effect in encouraging students to regularly attend school, which can be found on CDE's webpage, "School Attendance Improvement Strategies." Some of these practices include identifying and responding to grade level and student subgroup patterns of chronic absence and truancy; improving communication with parents/guardians, including using bilingual aides and sending out attendance emails in the language used by parents/guardians; positive reinforcement for improved attendance such as prizes for individuals or classes with the most improved attendance; and personalizing relationships between students and school support staff and/or teachers, including establishing homeroom classes for secondary students for all years of high school.

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

CSBA NOTE: Pursuant to Education Code 46211, as added by SB 153 (Ch. 38, Statutes of 2024), a district may, beginning July 1, 2025, implement attendance recovery programs for students in grades TK-12 to make up lost instructional time and offset absences, including chronic absenteeism for up to 10 days of attendance in a school year or the number of absences a student accrued in that school year, whichever is less. A student's participation in an attendance recovery program is optional and may not be punitive. Attendance recovery programs may be operated before or after school, on weekends, or during intersession periods. A district that operates attendance recovery

programs must offer access to the programs throughout the school year, including at least once during each term, such as a trimester or quarter.

Students participating in an attendance recovery program may generate average daily attendance (ADA) for the school year in which the program is operated, and that otherwise meets the requirements of Education Code 46211. Districts are required to report ADA accrued through participation in an attendance recovery program to CDE separately from ADA generated during the school day in classroom-based programs. It is recommended that districts with questions about attendance recovery programs consult CSBA's District and County Office of Education Legal Services or district counsel.

In order to make up lost instructional time and offset absences, the district may implement attendance recovery programs. Any attendance recovery program shall be provided as a voluntary, limited-term option for a classroom-based, regular education program for students in grades TK-12 in accordance with Education Code 46211.

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

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

1. Meetings and/or home visits with the student and parent/guardian to identify and address barriers to the student's success and inform them of the state's compulsory education law
2. Individualized instruction that responds to the needs and unique learning styles of students

CSBA NOTE: Pursuant to Education Code 46211, as added by SB 153, a district may implement attendance recovery programs for students to make up lost instructional time and offset absences, including chronic absenteeism.

3. Supplemental instruction during or outside the school day that is designed to help students overcome academic deficiencies, **including attendance recovery programs**
4. Enrollment in alternative or specialized educational programs
5. Assistance locating employment or work-based learning opportunities which link classroom learning with real-world experiences
6. Academic guidance and personal counseling services
7. Referral to a student success team, school attendance review board, or other team that addresses persistent attendance problems



CSBA NOTE: A student assistance program (SAP) is an integrated effort to intervene with students for substance abuse, mental health, emotional, or social issuesnon-academic barriers to learning by connecting education, programs, and school and community services to create a network of supports for students: through referral and facilitation of appropriate services. Non-academic barriers to learning include substance abuse; mental health issues including depression or suicidal thoughts or behavior, self-injury, stress and anxiety, or grief; emotional or social issues; school adjustment problems; trauma generated at school or home; attendance and dropout problems; physical and sexual abuse, or violence; gender issues; teen pregnancy and parenting; family issues, including dissolution, homelessness or displacement, family member mental health and substance use disorders, and relationship difficulties; parent or other family member incarceration; military deployment; or delinquency and involvement with the juvenile justice system. CDE's publication, "SAP Bulletin 11: Nine Components of SAPs," provides for recommended minimum requirements needed to reduce barriers to learning and ensure student success, including a board policy defining the school's role in creating a safe, disciplined, and drug-free learning community; staff development; program awareness; an internal referral process; a problem solving team and case management; SAP evaluation; educational student support groups; cooperation and collaboration with community agencies and resources; and integration with other school-based programs.

For resources related to the implementation of SAPs, see the web sites of the California Department of Education and California SAP Resource Center CDE's, "Student Assistance Programs" and "School Attendance Improvement Strategies" webpages.

8. Referral to school and/or community support services, such as a student assistance program; substance abuse program; health services; or school nurse; school social worker or social services; a substance abuse program; school counselor, school psychologist or other student support personnel for case management and counseling; and other resources
9. Continued monitoring of student attendance, including tracking student attendance and identifying students with attendance problems as early as possible, so the school may provide appropriate support services and interventions
10. Employment of qualified outreach consultants to perform duties related to dropout identification, prevention, intervention, and recovery as assigned

CSBA NOTE: Items #11-12 reflect recommendations from the Institute of Education Sciences' publication, "Preventing Dropout in Secondary Schools," to create small communities to facilitate monitoring and support, and to engage students by offering programs that connect schoolwork with college and career success and that improve students' capacity to manage challenges in and out of school.

11. Creating small, personalized learning communities to facilitate monitoring and support
12. Offering courses or programs that connect schoolwork with college and career success, including career technical education

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

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

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

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

CSBA NOTE: Pursuant to 20 USC 6311, a district that receives Title I Funds is required to include high school graduation rates, including a four-year adjusted cohort graduate rate, on its annual report card. CDE monitors district programs and operations for compliance with these requirements through its Federal Program Monitoring (FPM) process. The FPM process includes a review of a district's written policies and procedures to maintain required documentation for students who transfer or withdraw from a district school, including the exit reasons and documentation to support the exit reasons. The following paragraph reflects the Adjusted Cohort Graduation Rate 2024-25 FPM instrument.

The Superintendent or designee shall maintain required documentation for students who transfer from or otherwise withdraw from a school in the district. (20 USC 6311)

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

Using data submitted by districts through the California Longitudinal Pupil Achievement Data System, the California Department of Education (CalPADS), CDE calculates four-year graduation and dropout rates for districts, schools, and counties.

Pursuant to Education Code 60900.2, as added by AB 1340 (Ch. 576, Statutes of 2023), and contingent upon an appropriation, CDE is required to post a report on its website that allows the public to view statewide-level four- and five-year cohort graduation rates for students with disabilities, disaggregated by disability.

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

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<b>State</b>	<b>Description</b>
Ed. Code 35160	Authority of governing boards
<u>Ed. Code 46211</u>	<u>Attendance recovery programs</u>
Ed. Code 48200	Compulsory education
Ed. Code 48260-48273	Truancy
Ed. Code 48400-48403	Compulsory continuation education
Ed. Code 48430-48438	Continuation education
Ed. Code 48660-48666	Community day schools
Ed. Code 49600-49604	Educational counseling
Ed. Code 51260-51269	Gang and substance abuse prevention curriculum
Ed. Code 51745	Independent study
Ed. Code <del>52060</del> <u>52059.5</u> -52077	Local control and accountability plan
Ed. Code 52300- <del>52334</del> <u>52462</u>	<u>Regional occupational centers and programs</u> <u>Career technical education</u>
Ed. Code 54690-54697	Partnership academies
Ed. Code 60900- <del>60901</del>	California Longitudinal Pupil Achievement Data System
Ed. Code 64001	School plan for student achievement; consolidated application programs
W&I Code 18986.40-18986.46	Interagency children's services programs
<b>Federal</b>	<b>Description</b>
20 USC 6301-6322	Title I programs
<b>Management Resources</b>	<b>Description</b>
<u>California Department of Education Publication</u>	<u>Adjusted Cohort Graduation Rate Program Instrument</u> <u>(<a href="https://www.cde.ca.gov/ta/cr/">https://www.cde.ca.gov/ta/cr/</a>)</u>

<a href="#">California Department of Education Publication</a>	<a href="#">Student Assistance Programs</a> ( <a href="https://www.cde.ca.gov/ls/he/at/sap.asp">https://www.cde.ca.gov/ls/he/at/sap.asp</a> )
<a href="#">California Department of Education Publication</a>	<a href="#">SAP Bulletin 11: Nine Components of SAPs</a> ( <a href="https://www.cde.ca.gov/ls/he/at/sapninecomponents.asp">https://www.cde.ca.gov/ls/he/at/sapninecomponents.asp</a> )
<a href="#">California Department of Education Publication</a>	<a href="#">School Attendance Improvement Strategies</a> ( <a href="https://www.cde.ca.gov/ls/ai/cw/attendstrategy.asp">https://www.cde.ca.gov/ls/ai/cw/attendstrategy.asp</a> )
<a href="#">US Department of Education Publication</a>	<a href="#">Every Student Succeeds Act High School Graduation Rate Non-Regulatory Guidance, January 2017</a> ( <a href="https://www2.ed.gov/policy/elsec/leg/essa/essagraderateguidance.pdf">https://www2.ed.gov/policy/elsec/leg/essa/essagraderateguidance.pdf</a> )
<a href="#">CSBA Publication</a>	<a href="#">Seize the Data: Using Chronic Absence Data to Drive Student Engagement, March 2024</a> ( <a href="https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/Attendance-Brief-2024.ashx?la=en&amp;rev=a3dd0ccb6e214e3fbe0a4e5d49e797f5">https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/Attendance-Brief-2024.ashx?la=en&amp;rev=a3dd0ccb6e214e3fbe0a4e5d49e797f5</a> )
CSBA Publication	California High School Graduation and Dropout Rates, Fact Sheet, May 2013 ( <a href="https://www.csba.org/GovernanceAndPolicyResources/~/_media/CSBA/Files/GovernanceResources/GovernanceBriefs/201305FactSheetHSGradRates.ashx">https://www.csba.org/GovernanceAndPolicyResources/~/_media/CSBA/Files/GovernanceResources/GovernanceBriefs/201305FactSheetHSGradRates.ashx</a> )
<a href="#">Institute of Education Sciences Publication</a>	<a href="#">Preventing Dropout in Secondary Schools, September 2017</a> ( <a href="https://ies.ed.gov/ncee/WWC/Docs/PracticeGuide/www_dropout_092617.pdf">https://ies.ed.gov/ncee/WWC/Docs/PracticeGuide/www_dropout_092617.pdf</a> )
Website	CSBA District and County Office of Education Legal Services
Website	California Dropout Research Project
<del>Website</del>	<del><a href="#">California Student Assistance Program Resource Center</a></del>
Website	National Dropout Prevention Center
Website	U.S. Department of Education
Website	CSBA
Website	California Department of Education, <a href="#">Dropout Prevention</a> ( <a href="https://www.cde.ca.gov/ls/ai/dp/">https://www.cde.ca.gov/ls/ai/dp/</a> )
<a href="#">Website</a>	<a href="#">Institute of Education Sciences</a> ( <a href="https://ies.ed.gov/">https://ies.ed.gov/</a> )

**Cross References**

<b>Code</b>	<b>Description</b>
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan

4131	Staff Development
5030	Student Wellness
5113	Absences And Excuses
5113	Absences And Excuses
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy
5113.11	Attendance Supervision
5113.12	District School Attendance Review Board
5113.12	District School Attendance Review Board
5113.2	Work Permits
5113.2	Work Permits
5123	Promotion/Acceleration/Retention
5123	Promotion/Acceleration/Retention
5131.6	Alcohol And Other Drugs
5131.6	Alcohol And Other Drugs
5136	Gangs
5136	Gangs
5137	Positive School Climate
5141.6	School Health Services
5141.6	School Health Services
5146	Married/Pregnant/Parenting Students
5148.2	Before/After School Programs
5148.2	Before/After School Programs
6120	Response To Instruction And Intervention
6146.1	High School Graduation Requirements
6146.2	Certificate Of Proficiency/High School Equivalency
6146.2	Certificate Of Proficiency/High School Equivalency
6146.2-E(1)	Certificate Of Proficiency/High School Equivalency
6158	Independent Study
6158	Independent Study
6164.2	Guidance/Counseling Services

6164.5	Student Success Teams
6164.5	Student Success Teams
6172	Gifted And Talented Student Program
6172	Gifted And Talented Student Program
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
6173.4	Education For American Indian Students
6177	Summer Learning Programs
6178.1	Work-Based Learning
6178.1	Work-Based Learning
6178.2	Regional Occupational Center/Program
6179	Supplemental Instruction
6184	Continuation Education
6184	Continuation Education

**Policy 6112: School Day**

**Status:** ADOPTED

**Original Adopted Date:** 09/01/1988 | **Last Revised Date:** ~~12/09/01/2021~~2024 | **Last Reviewed Date:** ~~12/09/01/2021~~2024

CSBA NOTE: The following optional policy may be revised to reflect district practice. California law specifies the minimum length of the school day for elementary and secondary schools; see [, which are reflected in](#) the accompanying administrative regulation. In its [, "Frequently Asked Questions,"](#) about [attendance accounting and instructional time for](#) independent study, the California Department of Education (CDE) has clarified that the same minimum school day requirements apply to ~~traditional~~ independent study as for students attending in-person instruction; [for more information regarding instructional minutes as they relate to independent study, see BP/AR 6158 - Independent Study.](#)

The Governing Board shall fix the length of the school day in accordance with law. (Education Code 46100)

At each school, the length of the school day shall be the same for all students, except as otherwise permitted by law. For any student with a disability, the length of the school day shall be as specified in the student's individualized education program or Section 504 plan.

CSBA NOTE: The following ~~optional paragraph is~~[two paragraphs are](#) for use by districts that maintain elementary schools and may be modified to reflect district practice.[any of grades K-6.](#) Pursuant to Education Code 33350, CDE encourages[49056, as added by SB 291 \(Ch. 863, Statutes of 2023\) and amended by SB 153 \(Ch. 38, Statutes of 2024\),](#) districts [that maintain any of grades K-6 are required](#) to provide daily recess periods[as specified below, except that for elementary](#)[any student with a disability, recess is required to be in accordance with the student's individualized education program or Section 504 plan.](#) SB 153 clarifies that the recess requirements specified below do not apply to (1) students, featuring time for unstructured but supervised play. The Superintendent of Public Instruction's Task Force on Obesity, Type 2 Diabetes, and Cardiovascular Disease recommends that [in grades 7-12, even if the school also serves](#) students in grades K-6 be provided with recess or other, or (2) students in grade 6 where [grade 6 is part of a middle school program or part of a program that serves some or all of students in grades 6-12 if the students receive](#) physical activity breaks at least once per 120 minutes of instruction. The National Association for Sport and Physical education as specified in Education recommends daily recess breaks of at least 20 minutes each day.[Code 51222. For information regarding the prohibition against denying a student recess, see BP 5144 - Discipline.](#)

~~The~~[Unless there is a field trip or other educational program, the](#) daily schedule for elementary schools[grades K-6 shall include at least one period or more periods of recess of at least 20](#)30 minutes; ~~during which~~ [on regular instructional days and 15 minutes on early release days. During this time,](#) students shall be provided supervised opportunities, [outdoors when weather and air quality permit unless space is not sufficient in which case recess may be held indoors,](#) to engage in unstructured physical activity, [play, organized games, and/or social engagement with peers, and may be provided a snack.](#) (Education Code 49056)

Educational Program means the entire school-sponsored offering for students, including in-class and out-of-class activities. (Education Code 49056)

CSBA NOTE: The remainder of this policy only applies to districts that maintain secondary schools and may be modified to reflect district practice.

In establishing the daily instructional schedule for each secondary school, the Superintendent or designee shall give consideration to course requirements and curricular demands, availability of school facilities and equipment, and applicable legal requirements.

The Board encourages flexibility in scheduling so as to provide longer time blocks or class periods when appropriate and desirable to support student learning, provide more intensive study of core academic subjects or extended exploration of complex topics, and reduce transition time between classes.

Prior to implementing a block or alternative schedule that will allow secondary students to attend school for fewer school days than the total number of school days for which the school is in session, the Board shall consult in good faith, in an effort to reach agreement with the certificated and classified employees of the school, parents/guardians of the students who would be affected by the change, and the community at large. Such consultation shall include at least one public hearing for which the Board shall give adequate notice to the employees and to the parents/guardians of affected students. (Education Code 46162)

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<b>State</b>	<b>Description</b>
Ed. Code 37202	Equal time in all schools
Ed. Code 37670	Year-round schools
Ed. Code 46010	Total days of attendance
Ed. Code 46100	Length of school day
Ed. Code 46110-46120	Attendance in kindergarten and elementary schools
Ed. Code 46120	Expanded learning opportunities
Ed. Code 46140-46148	<u>Attendance in junior high and high schools</u>
Ed. Code 46148	School day for middle and high school
Ed. Code <u>46160</u> -46162	Alternative schedule for junior high and high school; public hearing with notice
Ed. Code 46170	Continuation schools; minimum day



Ed. Code 46180	Opportunity schools; minimum day
Ed. Code 46191	Attendance for adults in correctional facilities
Ed. Code 46200- <del>46206</del> <u>46208</u>	<del>Minimum instructional time</del> <u>Incentives for longer instructional days and year</u>
Ed. Code 48200	<del>Minimum school day</del> <u>Compulsory full-time education</u>
Ed. Code 48663	Community day school; minimum school day
Ed. Code 48800-48802	Concurrent enrollment in community college
<u>Ed. Code 49056</u>	<u>Recess</u>
Ed. Code 51222	Physical education; instructional minutes
<u>Ed. Code 51720-51724</u>	<u>Evening high school for minors</u>
Ed. Code 51760-51769.5	Work experience education
Ed. Code 52325	Regional occupational center; minimum day
Ed. Code 8970-8974	Early primary program, including extended-day kindergarten
<b>Management Resources</b>	<b>Description</b>
California Department of Education Publication	Conducting Individualized Determinations of Need <a href="https://www.cde.ca.gov/sp/se/ac/sept2021leaguidance.asp#:~:text=Determining%20service%20and%20support%20need%20for%20students%20with%20disabilities%20should,progress%20in%20meeting%20IEP%20goals.">https://www.cde.ca.gov/sp/se/ac/sept2021leaguidance.asp#:~:text=Determining%20service%20and%20support%20need%20for%20students%20with%20disabilities%20should,progress%20in%20meeting%20IEP%20goals.</a>
California Department of Education Publication	Clarifications for Student Learning in Quarantine, 2021
California Department of Education Publication	2021-22 AA & IT Independent Study FAQs <a href="https://www.cde.ca.gov/fg/aa/pa/instructionaltimfaq.asp#itis">https://www.cde.ca.gov/fg/aa/pa/instructionaltimfaq.asp#itis</a>
NASPE Position Statement	Recess for Elementary School Students, 2006
State Board of Education Policy Statement	99-03 Physical Education (PE) Requirements for Block Schedules, July 2006
U.S. Department of Education Publication	Extending Learning Time for Disadvantaged Students, August 1995
<del>WestEd</del> <u>WestEd</u> Publication	Full-Day Kindergarten: Expanding Learning Opportunities, Policy Brief, April 2005
Website	CSBA District and County Office of Education Legal Services
Website	WestEd
Website	National Association for Sport and Physical Education
Website	State Board of Education

Website	U.S. Department of Education
Website	California Department of Education

### Cross References

<b>Code</b>	<b>Description</b>
3516.5	Emergency Schedules
5030	Student Wellness
5113	Absences And Excuses
5113	Absences And Excuses
5141.22	Infectious Diseases
5141.22	Infectious Diseases
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
6000	Concepts And Roles
6111	School Calendar
6117	Year-Round Schedules
6142.7	Physical Education And Activity
6142.7	Physical Education And Activity
6145.8	Assemblies And Special Events
6154	Homework/Makeup Work
6158	Independent Study
6158	Independent Study
6159	Individualized Education Program
6159	Individualized Education Program
6164.6	Identification And Education Under Section 504
6164.6	Identification And Education Under Section 504
6170.1	Transitional Kindergarten
6171	Title I Programs
6171	Title I Programs
6172.1	Concurrent Enrollment In College Classes
6172.1	Concurrent Enrollment In College Classes
6178	Career Technical Education

6178	Career Technical Education
6178.1	Work-Based Learning
6178.1	Work-Based Learning
6178.2	Regional Occupational Center/Program
6179	Supplemental Instruction
6184	Continuation Education
6184	Continuation Education
6185	Community Day School
6185	Community Day School
6200	Adult Education
6200	Adult Education
9320	Meetings And Notices

**Regulation 6112: School Day**

**Status:** ADOPTED

**Original Adopted Date:** 11/01/2006 | **Last Revised Date:** ~~12/09/01/2021~~ 2024 | **Last Reviewed Date:** ~~12/09/01/2021~~ 2024

CSBA NOTE: The following optional administrative regulation specifies minimum and maximum school days for each grade level as provided by law. The district may revise this regulation to reflect district practice.

Pursuant to Education Code 46114, the minimum school day in grades K-8 may be computed by determining the average number of minutes over 10 consecutive school days (i.e., the number of minutes of attendance in any 10 consecutive school days, divided by 10). Education Code 46142 authorizes the minimum school day in junior high and high schools to be computed by averaging the number of minutes over two consecutive school days. The district will be in compliance if the average is at least the minimum day required by law, even if the number of minutes in any one school day is less than the minimum required school day specified below. However, Education Code 46114 and 46142 provide that no single school day may be less than 60 minutes for kindergarten, 170 minutes for grades 1-3, or 180 minutes for grades 4-12.

Education Code 46201 and 46207 require districts that have reached their local control funding formula (LCFF) funding target, as well as districts that received longer day or longer year funding prior to the implementation of the LCFF, to offer at least the following instructional minutes per school year: 36,000 minutes for kindergarten, 50,400 for grades 1-3, 54,000 for grades 4-8, and 64,800 for grades 9-12. Pursuant to Education Code 46201 and 46207, if this requirement is not met for any grade level, a portion of the district's LCFF allocation will be withheld.

**Kindergarten/Transitional Kindergarten**

CSBA NOTE: The following section is for use by districts that maintain kindergarten and transitional kindergarten (TK) classes. Education Code 37202 permits districts to maintain kindergarten or TK classes for different lengths of time during the school day, either at the same or different school sites. Districts offering kindergarten or TK classes for different lengths of time are still required to meet the minimum and maximum length of school day described below.

Kindergarten and transitional kindergarten (TK) classes in district schools may be maintained for different lengths of time, either at the same or different school sites. (Education Code 37202)

CSBA NOTE: Education Code 46117 establishes a minimum school day of three hours (180 minutes) for kindergarten students. However, pursuant to Education Code 46119, if a district has fewer than 40 kindergarten students, the Governing Board may apply to the Superintendent of Public Instruction to maintain two kindergarten classes of 150 minutes each, including recesses, taught on the same day by the same teacher.

The average school day for kindergarten and TK students shall be at least three hours, including recesses but excluding noon intermissions. If fewer than 40 students are enrolled in kindergarten classes, the district may request approval of the Superintendent of Public Instruction to maintain two kindergarten classes of 150 minutes each. (Education Code 46114, 46115, 46117, 46119)

CSBA NOTE: Education Code 46111 limits the maximum length of the school day for kindergarten to four hours, not counting recesses, except where the school is operating an early primary program pursuant to Education Code 8970-8974 or an expanded learning opportunity program established pursuant to Education Code 46120, as added by AB 130 (Ch. 44, Statutes of 2021).

In any school day, kindergarten and/or TK students shall not be kept in school for longer than four hours, excluding recesses, except where the school is operating an early primary program pursuant to Education Code 8970-8974 or an expanded learning opportunity program pursuant to Education Code 46120. (Education Code 46111, 46115, 46120)

CSBA NOTE: The following optional paragraph is for use by districts that have established an early primary program pursuant to Education Code 8970-8974 in order to provide an integrated, experiential, and developmentally appropriate educational program with specified components for students in prekindergarten through grade 3. Education Code 8973 provides that the kindergarten school day in such programs may exceed four hours under the conditions described below, although districts do not receive additional apportionment funds for the excess time.

In any district school operating an early primary program pursuant to Education Code 8970-8974, the kindergarten school day may exceed four hours, excluding recess, if both of the following conditions are met: (Education Code 8973)

1. The Governing Board has declared that the extended-day kindergarten program does not exceed the length of the primary school day;
2. The extended-day kindergarten program includes ample opportunity for both active and quiet activities within an integrated, experiential, and developmentally appropriate educational program.

CSBA NOTE: The following paragraph is optional. Although Education Code 46111 provides that recess shall be excluded from determining the maximum school day, it is the interpretation of the California Department of Education (CDE) that recess time may be counted as instructional minutes, at the district's discretion, if teacher supervision occurs.

Under an extended day kindergarten program, recess may be counted as instructional minutes for purposes of determining the maximum school day if it occurs under teacher supervision.

CSBA NOTE: The following optional paragraph is for use by districts that maintain multitrack year-round schools pursuant to Education Code 37670.

In any multitrack year-round school operating pursuant to Education Code 37670, the kindergarten school day may be up to 265 minutes, excluding recesses. (Education Code 46111)

CSBA NOTE: Pursuant to Education Code 48003, districts are required to provide an annual report to CDE regarding the type of kindergarten program offered by the district, including part day, full day, or both, by completing the School Information Form 2017 located on CDE's [web site website](#). The form also includes the type(s) of TK program offered.

The Superintendent or designee shall annually report to the California Department of Education as to whether the district's kindergarten and TK programs are offered full day, part day, or both. (Education Code 48003)

Grades 1-8

CSBA NOTE: The following section is for use by districts that maintain any of grades 1-8 and should be modified to reflect the grade levels offered by the district.

Except as otherwise provided by law, the school day for elementary and middle school students shall be:

1. At least 230 minutes for students in grades 1-3, unless the Board has prescribed a shorter school day because of lack of school facilities requiring double sessions, in which case the minimum school day shall be 200 minutes (Education Code 46112)
2. At least 240 minutes for students in grades 4-8 (Education Code 46113, 46142)

In determining the number of minutes for purposes of compliance with the minimum school day for students in grades 1-8, both noon intermissions and recesses shall be excluded. (Education Code 46115)

CSBA NOTE: The following optional paragraph is for any district maintaining a middle school, except a rural school district. Pursuant to Education Code 46148, the school day for a middle school is required to begin no earlier than 8:00 am.

The school day for a middle school shall begin no earlier than 8:00 a.m. (Education Code 46148)

## Grades 9-12

CSBA NOTE: The following section is for use by districts that maintain any of grades 9-12 and may be modified to reflect the grade levels offered by the district.

The school day for a high school shall begin no earlier than 8:30 a.m. (Education Code 46148)

CSBA NOTE: In its "Frequently Asked Questions" ~~about~~, about attendance accounting and instructional time for independent study, CDE has clarified that the same minimum school day requirements apply to ~~traditional~~ independent study as for students attending in-person instruction; for more information regarding instructional minutes as they relate to independent study, see BP/AR 6158 – Independent Study.

The school day for students in grades 9-12, including students in the ~~traditional~~ independent study program, shall be at least 240 minutes. (Education Code 46141, 46142)

CSBA NOTE: The following list should be revised to reflect programs offered by the district.

However, the school day may be less than 240 minutes when authorized by law. Programs that have a minimum school day of 180 minutes include, but are not necessarily limited to:

1. Continuation high school or classes (Education Code 46141, 46170)
2. Opportunity school or classes (Education Code 46141, 46180)
3. Regional occupational center (Education Code 46141, 52325)
4. Work experience education program approved pursuant to Education Code 51760-51769.5 (Education Code 46141, 46144)

A student in grade 12 who is enrolled in work experience education and is in the last semester or quarter before graduation may, upon written request by the student's parent/guardian or the student, if 18 years of age or over, be permitted to attend school for less than 180 minutes per school day ~~if~~ requirements for graduation would be completed,

except physical education courses, in less than 180 minutes each day. (Education Code 46147)

5. Concurrent enrollment in a community college pursuant to Education Code 48800-48802 or, for students in grades 11-12, part-time enrollment in classes of the California State University or University of California, provided academic credit will be awarded upon satisfactory completion of enrolled courses (Education Code 46146)
6. An early college high school or middle college high school, provided the students are enrolled in community college or college classes in accordance with ~~item~~Item #5 above (Education Code 46141, 46146.5)
7. Special day or Saturday vocational training program conducted under a federally approved plan for career technical education (Education Code 46141, 46144)
- ~~8. Adult education classes (Education Code 46190)~~

**CSBA NOTE:** The following optional paragraph is for use by districts that operate an evening high school pursuant to Education Code 51720-51724.

For an evening high school operated pursuant to Education Code 51720-51724, the number of days, specific days of the week, and number of hours during which the program shall be in session may be determined by the Board. (Education Code 46141, 51721)

Students in grade 12 shall be enrolled in at least five courses each semester or the equivalent number of courses each quarter. This requirement shall not apply to students enrolled in regional occupational centers or programs, courses at accredited postsecondary institutions, independent study, special education programs in which the student's individualized education program establishes a different number of courses, continuation education classes, work experience education programs, or any other course of study authorized by the Board that is equivalent to the approved high school course of study. (Education Code 46145)

### **Alternative Block Schedule for Secondary Schools**

**CSBA NOTE:** The following optional section is for use by districts that choose to create a block schedule pursuant to Education Code 46160-46162; for information regarding actions required prior to implementing a block or alternative schedule, see the accompanying Board policy. In establishing a block schedule, the district should be aware of state law (Education Code 51222) that requires secondary students to attend physical education courses for at least 400 minutes each 10 school days; for more information regarding instructional minutes as it relates to physical education, see AR 6142.7 - Physical Education and Activity. Although the daily alternating block schedule, often referred to as the A/B block schedule, does fulfill the requirement for physical education minutes, other block schedules do not and thus require a waiver from the State Board of Education (SBE). See; see SBE Waiver Policy #99-03 for waiver criteria.

In order to establish a block or other alternative schedule or to accommodate career technical education and regional occupational center/program courses, the district may authorize students to attend fewer than the total number of days in which school is in session provided that students attend classes for at least 1,200 minutes during any five school day period or 2,400 minutes during any 10 school day period. (Education Code 46160)

CSBA NOTE: The following optional paragraph is for use by districts that maintain an early college high school or middle college high school. Pursuant to Education Code 46160 such districts may schedule classes in these schools so that students who satisfy the provisions of Education Code 46146.5 in regard to part-time enrollment at community college, the California State University, or the University of California attend classes for at least 900 minutes during any five-school day period or 1,800 minutes during any 10-school day period.

An early college high school or middle college high school may be scheduled so that students attend classes for at least 900 minutes during any five-school day period or 1,800 minutes during any 10-school day period. (Education Code 46160)

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State	Description
Ed. Code 37202	Equal time in all schools
Ed. Code 37670	Year-round schools
Ed. Code 46010	Total days of attendance
Ed. Code 46100	Length of school day
Ed. Code 46110-46120	Attendance in kindergarten and elementary schools
Ed. Code 46120	Expanded learning opportunities
Ed. Code 46140-46148	Attendance in junior high and high schools
Ed. Code 46148	School day for middle and high school
Ed. Code <del>46160</del> -46162	Alternative schedule for junior high and high school; public hearing with notice
Ed. Code 46170	Continuation schools; minimum day
Ed. Code 46180	Opportunity schools; minimum day
Ed. Code 46191	Attendance for adults in correctional facilities
Ed. Code <del>46200-46206</del> 46208	<u>Minimum instructional time</u> Incentives for longer instructional days and year
Ed. Code 48200	<u>Minimum school day</u> Compulsory full-time education
Ed. Code 48663	Community day school; minimum school day
Ed. Code 48800-48802	Concurrent enrollment in community college
Ed. Code 49056	Recess



Ed. Code 51222	Physical education; instructional minutes
<a href="#">Ed. Code 51720-51724</a>	<a href="#">Evening high school for minors</a>
Ed. Code 51760-51769.5	Work experience education
Ed. Code 52325	Regional occupational center; minimum day
Ed. Code 8970-8974	Early primary program, including extended-day kindergarten
<b>Management Resources</b>	<b>Description</b>
California Department of Education Publication	Conducting Individualized Determinations of Need <a href="https://www.cde.ca.gov/sp/se/ac/sept2021leaguidance.asp#:~:text=Determining%20service%20and%20support%20needs%20for%20students%20with%20disabilities%20should,progress%20in%20meeting%20IEP%20goals.">https://www.cde.ca.gov/sp/se/ac/sept2021leaguidance.asp#:~:text=Determining%20service%20and%20support%20needs%20for%20students%20with%20disabilities%20should,progress%20in%20meeting%20IEP%20goals.</a>
California Department of Education Publication	Clarifications for Student Learning in Quarantine, 2021
California Department of Education Publication	2021–22 AA & IT Independent Study FAQs <a href="https://www.cde.ca.gov/fg/aa/pa/instructionaltimefaq.asp#itis">https://www.cde.ca.gov/fg/aa/pa/instructionaltimefaq.asp#itis</a>
NASPE Position Statement	Recess for Elementary School Students, 2006
State Board of Education Policy Statement	99-03 Physical Education (PE) Requirements for Block Schedules, July 2006
U.S. Department of Education Publication	Extending Learning Time for Disadvantaged Students, August 1995
<del>WestEd</del> <a href="#">WestEd</a> Publication	Full-Day Kindergarten: Expanding Learning Opportunities, Policy Brief, April 2005
Website	CSBA District and County Office of Education Legal Services
Website	WestEd
Website	National Association for Sport and Physical Education
Website	State Board of Education
Website	U.S. Department of Education
Website	California Department of Education

**Cross References**

<b>Code</b>	<b>Description</b>
3516.5	Emergency Schedules
5030	Student Wellness
5113	Absences And Excuses
5113	Absences And Excuses

5141.22	Infectious Diseases
5141.22	Infectious Diseases
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
6000	Concepts And Roles
6111	School Calendar
6117	Year-Round Schedules
6142.7	Physical Education And Activity
6142.7	Physical Education And Activity
6145.8	Assemblies And Special Events
6154	Homework/Makeup Work
6158	Independent Study
6158	Independent Study
6159	Individualized Education Program
6159	Individualized Education Program
6164.6	Identification And Education Under Section 504
6164.6	Identification And Education Under Section 504
6170.1	Transitional Kindergarten
6171	Title I Programs
6171	Title I Programs
6172.1	Concurrent Enrollment In College Classes
6172.1	Concurrent Enrollment In College Classes
6178	Career Technical Education
6178	Career Technical Education
6178.1	Work-Based Learning
6178.1	Work-Based Learning
6178.2	Regional Occupational Center/Program
6179	Supplemental Instruction
6184	Continuation Education
6184	Continuation Education
6185	Community Day School

6185	Community Day School
6200	Adult Education
6200	Adult Education
9320	Meetings And Notices

**Policy 6142.92: Mathematics Instruction**

**Status:** ADOPTED

Original Adopted Date: 10/01/1995 | Last Revised Date: ~~12/09/01/2015~~ 2024 | Last Reviewed Date: ~~12/09/01/2015~~ 2024

CSBA NOTE: The following optional policy may be revised to reflect district practice and the grade levels offered by the district. Education Code 51210 and 51220 require that mathematics, including mathematical concepts and understandings, operational skills, and problem solving, be included in the course of study offered in grades 1-12; see AR 6143 - Courses of Study. In addition, Education Code 51224.5, as amended by AB 220 (Ch. 165, Statutes of 2015), specifies that the adopted course of study for grades 7-12 must include algebra, and that, as part of the two courses in mathematics required for high school graduation pursuant to Education Code 51225.3, students must complete coursework that meets or exceeds the rigor of the content standards for Algebra I or Mathematics I adopted by the State Board of Education (SBE); see BP 6146.1 - High School Graduation Requirements.

Pursuant to Education Code 51002, SBE adopts curriculum frameworks for specified subjects, including mathematics, to offer guidance for the implementation of content standards for those subjects. The, "2023 Mathematics Framework for California Public Schools: Kindergarten Through Grade Twelve," is designed to help educators align classroom teaching with California's math content standards, and provides guidelines and selected research-based approaches for implementing instruction to ensure optimal benefits for all students.

The Governing Board desires to offer a rigorous mathematics program that progressively develops the knowledge and skills students will need to succeed in college and career. The district's mathematics program shall be designed to teach mathematical concepts in the context of real-world situations and to help students gain a strong conceptual understanding, a high degree of procedural skill and fluency, and ability to apply mathematics to solve problems.

CSBA NOTE: The, "2023 Mathematics Framework for California Public Schools," aims to remove structural barriers to students' mathematics success and ensure access and opportunity for all students to receive high level mathematics instruction.

The district's mathematics program shall also incorporate recognized principles, concepts, and research-based strategies to meet the needs of all students and provide equal access to learning through lessons that are relevant to students. Instructional resources adopted for use in district schools shall provide guidance to support a diverse student population, including students who are English learners, at-risk, advanced learners, and students with learning disabilities.

CSBA NOTE: The Common Core State Standards (CCSS) for mathematics, modified in January 2013, are based on the three principles of: (1) focus, placing strong emphasis on the concepts in the standards so that students have sufficient time to think about, practice, and integrate new ideas; (2) coherence, linking topics across grade levels and establishing connections with other topics; and (3) rigor, requiring that conceptual understanding, procedural skills and fluency, and

applications be pursued with equal intensity.

All California schools are expected to implement the CCSS in the 2014–15 school year. In November 2013, the SBE adopted the Mathematics Framework for California Public Schools: Kindergarten Through Grade Twelve which was updated to reflect these standards. In addition, the state assessment system is transitioning to the California Assessment of Student Performance and Progress which is aligned with the CCSS; see BP/AR 6162.51 - State Academic Achievement Tests. The CCSS and state curriculum framework are available on the California Department of Education's web site. For further information about the CCSS and recommendations for implementation, see CSBA's Governing to the Core series of governance briefs.

Education Code 51284, as amended by AB 166 (Ch. 135, Statutes of 2013), requires that, concurrent with the next revision of textbooks or the curriculum framework in mathematics, the SBE ensure the integration of financial literacy, including, but not limited to, budgeting and managing credit, student loans, consumer debt, and identity theft security. An appendix to the 2013 curriculum framework provides examples and resources to assist in incorporating problems or exercises that teach financial literacy concepts and skills.

For each grade level, the Board shall adopt academic standards for mathematics that meet or exceed the Common Core State Standards. The Superintendent or designee shall develop or select curricula that are aligned with these standards and the state curriculum framework.

CSBA NOTE: The CCSS for mathematics include two types of standards: (1) mathematical practice standards (, which are identical for each grade level), and (2) mathematical content standards (, which are different at each grade level). The eight practice standards are grouped into four categories as reflected in items Items #1-4 below.

The district's mathematics program shall address the following standards for mathematical practices which are the basis for mathematics instruction and learning:

1. Overarching habits of mind of a productive mathematical thinker: Making sense of problems and persevering in solving them; attending to precision
2. Reasoning and explaining: Reasoning abstractly and quantitatively; constructing viable arguments and critiquing the reasoning of others
3. Modeling and using tools: Modeling with mathematics; using appropriate tools strategically
4. Seeing structure and generalizing: Looking for and making use of structure; looking for and expressing regularity in repeated reasoning

CSBA NOTE: The following three paragraphs reflect the mathematic content standards of the CCSS and may be revised to reflect district practice. The district should select the paragraph(s) applicable to the grade levels offered by the district.

In addition, the district's mathematics program shall be aligned with grade-level standards for mathematics content.

CSBA NOTE: The following paragraph is for districts that offer grades K-8, reflect the mathematics content standards of the CCSS, and may be revised to reflect district practice.

For grades K-8, mathematics content shall address, at appropriate grade levels, counting and cardinality, operations and algebraic thinking, number and operations in base ten, fractions, measurement and data, geometry, ratios and proportional relationships, functions, expression and equations, the number system, and statistics and probability. Students shall learn the concepts and skills that prepare them for the rigor of higher mathematics.

CSBA NOTE: The following paragraph is for use by districts that maintain secondary grades. As revised in January 2013, the CCSS The, "Mathematics Framework for higher California Public Schools," recognizes that schools are free to organize mathematics replace the unique Grade 8 Algebra course with an Algebra I course that covers the same content regardless of the grade level of the student taking the course. Thus, pathways in different ways but encourages districts to consider offering two potential pathways to enable students who are not ready to take algebra in grade 8 may take an alternate path. As revised, the higher mathematics standards are organized into both conceptual categories and model courses, which may be delivered using a traditional pathway (i.e., Algebra I, Geometry, Algebra II) or an integrated pathway (i.e., Mathematics I, II, and III) in which each course contains standards from all six conceptual categories. The CCSS also would like to reach Calculus by the end of high school to do so. The California Department of Education's guidance recommends flexibility so that choices made by students during their first two years do not limit their later choices. Additionally, the CCSS provide for two advanced courses: (1) Advanced Placement Statistics and Probability and (2) Calculus. For further information, see the state curriculum framework or the Common Core State Standards Initiative's guidance, Appendix A: Designing High School Mathematics Courses Based on the Common Core State Standards, available on its web site.

The district may revise the following paragraph to reflect the pathway(s) used in the district and/or the grade levels at which higher mathematics shall be are offered.

For higher mathematics, the district shall offer a pathway alternative pathways of courses through which students shall be taught concepts that address number and quantity, algebra, functions, modeling, geometry, and statistics and probability. Any pathway offered by the district shall be designed in a manner that provides maximum opportunities for students to access advanced mathematics courses during high school.

CSBA NOTE: Education Code 51224.7, as added by SB 359 (Ch. 58, Statutes of 2015), requires any district maintaining grade 9 to have a policy in place prior to January 1, 2016 regarding placement of students in mathematics courses. See BP 6152.1 - Placement in In Mathematics Courses for language fulfilling this mandate.

The Superintendent or designee shall ensure that students are appropriately placed in mathematics courses and are not required to repeat a course that they have successfully completed in an earlier grade level. Placement decisions shall be based on consistent protocols and multiple academic measures.

CSBA NOTE: AB 97 (Ch. 47, Statutes of 2013) eliminated the Professional Development Block Grant (Education Code 41530-41532) and the Mathematics and Reading Professional Development Program (Education Code 99230-99242) and redirected that funding into the local control funding formula. At their discretion, districts may provide professional development opportunities to meet the purposes of those programs or other local needs.

The Superintendent or designee shall ensure that certificated staff have opportunities to participate in professional development activities designed to increase their knowledge and skills in effective mathematics teaching practices.

CSBA NOTE: As a condition of receiving funds for instructional materials from any state source, Education Code 60119 requires the Governing Board to annually hold a public hearing to determine whether each student in the district has sufficient standards-aligned textbooks or instructional materials in mathematics and other specified subjects to use in class and to take home. For a definition of "sufficiency" for this purpose and a sample Board resolution, see BP/E 6161.1 - Selection and Evaluation of Instructional Materials.

The Superintendent or designee shall ensure that students have access to sufficient instructional materials, including manipulatives and technology, to support a balanced, standards-aligned mathematics program.

The Superintendent or designee shall provide the Board with data from state and district mathematics assessments and program evaluations to enable the Board to monitor program effectiveness.

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<b>State</b>	<b>Description</b>
<u>Ed. Code 51002</u>	<u>Common state curriculum</u>
Ed. Code 51210	Course of study for grades 1-6
Ed. Code 51220	Course of study for grades 7-12
Ed. Code 51224.5	Algebra in course of study for grades 7-12
Ed. Code 51224.7	California Mathematics Placement Act of 2015
Ed. Code 51225.3	High school graduation requirements
Ed. Code 51284	Financial literacy
Ed. Code 60605	State-adopted content and performance standards in core curricular areas
Ed. Code 60605.8	Common Core standards

**Management Resources**

<b>Management Resources</b>	<b>Description</b>
California Department of Education Publication	<u>2023 Mathematics Framework for California Public Schools: Kindergarten Through Grade Twelve, 2013, June 2023</u> <u><a href="https://www.cde.ca.gov/ci/ma/cf/#:~:text=At%20its%20">https://www.cde.ca.gov/ci/ma/cf/#:~:text=At%20its%20</a></u>

[meeting%20on%20July,Grade%20Twelve%20\(Mathematics%20Framework\)](#)

California Department of Education Publication	California Common Core State Standards: Mathematics, rev. January 2013 <a href="https://www.cde.ca.gov/be/st/ss/documents/ccssmaths_tandardaug2013.pdf">https://www.cde.ca.gov/be/st/ss/documents/ccssmaths_tandardaug2013.pdf</a>
Common Core State Standards Initiative Publication	Appendix A: Designing High School Mathematics Courses Based on the Common Core State Standards <a href="https://www.cde.ca.gov/re/cc/mathresources.asp">https://www.cde.ca.gov/re/cc/mathresources.asp</a>
CSBA Publication	Governing to the Core; <a href="#">Pathway Options for High School Mathematics</a> Governance Briefs, <a href="#">May 2014</a> <a href="https://www.csba.org/GovernanceAndPolicyResources/StudentAchievement/~/_media/CSBA/Files/GovernanceResources/GovernanceBriefs/201405GoverningtotheCore6_MathPathways.ashx">https://www.csba.org/GovernanceAndPolicyResources/StudentAchievement/~/_media/CSBA/Files/GovernanceResources/GovernanceBriefs/201405GoverningtotheCore6_MathPathways.ashx</a>
Website	CSBA District and County Office of Education Legal Services
Website	Common Core State Standards Initiative
Website	CSBA
Website	California Department of Education

### **Cross References**

<b>Code</b>	<b>Description</b>
0440	District Technology Plan
0440	District Technology Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
0500	Accountability
1312.2	Complaints Concerning Instructional Materials
1312.2	Complaints Concerning Instructional Materials
1312.2-E(1)	Complaints Concerning Instructional Materials
1312.4	Williams Uniform Complaint Procedures
1312.4-E(1)	Williams Uniform Complaint Procedures
1312.4-E(2)	Williams Uniform Complaint Procedures
4131	Staff Development
4331	Staff Development



5148.2	Before/After School Programs
5148.2	Before/After School Programs
6011	Academic Standards
6120	Response To Instruction And Intervention
6141	Curriculum Development And Evaluation
6141	Curriculum Development And Evaluation
6141.4	International Baccalaureate Program
6142.93	Science Instruction
6143	Courses Of Study
6143	Courses Of Study
6146.1	High School Graduation Requirements
6152.1	Placement In Mathematics Courses
6152.1	Placement In Mathematics Courses
6161.1	Selection And Evaluation Of Instructional Materials
6161.1	Selection And Evaluation Of Instructional Materials
6161.1-E(1)	Selection And Evaluation Of Instructional Materials
6161.11	Supplementary Instructional Materials
6162.5	Student Assessment
6162.51	State Academic Achievement Tests
6162.51	State Academic Achievement Tests
6163.1	Library Media Centers
6172	Gifted And Talented Student Program
6172	Gifted And Talented Student Program
6176	Weekend/Saturday Classes
6179	Supplemental Instruction
6190	Evaluation Of The Instructional Program

**Policy 6152.1: Placement In Mathematics Courses**

**Status:** ADOPTED

**Original Adopted Date:** 08/01/2015 | **Last Revised Date:** ~~10/09/01/2018~~ 2024 | **Last Reviewed Date:** ~~10/09/01/2018~~ 2024

CSBA NOTE: Pursuant to Education Code 51224.7, the Governing Board of a district ~~which~~that serves ~~9<sup>th</sup>~~ grade students entering grade 9 is mandated to develop and, at a regularly scheduled public Board meeting, adopt a fair, objective, and transparent mathematics placement policy with specified components. Although not required, districts serving students who are transitioning between elementary and middle or junior high schools are encouraged to adopt and implement policy to address the transition from elementary to secondary mathematics courses.

Pursuant to Education Code 51225.3, high school graduation requirements include the completion of at least two mathematics courses in grades 9-12. Pursuant to Education Code 51224.5, one of those two courses must meet or exceed state content standards for Algebra I or Mathematics I. While the completion of Algebra I or Mathematics I coursework prior to 9th grade would satisfy this requirement, it does not exempt a student from the requirement to complete two mathematics courses in grades 9-12. See BP 6142.92 - Mathematics Instruction and BP 6146.1 - High School Graduation Requirements.

According to a report by the Lawyers' Committee for Civil Rights of San Francisco Bay Area, "Held Back: Addressing Misplacement of 9th Grade Students in Bay Area School Math Classes," many districts place students who have successfully completed Algebra I in 8th grade into Algebra I class again in 9th grade. In adding Education Code 51224.7, the legislature declared that placement in appropriate mathematics courses is critically important for a ~~student in his/her~~student's middle and high school years, and that misplacement in the sequence of mathematics courses creates barriers for educational success, especially for students of color. This is compounded by the fact that the University of California (UC) and California State University (CSU) systems require at least three years of mathematics for freshman admission.

The Governing Board believes that a sound educational program must include the study of subjects that prepare students for admission to higher education and/or fulfilling careers. District students shall be provided an opportunity to complete a sequence of mathematics courses recommended for admission into the University of California (UC) and California State University (CSU) systems.

CSBA NOTE: The "Mathematics Framework for California Public Schools: Kindergarten Through Grade Twelve." recognizes that schools are free to organize mathematics pathways in different ways but encourages districts to consider offering two potential pathways to enable students who would like to reach Calculus by the end of high school to do so. The California Department of Education's guidance recommends flexibility so that choices made by students during their first two years do not limit their later choices.

The district shall offer alternative pathways of courses designed in a manner that provides maximum opportunities for students to access advanced mathematics courses during high school.

CSBA NOTE: The following paragraph may be revised to reflect district practice. For nonunified districts, Education Code 51224.7 **mandates** that the policy address the consistency of mathematics placement policies between elementary and high school districts.

The Superintendent or designee shall work with district teachers, counselors, and administrators and the representatives of feeder schools to develop a well-articulated sequence of mathematics courses and consistent protocols for placing students in mathematics courses offered at district high schools.

CSBA NOTE: Education Code 51224.7 **mandates** that the district's policy ~~include~~**includes** the following statement. Also see the accompanying administrative regulation for further information regarding placement protocols.

Such placement protocols shall systematically take into consideration multiple objective academic measures that may include, but are not limited to, statewide mathematics assessments, including state interim and summative assessments; placement tests that are aligned to state-adopted content standards in mathematics; classroom assignment and grades; and report cards. (Education Code 51224.7)

CSBA NOTE: ~~The Lawyers' Committee for Civil Rights of San Francisco Bay Area's report, Held Back: Addressing Misplacement of 9th Grade Students~~**CSBA's 2019 Governance Brief, "Disproportionality in Bay Area School Math Classes, found Placement," explains** that the practice of having 9th- grade students repeat Algebra I disproportionately affects students of color and from low-income families, and could therefore be found to be discriminatory. For more information about the prohibition against discrimination in district programs and activities, see BP 0410 - Nondiscrimination ~~in~~**In** District Programs ~~and~~**And** Activities.

District staff shall implement the placement protocols uniformly and without regard to students' socioeconomic background or any characteristic specified in **BP Board Policy** 0410 - Nondiscrimination ~~in~~**In** District Programs ~~and~~**And** Activities, including, but not limited to, race, sex, gender, nationality, and ethnicity.

CSBA NOTE: Education Code 51224.7 **mandates** that the district's policy ~~include~~**includes** at least one placement checkpoint within the first month of the school year to ensure accurate placement and permit reevaluation of individual student progress.

The placement protocols shall provide for at least one reevaluation within the first month of the school year to ensure that students are appropriately placed in mathematics courses and shall specify the criteria the district will use to make this determination. Any student found to be misplaced shall be promptly placed in the appropriate mathematics course.

CSBA NOTE: Education Code 51224.7 **mandates** that the district's policy ~~offer~~**offers** a clear and timely recourse for any student and ~~his/her~~**the student's** parent/guardian who question the student's placement. See the accompanying administrative regulation for additional language implementing this requirement.

If a student or parent/guardian questions the student's placement, ~~he/she~~**the student or the student's parent/guardian** may appeal the decision to the Superintendent or designee. The decision of the Superintendent or designee shall be final.

The Superintendent or designee shall ensure that all teachers, counselors, and other district staff responsible for determining students' placement in mathematics courses receive training on the placement protocols.

CSBA NOTE: To ensure that students who are qualified to progress in mathematics courses based on their performance on district-selected objective academic measures are not unlawfully or inappropriately held back, Education Code 51224.7 **mandates** that the policy ~~include~~includes a requirement for an annual examination of aggregate student placement data, which must be reported to the Board. In addition, pursuant to Education Code 52060, districts must annually review their progress toward the student achievement goals in their local control and accountability plan using measures that include, as applicable, the percentage of students who have successfully completed courses that satisfy the requirements for entrance to the University of California and the California State University, UC and CSU systems.

The Board and the Superintendent or designee shall annually review student data related to placement in mathematics courses offered at district high schools to ensure that students who are qualified to progress in mathematics courses based on their performance on objective academic measures are not being held back in a disproportionate manner on the basis of any subjective or discriminatory basis, and shall develop strategies for removing any identified barriers to students' access to mathematics courses. The Superintendent or designee shall also report on the percentage of district students who have successfully completed mathematics courses that satisfy the requirements for entrance to the University of California and the California State University, UC and CSU systems.

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<b>State</b>	<b>Description</b>
Ed. Code 200-262.4	Prohibition of discrimination
Ed. Code 48070.5	Promotion and retention of students
Ed. Code 51220	Course of study for grades 7-12
Ed. Code 51224.5	Algebra in course of study for grades 7-12
Fd. Code 51224.7	California Mathematics Placement Act of 2015
Ed. Code 51225.3	High school graduation requirements
Ed. Code 51284	Financial literacy
Ed. Code 52060-52077	Local control and accountability plan
Ed. Code 60605	State-adopted content and performance standards in core curricular areas
Ed. Code 60605.8	Common Core standards
Ed. Code 60640-60648.5	California Assessment of Student Performance and Progress

**Management Resources**

**Description**

California Department of Education Publication	California Common Core State Standards: Mathematics, January 2013 <a href="https://www.cde.ca.gov/be/st/ss/documents/ccssmathstand&lt;br/&gt;ardaug2013.pdf">https://www.cde.ca.gov/be/st/ss/documents/ccssmathstand ardaug2013.pdf</a>
California Department of Education Publication	Mathematics Framework for California Public Schools: Kindergarten Through Grade Twelve, <del>2013</del> <u>June 2023</u> <a href="https://www.cde.ca.gov/ci/ma/cf/">https://www.cde.ca.gov/ci/ma/cf/</a>
<a href="#">California School Board Association Publication</a>	<a href="#">Disproportionality in Math Placement</a> <a href="https://www.csba.org/-&lt;br/&gt;/media/CSBA/Files/GovernanceResources/GovernanceBriefs&lt;br/&gt;/CSBA-G-Brief-Math-Misplacement-07-&lt;br/&gt;2019.ashx?la=en&amp;rev=e91fd64843fe489692734928219b64&lt;br/&gt;61">9https://www.csba.org/- /media/CSBA/Files/GovernanceResources/GovernanceBriefs /CSBA-G-Brief-Math-Misplacement-07- 2019.ashx?la=en&amp;rev=e91fd64843fe489692734928219b64 61</a>
Common Core State Standards Initiative Publication	Appendix A: Designing High School Mathematics Courses Based on the Common Core State Standards <a href="https://www.cde.ca.gov/re//cc/mathresources.asp">https://www.cde.ca.gov/re//cc/mathresources.asp</a>
CSBA Publication	Math Misplacement, Governance Brief, September 2015 <a href="https://www.csba.org/-&lt;br/&gt;/media/CSBA/Files/GovernanceResources/GovernanceBriefs&lt;br/&gt;/CSBA-G-Brief-Math-Misplacement-07-&lt;br/&gt;2019.ashx?la=en&amp;rev=e91fd64843fe489692734928219b64&lt;br/&gt;61">https://www.csba.org/- /media/CSBA/Files/GovernanceResources/GovernanceBriefs /CSBA-G-Brief-Math-Misplacement-07- 2019.ashx?la=en&amp;rev=e91fd64843fe489692734928219b64 61</a>
Lawyers' Committee for Civil Rights (LCCR) <a href="#">Publication</a>	Held Back - Addressing Misplacement of 9th Grade Students in Bay Area School Math Classes, 2013 <a href="https://lccrsf.org/wp-&lt;br/&gt;content/uploads/Held_Back_9th_Grade_Math_Misplacement.&lt;br/&gt;pdf">https://lccrsf.org/wp- content/uploads/Held_Back_9th_Grade_Math_Misplacement. pdf</a>
Website	CSBA District and County Office of Education Legal Services
Website	Lawyers' Committee for Civil Rights of the San Francisco Bay Area (LCCR)
Website	Northwest Evaluation Association, Measures of Academic Progress
Website	University of California, Mathematics Diagnostic Testing Project
Website	Common Core State Standards Initiative
Website	CSBA
Website	California Department of Education

**Cross References**

Code	Description
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0410	Nondiscrimination In District Programs And Activities
0415	Equity
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
0500	Accountability
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
4131	Staff Development
5121	Grades/Evaluation Of Student Achievement
5121	Grades/Evaluation Of Student Achievement
6011	Academic Standards
6141.5	Advanced Placement
6142.92	Mathematics Instruction
6143	Courses Of Study
6143	Courses Of Study
6146.1	High School Graduation Requirements
6152	Class Assignment
6162.5	Student Assessment
6162.51	State Academic Achievement Tests
6162.51	State Academic Achievement Tests
6164.5	Student Success Teams
6164.5	Student Success Teams
6174	Education For English Learners
6174	Education For English Learners
6179	Supplemental Instruction

**Regulation 6152.1: Placement In Mathematics Courses**

**Status:** ADOPTED

**Original Adopted Date:** 10/01/2018 | **Last Revised Date:** 09/01/2024 | **Last Reviewed Date:** 10/01/2018/2024

**Placement Protocols**

CSBA NOTE: Education Code 51224.7 mandates that any district that serves ~~9<sup>th</sup>~~ grade students in grade 9 adopt protocols for student placement in mathematics courses based on multiple objective academic measures, such as statewide assessments, including interim and summative assessments; placement tests that are aligned to state-adopted content standards in mathematics; classroom assignment and grades; and report cards. Districts that serve students transitioning from elementary to middle or junior high school may also adopt a placement protocol based on similar measures. The following section should be revised to reflect the grade levels at which the placement protocols will be applied, specific tests and other measures used for placement purposes, and the performance level on each assessment or minimum grade that will be used to determine a student's readiness for specific mathematics courses.

In determining student placement in mathematics courses for students entering grade 9, the Superintendent or designee shall assess whether each student has the prerequisite skills for success in the course and consider student and parent/guardian requests. Such determinations shall be based on multiple measures, including, but not limited to, the following:

CSBA NOTE: Pursuant to Education Code 60640, mathematics assessments in the California Assessment of Student Performance and Progress are administered at grades 3-8 and 11.

1. Interim and summative grade 8 mathematics assessments from the California Assessment of Student Performance and Progress
2. For students with disabilities, an alternate test or other measures when designated in a student's individualized education program (IEP)
3. Other assessments such as Measures of Academic Progress, the readiness tests of the University of California's Mathematics Diagnosis Testing Project, and/or district benchmark assessments
4. The student's grades in his/her previous mathematics course
5. The final mathematics grade on the end-of-year report card

Individual student performance data shall be analyzed each spring, prior to scheduling and placing students into secondary mathematics courses. Students and parents/guardians shall be notified in writing by the end of the school year as to the mathematics course in which the student has been placed.

No student shall be required to repeat a mathematics course which ~~he/she~~ the student has successfully completed in accordance with district's placement protocols.

CSBA NOTE: Recommendations by teachers or counselors are generally considered subjective and therefore do not meet the requirement of Education Code 51224.7 that placement in mathematics courses be based on objective measures. The following optional paragraph authorizes staff recommendations to be considered when placing a student in a higher level mathematics course than ~~he/she~~**the student** would be assigned based on the district's protocol, but such recommendations should not be the sole basis for placing a student in a lower level class.

When a student does not qualify to be enrolled in a particular mathematics course based on a consideration of the objective measures specified in the placement protocol, ~~he/she~~**the student** may nevertheless be admitted to the course based on the recommendation of a teacher or counselor who has personal knowledge of the student's academic ability.

Students who exhibit deficits in knowledge and skills needed to advance to a higher level mathematics course may receive supplemental instruction to improve achievement of mathematic content standards.

### Reevaluation

Within the first month of the school year, mathematics course placements shall be individually reevaluated to ensure placement in the most rigorous mathematics course for which the student has the potential for success.

Criteria for reevaluating each student's placement shall include, but are not limited to, course preassessment results, attendance, and student performance in the first month of the school year as determined by teacher observation and grades on assignments and tests. Student and parent/guardian request for course placement may also be considered.

### Notification of Placement Protocol

The district's policy and protocols related to student placement in mathematics courses shall be posted on the district's ~~web site~~**website**. (Education Code 51224.7)

The Superintendent or designee shall also make the district's placement policy, protocols, and course sequence readily accessible to students, parents/guardians, and staff at school sites and/or in student handbooks.

### Appeals

CSBA NOTE: Education Code 51224.7 **mandates** that the district's policy or protocol ~~offer~~**offers** a clear and timely recourse for any student and parent/guardian who question the student's placement. See the accompanying ~~Board~~**board** policy. The following paragraph contains timelines that may be revised to reflect district practice.

Within 10 school days of an initial placement decision or a placement decision upon reevaluation, a student and ~~his/her~~**the student's** parent/guardian who disagree with the placement may appeal the decision to the Superintendent or designee. The Superintendent or designee shall ~~decide whether or not to overrule the placement determination~~**rule on the appeal** within 10 school days of receiving the appeal. **The decision of the Superintendent or designee shall be final.**



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**Policy Reference Disclaimer:**

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

<b>State</b>	<b>Description</b>
Ed. Code 200-262.4	Prohibition of discrimination
Ed. Code 48070.5	Promotion and retention of students
Ed. Code 51220	Course of study for grades 7-12
Ed. Code 51224.5	Algebra in course of study for grades 7-12
Ed. Code 51224.7	California Mathematics Placement Act of 2015
Ed. Code 51225.3	High school graduation requirements
Ed. Code 51284	Financial literacy
Ed. Code 52060-52077	Local control and accountability plan
Ed. Code 60605	State-adopted content and performance standards in core curricular areas
Ed. Code 60605.8	Common Core standards
Ed. Code 60640-60648.5	California Assessment of Student Performance and Progress
<b>Management Resources</b>	<b>Description</b>
California Department of Education Publication	California Common Core State Standards: Mathematics, January 2013  <a href="https://www.cde.ca.gov/be/st/ss/documents/ccssmathstandardaug2013.pdf">https://www.cde.ca.gov/be/st/ss/documents/ccssmathstandardaug2013.pdf</a>
California Department of Education Publication	Mathematics Framework for California Public Schools: Kindergarten Through Grade Twelve, <del>2013</del> <u>June 2023</u>  <a href="https://www.cde.ca.gov/ci/ma/cf/">https://www.cde.ca.gov/ci/ma/cf/</a>
<u>California School Board Association</u> Publication	<u>Disproportionality in Math Placement</u>  <a href="https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/CSBA-G-Brief-Math-Misplacement-07-2019.ashx?la=en&amp;rev=e91fd64843fe489692734928219b6461">9https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/CSBA-G-Brief-Math-Misplacement-07-2019.ashx?la=en&amp;rev=e91fd64843fe489692734928219b6461</a>
Common Core State Standards Initiative Publication	Appendix A: Designing High School Mathematics Courses Based on the Common Core State Standards  <a href="https://www.cde.ca.gov/re//cc/mathresources.asp">https://www.cde.ca.gov/re//cc/mathresources.asp</a>

CSBA Publication	Math Misplacement, Governance Brief, September 2015 <a href="https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/CSBA-G-Brief-Math-Misplacement-07-2019.ashx?la=en&amp;rev=e91fd64843fe489692734928219b6461">https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/CSBA-G-Brief-Math-Misplacement-07-2019.ashx?la=en&amp;rev=e91fd64843fe489692734928219b6461</a>
Lawyers' Committee for Civil Rights (LCCR) <a href="#">Publication</a>	Held Back - Addressing Misplacement of 9th Grade Students in Bay Area School Math Classes, 2013 <a href="https://lccrsf.org/wp-content/uploads/Held_Back_9th_Grade_Math_Misplacement.pdf">https://lccrsf.org/wp-content/uploads/Held_Back_9th_Grade_Math_Misplacement.pdf</a>
Website	CSBA District and County Office of Education Legal Services
Website	Lawyers' Committee for Civil Rights of the San Francisco Bay Area (LCCR)
Website	Northwest Evaluation Association, Measures of Academic Progress
Website	University of California, Mathematics Diagnostic Testing Project
Website	Common Core State Standards Initiative
Website	CSBA
Website	California Department of Education

**Cross References**

<b>Code</b>	<b>Description</b>
0410	Nondiscrimination In District Programs And Activities
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6011	Academic Standards
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6162.51	State Academic Achievement Tests
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6164.5	Student Success Teams
6174	Education For English Learners
6174	Education For English Learners
6179	Supplemental Instruction

**Policy 6163.4: Student Use Of Technology**

**Status:** ADOPTED

Original Adopted Date: 07/01/2007 | Last Revised Date: ~~07/09/01/2015~~2024 | Last Reviewed Date: ~~07/09/01/2015~~2024

CSBA NOTE: This policy addresses student use of technology, including artificial intelligence (AI), and may be modified to reflect district practice. The U.S. Department of Education's (USDOE), "2024 National Education Technology Plan," provides actionable recommendations to advance the effective use of technology to support teaching and learning and aims to close the digital divide by ensuring that all students can equitably access the latest digital tools and technology. Additionally, the USDOE Office of Educational Technology's, "Artificial Intelligence and the Future of Teaching and Learning: Insights and Recommendations," provides information related to the opportunities for using AI to improve education, the challenges in doing so, and recommendations to guide further policy development. Districts are encouraged to continue to monitor the development of new technologies, including AI.

The Governing Board believes that effective use of technology is integral to the education and development of students. In order to promote digital citizenship, the Board recognizes that students must have access to the latest digital tools and receive instruction that allows students to positively engage with technology in ways that respect human rights and avoids Internet dangers. Technological resources provided to students, including technology based on artificial intelligence (AI), shall be aligned to district goals, objectives, and academic standards. The use of technology shall augment the use of Board adopted instructional materials.

The Board intends that technological resources provided by the district be used in a safe and responsible manner in support of the instructional program and for the advancement of student learning. All students using these resources shall receive instruction in their proper and appropriate use. Students shall be allowed to use such technology, including AI technology, in accordance with district policies, including, but not limited to, policies on academic honesty, data privacy, nondiscrimination, and copyright protections. All students using these resources shall receive instruction in the proper and appropriate use of technology. Such instruction shall incorporate students' responsibilities regarding academic honesty, honoring copyright provisions, assessing the reliability and accuracy of information, protecting personal data, and the potential for biases and errors in artificially generated content.

District technology includes, but is not limited to, computer hardware, software, or software as a service provided or paid for by the district, whether accessed on or off site or through district-owned or personally owned equipment or devices, including tablets and laptops; computer servers, wireless access points (routers), and wireless computer networking technology (wi-fi); the Internet; email; applications (apps), including AI apps; telephones, cellular telephones, smartphones, smart devices, and wearable technology; or any wireless communication device, including radios.

Teachers, administrators, and/or library media specialists are expected to review the technological resources and online sites that will be used in the classroom or assigned to students in order to ensure that they are appropriate for the intended purpose and the age of the students.

CSBA NOTE: The following optional paragraphs may be revised to reflect district practice. It is recommended that districts develop an "Acceptable Use Agreement" containing rules for the use of district technology, which students and their parents/guardians should be required to sign. See the accompanying Exhibit for an example of an "Acceptable Use Agreement" for students.

The Superintendent or designee shall notify students and parents/guardians about authorized uses of district technology, user obligations and responsibilities, and consequences for unauthorized use and/or unlawful activities in accordance with this ~~Board~~board policy and the district's Acceptable Use Agreement.

District technology includes, but is not limited to, computers, the district's computer network including servers and wireless computer networking technology (wi-fi), the Internet, email, USB drives, wireless access points (routers), tablet computers, smartphones and smart devices, telephones, cellular telephones, personal digital assistants, pagers, MP3 players, wearable technology, any wireless communication device including emergency radios, and/or future technological innovations, whether accessed on or off site or through district-owned or personally owned equipment or devices.

Before a student is authorized to use district technology, the student and ~~his/her~~the student's parent/guardian shall sign and return the Acceptable Use Agreement. In that agreement, the student and parent/guardian shall agree not to hold the district or any district staff responsible for the failure of any technology protection measures or user mistakes or negligence and shall agree to indemnify and hold harmless the district and district staff for any damages or costs incurred.

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. If the district chooses to monitor student use of district equipment or other technological resources, it is recommended that the district adopt an express, written policy and notify students of the policy through the "Acceptable Use Agreement."

Searches of students' personally owned devices (e.g., cell phones, computers, other communications devices) may be subject to the Fourth Amendment of the U.S. Constitution which prohibits unreasonable search and seizure. In *New Jersey v. T.L.O.*, the U.S. Supreme Court held that the legality of a search of a student's belongings depends on whether the search is "reasonable." The "reasonableness" of a search depends on two factors: (1) whether there is individualized suspicion that the search will turn up evidence of a student's violation of the law or school rules and (2) whether the search is reasonably related to the objectives of the search and not excessively intrusive in light of the student's age, gender, and/or the nature of the infraction. See BP 5145.12 - Search ~~and~~And Seizure.

The district reserves the right to monitor student use of technology within the jurisdiction of the district without advance notice or consent. Students shall be informed that ~~their~~the use of district technology, including, but not limited to, computer files, email, text messages, instant messaging, and other electronic communications as defined above, is not private and may be accessed by the district for the purpose of ensuring proper use. Students have no reasonable expectation of privacy in the use of ~~the~~ district technology. Students' personally owned devices shall not be searched except in cases where there is a reasonable suspicion, based on specific and objective facts, that the search will uncover evidence of a violation of law, district policy, or school rules.

CSBA NOTE: The following optional paragraph is for use by districts that have adopted a program, pursuant to Education Code 49073.6, as added by AB 1442 (Ch. 799, Statutes of 2014), to gather or maintain information from students' social media activity that pertains directly to school safety or student safety. Districts that choose to adopt such a program must comply with specified notification and program requirements; see BP/AR 5125 - Student Records.

The Superintendent or designee may gather and maintain information pertaining directly to school safety or student safety from the social media activity of any district student in accordance with Education Code 49073.6 and [BP/AR Board Policy/Administrative Regulation 5125 - Student Records](#).

Whenever a student is found to have violated [Board board](#) policy or the district's Acceptable Use Agreement, the principal or designee may cancel or limit a student's user privileges or increase supervision of the student's use of the district's equipment and other technological resources, as appropriate. Inappropriate use also may result in disciplinary action and/or legal action in accordance with law and [Board board](#) policy.

The Superintendent or designee, with input from students and appropriate staff, shall regularly review and update procedures to enhance the safety and security of students using district technology and to help ensure that the district adapts to changing technologies and circumstances.

### Internet Safety

CSBA NOTE: 20 USC 7131 mandates that districts adopt an Internet safety policy as a condition of receiving federal Student Support and Academic Achievement Grants (20 USC 7101-7122) for the purpose of purchasing computers with Internet access or paying for direct costs associated with accessing the Internet. 47 USC 254 mandates that districts adopt an Internet safety policy in order to qualify for federal universal service discounts for Internet access (E-rate discounts). This mandate applies to districts that receive E-rate discounts for Internet access, Internet services, or internal connections, but not to districts that receive discounts for telecommunications services only.

Both 20 USC 7131 and 47 USC 254 require that the district's policy include the operation and enforcement of a "technology protection measure" that blocks or filters Internet access to visual depictions that are obscene, child pornography, or harmful to minors. As part of the funding application process, a district is required to certify that it has the required policy in place and is enforcing the operation of the technology protection measure.

The following paragraph is mandated for districts that use E-rate discounts or Student Support and Academic Achievement Grants and may be adapted by other districts that choose to install technology protection measures.

The Superintendent or designee shall ensure that all district computers with Internet access have a technology protection measure that protects against access to visual depictions that are obscene, child pornography, or harmful to minors and that the operation of such measures is enforced. (20 USC 7131; 47 USC 254; 47 CFR 54.520)

CSBA NOTE: Districts receiving E-rate discounts for Internet access, Internet services, or internal connections are also mandated by 47 USC 254 to adopt policy that addresses (1) access by minors to "inappropriate matter" on the Internet; (2) ~~446~~ safety and security of minors when using email, chat

rooms, and other forms of direct electronic communication; (3) unauthorized access, including "hacking" and other unlawful online activities by minors; (4) unauthorized disclosure, use, and dissemination of personal identification information regarding minors; (5) measures designed to restrict minors' access to harmful materials; and (6) education of students about appropriate online behavior, including interacting with other individuals on social networking sites and in chat rooms as well as cyberbullying awareness and response.

The remainder of this section addresses these mandates and may be revised to reflect district practice. Districts that do not receive E-rate discounts may choose to use or adapt this material at their discretion.

To reinforce these measures, the Superintendent or designee shall implement rules and procedures designed to restrict students' access to harmful or inappropriate matter on the Internet and to ensure that students do not engage in unauthorized or unlawful online activities.

CSBA NOTE: "Inappropriate matter" is not defined in the law and the determination of what matter is considered inappropriate for minors is a local decision to be made by the district. Penal Code 313 provides a definition of "harmful matter" as specified below. Districts that have adopted their own definition should revise the following paragraph as appropriate.

Harmful matter includes matter, taken as a whole, which to the average person, applying contemporary statewide standards, appeals to the prurient interest and is matter which depicts or describes, in a patently offensive way, sexual conduct and which lacks serious literary, artistic, political, or scientific value for minors. (Penal Code 313)

The district's Acceptable Use Agreement shall establish expectations for appropriate student conduct when using the Internet or other forms of electronic communication, including, but not limited to, prohibitions against:

1. Accessing, posting, submitting, publishing, or displaying harmful or inappropriate matter that is threatening, obscene, disruptive, or sexually explicit, or that could be construed as harassment or disparagement of others based on their race/ethnicity, national origin, sex, gender, sexual orientation, age, disability, religion, or political beliefs
2. Intentionally uploading, downloading, or creating computer viruses and/or maliciously attempting to harm or destroy district equipment or materials or manipulate the data of any other user, including so-called "hacking"

CSBA NOTE: Penal Code 653.2 makes it a crime for a person to distribute another person's personal identification information electronically with the intent to cause harassment by a third party or to threaten a person's safety or that of ~~his/her~~ a person's family (e.g., placing a person's picture or address online so that ~~he/she~~ the person receives harassing messages).

3. Distributing personal identification information, including the name, address, telephone number, Social Security number, or other personally identifiable information, of another student, staff member, or other person with the intent to threaten, intimidate, harass, or ridicule that person

CSBA NOTE: Government Code 11549.3 authorizes districts, at district expense, to request the Military Department, in consultation with the California Cybersecurity Integration Center, to perform an independent security assessment of the district or individual district school. Districts are encouraged to consult with the California Office of Emergency Services (OES) and utilize resources

[such as the State Threat Assessment System and Regional Fusion Centers to help assess potential threats. For more information see OES' website.](#)

[The Superintendent or designee shall regularly review current guidance regarding cybersecurity, data privacy, and digital media awareness and incorporate recommended practices into the district's processes and procedures related to the protection of the district's network infrastructure, the monitoring and response to cyberattacks, ensuring data privacy, and monitoring suspicious and/or threatening digital media content, in accordance with Board Policy 5125 – Student Records.](#)

The Superintendent or designee shall provide age-appropriate instruction regarding safe and appropriate behavior on social networking sites, chat rooms, and other Internet services. Such instruction shall include, but not be limited to, the dangers of posting one's own personal identification information online, misrepresentation by online predators, how to report inappropriate or offensive content or threats, behaviors that constitute cyberbullying, and how to respond when subjected to cyberbullying.

**Policy Reference UPDATE Service**

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**Policy Reference Disclaimer:**

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**State**

[Civ. Code 3120-3123](#)

**Description**

[Digital equity bill of rights](#)

Ed. Code 49073.6

Student records; social media

Ed. Code 51006

Computer education and resources

Ed. Code 51007

Programs to strengthen technological skills

Ed. Code 60044

Prohibited instructional materials

Pen. Code 313

Harmful matter

Pen. Code 502

Computer crimes; remedies

Pen. Code 632

Eavesdropping on or recording confidential communications

Pen. Code 653.2

Electronic communication devices; threats to safety

**Federal**

15 USC 6501-6506

**Description**

Children's Online Privacy Protection Act

16 CFR 312.1-312.12

Children's Online Privacy Protection Act

20 USC 7101-7122

Student Support and Academic Enrichment Grants

20 USC 7131

Internet Safety



47 CFR 54.520	Internet safety policy and technology protection measures; E-rate discounts
47 USC 254	Universal service discounts (E-rate)
<b>Management Resources</b>	<b>Description</b>
Court Decision	New Jersey v. T.L.O. (1985) 469 U.S. 325
CSBA Publication	Cyberbullying: Policy Considerations for Boards, Policy Brief, July 2007
Federal Trade Commission Publication	How to Protect Kids' Privacy Online: A Guide for Teachers, December 2000
<u>California Department of Education Publication</u>	<u>Artificial Intelligence: Learning With AI Learning About AI</u>  <u><a href="https://www.cde.ca.gov/ci/pl/documents/cdeairesourcekit.pdf">https://www.cde.ca.gov/ci/pl/documents/cdeairesourcekit.pdf</a></u>
<u>U.S. Department of Education Publication</u>	<u>2024 National Education Technology Plan</u> <u>(<a href="https://tech.ed.gov/netp/">https://tech.ed.gov/netp/</a>)</u>
<u>U.S. Department of Education Publication</u>	<u>Artificial Intelligence and the Future of Teaching and Learning: Insights and Recommendations</u>  <u>(<a href="https://www2.ed.gov/documents/ai-report/ai-report.pdf">https://www2.ed.gov/documents/ai-report/ai-report.pdf</a>)</u>
Website	CSBA District and County Office of Education Legal Services
Website	California Coalition for Children's Internet Safety
<u>Website</u>	<u>California Governor's Office of Emergency Services</u>  <u>(<a href="https://www.caloes.ca.gov/">https://www.caloes.ca.gov/</a>)</u>
Website	Center for Safe and Responsible Internet Use
Website	Federal Trade Commission, Children's Online Privacy Protection
Website	American Library Association
Website	Federal Communications Commission
Website	California Department of Education
Website	U.S. Department of Education
Website	CSBA

## Cross References

<b>Code</b>	<b>Description</b>
0440	District Technology Plan
0440	District Technology Plan
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
3260	Fees And Charges
3260	Fees And Charges
3512	Equipment
3512-E(1)	Equipment
4040	Employee Use Of Technology
4040-E(1)	Employee Use Of Technology
4131	Staff Development
5125	Student Records
5125	Student Records
5125.2	Withholding Grades, Diploma Or Transcripts
5131	Conduct
5131.2	Bullying
5131.2	Bullying
5131.8	Mobile Communication Devices
5131.9	Academic Honesty
5144	Discipline
5144	Discipline
5144.1	Suspension And Expulsion/Due Process
5144.1	Suspension And Expulsion/Due Process
5144.2	Suspension And Expulsion/Due Process (Students With Disabilities)
5145.12	Search And Seizure
5145.12	Search And Seizure

5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u> Sexual Harassment
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u> Sexual Harassment
5145.9	Hate-Motivated Behavior
5148.2	Before/After School Programs
5148.2	Before/After School Programs
6142.8	Comprehensive Health Education
6142.8	Comprehensive Health Education
6154	Homework/Makeup Work
6162.5	Student Assessment
6162.6	Use Of Copyrighted Materials
6162.6	Use Of Copyrighted Materials
6162.8	Research
6162.8	Research
6163.1	Library Media Centers

**Exhibit 6163.4-E(1): Student Use Of Technology**

**Status:** ADOPTED

**Original Adopted Date:** 07/01/2015 | **Last Revised Date:** 09/01/2024 | **Last Reviewed Date:** 07/09/01/20152024

**ACCEPTABLE USE AGREEMENT AND RELEASE OF DISTRICT FROM LIABILITY (STUDENTS)**

CSBA NOTE: The following Exhibit presents a sample Acceptable Use Agreement outlining obligations and responsibilities of students using the district's technological resources. The district is encouraged to consult [CSBA's District and County Office of Education Legal Services or district legal counsel](#) in the development of such an agreement. Districts using an Acceptable Use Agreement should require all students and their parents/guardians to sign the agreement as an acknowledgment that they have read and understood its contents; see the accompanying and Board policy: Policy 6164.4 - Student Use of Technology.

For a sample Acceptable Use Agreement for employees, see E(1) 4040 - Employee Use of Technology.

The [redacted] School District authorizes students to use technology owned or otherwise provided by the district, as necessary for instructional purposes, defined in [Board Policy 6163.4 - Student Use of Technology](#). The use of district technology is a privilege permitted at the district's discretion and is subject to the conditions and restrictions set forth in applicable Board board policies, administrative regulations, and this Acceptable Use Agreement. The district reserves the right to suspend access at any time, without notice, for any reason.

The district expects all students to use technology responsibly in order to avoid potential problems and liability. The district may place reasonable restrictions on the sites, material, and/or information that students may access through the system.

The district makes no guarantee that the functions or services provided by or through the district will be without defect. In addition, the district is not responsible for financial obligations arising from unauthorized use, or misuse, of the system.

Each student who is authorized to use district technology and his/her the student's parent/guardian shall sign this Acceptable Use Agreement as an indication, which indicates that they have the student has read and understand the agreement.

**Definitions**

*District technology* includes, but is not limited to, computers, the district's computer network including servers, understands the Agreement and wireless computer networking technology (wi-fi), the Internet, email, USB drives, wireless access points (routers), tablet computers, smartphones

and smart devices, telephones, cellular telephones, personal digital assistants, pagers, MP3 players, wearable technology, any wireless communication device including emergency radios, and/or future technological innovations, whether accessed on or off site or through district-owned or personally owned equipment or devices Board Policy 6163.4 – Student Use of Technology.

### Student Obligations and Responsibilities

Students are expected to use district technology safely, responsibly, and for educational purposes only, and in accordance with the accompanying board policy and applicable copyright laws. The student in whose name district technology is issued is responsible for its proper use at all times. Students shall not share their assigned online services account information, passwords, or other information used for identification and authorization purposes, and shall use the system only under the account to which they have been assigned.

Students shall not gain unauthorized access to the files or equipment of others, access electronic resources by using another person's name or electronic identification, or send anonymous electronic communications. Furthermore, students shall not attempt to access any data, documents, emails, or programs in the district's system for which they do not have authorization.

Students are prohibited from using district technology for improper purposes, including, but not limited to, use of district technology to:

1. Access, post, display, create, or otherwise use material that is discriminatory, libelous, defamatory, obscene, sexually explicit, or disruptive
2. Bully, harass, intimidate, or threaten other students, staff, or other individuals ("cyberbullying")
3. Disclose, use, or disseminate personal identification information (such as name, address, email, telephone number, Social Security number, or other personal information) of another student, staff member, or other person with the intent to threaten, intimidate, harass, or ridicule that person
4. Share confidential information or personally identifiable information with an open artificial intelligence (AI) system of themselves, another student, staff member, or other person
5. Adjust the privacy settings on any technology tool or AI app unless directed to do so by a teacher or staff member
6. Violate the direction of teachers or other staff members, age restrictions, or the intended use of the technology
- 4—7. Infringe on copyright, license, trademark, patent, or other intellectual property rights

5.—8. \_\_\_\_\_ Intentionally disrupt or harm district technology or other district operations (such as destroying district equipment, placing a virus on district computers, adding or removing a computer program without permission from a teacher or other district personnel, changing settings on shared computers)

6.—9. \_\_\_\_\_ Install unauthorized software

7.—10. \_\_\_\_\_ "Hack" into the system to manipulate data of the district or other users

8.—11. \_\_\_\_\_ Engage in or promote any practice that is unethical or violates any law or ~~Board~~board policy, administrative regulation, or district practice

## Privacy

Since the use of district technology is intended for educational purposes, students shall not have any expectation of privacy in any use of district technology.

The district reserves the right to monitor and record all use of district technology, including, but not limited to, access to the Internet or social media, Internet searches, browsing history, use of AI, communications sent or received from district technology, or other uses. Such monitoring/recording may occur at any time without prior notice for any legal purposes including, but not limited to, record retention and distribution and/or investigation of improper, illegal, or prohibited activity. Students should be aware that, in most instances, their use of district technology (such as web searches and emails) cannot be erased or deleted.

All passwords created for or used on any district technology are the sole property of the district. The creation or use of a password by a student on district technology does not create a reasonable expectation of privacy.

## Personally Owned Devices

If a student uses a personally owned device to access district technology, ~~he/she~~the student shall abide by all applicable ~~Board~~board policies, administrative regulations, and this ~~Acceptable Use Agreement~~. Any such use of a personally owned device may subject the contents of the device and any communications sent or received on the device to disclosure pursuant to a lawful subpoena or public records request.

## Reporting

If a student becomes aware of any security problem (~~such as~~ including, but not limited to, a cyberattack, phishing, or any compromise of the confidentiality of any login or account information), or misuse of district technology, ~~he/she~~the student shall immediately report such information to the teacher or other district personnel.

### Consequences for Violation

Violations of the law, ~~Board~~board policy, or this ~~agreement~~Agreement may result in revocation of a student's access to district technology and/or discipline, up to and including suspension or expulsion. In addition, violations of the law, ~~Board~~board policy, or this ~~agreement~~Agreement may be reported to law enforcement agencies as appropriate.

### Student Acknowledgment

I have received, read, understand, and agree to abide by this ~~Acceptable Use~~ Agreement and other applicable laws and district policies and regulations governing the use of district technology. I understand that there is no expectation of privacy when using district technology. I further understand that any violation may result in loss of user privileges, disciplinary action, and/or appropriate legal action.

Name: \_\_\_\_\_ Grade: \_\_\_\_\_  
(Please print)  
School: \_\_\_\_\_  
Signature: \_\_\_\_\_ Date: \_\_\_\_\_

### Parent or Legal Guardian Acknowledgment

*If the student is under 18 years of age, a parent/guardian must also read and sign the ~~agreement~~Agreement.*

As the parent/guardian of the above-named student, I have read, understand, and agree that my child shall comply with the terms of the ~~Acceptable Use~~ Agreement. By signing this Agreement, I give permission for my child to use district technology and/or to access the school's computer network and the Internet. I understand that, despite the district's best efforts, it is impossible for the school to restrict access to all offensive and controversial materials. I agree to release from liability, indemnify, and hold harmless the school, district, ~~and~~ district personnel and the Board against all claims, damages, and costs that may result from my child's use of district technology or the failure of any technology protection measures used by the district. Further, I accept full responsibility for supervision of my child's use of his/~~her~~my child's access account if and when such access is not in the school setting.

Name: \_\_\_\_\_ Date: \_\_\_\_\_  
(Please print)  
Signature: \_\_\_\_\_

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**State**

Civ. Code 3120-3123

Ed. Code 49073.6

Ed. Code 51006

Ed. Code 51007

Ed. Code 60044

Pen. Code 313

Pen. Code 502

Pen. Code 632

Pen. Code 653.2

**Federal**

15 USC 6501-6506

16 CFR 312.1-312.12

20 USC 7101-7122

20 USC 7131

47 CFR 54.520

47 USC 254

**Management Resources**

Court Decision

**Description**

Digital equity bill of rights

Student records; social media

Computer education and resources

Programs to strengthen technological skills

Prohibited instructional materials

Harmful matter

Computer crimes; remedies

Eavesdropping on or recording confidential communications

Electronic communication devices; threats to safety

**Description**

Children's Online Privacy Protection Act

Children's Online Privacy Protection Act

Student Support and Academic Enrichment Grants

Internet Safety

Internet safety policy and technology protection measures; E-rate discounts

Universal service discounts (E-rate)

**Description**

New Jersey v. T.L.O. (1985) 469 U.S. 325



CSBA Publication	Cyberbullying: Policy Considerations for Boards, Policy Brief, July 2007
Federal Trade Commission Publication	How to Protect Kids' Privacy Online: A Guide for Teachers, December 2000
<u>California Department of Education Publication</u>	<u>Artificial Intelligence: Learning With AI Learning About AI</u>  <u><a href="https://www.cde.ca.gov/ci/pl/documents/cdeairesourcekit.pdf">https://www.cde.ca.gov/ci/pl/documents/cdeairesourcekit.pdf</a></u>
<u>U.S. Department of Education Publication</u>	<u>2024 National Education Technology Plan</u>  <u>(<a href="https://tech.ed.gov/netp/">https://tech.ed.gov/netp/</a>)</u>
<u>U.S. Department of Education Publication</u>	<u>Artificial Intelligence and the Future of Teaching and Learning: Insights and Recommendations</u>  <u>(<a href="https://www2.ed.gov/documents/ai-report/ai-report.pdf">https://www2.ed.gov/documents/ai-report/ai-report.pdf</a>)</u>
Website	CSBA District and County Office of Education Legal Services
Website	California Coalition for Children's Internet Safety
<u>Website</u>	<u>California Governor's Office of Emergency Services</u>  <u>(<a href="https://www.caloes.ca.gov/">https://www.caloes.ca.gov/</a>)</u>
Website	Center for Safe and Responsible Internet Use
Website	Federal Trade Commission, Children's Online Privacy Protection
Website	American Library Association
Website	Federal Communications Commission
Website	California Department of Education

Website	U.S. Department of Education
Website	CSBA

### **Cross References**

<b>Code</b>	<b>Description</b>
0440	District Technology Plan
0440	District Technology Plan
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
3260	Fees And Charges
3260	Fees And Charges
3512	Equipment
3512-E(1)	Equipment
4040	Employee Use Of Technology
4040-E(1)	Employee Use Of Technology
4131	Staff Development
5125	Student Records
5125	Student Records
5125.2	Withholding Grades, Diploma Or Transcripts
5131	Conduct
5131.2	Bullying
5131.2	Bullying
5131.8	Mobile Communication Devices
5131.9	Academic Honesty
5144	Discipline
5144	Discipline
5144.1	Suspension And Expulsion/Due Process

5144.1	Suspension And Expulsion/Due Process
5144.2	Suspension And Expulsion/Due Process (Students With Disabilities)
5145.12	Search And Seizure
5145.12	Search And Seizure
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u> Sexual Harassment
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u> Sexual Harassment
5145.9	Hate-Motivated Behavior
5148.2	Before/After School Programs
5148.2	Before/After School Programs
6142.8	Comprehensive Health Education
6142.8	Comprehensive Health Education
6154	Homework/Makeup Work
6162.5	Student Assessment
6162.6	Use Of Copyrighted Materials
6162.6	Use Of Copyrighted Materials
6162.8	Research
6162.8	Research
6163.1	Library Media Centers

**Bylaw 9010: Public Statements**

Status: ADOPTED

Original Adopted Date: 09/01/1990 | Last Revised Date: 0809/01/20132024 | Last Reviewed Date: 0809/01/20132024

CSBA NOTE: Pursuant to Government Code 54960, the district attorney or any interested person can sue the Governing Board in order to stop or prevent violations of the Brown Act or to determine whether any Board rule or action which penalizes or otherwise discourages the expression of one or more of its members is valid or invalid under law. The following optional bylaw may be modified as appropriate:

The Governing Board recognizes the responsibility of Board members in their role as community leaders to participate in public discourse on matters of civic or community interest, including those involving the district, and their right to freely express their personal views. However, to ensure communication of a consistent, unified message regarding district issues, Board members are expected to respect the authority of the Board to choose its representatives, to communicate its positions, and to abide by established protocols.

**Board Spokesperson**

CSBA NOTE: Many districts designate the Governing Board president and/or Superintendent to communicate with the public on behalf of the district. Any district that has designated another position for this responsibility may revise the The following paragraph should be revised to reflect district Board practice.

All public statements authorized to be made on behalf of the Board shall be made by the Board president or, if appropriate, by the Superintendent or, with respect to a specific issue or topic, other designated representative: as designated by the Board or Board president.

When speaking for the district, the Board encourages its spokespersons to Board, a spokesperson shall exercise restraint and tact and to communicate the message in a manner that promotes public confidence in the Board's leadership.

Board spokespersons shall not disclose confidential information or information received in closed session except when authorized by a majority of the Board: (Government Code 54963) or by law. (Government Code 54963)

**Statements by Individual Board Members**

CSBA NOTE: The following paragraph is responsive to the recent U.S. Supreme Court holding in Lindke v. Freed, which held that a Board member who limits or prevents critics from speaking, such as by blocking them on social media, violates the First Amendment only if the member (1) has been granted the power to speak on behalf of the Board or the district, and (2) claims to be actually

[exercising that power. For more information, see BB 9012 – Board Member Electronic Communications.](#)

When speaking to community groups, members of the public, or the media, individual Board members should recognize that their statements may be perceived as reflecting the views and positions of the Board. Board members have a responsibility to identify [when a viewpoint is held by an individual Board member rather than the Board as a whole. For example, a Board member may include a disclaimer on the Board member's personal social media account that the Board member is expressing](#) personal viewpoints as such and not as the viewpoint [those](#) of the Board. In addition, [or the district.](#)

Board encourages members who participate on social networking sites, blogs, or other discussion [opt to express their opinions on district matters, whether in-person or informational sites online, are expected](#) to conduct themselves in a respectful, courteous, and professional manner and to model good behavior for district students and the community. Such electronic communications are subject to the same standards and protocols established for other forms of communication, and the disclosure requirements of the California Public Records Act may likewise apply to them.

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#### State

Ed. Code 35010

Gov. Code 54960

Gov. Code 54963

Gov. Code 7920.000-7930.170

#### Description

Control of district; prescription and enforcement of rules

Actions to stop or prevent violation of meeting provisions

Unauthorized disclosure of confidential information

California Public Records Act

#### Management Resources

[Court Decision](#)

#### Description

[Lindke v. Freed \(2024\) 601 U.S. 187](#)

Website

CSBA District and County Office of Education Legal Services

Website

CSBA

#### Cross References

#### Code

0450

#### Description

Comprehensive Safety Plan

0450

~~461~~ Comprehensive Safety Plan

1000	Concepts And Roles
1100	Communication With The Public
1112	Media Relations
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
1160	Political Processes
1340	Access To District Records
1340	Access To District Records
2110	Superintendent Responsibilities And Duties
4143	Negotiations/Consultation
4143.1	Public Notice - Personnel Negotiations
4143.1	Public Notice - Personnel Negotiations
4243	Negotiations/Consultation
4243.1	Public Notice - Personnel Negotiations
4243.1	Public Notice - Personnel Negotiations
9000	Role Of The Board
9005	Governance Standards
9011	Disclosure Of Confidential/Privileged Information
9012	Board Member Electronic Communications
9121	President
9140	Board Representatives
9200	Limits Of Board Member Authority
9230	Orientation

**Bylaw 9012: Board Member Electronic Communications**

**Status:** ADOPTED

**Original Adopted Date:** 11/01/2008 | **Last Revised Date:** ~~12/09/01/2020~~ 2024 | **Last Reviewed Date:** ~~12/09/01/2020~~ 2024

CSBA NOTE: The following ~~bylaw is~~ optional ~~Board bylaw~~ and should be ~~modified~~ revised to reflect district practice. The Brown Act (Government Code 54950-54963) requires that Governing Board members conduct district business at properly noticed and agendaized public meetings. In general, ~~Board members should keep in mind that~~, for purposes of the Brown Act, electronic communications are subject to the same conditions and the same rules of confidentiality that are applicable to other forms of communication, such as individual conversations, telephone calls, or paper copies of documents. ~~However, the ease with which electronic communication can be shared and forwarded requires extra caution.~~

Furthermore, although Board members are not considered employees, there may be tax implications if the district provides Board members with laptop computers or subsidies for an Internet connection. In some circumstances, such provision or reimbursement may be considered a taxable benefit. Also see AR 3513.1 - Cellular Phone Reimbursement.

The Governing Board recognizes that electronic communication is an efficient and convenient way for Board members to communicate and expedite the exchange of information ~~within the~~ with each other, district staff, and with members of the public. Board members shall exercise caution so as to ensure ~~that electronic communications are not used as a means for~~ compliance with the Brown Act, the ~~Board to deliberate outside of an agendaized Board meeting, circumvent the public's right to access records regarding district business, or restrict access to a public forum~~ Public Records Act, and other applicable laws.

CSBA NOTE: Government Code 54952.2 defines a "meeting" as any congregation of a majority of the members of the Board at the same time and location, including a teleconference location as permitted by Government Code 54953, to hear, discuss, deliberate, or take action upon any item that is within the subject matter jurisdiction of the Board. Government Code 54952.2 prohibits a serial meeting, defined as a series of communications of any kind, directly or through intermediaries, 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 9320 - Meetings And Notices. Thus, a series of emails, as well as other electronic communications such as ~~postings on an online forum~~ text messages or replying directly to social media posts, that ultimately include a majority of the Board could lead to a Brown Act violation. ~~While the safest course of action is to not send an email to another Board member that, if forwarded, could lead to a discussion about district business by a majority of the Board, given the prevalence of email, such a practice may not be practical. However, in~~ order to help prevent an inadvertent violation, Board members may wish to consider including "bcc'ing" other Board members to avoid the recipient "replying all", a "do not reply/forward alert" in the subject line of emails, or other cautionary measures, as appropriate.

A majority of the Board shall not, outside of an authorized meeting, use a series of electronic communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the Board. (Government Code 54952.2)

CSBA NOTE: CSBA's GAMUT Meetings is an electronic board meeting management application for use by districts and county offices of education that streamlines meeting preparation and provides easy and secure access to meeting materials, including Board meeting agendas, supporting documents, and minutes. Further information is available on CSBA's web site.

Examples of permissible electronic communications concerning district business include, but are not limited to, dissemination of Board meeting agendas and agenda packets, reports of activities from the Superintendent, and reminders regarding meeting times, dates, and places.

CSBA NOTE: Pursuant to Government Code 54952.2, as amended by AB 992 (Ch. 89, Statutes of 2020), Board members may engage in separate conversations or communications with members of the public on an Internet-based social media platform that is open and accessible to the public as long as a majority of the Board does not use the platform to discuss among themselves business within the subject matter jurisdiction of the Board and members do not comment on or use digital icons (e.g., "likes" or emojis) to express reactions to communications made by other Board members. Consequently, a Board member is prohibited from responding directly to any communication from other members of the Board on a social media platform regarding matters that are within the subject matter jurisdiction of the Board.

Board members may engage in separate conversations or communications with members of the public on a social media platform to answer questions, provide information, or solicit information regarding a matter that is within the subject matter jurisdiction of the Board; as long as a majority of the Board does not use the platform to discuss among themselves any business of a specific nature that is within the subject matter jurisdiction of the Board. A Board member is prohibited from responding directly to any communication from other **Additionally**, Board members regarding matters that are **within the subject matter jurisdiction of the Board or prohibited from** using digital icons (e.g., **such as "likes" or "emojis" to,** **that** express reactions to communications made by other Board members **regarding matters within the subject matter jurisdiction of the Board.** (Government Code 54952.2)

CSBA NOTE: Board members who use a social media platform to communicate with the public about district business or Board activities should be cautious about blocking access to members of the public. In *Knight First Amendment Institute at Columbia University v. Trump*, the court held that President Donald Trump's twitter account was a public forum from which the government may not exclude people based on their views and that blocking critics from viewing and replying to the account excluded individuals from a public forum in violation of the First Amendment. While there is not a clearly defined rule as to whether a board member's social media account is a public forum, the holding has been used in cases restricting school board members from blocking members of the public from their social media. See *Garnier v. Poway Unified School District*. **CSBA NOTE: Public statements by Board members is a sensitive and complicated area of Board governance. As a result, many districts have established bylaws or other protocols for public statements by Board members; see BB 9010 – Public Statements.**

Whenever a Board member uses a social media platform to communicate with the public about district business or Board activities, the Board member shall not block access to a member of the public based on the viewpoint expressed by that individual.



Board members shall make every effort to ensure that their electronic communications conform to Board Bylaw 9010 - Public Statements and shall forward any complaints or requests for information to the Superintendent in accordance with applicable Board bylaws.

CSBA NOTE: The prohibitions in the Brown Act apply only to discussions regarding district business. Like other citizens, Board members are permitted to use email to discuss personal, nondistrict matters. CSBA NOTE: Electronic communications received and sent by Board members are subject to disclosure upon request pursuant to the Public Records Act (Government Code 7920.000 - 7930.215), including communications regarding district business sent or received on a Board member's personal account or device. For further information, see CSBA's, "Legal Alert: Tips for Governing Boards in Response to Public Records Act Ruling on Electronic Communications." It is recommended that districts with specific questions regarding this issue consult CSBA's District and County Office of Education Legal Services or district legal counsel. Also see BP/AR 1340 - Access To District Records and BP/AR 3580 - District Records.

Board members may use electronic communications to discuss matters that do not pertain to district business, regardless of the number of Board members participating in the discussion.

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. Many districts have established bylaws or other protocols describing how the Board has agreed to handle questions, concerns, or complaints received from members of the community. For example, see BB 9200 - Limits of Board Member Authority and BP 1112 - Media Relations.

Board members shall make every effort to ensure that their electronic communications conform to the same standards and protocols established for other forms of communication. A Board member may respond, as appropriate, to an electronic communication received from a member of the community and should make clear that the response does not necessarily reflect the views of the Board as a whole. Any complaint or request for information should be forwarded to the Superintendent in accordance with Board bylaws and protocols so that the issue may receive proper consideration and be handled through the appropriate district process. As appropriate, communication received from the media shall be forwarded to the designated district spokesperson.

CSBA NOTE: Electronic communications received and sent by Board members are subject to disclosure upon request pursuant to the California Public Records Act (CPRA) (Government Code 7920.000 - 7930.170) depending on the content of the communication and whether it is "prepared, owned, used, or retained" by the district in its normal course of business. District legal counsel should be consulted as appropriate. Also see BP/AR 1340 - Access to District Records and BP/AR 3580 - District Records.

In *City of San Jose v. Superior Court*, the California Supreme Court held that a public official's communications about public business, even if sent or received on the official's personal account or device, are public records and are not categorically excluded from disclosure under the CPRA. The court observed that the CPRA requires public agencies to use "reasonable effort" to locate existing records in response to a public records request, but that 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.

To the extent possible, electronic communications regarding any district-related business shall be transmitted through a district-provided device or account. When any such communication is

transmitted through a Board member's personal device or account, the Board member shall copy the communication to a district electronic storage device for easy retrieval.

CSBA NOTE: Pursuant to the U.S. Supreme Court's decision in *Lindke v. Freed*, a Board member's social media account becomes a public forum subject to the First Amendment when the Board member (1) has been granted the power to speak on behalf of the Board or the district and (2) claims to be actually exercising that power. The determination as to whether a Board member's action meets these two conditions is a fact-specific undertaking. It is recommended that districts with questions regarding this issue consult CSBA's District and County Office of Education Legal Services or district legal counsel.

This Bylaw does not apply to Board member electronic communications not related to district business or not conducted by a Board member in the Board member's official capacity.

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<b>State</b>	<b>Description</b>
Ed. Code 35140	Time and place of meetings
Ed. Code 35145	Public meetings
Ed. Code 35145.5	Agenda; public participation and regulations
Ed. Code 35147	Open meeting laws exceptions
Gov. Code 11135	Prohibition of discrimination
Gov. Code 54950-54963	The Ralph M. Brown Act
Gov. Code 54952.2	Meeting; defined
Gov. Code 54953	Meetings to be open and public; attendance
Gov. Code 54954.2	Agenda posting requirements; board actions
Gov. Code 7920.000-7930.170 <del>215</del>	California Public Records Act
<b>Management Resources</b>	<b>Description</b>
Attorney General Publication	The Brown Act: -Open Meetings for Legislative Bodies, rev. 2003 ( <a href="https://oag.ca.gov/system/files/media/the-brown-act.pdf">https://oag.ca.gov/system/files/media/the-brown-act.pdf</a> )
Court Decision	Knight First Amendment Institute at Columbia University v. Trump (2019) 928 F.3d 226

Court Decision	<u>Garnier v. Poway Unified School District (S.D. Cal. September 26, 2019) No. 17-cv-2215-W (JLB), 2019 WL 4736208</u> <u><a href="#">Lindke v. Freed (2024) 601 U.S. 187</a></u>
Court Decision	City of San Jose v. Superior Court (2017) 2 Cal.5th 608
CSBA Publication	Legal Alert: Tips for Governing Boards in Response to Public Records Act Ruling on Electronic Communications, March 2017 ( <a href="https://www.csba.org/-/media/CSBA/Files/Advocacy/ELA/2017-03_LegalAlert_PRA_ElectronicDevices.ashx?la=en&amp;rev=7f24e74fc2474138940357bc5efe1377">https://www.csba.org/-/media/CSBA/Files/Advocacy/ELA/2017-03_LegalAlert_PRA_ElectronicDevices.ashx?la=en&amp;rev=7f24e74fc2474138940357bc5efe1377</a> )
CSBA Publication	The Brown Act: -School Boards and Open Meeting Laws, rev. 2019 <u>2023</u>
Website	CSBA District and County Office of Education Legal Services
Website	CSBA, GAMUT Meetings
Website	California Attorney General's Office
Website	CSBA

**Cross References**

<b>Code</b>	<b>Description</b>
1100	Communication With The Public
1112	Media Relations
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
1312.1	Complaints Concerning District Employees
1312.1	Complaints Concerning District Employees
1312.2	Complaints Concerning Instructional Materials
1312.2	Complaints Concerning Instructional Materials
1312.2-E(1)	Complaints Concerning Instructional Materials
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures

1312.3-E(2)	Uniform Complaint Procedures
1312.4	Williams Uniform Complaint Procedures
1312.4-E(1)	Williams Uniform Complaint Procedures
1312.4-E(2)	Williams Uniform Complaint Procedures
1340	Access To District Records
1340	Access To District Records
3320	Claims And Actions Against The District
3320	Claims And Actions Against The District
3580	District Records
3580	District Records
9000	Role Of The Board
9005	Governance Standards
9010	Public Statements
9121	President
9200	Limits Of Board Member Authority
9230	Orientation
9320	Meetings And Notices
9322	Agenda/Meeting Materials
9323.2	Actions By The Board
9323.2-E(1)	Actions By The Board

### 2024–25 Certification of Assurances

Submission of Certification of Assurances is required every fiscal year. A complete list of legal and program assurances for the fiscal year can be found at <https://www.cde.ca.gov/fg/aa/co/ca24assuranceastoc.asp>.

**CDE Program Contact:**

Consolidated Application Support Desk, Education Data Office, [ConAppSupport@cde.ca.gov](mailto:ConAppSupport@cde.ca.gov), 916-319-0297

### Consolidated Application Certification Statement

I hereby certify that all of the applicable state and federal rules and regulations will be observed by this applicant; that to the best of my knowledge the information contained in this application is correct and complete; and I agree to participate in the monitoring process regarding the use of these funds according to the standards and criteria set forth by the California Department of Education Federal Program Monitoring (FPM) Office. Legal assurances for all programs are accepted as the basic legal condition for the operation of selected projects and programs and copies of assurances are retained on site. I certify that we accept all assurances except for those for which a waiver has been obtained or requested. A copy of all waivers or requests is on file. I certify that actual ink signatures for this form are on file.

Authorized Representative's Full Name	LeAnn R Zayasbazan
Authorized Representative's Signature	
Authorized Representative's Title	Chief Business Official
Authorized Representative's Signature Date	09/24/2024

*back-up for  
consolidated  
application  
Board agenda  
item*

**\*\*\*Warning\*\*\***

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**2024–25 Protected Prayer Certification**

Every Student Succeeds Act (ESSA) Section 8524 specifies federal requirements regarding constitutionally protected prayer in public elementary and secondary schools. This form meets the annual requirement and provides written certification.

**CDE Program Contact:**

Miguel Cordova, Title I Policy, Program, and Support Office, [MCordova@cde.ca.gov](mailto:MCordova@cde.ca.gov), 916-319-0381

**Protected Prayer Certification Statement**

The local educational agency (LEA) hereby assures and certifies to the California State Board of Education that the LEA has no policy that prevents, or otherwise denies participation in, constitutionally protected prayer in public schools as set forth in the "Guidance on Constitutionally Protected Prayer in Public Elementary and Secondary Schools."

The LEA hereby assures that this page has been printed and contains an ink signature. The ink signature copy shall be made available to the California Department of Education upon request or as part of an audit, a compliance review, or a complaint investigation.

The authorized representative agrees to the above statement	Yes
Authorized Representative's Full Name	LeAnn R Zayasbazan
Authorized Representative's Title	Chief Business Official
Authorized Representative's Signature Date	08/09/2024
Comment If the LEA is not able to certify at this time, then an explanation must be provided in the comment field. (Maximum 500 characters)	

**\*\*\*Warning\*\*\***

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**2024–25 LCAP Federal Addendum Certification**

**CDE Program Contact:**

Local Agency Systems Support Office, [LCAPAddendum@cde.ca.gov](mailto:LCAPAddendum@cde.ca.gov), 916-323-5233

**Initial Application**

To receive initial funding under the Every Student Succeeds Act (ESSA), a local educational agency (LEA) must have a plan approved by the State Educational Agency on file with the State. Within California, LEAs that apply for ESSA funds for the first time are required to complete the Local Control and Accountability Plan (LCAP), the LCAP Federal Addendum Template (Addendum), and the Consolidated Application (ConApp). The LCAP, in conjunction with the Addendum and the ConApp, serve to meet the requirements of the ESSA LEA Plan.

In order to initially apply for funds, the LEA must certify that the current LCAP has been approved by the local governing board or governing body of the LEA. As part of this certification, the LEA agrees to submit the LCAP Federal Addendum, that has been approved by the local governing board or governing body of the LEA, to the California Department of Education (CDE) and acknowledges that the LEA agrees to work with the CDE to ensure that the Addendum addresses all required provisions of the ESSA programs for which they are applying for federal education funds.

**Returning Application**

If the LEA certified a prior year LCAP Federal Addendum Certification data collection form in the Consolidated Application and Reporting System, then the LEA may use in this form the same original approval or adoption date used in the prior year form.

<b>County Office of Education (COE) or District</b>	09/24/2024
For a COE, enter the original approval date as the day the CDE approved the current LCAP. For a district, enter the original approval date as the day the COE approved the current LCAP	
<b>Direct Funded Charter</b>	
Enter the adoption date of the current LCAP	
Authorized Representative's Full Name	LeAnn R Zayasbazan
Authorized Representative's Title	Chief Business Official

**\*\*\*Warning\*\*\***

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2024–25 Application for Funding

**CDE Program Contact:**

Consolidated Application Support Desk, Education Data Office, [ConAppSupport@cde.ca.gov](mailto:ConAppSupport@cde.ca.gov), 916-319-0297

**Local Governing Board Approval**

The local educational agency (LEA) is required to review and receive approval of their Application for Funding selections with their local governing board.

By checking this box the LEA certifies that the Local Board has approved the Application for Funding for the listed fiscal year	Yes
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**District English Learner Advisory Committee Review**

Per Title 5 of the California Code of Regulations Section 11308, if your LEA has more than 50 English learners, then the LEA must establish a District English Learner Advisory Committee (DELAC) which shall review and advise on the development of the application for funding programs that serve English learners.

By checking this box the LEA certifies that parent input has been received from the District English Learner Committee (if applicable) regarding the spending of Title III funds for the listed fiscal year	Yes
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**Application for Categorical Programs**

To receive specific categorical funds for a school year, the LEA must apply for the funds by selecting Yes below. Only the categorical funds that the LEA is eligible to receive are displayed.

<b>Title I, Part A (Basic Grant)</b> ESSA Sec. 1111et seq. SACS 3010	Yes
<b>Title II, Part A (Supporting Effective Instruction)</b> ESEA Sec. 2104 SACS 4035	Yes
<b>Title II, Part A funds used through the Alternative Fund Use Authority (AFUA)</b> Section 5211 of ESEA	Yes
<b>Title III English Learner</b> ESEA Sec. 3102 SACS 4203	Yes
<b>Title III Immigrant</b> ESEA Sec. 3102 SACS 4201	Yes
<b>Title IV, Part A (Student and School Support)</b> ESSA Sec. 4101 SACS 4127	Yes
<b>Title IV, Part A funds used through the Alternative Fund Use Authority (AFUA)</b>	Yes

**\*\*\*Warning\*\*\***

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2024–25 Application for Funding

CDE Program Contact:

Consolidated Application Support Desk, Education Data Office, [ConAppSupport@cde.ca.gov](mailto:ConAppSupport@cde.ca.gov), 916-319-0297

Section 5211 of ESEA	
<b>Title V, Part B Subpart 1 Small, Rural School Achievement Grant</b> ESSA Sec. 5211 SACS 5810	Yes
<b>Title V, Part B Subpart 2 Rural and Low-Income Grant</b> ESSA Sec. 5221 SACS 4126	No

**\*\*\*Warning\*\*\***

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**2024–25 Title III English Learner Student Program Subgrant Budget**

The purpose of this data collection form is to provide a proposed budget for English learner (EL) Student Program Subgrant funds only per the Title III English Learner Students Program requirements (ESSA, Sections 3114, 3115, & 3116).

**CDE Program Contact:**

Annie Abreu Park, Language Policy and Leadership Office, [AAbreuPark@cde.ca.gov](mailto:AAbreuPark@cde.ca.gov), 916-319-9620  
 Geoffrey Ndirangu, Language Policy and Leadership Office, [GNdirang@cde.ca.gov](mailto:GNdirang@cde.ca.gov), 916-323-5831

**Estimated Allocation Calculation**

Estimated English learner per student allocation	\$130.25
Estimated English learner student count	50
Estimated English learner student program allocation	\$6,513

**Note: \$10,000 minimum program eligibility criteria**

If the local educational agency's estimated English learner student program allocation is less than \$10,000, then it does not meet the minimum program eligibility criteria for direct funding status and requires further action. To receive instructions regarding the consortium application process, please go to the California Department of Education Title III EL Consortium Details web page at <https://www.cde.ca.gov/sp/el/t3/elconsortium.asp>.

**Budget**

Professional development activities	\$0
Program and other authorized activities	\$0
English Proficiency and Academic Achievement	\$5,862
Parent, family, and community engagement	\$0
Direct administrative costs (Amount cannot exceed 2% of the estimated English learner student program allocation)	\$0
Indirect costs (LEA can apply its approved indirect rate to the portion of the subgrant that is not reserved for direct administrative costs)	\$651
Total budget	\$6,513

**\*\*\*Warning\*\*\***

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**2024–25 Title III Immigrant Student Program Subgrant Budget**

The purpose of this data collection form is to provide a proposed budget for Immigrant Student Program Subgrant funds only per the Title III Immigrant Student Program requirements (ESSA, Sections 3114, 3115, & 3116).

**CDE Program Contact:**

Annie Abreu Park, Language Policy and Leadership Office, [AAbreuPark@cde.ca.gov](mailto:AAbreuPark@cde.ca.gov), 916-319-9620  
 Geoffrey Ndirangu, Language Policy and Leadership Office, [GNdirang@cde.ca.gov](mailto:GNdirang@cde.ca.gov), 916-323-5831

**Estimated Allocation Calculation**

Estimated immigrant per student allocation	\$125.90
Estimated immigrant student count	10
Estimated immigrant student program allocation	\$1,259

**Note: Eligibility criteria**

A local educational agency which has 5 or more eligible immigrant students and has experienced a significant increase of one half of 1 percent or more in eligible immigrant students enrollment in the current year, compared with the average of the two preceding fiscal years, is eligible to apply.

**Budget**

Authorized activities	\$1,134
Direct administrative costs (Amount should not exceed 2% of the estimated immigrant student program allocation)	\$0
Indirect costs (LEA can apply its approved indirect rate to the portion of the subgrant that is not reserved for direct administrative costs)	\$125
Total budget	\$1,259

**\*\*\*Warning\*\*\***

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### 2024–25 Substitute System for Time Accounting

This certification may be used by auditors and by California Department of Education oversight personnel when conducting audits and sub-recipient monitoring of the substitute time-and-effort system. Approval is automatically granted when the local educational agency (LEA) submits and certifies this data collection.

**CDE Program Contact:**

Hilary Thomson, Fiscal Oversight and Support Office, [HThomson@cde.ca.gov](mailto:HThomson@cde.ca.gov), 916-323-0765

The LEA certifies that only eligible employees will participate in the substitute system and that the system used to document employee work schedules includes sufficient controls to ensure that the schedules are accurate.

Detailed information on documenting salaries and wages, including both substitute systems of time accounting, are described in Procedure 905 of the California School Accounting Manual posted on the web at <https://www.cde.ca.gov/fg/ac/sa/>.

2024–25 Request for authorization	No
LEA certifies that the following is a full disclosure of any known deficiencies with the substitute system or known challenges with implementing the system (Maximum 500 characters)	

**\*\*\*Warning\*\*\***

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**BEFORE THE BOARD OF TRUSTEES OF THE  
CUYAMA JOINT UNIFIED SCHOOL DISTRICT**

**RESOLUTION OF THE GOVERNING )  
BOARD OF THE CUYAMA JOINT )  
UNIFIED SCHOOL DISTRICT )  
RE: RECONFIGURATION OF )  
CUYAMA ELEMENTARY SCHOOL TO )  
SERVE TK-6 GRADES BEGINNING )  
IN YEAR 2025-2026 )**

**RESOLUTION NO. 2024.2025: 15**

**WHEREAS**, the Cuyama Joint Unified School District (“District”) owns and operates school facilities in the County of Santa Barbara, California, including Cuyama Elementary School located at 2300 CA-166, New Cuyama, CA 93254 which currently serves District students in grades TK-8; and

**WHEREAS**, as a result of budgetary impacts the District has determined that it is necessary to implement measures to best preserve fiscal integrity and increase student achievement at the Cuyama Joint Unified School District; and

**WHEREAS**, there is currently one Elementary School serving grades TK-8 and the District recognizes the need to reconfigure Cuyama Elementary School to provide the best academic and support environment for our students now and in the future; and

**WHEREAS**, for the 2025-2026 school year, Cuyama Elementary School will be reconfigured to serve District students in grades TK-6; and Cuyama Joint Unified School District will establish a Junior High School to serve students in grades 7-8;

**WHEREAS**, the Cuyama Elementary School building will be reconfigured and divided into two separate and distinct areas where one side will house the Elementary School and the other side will house the newly established Junior High School.

**NOW, THEREFORE, IT IS FOUND, DETERMINED AND RESOLVED** by the GOVERNING BOARD OF THE CUYAMA JOINT UNIFIED SCHOOL DISTRICT as follows:

1. The foregoing recitals are true.
2. That the Governing Board hereby consents to and approves the reconfiguration of Cuyama Elementary School and the division of the Cuyama Elementary School campus to house a Pre-K-6 grade elementary school and a 7-8 grade junior high school.

3. Designates Cuyama Elementary School, as a reconfigured school, to be a TK-6 school.

4. That the Governing Board hereby authorizes the Superintendent and/or the Superintendent's designees to take all actions and execute all documents necessary to carry out the intent of this resolution.

This Resolution was adopted by the following vote:

Name(s) of Board Member(s)

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Abstention(s): \_\_\_\_\_

Absent: \_\_\_\_\_

Dated: \_\_\_\_\_, 2024.

BOARD OF TRUSTEES OF THE CUYAMA  
JOINT UNIFIED SCHOOL DISTRICT

By \_\_\_\_\_  
Authorized Agent

Attest:

\_\_\_\_\_  
Secretary to the Governing Board of the  
Cuyama Joint Unified School District

**BEFORE THE BOARD OF TRUSTEES OF THE  
CUYAMA JOINT UNIFIED SCHOOL DISTRICT**

**RESOLUTION OF THE GOVERNING )  
BOARD OF THE CUYAMA JOINT )  
UNIFIED SCHOOL DISTRICT )  
RE: ESTABLISHMENT AND )  
OPERATION OF CUYAMA JUNIOR )  
HIGH SCHOOL TO SERVE 7-8 )  
GRADES BEGINNING )  
IN YEAR 2025-2026 )**

**RESOLUTION NO. 2024-2025:16**

**WHEREAS**, the Cuyama Joint Unified School District ("District") has conducted a comprehensive review of current facilities and enrollment patterns, and it has been determined that the establishment of a Junior High School is in the best interest of students in grades 7-8; and

**WHEREAS**, the District seeks approval from the Board of Trustees to establish a Junior High School to serve District students grades 7-8 as authorized under Education Code Section 37060; and

**WHEREAS**, the Junior High School conforms with the California Department of Education's (CDE) definition of a school; and

**WHEREAS**, the Junior High School will be named \_\_\_\_\_, and will be designated a public school administering a traditional educational program set to open for student instruction on \_\_\_\_\_; and

**WHEREAS**, the current Junior High School will be located on the designated side at 2300 CA-166, New Cuyama, CA 93254, where the Junior High School will operate independently within that portion of the facility; and

**WHEREAS**, the District recognizes the need to establish the Junior High School to provide the best academic and support environment for students now and in the future; and

**WHEREAS**, for the 2025-2026 school year the newly established Junior High School will serve students in grades 7-8.

**NOW, THEREFORE, IT IS FOUND, DETERMINED AND RESOLVED** by the GOVERNING BOARD OF THE CUYAMA JOINT UNIFIED SCHOOL DISTRICT as follows:

1. The foregoing recitals are true.
2. That the Governing Board hereby consents to and approves the establishment of the Junior High School.
3. Designates the Junior High School to serve students grades 7-8 beginning in year 2025-2026.
4. That the Governing Board hereby authorizes the Superintendent and/or the Superintendent's designees to take all actions and execute all documents necessary to carry out the intent of this resolution.

This Resolution was adopted by the following vote:

Name(s) of Board Member(s)

Ayes: \_\_\_\_\_  
 Nays: \_\_\_\_\_  
 Abstention(s): \_\_\_\_\_  
 Absent: \_\_\_\_\_

Dated: \_\_\_\_\_, 2024.

BOARD OF TRUSTEES OF THE CUYAMA  
 JOINT UNIFIED SCHOOL DISTRICT

By \_\_\_\_\_  
 Authorized Agent

Attest:

\_\_\_\_\_  
 Secretary to the Governing Board of the  
 Cuyama Joint Unified School District