

**CSBA POLICY GUIDE SHEET**  
**March 2025**

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 1312.2 - Complaints Concerning Instructional Materials**

Policy updated to reflect **NEW LAW (SB 153, 2024)** which prohibits the Governing Board from adopting or approving the use of any textbook, instructional material, supplemental instructional material, or curriculum for classroom instruction if the use would subject a student to unlawful discrimination in accordance with specified state law.

**Administrative Regulation 1312.2 - Complaints Concerning Instructional Materials**

Regulation updated to reference **NEW LAW (SB 153, 2024)** which prohibits the Governing Board from adopting or approving the use of any textbook, instructional material, supplemental instructional material, or curriculum for classroom instruction if the use would subject a student to unlawful discrimination in accordance with specified state law.

**Exhibit(1) 1312.2 - Complaints Concerning Instructional Materials**

Exhibit updated in conjunction with accompanying Board policy and administrative regulation, with minor revisions to formatting and style.

**Board Policy 1340 - Access to District Records**

Policy updated to delete material related to the copying of public records, as it is more appropriately placed in, and therefore moved to, the accompanying Administrative Regulation.

**Administrative Regulation 1340 - Access to District Records**

Regulation updated to add that the regulation is a non-exhaustive list of records that may be defined as either public or confidential. Additionally, regulation updated to clarify that (1) the public may have access to public records unless otherwise exempt from disclosure, and (2) it is after initial proposals of exclusive employee representatives and of the district are presented at a district Governing Board meeting that they are a public record. In addition, regulation updated to include that executed contracts for the purchase of goods or services, even if the contract contains provisions specifying that the contract is confidential or a proprietary record of the vendor, is a public record. Regulation also updated to require that confidential home addresses, telephone numbers, or birth dates of employees may only be disclosed in the limited circumstances listed in the regulation, and to reflect **NEW LAW (AB 1785, 2024)** which prohibits districts from publicly posting online the home address, telephone number, or both the name and assessor parcel number associated with the home address of any elected or appointed official without first obtaining the written permission of that individual. Additionally, regulation updated to clarify that unless otherwise authorized or required by law, information regarding an individual's citizenship or immigration status shall not be disclosed. In addition, regulation updated to reflect **NEW LAW (SB 1034, 2024)** which adds, as an unusual circumstance which would permit the district to extend its response to a California Public Records Act request, to include the need to search for, collect, and appropriately examine records during a state of emergency when the state of emergency currently affects the district's ability to timely respond to staffing shortages or closure of facilities where the requested records are located. Regulation also updated to clarify that if a portion of a requested record is exempt from disclosure, only the non-exempt portion of the record is available for inspection and that the record's exempt material is required to be redacted prior to disclosure. Additionally, regulation reorganized for clarity and to keep related content together.

**Board Policy 3311 - Bids**

Policy updated to clarify that bidding procedures are required to be established in accordance with, and meet the requirements for, bidding procedures specified in law. Additionally, policy updated to incorporate material from the accompanying administrative regulation related to awarding contracts, protests by bidders,

and instances when bids are not required, as the majority of such content is related to Governing Board actions and therefore more appropriately placed in Board policy.

#### **Administrative Regulation 3311 - Bids**

Regulation updated to clarify that the definition of maintenance includes landscape maintenance and minor repainting. Additionally, regulation updated to reflect requirement that prequalification is required for projects that utilize state general funds. In addition, regulation updated to delete material related to awarding contracts, protests by bidders, and instances when bids are not required, as the majority of such content is related to Governing Board actions and therefore more appropriately placed, and thus incorporated, into the accompanying Board policy.

#### **Board Policy 3311.1 - Uniform Public Construction Cost Accounting Procedures**

Policy updated to add language related to authorization for the Governing Board when, after the first invitation of bids pursuant to informal or formal bidding procedures under the Uniform Public Construction Cost Accounting Act all bids are rejected, declare that a project can be performed more economically by employees of the district.

#### **Administrative Regulation 3311.1 - Uniform Public Construction Cost Accounting Procedures**

Regulation updated to reflect **NEW LAW (AB 2192, 2024)** which (1) includes "installations" involving publicly owned, leased, or operated facility in the definition of "public project," and (2) adjusted the threshold amounts for utilizing Uniform Public Construction Cost Accounting Act procedures. Regulation also updated to clarify and expand material related to informal procedures for awarding contracts for public projects of \$220,000 or less.

#### **Board Policy 3312 - Contracts**

Policy updated to broaden philosophical statement to include that the Governing Board ensure that contracts entered into on behalf of the district conform to any applicable legal standards. Additionally, policy updated to provide that Board members and district employees involved in the making of contracts on behalf of the district comply with applicable law. In addition, policy updated to add language that executed contracts for the purchase of goods or services, even if the contract contains provisions specifying that the contract is confidential or a proprietary record of the vendor, is a public record unless otherwise exempt from disclosure under state or federal law. Policy also updated to reflect **NEW LAW (SB 1303, 2024)** which (1) requires, if the district utilizes a private labor compliance entity, the entity to submit a signed declaration verifying that it does not have a conflict of interest, and (2) defines "private labor compliance entity" and "conflict of interest." Additionally, policy updated to clarify language regarding public records and that a district may not enforce a confidentiality clause that would prevent the district from making any part of the contract a public record.

#### **Board Policy 3516.5 - Emergency Schedules**

Policy updated to add "health conditions" as a reason for which the Superintendent or designee is authorized by the Governing Board to close a school site, change the regular school day schedule, or take any necessary action. Additionally, policy updated to reference **NEW LAW (SB 1429, 2024)** which adds snowstorms to the list of emergencies for which a district may apply to the Superintendent of Public Instruction to obtain apportionment credit for days and minutes lost due to emergency closure and material decreases in attendance. In addition, policy updated to reflect **NEW LAW (SB 153, 2024)** and **NEW LAW (AB 176, 2024)** which require a district that submits an affidavit for a school closure necessitated by an emergency condition to (1) for an emergency event occurring after September 1, 2021 but before July 1, 2026, certify that the district has a plan for offering independent study to affected students within 10 instructional days of the first day of a school closure or material decrease in attendance, and (2) for events occurring on or after July 1, 2026, certify that an instructional continuity plan is included in the district's comprehensive safety plan and that the district offered student engagement and instruction consistent with the instructional continuity plan or certify that it did not do so due to extenuating circumstances. **NEW LAW (SB 153, 2024)** also authorizes districts, beginning July 1, 2025, to implement attendance recovery programs for students in grades transitional kindergarten-12 to make up lost instructional time and offset absences due to emergency events. Additionally, policy updated to combine material related to student and parent/guardian notifications, make more current the modalities of the district's notification system for informing students and

parents/guardians of a change in the school day schedule, a school closure due to an emergency, or change in operation of school bus schedules, and reflect **NEW LAW (AB 2905, 2024)** which requires, when a district or school uses an automatic dialing-announcing device, for the device to be operated by a person who follows all procedures required by law prior to operating the device, and disconnect the device from the telephone line upon the termination of the call.

#### **Board Policy 3580 - District Records**

Policy updated to include protection of records against damage, loss, or theft, which may be caused by cybersecurity breaches. Additionally, policy updated to require the Superintendent or designee to (1) ensure that employees receive information and training about cybersecurity, including ways to protect district records from breaches to the district's digital infrastructure, and (2) to report a cyberattack that impacts more than 500 students or personnel to the California Cybersecurity Integration Center. In addition, policy updated to clarify that if a breach in security of district records has resulted in the release of personal information that was either unencrypted, or encrypted under certain specified circumstances, the Superintendent or designee is required to notify individuals, as specified. Policy also updated to specify that records containing confidential address information of a participant in the Safe at Home program are required to be kept in a confidential location and not shared with the public.

#### **Administrative Regulation 3580 - District Records**

Regulation updated to clarify that it is any historical inventory of equipment that is required to be a continuing record; that a student's cumulative record, if not transferred, is a continuing record until the student ceases to be enrolled in the district; and that minutes of Governing Board or Board committees are classified as permanent records, including text of rules, regulations, policies or resolutions not set forth verbatim in the minutes but included by reference only. Additionally, regulation updated to delete reference to printing and physically filing records and replace with language that all records, including electronic documents, should be organized and filed for easy retrieval based on information contained in, and the purpose of, the record.

#### **Board Policy 4151/4251/4351 - Employee Compensation**

Policy updated to reflect **NEW LAW (AB 938, 2024)** which requires districts, beginning January 31, 2026, to annually complete the Salary and Benefit Schedule for Bargaining Units (Form J-90), for classified and certificated staff assigned to a district school site(s) and report the Form J-90 to the California Department of Education. Additionally, policy updated to include "fillable" language for districts to utilize to reflect the payroll schedule determined by the Governing Board. In addition, policy updated to delete material related to the compensation of employees during periods of extended closure or disruption which was COVID-19 specific, and therefore outdated. Policy also updated to correct an inaccuracy regarding overtime rate of pay, which required the deletion of material related to an overtime rate of twice the regular rate of pay for any hours worked in excess of 12 hours in one day or eight hours on the seventh consecutive work day, since the Labor Code section which provides for such overtime compensation does not apply to school districts. Additionally, policy updated to add language regarding the rate of pay for a classified employee in an exempt position who is required to work on a holiday designated in law or by the Board. In addition, policy updated to clarify that, when an employee does not respond or disputes the existence or amount of an overpayment claimed by the district, the district may only recover an overpayment after pursuing appropriate legal action, and to delete the requirement for Board approval for the district to exercise legal means to recover an overpayment, as Board approval is not required by law.

#### **Board Policy 4158/4258/4358 - Employee Security**

Policy updated to include material which authorizes a collective bargaining representative to seek a temporary restraining order on behalf of a district employee who has been subjected to harassment, unlawful violence, or a credible threat of violence in the workplace, if the collective bargaining representative serves that employee in employment or labor matters at the employee's workplace. Additionally, policy updated to incorporate Executive Order 14127, "Combating Emerging Firearms Threats and Improving School-Based Active-Shooter Drills," which establishes a task force to provide guidance to schools related to school-based active shooter drills. In addition, policy revised to more closely align with law and to reflect a change in provisions from the Labor Code to the Government Code.

#### **Administrative Regulation 4158/4258/4358 - Employee Security**

Regulation updated to reference the requirement for schools to include in their comprehensive safety plans procedures to assess and respond to reports of any dangerous, violent, or unlawful activity that is being conducted or threatened to be conducted at school, at an activity sponsored by the school, or on a school bus serving the school. Additionally, regulation updated to add that reports of an attack, assault, or physical threat shall be forwarded immediately to the Superintendent or designee. In addition, regulation updated to reflect **NEW LAW (AB 2499, 2024)**, which requires districts to provide reasonable accommodations to an employee who is a victim, or whose family member is a victim, of domestic violence, sexual assault, stalking, or other qualifying act(s) of violence. Policy also updated to clarify material related to an employee's request, based on need, to carry or possess pepper spray on school property or at school-related activities.

#### **Board Policy 5125 - Student Records**

Policy updated to include in the first philosophical paragraph disclosure of records in the list of administrative regulations the Superintendent or designee is required to establish. Additionally, policy updated to reflect **NEW LAW (AB 801, 2024)** which requires districts to provide documentation that a student has not been enrolled in the district for at least 60 days to the operator of a website, online service or application, or mobile application that has control of student records which contain covered information that is not subject to the California Consumer Privacy Act, if the student's parent/guardian or the student, if 18 years of age or older, requests deletion of such records. In addition, policy updated to reflect **REVISED GUIDANCE** from the California Attorney General related to responding to immigration enforcement in K-12 schools. Policy also updated to broaden the applicability of the prohibition against disclosure by deleting reference to "Superintendent or designee" and replacing with "district or district employee", and add the requirement that the Superintendent or designee develop protocols to comply with a court's restraining order that prohibits a party from accessing specified records and information pertaining to a student. Additionally, policy updated to add requirements related to the retention, disclosure, and security of student records, including that the Superintendent or designee (1) ensure the confidentiality of student records as required by law and establish processes and procedures to safeguard data against damage, loss, or theft, including damage, loss, or theft, which may be caused by the use of technology, including artificial intelligence, in the retention or disclosure of student records and breaches to the district's digital infrastructure, (2) ensure that employees receive information and training about cybersecurity, including ways to protect student records from breaches to the district's digital infrastructure, and (3) report a cyberattack to the California Cybersecurity Integration Center if the district experiences a cyberattack that impacts more than 500 students or personnel.

#### **Administrative Regulation 5125 - Student Records**

Regulation updated to reference **REVISED GUIDANCE** from the California Attorney General related to responding to immigration enforcement in K-12 schools. Additionally, regulation updated to reorganize definitions to appear in alphabetical order, and add that the district is prohibited from disclosing student records to a party, including a parent/guardian, who is legally prohibited from accessing records and information of a student pursuant to a restraining order. In addition, regulation updated to reflect **NEW LAW (SB 153, 2024)** which requires a district that serves students in grades 9-12 to (1) enter into a data sharing agreement with the California College Guidance Initiative (CCGI) to provide student data for use when students are planning for and applying to California public colleges and universities, and (2) provide parent/guardian notification of the sharing with CCGI of specified district data and data collected by the California Department of Education for the purposes of college admissions, academic placement, and eligibility for student financial aid. In addition, regulation updated to clarify that (1) information may be released from a student's records to appropriate persons in connection with an emergency if the knowledge of the information is necessary to protect the health or safety of the student or other persons, and (2) that when a student in foster care is enrolling in a district school, the district's liaison for foster youth is required to contact, within two business days of the student's request for enrollment, the school last attended by the student to obtain all academic and other records.

#### **Board Policy 5131 - Conduct**

Policy updated to reflect **NEW LAW (AB 3216, 2024)** which requires the Governing Board to, by July 1, 2026, develop, adopt, and update every five years a policy to limit or prohibit student use of smartphones while at a school site or under the supervision and control of district employee(s). Additionally, policy updated to expand the list of prohibited student conduct to include conduct that is prohibited by law related to suspension and expulsion.

**Board Policy 5131.6 - Alcohol and Other Drugs**

Policy updated to add language which requires districts to annually inform parents/guardians at the beginning of the first semester or quarter of the regular school year about the dangers associated with the use of synthetic drugs that are not prescribed by a physician, such as fentanyl, and to reflect **NEW LAW (AB 2690, 2024)** which requires districts to notify parents/guardians about the risk of social media being used as a way to market and sell synthetic drugs. Additionally, policy updated to reflect **NEW LAW (AB 2711, 2024)** which prohibits the suspension of students who voluntarily disclose their use of a tobacco product, controlled substance, alcohol, or an intoxicant of any kind in order to seek help through services or supports solely for that disclosure, **NEW LAW (SB 997, 2024)** which prohibits districts that serve students in middle school, junior high school, high school, or adult school from prohibiting a student in middle school, junior high school, or high school, while on a school site or participating in school activities, from carrying fentanyl test strips while on a school site or participating in school activities, to carry fentanyl test strips or a federally approved opioid antagonist for the emergency treatment of persons suffering, or reasonably believed to be suffering, from an opioid overdose, and **NEW LAW (AB 2998, 2024)**, which provides that districts may not prohibit students 12 years of age or older, while on a school site or participating in school activities, from carrying or administering, for the purposes of providing emergency treatment to persons who are suffering, or reasonably believed to be suffering, from an opioid overdose, a naloxone hydrochloride nasal spray or any other opioid overdose reversal medication. In addition, policy updated to add language which authorizes a district to use alternatives to the referral of a student to a law enforcement agency in response to an incident involving the student's misuse of an opioid, to the extent any alternative utilized is not in conflict with any law requiring that referral.

**Administrative Regulation 5131.6 - Alcohol and Other Drugs**

Regulation updated to reflect **NEW LAW (AB 2865, 2024)** which requires instruction on the nature and effects of alcohol to include information about excessive alcohol use and the short- and long-term health risks of excessive alcohol use, which may include instruction about depression and anxiety, and **NEW LAW (AB 2429, 2024)**, which provides that, beginning with the 2026-27 school year, districts that require students to complete a course in health education for graduation from high school to include in such course instruction in the dangers associated with fentanyl use.

**Board Policy 5131.8 - Mobile Communication Devices**

Policy updated to reflect **NEW LAW (AB 3216, 2024)** which requires the Governing Board to, by July 1, 2026, develop, adopt, and update every five years a policy to limit or prohibit student use of smartphones while at a school site or under the supervision and control of district employee(s). Additionally, policy updated to add options which offer different approaches to regulating the use of smartphones and other mobile communication devices. In addition, policy updated to clarify language related to the search of a student's personal electronic device.

**Board Policy 5141.5 - Mental Health**

Policy updated to include substance abuse in instruction provided to students, and to include students as recipients of information and training that the Superintendent or designee is required to provide. Additionally, policy updated to reflect **NEW LAW (SB 153, 2024)** which (1) requires the district to, by July 1, 2029, certify to the California Department of Education that all certificated employees and 40 percent of classified employees who have direct contact with students in grades 7-12 receive youth behavioral training at least one time, and (2) requires the Governing Board of any district serving students in grades 7-12 to, before January 31, 2026, adopt a policy at a regularly scheduled meeting, on referral protocols for addressing student behavioral health concerns. In addition, policy updated to reflect that the Superintendent or designee is required to provide and require at least one hour of training to support lesbian, gay, bisexual, transgender, queer, and questioning cultural competency annually to all certificated employees serving students in grades 7 to 12, and that the district is required to maintain records documenting the date that each employee completed such training and the name of the entity that provided the training. Policy also updated to expand material related to telehealth or other information and communication technologies for mental and behavioral health services for students.

**Board Policy 5141.52 - Suicide Prevention**

Policy updated to reflect **NEW LAW (SB 1318, 2024)** which, if the district does not have a school mental health professional or contract with a mental health professional, encourages the Governing Board to consider when reviewing its policy on suicide prevention whether funding should be identified for purposes of hiring a school mental health professional. Additionally, policy updated to require that measures and strategies for suicide prevention, intervention, and postvention include student instruction on help-seeking strategies and resources, and expand tasks of district and/or school-site crisis intervention team(s) to include posting of suicide prevention policy, protocols, and resources on district and school websites. In addition, policy updated to include material related to addressing mental health disabilities, as well as language regarding the establishment of a process to maintain regular contact with students, including during distance learning or school closures, and to communicate emotional wellbeing and or safety concerns. Policy also updated to include that mental health and behavioral health services be provided for in accordance with Board Policy 5141.5 - Mental Health, which includes the provision of services by way of telehealth technology.

#### **Administrative Regulation 5141.52 - Suicide Prevention**

Regulation updated to include definitions for "mental health professional," "student suicide crisis," and "school mental health professional." Additionally, regulation updated to reflect **NEW LAW (SB 1063, 2024)** which requires districts that issue or reissue student identification cards to include on the card the 988 Suicide and Crisis Lifeline, and authorizes districts to include the telephone number for campus police or security or, if the campus does not have a campus police or security telephone number, the local nonemergency telephone number, and/or a quick response (QR) code for the county's mental health resources website. In addition, regulation updated to include that mental health and behavioral health services be provided for in accordance with Board Policy 5141.5 - Mental Health.

#### **Board Policy 5145.13 - Response to Immigration Enforcement**

Policy updated to reflect **REVISED GUIDANCE** from the California Attorney General related to responding to immigration enforcement in K-12 schools, including the prohibition against seeking or requiring information or documents, to the exclusion of other permissible information or documents, regarding the citizenship or immigration status of a student or the student's family members. Additionally, policy updated to incorporate language from the accompanying administrative regulation related to the prohibition against using resources and data collected by the district to compile a list, registry, or database of individuals based on national origin, immigration status, religion, or other category of individual characteristics protected against unlawful discrimination.

#### **Administrative Regulation 5145.13 - Response to Immigration Enforcement**

Regulation updated to reflect **REVISED GUIDANCE** from the California Attorney General related to responding to immigration enforcement in K-12 schools, including the requirement to obtain consent to release immigration-related student information; when and how a law enforcement officer is required to register at a school in order to gain access; and what to do when a law enforcement officer declares that exigent circumstances exist and demands immediate access to the campus. Additionally, regulation updated to clarify the circumstances when there is a need for a judicial subpoena and/or judicial subpoena warrant. In addition, regulation updated to delete language moved to the accompanying Board policy related to the prohibition against using resources and data collected by the district to compile a list, registry, or database of individuals based on national origin, immigration status, religion, or other category of individual characteristics protected against unlawful discrimination. Regulation also updated to add new section headings for organization and ease of understanding.

#### **Board Policy 6142.93 - Science Instruction**

Policy updated to expand the philosophical statement to specify the Governing Board's belief that science instruction include the place of humans in ecological systems, the causes and effects of climate change and the methods to mitigate and adapt to climate change, and experiments and other activities that foster critical thinking. Additionally, policy updated to clarify that the Board is required to adopt academic standards for science which meet or exceed the California Next Generation Science Standards and describe the knowledge and skills students are expected to possess at each grade level, with an instructional focus on understanding the process of science, the fundamental ideas within each discipline of science, and underlying themes that are common to all sciences.

**Board Policy 6142.94 - History-Social Science Instruction**

Policy updated to expand the philosophical statement to specify the Governing Board's belief that history-social science instruction include a foundation for the appreciation of different ethnicities, the wise use of natural resources, and the responsible management of personal finance. Additionally, policy updated to specify that districts with high schools are required to annually observe, during the week that includes April 28, "Workplace Readiness Week" by providing information to students on their rights as workers, and that for students in grades 11 and 12, the "Workplace Readiness Week" observances are required to be integrated into the regular school program, consistent with the history-social science framework.

**Board Policy 6159 - Individualized Education Program**

Policy reviewed in conjunction with the accompanying administrative regulation and updated for technical revisions, including changing the term "students with disabilities" to "students with exceptional needs".

**Administrative Regulation 6159 - Individualized Education Program**

Regulation updated to reflect **NEW LAW (AB 438, 2024)** which requires a student's individualized education program (IEP), if determined appropriate by a student's IEP team, to include measurable postsecondary goals and transition services beginning when the student starts high school or not later than the first IEP to be in effect when the student is 16 years of age or younger, as appropriate, and updated annually thereafter, and **NEW LAW (AB 1938, 2024)** which requires IEP teams, when determining the least restrictive environment for a deaf, hard of hearing, or deaf-blind student to consider the language needs of the student and to consider placements and services available to the student, as specified. Additionally, policy updated to recognize that assistive devices and services may include artificial intelligence services, and to reflect **NEW GUIDANCE** from the U.S. Department of Education which provides information to support children with disabilities who need assistive technology devices and services for meaningful access and engagement in education. In addition, regulation updated to change the term "students with disabilities" to "students with exceptional needs".

**Board Policy 6159.2 - Nonpublic, Nonsectarian School and Agency for Special Education**

Policy updated to provide that for any foster youth served by a nonpublic school or agency (NPS/A), the NPS/A will serve as the school of origin of the foster youth and that the foster youth will be allowed to continue in the school. Additionally, policy updated to include that within 14 days of becoming aware of any change to the certification status of an NPS/A, the district is required to notify parents/guardians of district students who attend the NPS/A of the change in certification status and include in that notice, a copy of procedural safeguards. In addition, policy updated to change the term "students with disabilities" to "students with exceptional needs".

**Administrative Regulation 6159.2 - Nonpublic, Nonsectarian School and Agency for Special Education**

Regulation updated to reflect the requirement that an eligible student with exceptional needs who entered the ninth grade in the 2022-23 school year or later be exempted from all coursework and other requirements adopted by the Governing Board that are in addition to the statewide course requirements for high school graduation, and award such student a high school diploma, and to reflect **NEW LAW (SB 153, 2024)** which authorizes districts, until July 1, 2031, to extend such an exemption and award a high school diploma to an eligible student with exceptional needs who was enrolled in grade 10 or higher in the 2022-23 school year..

**Board Bylaw 9150 - Student Board Members**

Bylaw updated to reflect authorization for the Governing Board to provide student Board members with monthly financial compensation and **NEW LAW (SB 1445, 2024)** which authorizes student Board members to make restorative justice recommendations regarding expulsions if certain conditions are met. Additionally, bylaw restructured based on two legal bases to create student Board member positions and to clarify which aspects of bylaw are based on which basis.

**Board Bylaw 9224 - Oath or Affirmation**

Bylaw updated as part of CSBA's process to review policy materials that have not recently required updating based on changes to law, regulations, new guidance, or other directives, and has been amended for precision, consistency, and accuracy.

**Board Bylaw 9260 - Legal Protection**

Bylaw updated as part of CSBA's process to review policy materials that have not recently required updating based on changes to law, regulations, new guidance, or other directives, and has been amended for precision, consistency, and accuracy.

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## CSBA UPDATE CHECKLIST –March 2025

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

Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

POLICY	TITLE	OPTIONS/BLANKS	ADOPT DATE
BP 1312.2	Complaints Concerning Instructional Materials		
AR 1312.2	Complaints Concerning Instructional Materials		
E(1) 1312.2	Complaints Concerning Instructional Materials	<b>Fill in Blanks</b> Form to be filled by person requesting consideration	
BP 1340	Access to District Records		
AR 1340	Access to District Records		
BP 3311	Bids		
AR 3311	Bids		
BP 3311.1	Uniform Public Construction Cost Accounting Procedures		
AR 3311.1	Uniform Public Construction Cost Accounting Procedures		
BP 3312	Contracts	<b>OPTION 1:</b> <input type="checkbox"/> <b>OPTION 2:</b> <input checked="" type="checkbox"/> current option	
BP 3516.5	Emergency Schedules		
BP 3580	District Records		
AR 3580	District Records		
BP 4151	Employee Compensation	<b>Fill in Blanks</b> monthly and in 10, 11, or 12 equal monthly payments over the year.	

# CSBA UPDATE CHECKLIST – March 2025

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

POLICY	TITLE	OPTIONS/BLANKS	ADOPT DATE
BP 4251	Employee Compensation	<b>Fill in Blanks</b> 10, 11, or 12 equal payments depending on their contracted months	
BP 4351	Employee Compensation	<b>Fill in Blanks</b> 10, 11, or 12 equal payments depending on their contracted months	
BP 4158	Employee Security		
BP 4258	Employee Security		
BP 4358	Employee Security		
AR 4158	Employee Security		
AR 4258	Employee Security		
AR 4358	Employee Security		
BP 5125	Student Records		
AR 5125	Student Records		
BP 5131	Conduct		
BP 5131.6	Alcohol and Other Drugs		
AR 5131.6	Alcohol and Other Drugs		
BP 5131.8	Mobile Communication Devices	<b>OPTION 1:</b> <input type="checkbox"/> - may use smart phones in accordance with law and school rules during non-instructional time <b>OPTION 2:</b> <input type="checkbox"/> - prohibit use of smart phones or mobile communication devices while at school or under supervision and control of school employees	
BP 5141.5	Mental Health		
BP 5141.52	Suicide Prevention		
AR 5145.52	Suicide Prevention		

## CSBA UPDATE CHECKLIST – March 2025

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

POLICY	TITLE	OPTIONS/BLANKS	ADOPT DATE
BP 5145.13	Response to Immigration Enforcement		
AR 5145.13	Response to Immigration Enforcement		
BP 6142.93	Science Instruction		
BP 6142.94	History-Social Science Instruction		
BP 6159	Individualized Education Program		
AR 6159	Individualized Education Program		
BP 6159.2	Nonpublic, Nonsectarian School and Agency for Special Education		
AR 6159.2	Nonpublic, Nonsectarian School and Agency for Special Education		
BB 9150	Student Board Members <i>Does not apply ✓</i> <i>Not adopt (✓)</i>	<b>Fill in Blanks</b> _____ _____	
BB 9224	Oath of Affirmation		
BB 9260	Legal Protection		

**Policy 1312.2: Complaints Concerning Instructional Materials**

**Status:** ADOPTED

Original Adopted Date: 09/01/1988 | Last Revised Date: 10/03/01/2023 2025 | Last Reviewed  
Date: 10/03/01/2023 2025

CSBA NOTE: The following optional policy, accompanying administrative regulation, and exhibit are for complaints concerning the content or use of any existing textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or other resource in a school library, and should be revised to reflect district practice.

Pursuant to Education Code 242, as added by AB 1078 (Ch. 229, Statutes of 2023), the The California Department of Education Education's (CDE) is required to develop, by July 1, 2025, "Guidance for Local Instructional Materials Adoptions," provides guidance for districts when identifying, reviewing, piloting, and public educational adopting instructional materials to ensure that in all Californians can access information about educational laws content areas, including links to current legislation, sample timelines, support for student groups, and policies that safeguard the right to an accurate and inclusive curriculum.  
implementation considerations.

For complaints regarding the sufficiency of instructional materials or textbooks pursuant to Education Code 35186, see AR/E(1)/E(2) 1312.4 - Williams Uniform Complaint Procedures.

For more information regarding policy related to the selection, evaluation, and prohibited use of individual instructional materials, see BP/AR 6161.1 - Selection and Evaluation of Instructional Materials, BP 6161.11 - Supplementary Instructional Materials, and BP 6163.1 - Library Media Centers. For more information regarding the adoption of instructional materials, see CSBA's, "Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities," "Instructional Materials Adoption: Local governing board responsibilities," and "State Roles, Responsibilities, and Process for Instructional Materials Adoption," and the California Attorney General's, "Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books."

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

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

The district shall accept complaints concerning instructional materials only from staff, district residents, or the parents/guardians of ~~children~~students enrolled in a district school. (Education Code 35160)

CSBA NOTE: Education Code 243, as added by AB 1078, clarifies when it is unlawful discrimination for the Governing Board to (1) refuse to approve the use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or other resource in a school library, or (2) prohibit the use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or other resource in a school library. The Board may not refuse to approve such use on the basis that the material includes a study of the role and contributions of specified individuals or groups, unless the study of the role and contributions reflects adversely upon legally protected groups. Additionally, the Board may not prohibit such use on the basis that the study of the role and contributions contain inclusive or diverse perspectives.

Complaints alleging discrimination based on a violation of Education Code 243, as added by AB 1078. In addition, pursuant to Education Code 244, as added by SB 153 (Ch. 38, Statutes of 2024), the Board is prohibited from adopting or approving the use of any textbook, instructional material, supplemental instructional material, or curriculum for classroom instruction if the use of the textbook, instructional material, supplemental instructional material, or curriculum would subject a student to unlawful discrimination pursuant to Education Code 220.

Complaints alleging discrimination based on a violation of Education Code 243 or 244, as added by SB 153, may be brought under the district's uniform complaint procedures or may be filed directly with the Superintendent of Public Instruction (SPI). Complaints that are filed directly with the SPI are required to identify the basis for doing so, and present evidence that supports the basis for the direct filing. In such cases, the SPI may directly intervene without waiting for an investigation by the district. See BP/AR 1312.3 - Uniform Complaint Procedures.

However, a complaint related to the use or prohibited use of any existing textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or other resource in a school library that alleges unlawful discrimination based on a violation of Education Code 243 or 244 shall be filed, investigated, and resolved in accordance with Board Policy 1312.3 Uniform Complaint Procedures.

CSBA NOTE: Pursuant to Education Code 60040.5, as added by AB 1078, CDE is required to issue, by July 1, 2025, CSBA NOTE: CDE's, "Guidance for Local Instructional Materials Adoptions," provides guidance regarding how to review instructional materials to ensure that they represent diverse perspectives and are culturally relevant.

Additionally, the Attorney General's, "Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books," provides guidance to districts regarding the obligation to provide curricula, instructional materials, and books that are inclusive and reflect the roles and contributions of our diverse population.

When deliberating upon challenged materials, the Superintendent, or any designee or committee established by the Superintendent to review the materials, shall consider the degree to which the materials ~~aligned~~align with the criteria for instructional materials as specified in law, Board policy,

and administrative regulation. In addition, such deliberations may consider the educational philosophy and vision of the district; the educational suitability of the materials including the manner in which the materials support the curriculum and appropriateness for the student's age; the professional opinions of teachers of the subject and of other competent authorities and/or experts; reviews of the materials by reputable bodies; the stated objectives in using the materials; community standards; the allegations in the complaint, including the extent to which the objections are based on the dislike of ideas contained in the materials; and the impact that keeping or removing the materials would have on student well-being.

CSBA NOTE: Education Code 243, as added by AB 1078, clarifies that it is unlawful discrimination for the Board to prohibit the use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or other resource in a school library on the basis that it contains inclusive or diverse perspectives. Additionally, Education Code 244, as added by SB 153, prohibits the Board from adopting or approving the use of any textbook, instructional material, supplemental instructional material, or curriculum for classroom instruction if the use would subject a student to unlawful discrimination pursuant to Education Code 220.

While Education Code 243 ~~is~~ and 244 are specifically applicable to boards, districts should assume that any similar decision by the Superintendent, designee, or any committee established by the Superintendent would likely constitute unlawful discrimination as well; see BP 6161.1 - Selection and Evaluation of Instructional Materials.

The Superintendent, or any designee or committee established by the Superintendent to review the materials, shall not prohibit the continued use of an appropriately adopted textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or other resource in a school library on the basis that it contains inclusive and/or diverse perspectives, as specified in Education Code 243.

Additionally, the Superintendent, or any designee or committee established by the Superintendent to the review materials, shall not authorize the continued use of an adopted textbook, instructional material, supplemental instructional material, or curriculum for classroom instruction if the use would subject a student to unlawful discrimination pursuant to Education Code 220.

If the complainant finds the Superintendent's or review committee's decision unsatisfactory, the complainant may appeal the decision to the Board.

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

Any challenged instructional material that is reviewed by the district shall not be subject to further reconsideration for 12 months, unless required by law.

CSBA NOTE: Education Code 35186 details a specific process that districts must use to resolve complaints regarding sufficiency/availability of instructional materials or textbooks. See AR/E(1)/E(2) 1312.4 - Williams Uniform Complaint Procedures.

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 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.

Complaints related to the sufficiency of textbooks or instructional materials shall be resolved as specified in Administrative Regulation 1312.4 - Williams Uniform Complaint Procedures.

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#### State

5 CCR 4600-4670

Ed. Code 1240

Ed. Code 18111

Ed. Code 220

Ed. Code 242 ~~240-244~~

~~Ed. Code 243~~

Ed. Code 35010

Ed. Code 35160

Ed. Code 35186

Ed. Code 44805

Ed. Code 48907

Ed. Code 48950

Ed. Code 51204.5

Ed. Code 51501

Ed. Code 51511

Ed. Code 51933

#### Description

Uniform complaint procedures

County superintendent of schools; duties

Exclusion of books by Governing board that are sectarian, partisan, or denominational character

Prohibition of discrimination

~~Prohibition of discrimination; instructional materials~~ Access to information about educational laws and policies regarding right to accurate and inclusive curriculum

~~Prohibition of discrimination; instructional materials~~

Control of district; prescription and enforcement of rules

Powers and duties of school boards

Williams uniform complaint procedures

Teacher enforcement of course of studies; use of textbooks, rules and regulations

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

Speech and other communication

Social sciences instruction; contributions of specified groups

Nondiscriminatory subject matter

Religious matters properly included in courses of study

Sexual health education and HIV prevention materials

Ed. Code 60000-60005	Instructional materials; legislative intent
Ed. Code 60040-60052	Requirements for instructional materials
Ed. Code 60119	Public hearing on sufficiency of textbooks and instructional materials
Ed. Code 60200-60213	Elementary school materials
Ed. Code 60226	Requirements for publishers and manufacturers
Ed. Code 60400-60411	High school textbooks and instructional materials
Ed. Code 60510-60511	Donation or sale of obsolete instructional materials
<b>Management Resources</b>	<b>Description</b>
California Department of Education Publication	Instructional Materials, FAQ
California Department of Education Publication	Standards for Evaluating Instructional Materials for Social Content, 2013
<u>California Department of Education Publication</u>	<u>Guidance for Local Instructional Materials Adoption, March 2024</u> ( <a href="https://www.cde.ca.gov/ci/cr/cf/documents/glimacfird.docx">https://www.cde.ca.gov/ci/cr/cf/documents/glimacfird.docx</a> )
<u>California Department of Justice Publication</u>	<u>Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books, Legal Alert, Jan. 2024</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>California School Boards Association Publication</u>	<u>Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities, Feb. 2024</u> ( <a href="https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-instructional-materials-brief.ashx">https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-instructional-materials-brief.ashx</a> )
<u>California School Boards Association Publication</u>	<u>Instructional Materials Adoption: Local governing board responsibilities, Fact Sheet, Feb. 2024</u> ( <a href="https://www.csba.org/-/media/CSBA/Files/GovernanceResources/ResearchPapers/FactSheet%20IM-LocalRoles-REPD%2007-2024-1-(1).ashx?la=en&amp;rev=2641c67340e64dd8bd8603a5df03a138">https://www.csba.org/-/media/CSBA/Files/GovernanceResources/ResearchPapers/FactSheet IM-LocalRoles-REPD 07-2024-1-(1).ashx?la=en&amp;rev=2641c67340e64dd8bd8603a5df03a138</a> )
<u>California School Boards Association Publication</u>	<u>State Roles, Responsibilities, and Process for Instructional Materials Adoption, Feb. 2024</u> ( <a href="https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-IM-StateRoles.ashx?la=en&amp;rev=f00baf9bd1af4844b94f99135ca65588">https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD- IM-StateRoles.ashx?la=en&amp;rev=f00baf9bd1af4844b94f99135ca65588</a> )

Website	CSBA District and County Office of Education Legal Services
Website	Department of Justice
Website	California Department of Education, Curriculum and Instruction Resources
Website	CSBA
Website	U.S. Department of Education, Office for Civil Rights

## **Cross References**

<b>Code</b>	<b>Description</b>
0410	Nondiscrimination In District Programs And Activities
1100	Communication With The Public
1250	Visitors/Outsiders
1250	Visitors/Outsiders
1312.1	Complaints Concerning District Employees
1312.1	Complaints Concerning District Employees
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
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
6000	Concepts And Roles
6141	Curriculum Development And Evaluation
6141	Curriculum Development And Evaluation
6142.6	Visual And Performing Arts Education
6142.92	Mathematics Instruction
6142.94	History-Social Science Instruction

6143	Courses Of Study
6143	Courses Of Study
6144	Controversial Issues
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
9005	Governance Standards
9012	Board Member Electronic Communications
9200	Limits Of Board Member Authority
9322	Agenda/Meeting Materials

**Regulation 1312.2: Complaints Concerning Instructional Materials**

**Status:** ADOPTED

**Original Adopted Date:** 12/01/1990 | **Last Revised Date:** ~~10/03/01/2023~~ 2025 | **Last Reviewed**  
**Date:** ~~10/03/01/2023~~ 2025

CSBA NOTE: The following optional regulation is for complaints concerning the content or use of any existing textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or other resource in a school library, and should be modified to reflect district practice. Complaints alleging unlawful discrimination based on a violation of Education Code 243, as added by AB 1078 (Ch. 229, Statutes of 2023), related to the use or prohibited use of any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or other resource in a school library, or Education Code 244, as added by SB 153 (Ch. 38, Statutes of 2024), related to the prohibited adoption or approval of use of any such materials if the use would subject a student to unlawful discrimination pursuant to Education Code 220, are required to be investigated or resolved in accordance with the procedures specified in BP/AR 1312.3 - Uniform Complaint Procedures, or may be directly filed with the Superintendent of Public Instruction. For complaints regarding the sufficiency of instructional materials or textbooks pursuant to Education Code 35186, see AR/E(1)/E(2) 1312.4 - Williams Uniform Complaint Procedures.

For ~~more information regarding~~ policy related to the selection, evaluation, and prohibited use of individual instructional materials, see BP/AR 6161.1 - Selection and Evaluation of Instructional Materials, BP 6161.11 - Supplementary Instructional Materials, and BP 6163.1 - Library Media Centers. For more information regarding the adoption of instructional materials, see CSBA's, "Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities," "Instructional Materials Adoption: Local governing board responsibilities," and "State Roles, Responsibilities, and Process for Instructional Materials Adoption," and the California Attorney General's, "Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books."

**Step 1: Informal Complaint**

If a staff member, district resident, or parent/guardian of a student enrolled in a district school has a complaint regarding the content or use of any specific instructional material, such individual shall informally discuss the material in question with the principal. (Education Code 35160)

**Step 2: Formal Complaint**

If the complainant is not satisfied with the principal's initial response, the complainant shall present a written complaint to the principal. Complaints regarding printed material shall name the author, title, and publisher and shall identify the objection by page and item numbers. In the case of nonprinted material, written information specifying the precise nature of the objection and location

of such material shall be given. In order for the district to reply appropriately, complainants shall sign all complaints and provide identifying information. Anonymous complaints will not be accepted.

Upon receiving a complaint, the principal shall provide the complainant with a written acknowledgement of its receipt and respond to any procedural questions the complainant may have. The principal shall then notify the Superintendent or designee, the teacher(s), and other staff as appropriate.

During the investigation of the complaint, the challenged material may remain in use until a final decision has been reached.

### **Step 3: Review Committee**

The Superintendent or designee shall determine whether to convene a review committee to review the complaint.

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

The Superintendent or designee may provide training to the review committee to ensure that the review committee is informed regarding its responsibilities, the criteria to follow when reviewing instructional materials, and applicable laws, Board policy(ies), and administrative regulation(s).

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

### **Step 4: Superintendent Determination**

If the Superintendent or designee determines that a review committee is not necessary, the Superintendent or designee shall, in a timely manner, issue a decision regarding the complaint.

### **Step 5: Appeal to the Governing Board**

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

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<b>State</b>	<b>Description</b>
5 CCR 4600-4670	Uniform complaint procedures
Ed. Code 1240	County superintendent of schools; duties
Ed. Code 18111	Exclusion of books by Governing board that are sectarian, partisan, or denominational character
Ed. Code 220	Prohibition of discrimination
Ed. Code <del>242</del> <u>240-244</u>	<u>Prohibition of discrimination; instructional materials</u> Access to information about educational laws and policies regarding right to accurate and inclusive curriculum
<del>Ed. Code 243</del>	<del>Prohibition of discrimination; instructional materials</del>
Ed. Code 35010	Control of district; prescription and enforcement of rules
Ed. Code 35160	Powers and duties of school boards
Ed. Code 35186	Williams uniform complaint procedures
Ed. Code 44805	Teacher enforcement of course of studies; use of textbooks, rules and regulations
Ed. Code 48907	Exercise of free expression; time, place, and manner rules and regulations
Ed. Code 48950	Speech and other communication
Ed. Code 51204.5	Social sciences instruction; contributions of specified groups
Ed. Code 51501	Nondiscriminatory subject matter
Ed. Code 51511	Religious matters properly included in courses of study
Ed. Code 51933	Sexual health education and HIV prevention materials
Ed. Code 60000-60005	Instructional materials; legislative intent
Ed. Code 60040-60052	Requirements for instructional materials
Ed. Code 60119	Public hearing on sufficiency of textbooks and instructional materials
Ed. Code 60200-60213	Elementary school materials
Ed. Code 60226	Requirements for publishers and manufacturers
Ed. Code 60400-60411	High school textbooks and instructional materials
Ed. Code 60510-60511	Donation or sale of obsolete instructional materials

**Management Resources**

California Department of Education  
Publication

California Department of Education  
Publication

[California Department of Education  
Publication](#)

[California Department of Justice  
Publication](#)

[California School Boards Association  
Publication](#)

[California School Boards Association  
Publication](#)

[California School Boards Association  
Publication](#)

Website

Website

Website

Website

Website

**Cross References**

**Code**

**Description**

Instructional Materials, FAQ

Standards for Evaluating Instructional Materials for Social  
Content, 2013

[Guidance for Local Instructional Materials Adoption, March  
2024](#)

<https://www.cde.ca.gov/ci/cr/cf/documents/glimacfrd.docx>

[Guidance to School Officials re: Legal Requirements for  
Providing Inclusive Curricula and Books, Legal Alert, Jan.  
2024](#)

[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)

[Instructional Materials Adoptions: State and local governing  
board processes, roles, and responsibilities, Feb. 2024](#)

[https://www.csba.org/-  
/media/CSBA/Files/GovernanceResources/GovernanceBriefs  
/2024-REPD-instructional-materials-brief.ashx](https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-instructional-materials-brief.ashx)

[Instructional Materials Adoption: Local governing board  
responsibilities, Fact Sheet, Feb. 2024](#)

[https://www.csba.org/-  
/media/CSBA/Files/GovernanceResources/ResearchPapers/F  
actSheet IM-LocalRoles-REPD\\_07-2024-1-](https://www.csba.org/-/media/CSBA/Files/GovernanceResources/ResearchPapers/FactSheet_IM-LocalRoles-REPD_07-2024-1-(1).ashx?la=en&rev=2641c67340e64dd8bd8603a5df03a138)

[\(1\).ashx?la=en&rev=2641c67340e64dd8bd8603a5df03a138\)](#)

[State Roles, Responsibilities, and Process for Instructional  
Materials Adoption, Feb. 2024](#)

[https://www.csba.org/-  
/media/CSBA/Files/GovernanceResources/GovernanceBriefs  
/2024-REPD- IM-](https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-IM-StateRoles.ashx?la=en&rev=f00baf9bd1af4844b94f99135ca65588)

[StateRoles.ashx?la=en&rev=f00baf9bd1af4844b94f99135ca  
65588\)](#)

CSBA District and County Office of Education Legal Services

Department of Justice

California Department of Education, Curriculum and  
Instruction Resources

CSBA

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

**Description**

0410	Nondiscrimination In District Programs And Activities
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6142.92	Mathematics Instruction
6142.94	History-Social Science Instruction
6143	Courses Of Study
6143	Courses Of Study
6144	Controversial Issues
6161.1	Selection And Evaluation Of Instructional Materials
6161.1	Selection And Evaluation Of Instructional Materials
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6161.2	Damaged Or Lost Instructional Materials

6163.1	Library Media Centers
9000	Role Of The Board
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9200	Limits Of Board Member Authority
9322	Agenda/Meeting Materials

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**Exhibit 1312.2-E(1): Complaints Concerning Instructional Materials**

**Status:** ADOPTED

**Original Adopted Date:** 12/01/1990 | **Last Revised Date:** ~~10/03/01/2023~~ 2025 | **Last Reviewed**  
**Date:** ~~10/03/01/2023~~ 2025

**REQUEST FOR RECONSIDERATION OF EXISTING  
INSTRUCTIONAL MATERIALS**

This form is only for use by district employees, district residents, or parents/guardians of ~~children~~ students enrolled in a district school to challenge the content or use of any existing textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or other resource in a school library.

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

Name of person filing

complaint: \_\_\_\_\_

~~Anonymous complaints will not be accepted.~~ (Required):

\_\_\_\_\_

Group represented (if any): \_\_\_\_\_

Phone: \_\_\_\_\_

E-mail address: \_\_\_\_\_

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

**Instructional Material Being Challenged:**

Title: \_\_\_\_\_

Author: \_\_\_\_\_

Publisher: \_\_\_\_\_

Date of Edition: \_\_\_\_\_

Name of school/classroom instructional material was

used: \_\_\_\_\_

1. Please specifically state the nature of your concern or objection and identify your objection by page, website, webpage and/or link, recording or digital sequence, video frame, or words, as appropriate. You may use additional pages if necessary.

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2. Was the instructional material of concern read/heard/viewed in isolation or was the entire selection read/heard/viewed? If the entire selection was not read/heard/viewed, what is your estimate regarding the percentage of the amount read/heard/viewed?

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3. What is your concern regarding the consequence if a student reads/hears/views the instructional material? In your assessment, is the instructional material appropriate for the age of the students being taught?

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4. What would you like the school to do about the instructional material?

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**Signature of complainant**

**For District Use:**

Request received by: \_\_\_\_\_

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

Title: \_\_\_\_\_

Action taken: \_\_\_\_\_

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

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Ed. Code 18111

Ed. Code 220

Ed. Code 242 240-244

~~Ed. Code 243~~

Ed. Code 35010

Ed. Code 35160

Ed. Code 35186

Ed. Code 44805

Ed. Code 48907

Ed. Code 48950

**Description**

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Prohibition of discrimination; instructional materials ~~Access to information about educational laws and policies regarding right to accurate and inclusive curriculum~~

~~Prohibition of discrimination; instructional materials~~

Control of district; prescription and enforcement of rules

Powers and duties of school boards

Williams uniform complaint procedures

Teacher enforcement of course of studies; use of textbooks, rules and regulations

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

Speech and other communication

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Ed. Code 51501	Nondiscriminatory subject matter
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Ed. Code 60510-60511	Donation or sale of obsolete instructional materials
<b>Management Resources</b>	<b>Description</b>
California Department of Education Publication	Instructional Materials, FAQ
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<a href="#">California Department of Education Publication</a>	<a href="#">Guidance for Local Instructional Materials Adoption, March 2024</a> ( <a href="https://www.cde.ca.gov/ci/cr/cf/documents/glimacfird.docx">https://www.cde.ca.gov/ci/cr/cf/documents/glimacfird.docx</a> )
<a href="#">California Department of Justice Publication</a>	<a href="#">Guidance to School Officials re: Legal Requirements for Providing Inclusive Curricula and Books, Legal Alert, Jan. 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> )
<a href="#">California School Boards Association Publication</a>	<a href="#">Instructional Materials Adoptions: State and local governing board processes, roles, and responsibilities, Feb. 2024</a> ( <a href="https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/2024-REPD-instructional-materials-brief.ashx">https://www.csba.org/- /media/CSBA/Files/GovernanceResources/GovernanceBriefs /2024-REPD-instructional-materials-brief.ashx</a> )
<a href="#">California School Boards Association Publication</a>	<a href="#">Instructional Materials Adoption: Local governing board responsibilities, Fact Sheet, Feb. 2024</a> ( <a href="https://www.csba.org/-/media/CSBA/Files/GovernanceResources/ResearchPapers/FactSheet%20IM-LocalRoles-REPD%2007-2024-1-(1).ashx?la=en&amp;rev=2641c67340e64dd8bd8603a5df03a138">https://www.csba.org/- /media/CSBA/Files/GovernanceResources/ResearchPapers/F actSheet IM-LocalRoles-REPD 07-2024-1- (1).ashx?la=en&amp;rev=2641c67340e64dd8bd8603a5df03a138</a> )

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State Roles, Responsibilities, and Process for Instructional  
Materials Adoption, Feb. 2024  
([https://www.csba.org/-/media/CSBA\\_Files/GovernanceResources/GovernanceBriefs/2024-REPD-IM-StateRoles.ashx?la=en&rev=f00baf9bd1af4844b94f92135ca65588](https://www.csba.org/-/media/CSBA_Files/GovernanceResources/GovernanceBriefs/2024-REPD-IM-StateRoles.ashx?la=en&rev=f00baf9bd1af4844b94f92135ca65588))

Website	CSBA District and County Office of Education Legal Services
Website	Department of Justice
Website	California Department of Education, Curriculum and Instruction Resources
Website	CSBA
Website	U.S. Department of Education, Office for Civil Rights

### **Cross References**

<b>Code</b>	<b>Description</b>
0410	Nondiscrimination In District Programs And Activities
1100	Communication With The Public
1250	Visitors/Outsiders
1250	Visitors/Outsiders
1312.1	Complaints Concerning District Employees
1312.1	Complaints Concerning District Employees
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
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
6000	Concepts And Roles

6141	Curriculum Development And Evaluation
6141	Curriculum Development And Evaluation
6142.6	Visual And Performing Arts Education
6142.92	Mathematics Instruction
6142.94	History-Social Science Instruction
6143	Courses Of Study
6143	Courses Of Study
6144	Controversial Issues
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
9005	Governance Standards
9012	Board Member Electronic Communications
9200	Limits Of Board Member Authority
9322	Agenda/Meeting Materials

**Policy 1340: Access To District Records**

**Status:** ADOPTED

Original Adopted Date: 02/01/1999 | Last Revised Date: 05/01/2020 ~~2021~~ | Last Reviewed Date: 05/01/2020 ~~2021~~

CSBA NOTE: The following optional policy and accompanying administrative regulation reflect requirements of the California Public Records Act (CPRA) (Government Code 7920.000 - 7930.215) pertaining to public access to public records of the district. "Public records," as defined by Government Code 7920.530, include any writing containing information relating to the conduct of the district's business prepared, owned, used, or retained by the district regardless of physical form or characteristics; see "Definitions" in the accompanying administrative regulation. For information regarding retention of records, see BP/AR 3580 - District Records, AR 4112.6/4212.6/4312.6 - Personnel Files, and BP/AR 5125 - Student Records.

Because the rules and regulations surrounding CPRA disclosures are complex, it is recommended that districts with questions about an appropriate response to a CPRA request consult CSBA's District and County Office of Education Legal Services or district legal counsel.

The Governing Board recognizes the right of members of the public to have access to public records of the district. The district shall provide any person reasonable access to the public records of the schools and district during normal business hours and within the requirements of law. Public access shall not be given to records listed as exempt from public disclosure in the California Public Records Act and other state or federal law.

CSBA NOTE: In *City of San Jose v. Superior Court*, the California Supreme Court held that communications regarding public business that have been sent, received, or stored by public officials on a personal account or device are not categorically exempt from disclosure under the CPRA (Government Code 7920.000 - 7930.215). The court noted that public agencies are required to disclose all applicable records that can be located "with reasonable effort," including those records contained on a public official's or employee's personal device, regardless of whether they were transmitted through district servers. Such searches need not be extraordinarily extensive or intrusive. For further information, see CSBA's "Legal Alert: Tips for Governing Boards in Response to Public Records Act Ruling on Electronic Communications." Also see AR 3580 - District Records, BP 4040 - Employee Use of Technology, and BB 9012 - Board Member Electronic Communications.

In response to a public records request, the Superintendent or designee shall make reasonable efforts to locate the requested records, including, but not limited to, any electronic communication substantively related to the records, such as email, text messages, instant messages, and other electronic communications, regardless of whether they are transmitted through a district-provided device or account or through an employee's or Board member's personal device or account.

CSBA NOTE: Government Code 7922.535 authorizes the district to charge a person requesting a copy of a record a fee covering the direct costs of duplication; however, no fee can be charged to a person who wishes to inspect but not copy a record. In *North County Parents Organization for Children with Special Needs v. Department of Education*, the court determined that direct costs

include only the cost of running the copy machine and possibly the expense of the person operating it. Examples of costs that do not fit this definition include costs associated with searching, reviewing, or redacting the record; assisting the requester in formulating the request; responding to the request; or employee time to sit with the requester during inspection of the record. Because it is not clearly authorized by law, districts wishing to charge for the cost of the copy machine operator should consult with legal counsel.

In addition, Government Code 7922.535 authorizes districts to provide faster access or access to more records than the minimum standards provided by law. According to the court in North County Parents Organization, this provision permits a district to waive or reduce its fees, as a reduction in copy fees permits greater access to records. For example, a district may consider waiving fees below a certain dollar threshold because the costs of collecting the fee exceed the fee amount.

Pursuant to Government Code 7922.535, as amended by AB 1819 (Ch. 695, Statutes of 2019), members of the public who request to inspect a disclosable record of the district have the right to use their own equipment on district premises, without being charged any fees or costs, to photograph, copy, or reproduce the record in a manner that does not require the equipment to make physical contact with the record. For further information about exceptions and limitations on the use of one's own equipment to copy a record of the district, see "Inspection of Records and Requests for Copies" in the accompanying administrative regulation.

The district may charge for copies of public records or other materials requested by individuals or groups, unless they are using their own personal equipment to reproduce the record. The charge shall be based on actual costs of duplication, as determined by the Superintendent or designee and as specified in [in accordance with law and as specified in the accompanying](#) administrative regulation.

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

In order to help maintain the security of district records, members of the public granted access shall examine records in the presence of a district staff member.

#### **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**

5 CCR 430-438

CA Constitution Article 1, Section 3

Ed. Code 234.7

Ed. Code 35145

Ed. Code 35170

#### **Description**

Individual student records

Right of access to governmental information

Student protections relating to immigration and citizenship status

Public meetings

Authority to secure copyrights

Ed. Code 35250	Duty to keep certain records and reports
<a href="#">Ed. Code 35266</a>	<a href="#">Cybersecurity</a>
Ed. Code 41020	Requirement for annual audit
Ed. Code 42103	Budget notification
Ed. Code 44031	Personnel file contents and inspection
Ed. Code 44839	Medical certificates; periodic medical examination
Ed. Code 49060-49079	Student records
Ed. Code 49091.10	Parental review of curriculum and instruction
<a href="#">Gov. Code 11549.3</a>	<a href="#">Office of Information Security</a>
Gov. Code 3547	Proposals relating to representation
Gov. Code 53262	Employment contracts
Gov. Code 54957.2	Minute book record of closed sessions
Gov. Code 54957.5	Agendas and other writings distributed for discussion or consideration
<a href="#">Gov. Code 6205-6210</a>	<a href="#">Address confidentiality: victims of domestic violence, sexual assault, stalking, human trafficking, child abduction, and elder and dependent adult abuse</a>
<a href="#">Gov. Code 6215-6216</a>	<a href="#">Address confidentiality: reproductive health care providers, employees, volunteers, patients, and other individuals who face threats or violence</a>
Gov. Code 7920.000-7930.215	California Public Records Act
Gov. Code 81008	Political Reform Act, public records; inspection and reproduction
Gov. Code 8310.3	California Religious Freedom Act
<a href="#">Gov. Code 8550-8669.7</a>	<a href="#">California Emergency Services Act</a>
<a href="#">Gov. Code 8586.5</a>	<a href="#">Office of Emergency Services; California Cybersecurity Information Center</a>
<b>Federal</b>	<b>Description</b>
<a href="#">20 USC 1232g</a>	<a href="#">Family Educational Rights and Privacy Act (FERPA) of 1974</a>
<a href="#">34 CFR 99.1-99.8</a>	<a href="#">Family Educational Rights and Privacy</a>
<b>Management Resources</b>	<b>Description</b>
Attorney General Opinion	64 Ops.Cal.Atty.Gen. 186 (1981)
Attorney General Opinion	71 Ops.Cal.Atty.Gen. 235 (1988)

CA Office of the Attorney General Publication	Promoting a Safe & Secure Learning Environment for All: Guidance & Model Policies to Assist CA K-12 Schools in Responding to Immigration Issues, <del>April 2018</del> <b>December 2024</b>
CA Office of the Attorney General Publication	California Department of Justice Guidelines for Access to Public Records, <del>October 2017</del> <b>January 2023</b> ( <a href="https://oag.ca.gov/system/files/media/prg-guidelines.pdf">https://oag.ca.gov/system/files/media/prg-guidelines.pdf</a> )
<del>CA Office of the Attorney General Publication</del>	<del>Summary of the California Public Records Act, August 2004</del> ( <a href="https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/summary_public_records_act.pdf">https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/summary_public_records_act.pdf</a> )
<del>Court Decision</del>	<del>National Lawyers Guild, San Francisco Bay Area Chapter v. City of Hayward (2020) 9 Cal.5th 488</del>
Court Decision	Sacramento County Employees' Retirement System v. Superior Court (2011) 195 Cal. App. 4th 440
Court Decision	Fairley v. Superior Court (1998) 66 Cal.App. 4th 1414
Court Decision	International Federation of Professional and Technical Engineers v. The Superior Court of Alameda County (2007) 42 Cal.4th 319
Court Decision	Kleitman v. Superior Court (1999) 74 Cal.App. 4th 324
Court Decision	Los Angeles County Board of Supervisors v. Superior Court (2016) 2 Cal.5th 282
Court Decision	Los Angeles Times v. Alameda Corridor Transportation Authority (2001) 88 Cal.App.4th 1381
Court Decision	North County Parents Organization for Children with Special Needs v. Department of Education (1994) 23 Cal.App. 4th 144
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> )
League of California Cities Publication	The People's Business: A Guide to the California Public Records Act, rev. <del>April 2017</del> <b>September 2022</b> ( <a href="https://www.calcities.org/docs/default-source/city-attorneys/the-peoples-business.pdf?sfvrsn=f827f33f_3">https://www.calcities.org/docs/default-source/city-attorneys/the-peoples-business.pdf?sfvrsn=f827f33f_3</a> )
Website	CSBA District and County Office of Education Legal Services
Website	League of California Cities
Website	State Bar of California

Website	California Office of the Attorney General
Website	CSBA
<u>Website</u>	<u>California Office of Emergency Services</u> <u>(<a href="https://www.caloes.ca.gov/">https://www.caloes.ca.gov/</a>)</u>

## **Cross References**

<b>Code</b>	<b>Description</b>
0400	Comprehensive Plans
0420	School Plans/Site Councils
0420	School Plans/Site Councils
0440	District Technology Plan
0440	District Technology Plan
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
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
1220	Citizen Advisory Committees
1220	Citizen Advisory Committees
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
2121	Superintendent's Contract
3100	Budget

3100	Budget
3230	Federal Grant Funds
3230	Federal Grant Funds
3311	Bids
3311	Bids
3312	Contracts
3320	Claims And Actions Against The District
<u>3320</u>	<u>Claims And Actions Against The District</u>
3460	Financial Reports And Accountability
3460	Financial Reports And Accountability
3514.2	Integrated Pest Management
3516	Emergencies And Disaster Preparedness Plan
3516	Emergencies And Disaster Preparedness Plan
3543	Transportation Safety And Emergencies
3550	Food Service/Child Nutrition Program
3550	Food Service/Child Nutrition Program
3551	Food Service Operations/Cafeteria Fund
3551	Food Service Operations/Cafeteria Fund
3553	Free And Reduced Price Meals
3553	Free And Reduced Price Meals
3580	District Records
3580	District Records
4040	Employee Use Of Technology
4040-E(1)	Employee Use Of Technology
4112.5	Criminal Record Check
4112.5-E(1)	Criminal Record Check
4112.6	Personnel Files
4113.5	Working Remotely
4117.5	Termination Agreements
4119.23	Unauthorized Release Of Confidential/Privileged Information
4119.42	Exposure Control Plan For Bloodborne Pathogens

4119.42	Exposure Control Plan For Bloodborne Pathogens
4119.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4140	Bargaining Units
4141	Collective Bargaining Agreement
4143.1	Public Notice - Personnel Negotiations
4143.1	Public Notice - Personnel Negotiations
4154	Health And Welfare Benefits
4154	Health And Welfare Benefits
4212.5	Criminal Record Check
4212.5-E(1)	Criminal Record Check
4212.6	Personnel Files
4213.5	Working Remotely
4217.5	Termination Agreements
4219.23	Unauthorized Release Of Confidential/Privileged Information
4219.42	Exposure Control Plan For Bloodborne Pathogens
4219.42	Exposure Control Plan For Bloodborne Pathogens
4219.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4240	Bargaining Units
4241	Collective Bargaining Agreement
4243.1	Public Notice - Personnel Negotiations
4243.1	Public Notice - Personnel Negotiations
4254	Health And Welfare Benefits
4254	Health And Welfare Benefits
4312.1	Contracts
4312.5	Criminal Record Check
4312.5-E(1)	Criminal Record Check
4312.6	Personnel Files
4313.5	Working Remotely
4317.5	Termination Agreements
4319.23	Unauthorized Release Of Confidential/Privileged Information
4319.42	Exposure Control Plan For Bloodborne Pathogens

4319.42	Exposure Control Plan For Bloodborne Pathogens
4319.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4340	Bargaining Units
4354	Health And Welfare Benefits
4354	Health And Welfare Benefits
5020	Parent Rights And Responsibilities
5020	Parent Rights And Responsibilities
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
5125.3	Challenging Student Records
5141.6	School Health Services
5141.6	School Health Services
5145.13	Response To Immigration Enforcement
5145.13	Response To Immigration Enforcement
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5148.3	Preschool/Early Childhood Education
5148.3	Preschool/Early Childhood Education
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
6162.5	Student Assessment
6162.51	State Academic Achievement Tests
6162.51	State Academic Achievement Tests
6163.1	Library Media Centers
7110	Facilities Master Plan

7214	General Obligation Bonds
7214	General Obligation Bonds
9010	Public Statements
9011	Disclosure Of Confidential/Privileged Information
9012	Board Member Electronic Communications
9124	Attorney
9200	Limits Of Board Member Authority
9223	Filling Vacancies
9270	Conflict Of Interest
9270-E(1)	Conflict Of Interest
9310	Board Policies
9320	Meetings And Notices
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session
9322	Agenda/Meeting Materials
9324	Minutes And Recordings

## Regulation 1340: Access To District Records

Status: ADOPTED

Original Adopted Date: 03/01/2019 | Last Revised Date: 05/03/01/2020 2025 | Last Reviewed  
Date: 05/03/01/2020 2025

CSBA NOTE: Article 1, Section 3 of the California Constitution grants any person the right to access information concerning meetings and writings of state and local government bodies, officials, and agencies as long as the constitutional rights of privacy and due process are protected. Courts broadly interpret rules or laws granting access and narrowly interpret those denying access; thus, the burden is on the district to demonstrate the need for restricting access to public records.

The following optional administrative regulation lists those records defined as public and, in contrast, those defined as exempt and/or confidential, to which there is no public access. ~~It is not intended to provide an all-inclusive list of records that may be defined as either public or confidential.~~

This administrative regulation is a non-exhaustive list of records that may be defined as either public or exempt and/or confidential. Other records which fall into these definitions may exist and may be identified in the future.

### Definitions

CSBA NOTE: Pursuant to Government Code 7920.530, a "public record" includes any writing that relates to district business as defined below.

Emails and other electronic communications related in a substantive manner to district business are considered public records. Furthermore, in *City of San Jose v. Superior Court*, the California Supreme Court held that using a personal account or personal device to send, receive, or store communications regarding public business does not categorically exclude those records from disclosure upon request under the California Public Records Act (CPRA) (Government Code 7920.000 - 7930.215). The court noted that public agencies are required to disclose all applicable records that can be located "with reasonable effort," including those records contained on a public employee's or official's personal device or account. Such searches need not be extraordinarily extensive or intrusive. For further information, see CSBA's "Legal Alert: Tips for Governing Boards in Response to Public Records Act Ruling on Electronic Communications." Also see the accompanying Board policy, AR 3580 - District Records, BP 4040 - Employee Use of Technology, and BB 9012 - Board Member Electronic Communications.

*Public records* include any writing containing information relating to the conduct of the district's business prepared, owned, used, or retained by the district regardless of physical form or characteristics. (Government Code 7920.530)

*Writing* means any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or

symbols or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored. (Government Code 7920.545)

*Member of the public* means any person, except a member, agent, officer, or employee of the district or a federal, state, or other local agency acting within the scope of such membership, agency, office, or employment. (Government Code 7920.515)

## Public Records

CSBA NOTE: While not specifically enumerated in Government Code 7920.530, ~~items~~ Items #1-1415 below are items which fall within the definition of "public records."

~~Public~~ Unless otherwise exempt from disclosure, public records to which members of the public shall have access include, but are not limited to:

1. Proposed and approved district budgets and annual audits (Education Code 41020, 42103)
2. Statistical compilations
3. Reports and memoranda
4. Notices and bulletins
5. Minutes of public meetings (Education Code 35145)
6. Meeting agendas (Government Code 54957.5)
7. Official communications between the district and other government agencies

CSBA NOTE: District and school plans (e.g., local control and accountability plan, school plan for student achievement, comprehensive safety plan) must generally be accessible to the public. However, pursuant to Education Code 32281, the Governing Board may choose to prohibit disclosure of those portions of the comprehensive safety plan that include tactical responses to criminal incidents that may result in death or serious bodily injury at the school site. See BP 0450 - Comprehensive Safety Plan.

8. District and school plans, and the information and data relevant to the development and evaluation of such plans, unless otherwise prohibited by law
9. Initial proposals of exclusive employee representatives and of the district, once presented at a district Governing Board meeting (Government Code 3547)

CSBA NOTE: Government Code 7927.200 exempts from disclosure those records pertaining to pending litigation until the pending litigation or claim has been finally adjudicated or otherwise settled. However, the Attorney General opined in 71 Ops.Cal.Atty.Gen. 235 (1988) that certain

records predating the filing of the lawsuit are subject to disclosure. In *Fairley v. Superior Court*, a California Court of Appeal concurred and held that documents were exempted only if they were prepared for use in litigation. (See item #2 in the section "Exempt and Confidential Public Records" below.) **The Board should.** It is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel if it believes that any document with questions regarding disclosure of documents related to litigation should not be disclosed.

10. Records pertaining to claims and litigation against the district which have been adjudicated or settled (Government Code 7927.200, 7927.205)
11. Statements of economic interests required by the Conflict of Interest Code (Government Code 81008)

CSBA NOTE: Generally, the names and salaries of public employees are subject to disclosure under the CPRA. In *Sacramento County Employees Retirement System v. Superior Court*, a California Court of Appeal held that the names and corresponding pension benefits of members of a county retirement system are subject to disclosure and are not considered "individual records of members" protected by Government Code 31532. However, in *International Federation of Professional and Technical Engineers v. The Superior Court of Alameda County*, the California Supreme Court recognized that, in some instances, the salaries of certain employees might be exempt from disclosure, depending on the facts and circumstances. **The Board should consult legal counsel if it believes that any document related to the names and salaries of public employees should not be disclosed.** It is recommended that districts with questions about the disclosure of employee information consult CSBA's District and County Office of Education Legal Services or district legal counsel.

12. Documents containing names, salaries, and pension benefits of district employees
13. Employment contracts and settlement agreements (Government Code 53262)
14. Instructional materials including, but not limited to, textbooks (Education Code 49091.10)

CSBA NOTE: Pursuant to Government Code 7928.801, any executed contract for the purchase of goods or services by the district, including the price and terms of payment, is a public record subject to disclosure under the CPRA. It is recommended that districts with questions about contracting with entities for goods or services outside of California, or pursuant to federal law, consult CSBA's District and County Office of Education Legal Services or district legal counsel.

15. Executed contracts for the purchase of goods or services, even if the contract contains provisions specifying that the contract is confidential or a proprietary record of the vendor (Government Code 7928.801)

Access to public records of the district shall be granted to ~~Governing~~ Board members on the same basis as any other member of the public. When Board members are authorized to access public records in the administration of their duties, the Superintendent or designee shall not discriminate

among any of the Board members as to which record, or portion of the record, will be made available, or when it will be made available. (Government Code 7921.305, 7921.310)

**CSBA NOTE:** Government Code 7922.200 specifies that the CPRA does not require a district to disclose a social security number and states the Legislature's intent that districts will redact social security numbers from any records being disclosed to the public. In addition, Government Code 7928.300 prohibits disclosure of an employee's personal cell phone number and birth date.

### **Exempt and Confidential Public Records**

Records exempt from disclosure under the California Public Records Act (CPRA) include, but are not limited to:

#### **Confidential Public Records**

**CSBA NOTE:** Education Code 234.7 prohibits the collection of information or documents regarding the citizenship or immigration status of students or their family members. If the district becomes aware of the citizenship or immigration status of any student, it is prohibited from disclosing that information to U.S. Immigration and Customs Enforcement (ICE), as such disclosure is not among the limited exceptions specified in law for which student records may be released without parental consent or a lawful judicial order. An ICE "administrative warrant" is not a court order that would allow a district to disclose student records without parent/guardian consent. See BP/AR 5125 - Student Records; BP/AR 5145.13 - Response to Immigration Enforcement; and the Office of the Attorney General's publication Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues.

In addition, pursuant to Government Code 8310.3, districts are prohibited from collecting or disclosing to federal government authorities any personal information regarding an individual's religious beliefs, practices, or affiliation for the purpose of compiling a list, registry, or database of individuals based on religious affiliation, national origin, or ethnicity.

Unless otherwise authorized or required by law, information regarding an individual's citizenship or immigration status or religious beliefs, practices, or affiliation shall not be disclosed to federal government authorities. (Education Code 234.7; Government Code 8310.3)

Records to which the members of the public shall not have access include, but are not limited to:

1. Preliminary drafts, notes, and interagency or intradistrict memoranda that are not retained by the district in the ordinary course of business, provided that the public interest in withholding these records clearly outweighs the public interest in disclosure (Government Code 7927.500)
2. Records specifically generated in connection with or prepared for use in litigation to which the district is a party or to respond to claims made against the district pursuant to the Tort Claims Act, until the litigation or claim has been finally adjudicated or otherwise settled, or beyond, if the records are protected by some other provision of law (Government Code 7927.200, 7927.205)

**CSBA NOTE:** The Safe at Home address confidentiality program has been in existence pursuant to Government Code 6205-6213 and 6215-6216 to protect victims of domestic

violence, sexual assault, stalking, human trafficking, and elder or dependent adult abuse, and members of their households, as well as district employees who face threats of violence, or violence or harassment from the public because of the employee's work for the district. This type of protection has been extended to district employees and Board members who face threats of violence, or violence or harassment from the public because of the employee's work for the district, and, pursuant to Government Code 6205-6210, to victims of child abduction and members of their households. Government Code 6207 provides that, when creating a public record, the district may not include actual residences of students, parents/guardians, or employees when a substitute address is designated through the Safe at Home program. Districts are required to accept the program participation card issued by the Secretary of State and to substitute a post office box as the participant's address.

3. Personnel records, medical records, or similar materials, the disclosure of which would constitute an unwarranted invasion of personal privacy (Government Code 7927.700)

The home addresses, home telephone numbers, personal cell phone numbers, or birth date of employees ~~may~~shall only be disclosed as follows: (Government Code 7928.300)

- a. To an agent or a family member of the employee
- b. To an officer or employee of a state agency or another school district or county office of education when necessary for the performance of official duties
- c. To an employee organization pursuant to regulations and decisions of the Public Employment Relations Board, except that the home address and any telephone number for an employee who performs law enforcement-related functions, or the birth date of any employee, shall not be disclosed
- d. Upon written request of any employee, the district shall not disclose the employee's home address, home telephone number, personal cell phone number, personal email address, or birth date, and the district shall remove the home address, home telephone number, and personal cell phone number from any mailing list of the district except a list used exclusively to contact the employee.
- e. To an agent or employee of a health benefit plan providing health services or administering claims for health services to district employees and their enrolled dependents, for the purpose of providing the health services or administering claims for employees and their enrolled dependents

CSBA NOTE: Pursuant to Government Code 7928.205, as amended by AB 1785 (Ch. 551, Statutes of 2024), the district is prohibited from publicly posting online the information specified below of any elected or appointed official, such as a Board member, without first obtaining the written permission of that individual.

4. The home address, telephone number, or both the name and assessor parcel number associated with the home address of any elected or appointed official posted by the district online without first obtaining the written permission of that individual (Government Code 7928.205)

4. 5. Student records, except directory information and other records to the extent permitted by law and district policy (Education Code 49073, 49076; 20 USC 1232g, 34 CFR 99.1-99.8)
5. 6. Test questions, scoring keys, and other examination data except as provided by law (Government Code 7929.605)
6. 7. Without affecting the law of eminent domain, the contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the district relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained (Government Code 7928.705)
7. 8. Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in an unfair competitive disadvantage to the person supplying the information (Government Code 7925.000)
8. 9. Library circulation and patron use records of a borrower or patron including, but not limited to, name, address, telephone number, email address, borrowing information, or use of library information resources, except when disclosure is to persons acting within the scope of their duties in the administration of the library; to persons authorized in writing, by the individual to whom the records pertain, to inspect the records; or by court order (Government Code 7927.100, 7927.105)

**CSBA NOTE:** The following exemption protects attorney-client privileged communications and attorney work product, as well as other work product prepared for use in pending litigation or claims. Pursuant to the Rules of Professional Conduct of the State Bar of California, when an attorney has been hired to represent the district as a whole, this privilege may only be waived by the Board.

In *Los Angeles County Board of Supervisors v. Superior Court*, the California Supreme Court held that invoices for the services of district counsel, or portions of those invoices, may be privileged and therefore exempt from disclosure. ~~The Board should consult~~ It is recommended that districts with legal counsel to determine what questions about disclosable records to disclose in response to a CPRA request for such legal invoices consult CSBA's District and County Office of Education Legal Services or district legal counsel.

9. 10. Records for which the disclosure is exempted or prohibited pursuant to state or federal law, including, but not limited to, provisions of the Evidence Code relating to privilege (Government Code 7927.705)
10. 11. Documents prepared by or for the district to assess its vulnerability to terrorist attack or other criminal acts intended to disrupt district operations and that are for distribution or consideration in closed session (Government Code 7929.200)

**CSBA NOTE:** Item #12 is related to the information technology security of the district. 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. During the process of conducting an independent security assessment pursuant to Government Code 11549.3, information and records concerning the independent security assessment are confidential and are not disclosable.

~~12.~~ 13. Information security record if disclosure of that record would reveal vulnerabilities to, or otherwise increase the potential for an attack on, an information technology system of the district (Government Code 7929.210)

~~11.~~ 13. Recall petitions, petitions for special elections to fill Board vacancies, or petitions for the reorganization of the school district (Government Code 7924.110)

~~12.~~ 14. Minutes of Board meetings held in closed session (Government Code 54957.2)

~~13.~~ 15. Computer software developed by the district (Government Code 7922.585)

~~14.~~ 16. Information security records, the disclosure of which would reveal vulnerabilities to, or otherwise increase potential for an attack on, the district's information technology system (Government Code 7929.210)

~~15.~~ 16. Records that contain individually identifiable health information, including records that may be exempt pursuant to physician-patient privilege, the Confidentiality of Medical Information Act, and the Health Insurance Portability and Accountability Act (Government Code 7926.400, 7930.000-7930.215)

~~16.~~ 17. Any other records listed as exempt from public disclosure in the California Public Records Act CPRA or other statutes

CSBA NOTE: Item #~~17~~ 18 below reflects an exemption often referred to as the "catch-all" or "public interest" exemption pursuant to Government Code 7922.000. This exemption allows a district to withhold a record based on analysis of the specific facts of the situation and in light of the competing public interests. This exemption also includes the "deliberative process privilege" which is designed to protect a district's decision-making process in order to encourage candid discussions within the district. It is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel should be consulted to determine when determining whether a request for a record falls under this exemption.

~~17.~~ 18. Any other records for which the district can demonstrate that, based on the particular facts of the case, the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record (Government Code 7922.000)

When disclosing to a member of the public any record that contains personal information, including, but not limited to, an employee's home address, home telephone number, social security number, personal cell phone number, or birth date, the Superintendent or designee shall ensure that such personal information is redacted from that record. (Government Code 7922.200, 7928.300)

CSBA NOTE: Education Code 234.7 prohibits the collection of information or documents regarding the citizenship or immigration status of students or their family members. If the district becomes aware of the citizenship or immigration status of any student, it is prohibited from disclosing that information, as such disclosure is not among the limited exceptions specified in law for which student records may be released without parent/guardian consent or a lawful judicial subpoena/warrant. See BP/AR 5125 - Student Records and BP/AR 5145.13 - Response to Immigration Enforcement.

Additionally, pursuant to Government Code 8310.3, districts are prohibited from collecting or disclosing to federal government authorities any personal information regarding an individual's religious beliefs, practices, or affiliation for the purpose of compiling a list, registry, or database of individuals based on religious affiliation, national origin, or ethnicity.

Unless otherwise authorized or required by law, information regarding an individual's citizenship or immigration status or religious beliefs, practices, or affiliation shall not be disclosed. (Education Code 234.7; Government Code 8310.3)

#### **Inspection of Records and, Requests for Copies, and Recovery of Costs**

**CSBA NOTE:** Court decisions have held that a public record request may be made orally, by phone, or in writing, including by email, fax, or hand delivery. The district may ask, but not require, that the person put an oral request in writing. CSBA NOTE: In Los Angeles Times v. Alameda Corridor Transportation Authority, a California Court of Appeal held that the CPRA does not require written requests and therefore a public record request may be made orally, by phone, or in writing, including by email, fax, or hand delivery. The district may ask, but not require, that the person put an oral request in writing.

Any person may request a copy or inspection of any district record that is not exempt from disclosure. (Government Code 7922.530)

Within 10 days of receiving any request to inspect or copy a district record, the Superintendent or designee shall determine whether the request seeks release of a disclosable public record in the district's possession. The Superintendent or designee shall promptly inform the person making the request of the determination and the reasons for the decision. (Government Code 7922.535)

In unusual circumstances, the Superintendent or designee may extend the 10-day limit for up to 14 days by providing written notice to the requester setting forth the reasons for the extension and the date on which a determination is expected to be made. Unusual circumstances include the following, but only to the extent reasonably necessary to properly process the request: (Government Code 7922.535)

1. The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request
2. The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request
3. The need for consultation, which shall be conducted with all practicable speed, with another agency (e.g., a state agency or city) having a substantial interest in the determination of the

request or among two or more components of the district (e.g., two different school sites) with substantial interest in the request

4. In the case of electronic records, the need to compile data, write programming language or a computer program, or construct a computer report to extract data

CSBA NOTE: In an effort to balance the right of the public to access public records in a timely manner while affording districts adequate opportunity to satisfy information requests during a state of emergency proclaimed pursuant to the California Emergency Services Act (Government Code 8550-8669.7), Government Code 7922.535, as amended by SB 1034 (Ch. 161, Statutes of 2024), includes, in the definition of "unusual circumstances," the need to search for, collect, and examine records due to the state of emergency.

5. The need to search for, collect, and appropriately examine records during a state of emergency proclaimed by the Governor pursuant to the California Emergency Services Act in the jurisdiction where the district is located when the state of emergency currently affects, due to the state of emergency, the district's ability to timely respond to staffing shortages or closure of facilities where the requested records are located (Government Code 8567)

If the Superintendent or designee determines that the request seeks disclosable public records, the determination shall state the estimated date and time when the records will be made available. (Government Code 7922.535)

Public records shall be open to inspection at all times during district office hours. ~~Any~~ If a portion of the requested record(s) is exempt from disclosure, any non-exempt, reasonably segregable portion of ~~a~~ the record shall be made available for inspection ~~by any person requesting the record~~ after deletion of the portions ~~that are~~ exempted by law. (Government Code 7922.525)

**CSBA NOTE:** Government Code 7922.530 states that copies of records must be provided "promptly." The term "promptly" is not defined in law, but Government Code 7922.500 also states that a district may not delay or obstruct the inspection or copying of records. Thus, if the records are held in a manner that allows for prompt disclosure, the records generally should not be withheld because of the 10-day response period or the 14-day extension detailed above.

Upon request for a copy that reasonably describes an identifiable, non-exempt record, an exact copy shall be promptly provided unless it is impracticable to do so. (Government Code 7922.530)

If only a portion of the identified record is exempt from disclosure, the record's exempt material shall be redacted prior to disclosure.

**CSBA NOTE:** The following optional paragraph is for use by districts that charge for copies. See the accompanying Board policy.

Government Code 7922.530 permits, but does not require, the district to charge a person requesting a physical copy of a record a fee covering the direct costs of duplication; however, no fee may be charged to a person who wishes to inspect but not copy a record. In *North County Parents Organization for Children with Special Needs v. Department of Education*, the court determined that direct costs include only the cost of running the copy machine and possibly the expense of the person operating it. Examples of costs that do not fit this definition include costs associated with searching, reviewing, or redacting the record assisting the requester in formulating the request;

responding to the request, or employee time to sit with the requester during inspection of the record.

Pursuant to Government Code 7922.530, members of the public who request to inspect a disclosable record of the district have the right to use their own equipment on district premises, without being charged any fees or costs, to photograph, copy, or reproduce the record in a manner that does not require the equipment to make physical contact with the record.

Additionally, Government Code 7922.575 allows recovery of direct costs when the district would be required to produce a copy of an electronic record and the record is one that is produced only at otherwise regularly scheduled intervals or requires data compilation, extraction, or programming to produce the record. In *National Lawyers Guild, San Francisco Bay Area Chapter v. City of Hayward*, the California Supreme Court clarified that the term "data extraction" does not include the process of redacting exempt material from otherwise disclosable electronic records and that a public agency may not recover costs for the compilation or redaction of video footage.

Due to the complex nature of cost recovery standards under the CPRA it is recommended that districts with questions regarding the permissibility of fees consult CSBA's District and County Office of Education Legal Services or district legal counsel.

The Superintendent or designee shall charge an amount for copies that reflects the direct costs of duplication: in accordance with law. Written requests to waive the fee shall be submitted to the Superintendent or designee.

**CSBA NOTE:** Pursuant to Government Code 7922.530, members of the public have the right to use their own equipment on district premises to copy a disclosable record, without being charged any fees or costs. The record must be reproduced in a manner as specified below:

Without charging any fees or costs, the Superintendent or designee shall allow members of the public to use their own equipment on district premises to photograph or otherwise copy or reproduce a disclosable record as long as the means of copy or reproduction: (Government Code 7922.530)

1. Do not require the equipment to make physical contact with the record
2. Will not result in damage to the record
3. Will not result in unauthorized access to the district's computer systems or secured networks by using software, equipment, or any other technology capable of accessing, altering, or compromising the district's electronic records

**CSBA NOTE:** Government Code 7922.530 authorizes the district to impose reasonable limits on the use of personal equipment by members of the public to copy disclosable records, as specified below:

The Superintendent or designee may impose any reasonable limit on the use of personal equipment to photograph, copy, or reproduce a disclosable record that is necessary to protect the safety of the records, or to prevent the copying of records from being an unreasonable burden to the orderly function of the district and its employees. The Superintendent or designee may also impose any limit that is necessary to maintain the integrity of, or ensure the long-term preservation of, historic

or high-value records. (Government Code 7922.530)

In addition to maintaining public records for public inspection during district office hours, the district may comply with public records requests by posting any public record on the district's ~~web site~~ website and, in response to a public records request, directing the member of the public to the location on the ~~web site~~ website where the record can be found. However, if the member of the public is unable to access or reproduce the record from the ~~web site~~ website, the district shall promptly provide an exact copy of the public record upon payment of duplication fees, if applicable, unless it is impracticable to provide an exact copy. (Government Code 7922.545)

If any person requests that a public record be provided in an electronic format, the district shall make that record available in any electronic format in which it holds the information. The district shall provide a copy of the electronic record in the format requested as long as the requested format is one that has been used by the district to create copies for its own use or for use by other agencies. (Government Code 7922.570)

The cost of duplicating an electronic record shall be limited to the direct cost of producing a copy of the record in electronic format. However, the requester shall bear the cost of producing the copy of the ~~electronic record, including the cost to construct the record and the cost of programming and~~ computer services necessary to produce the copy, under the following circumstances: (Government Code 7922.575)

1. The electronic record is one that is produced only at otherwise regularly scheduled intervals.
2. The request would require data compilation, extraction, or programming to produce the record.

#### **Assistance in Identifying Requested Records**

CSBA NOTE: Government Code 7922.600 requires the district to assist a person requesting to inspect or obtain a copy of a public record as specified below. Pursuant to Government Code 7922.605, this assistance is not required if the district grants the request and the records are made available or if the request is denied on the grounds that the records are confidential as specified in Government Code 7920.505.

If the Superintendent or designee denies a request for disclosable records, the requester shall be assisted in making a focused and effective request that reasonably describes an identifiable record. To the extent reasonable under the circumstances, the Superintendent or designee shall do all of the following: (Government Code 7922.600)

1. Assist in identifying records and information responsive to the request or the purpose of the request, if specified

If, after making a reasonable effort to elicit additional clarifying information from the requester to help identify the record, the Superintendent or designee is still unable to identify the information, this requirement shall be deemed satisfied.

2. Describe the information technology and physical location in which the records exist

3. Provide suggestions for overcoming any practical basis for denying access to the records or information sought

Provisions of the ~~Public Records Act~~ CPRA shall not be construed so as to delay or obstruct the inspection or copying of public records. Any notification denying a request for public records shall state the name and title of each person responsible for the denial. (Government Code 7922.500, 7922.540)

#### **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 430-438	Individual student records
CA Constitution Article 1, Section 3	Right of access to governmental information
Ed. Code 234.7	Student protections relating to immigration and citizenship status
Ed. Code 35145	Public meetings
Ed. Code 35170	Authority to secure copyrights
Ed. Code 35250	Duty to keep certain records and reports
<u>Ed. Code 35266</u>	<u>Cybersecurity</u>
Ed. Code 41020	Requirement for annual audit
Ed. Code 42103	Budget notification
Ed. Code 44031	Personnel file contents and inspection
Ed. Code 44839	Medical certificates; periodic medical examination
Ed. Code 49060-49079	Student records
Ed. Code 49091.10	Parental review of curriculum and instruction
<u>Gov. Code 11549.3</u>	<u>Office of Information Security</u>
Gov. Code 3547	Proposals relating to representation
Gov. Code 53262	Employment contracts
Gov. Code 54957.2	Minute book record of closed sessions
Gov. Code 54957.5	Agendas and other writings distributed for discussion or consideration

[Gov. Code 6205-6210](#)

[Address confidentiality; victims of domestic violence; sexual assault, stalking, human trafficking, child abduction, and elder and dependent adult abuse](#)

[Gov. Code 6215-6216](#)

[Address confidentiality; reproductive health care providers, employees, volunteers, patients, and other individuals who face threats or violence](#)

Gov. Code 7920.000-7930.215

California Public Records Act

Gov. Code 81008

Political Reform Act, public records; inspection and reproduction

Gov. Code 8310.3

California Religious Freedom Act

[Gov. Code 8550-8669.7](#)

[California Emergency Services Act](#)

[Gov. Code 8586.5](#)

[Office of Emergency Services; California Cybersecurity Information Center](#)

## **Federal**

## **Description**

[20 USC 1232g](#)

[Family Educational Rights and Privacy Act \(FERPA\) of 1974](#)

[34 CFR 99.1-99.8](#)

[Family Educational Rights and Privacy](#)

## **Management Resources**

## **Description**

Attorney General Opinion

64 Ops.Cal.Atty.Gen. 186 (1981)

Attorney General Opinion

71 Ops.Cal.Atty.Gen. 235 (1988)

CA Office of the Attorney General  
Publication

Promoting a Safe & Secure Learning Environment for All:  
Guidance & Model Policies to Assist CA K-12 Schools in  
Responding to Immigration Issues, ~~April 2018~~ **December 2024**

CA Office of the Attorney General  
Publication

California Department of Justice Guidelines for Access to  
Public Records, ~~October 2017~~ **January 2023**  
(<https://oag.ca.gov/system/files/media/pra-guidelines.pdf>)

[CA Office of the Attorney General  
Publication](#)

[Summary of the California Public Records Act, August 2004  
\(\[https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/summary\\\_public\\\_records\\\_act.pdf\]\(https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/summary\_public\_records\_act.pdf\)\)](#)

## **Court Decision**

[National Lawyers Guild, San Francisco Bay Area Chapter v.  
City of Hayward \(2020\) 9 Cal.5th 488](#)

Court Decision

Sacramento County Employees' Retirement System v.  
Superior Court (2011) 195 Cal. App. 4th 440

Court Decision

Fairley v. Superior Court (1998) 66 Cal.App. 4th 1414

Court Decision

International Federation of Professional and Technical  
Engineers v. The Superior Court of Alameda County (2007) 42  
Cal.4th 319

Court Decision

Kleitman v. Superior Court (1999) 74 Cal.App. 4th 324

Court Decision	Los Angeles County Board of Supervisors v. Superior Court (2016) 2 Cal.5th 282
Court Decision	Los Angeles Times v. Alameda Corridor Transportation Authority (2001) 88 Cal.App.4th 1381
Court Decision	North County Parents Organization for Children with Special Needs v. Department of Education (1994) 23 Cal.App. 4th 144
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> )
League of California Cities Publication	The People's Business: A Guide to the California Public Records Act, rev. April 2017 <del>September 2022</del> ( <a href="https://www.calcities.org/docs/default-source/city-attorneys/the-people-s-business.pdf?sfvrsn=f827f33f_3">https://www.calcities.org/docs/default-source/city-attorneys/the-people-s-business.pdf?sfvrsn=f827f33f_3</a> )
Website	CSBA District and County Office of Education Legal Services
Website	League of California Cities
Website	State Bar of California
Website	California Office of the Attorney General
Website	CSBA
<u>Website</u>	<u>California Office of Emergency Services</u> ( <a href="https://www.caloes.ca.gov/">https://www.caloes.ca.gov/</a> )

## Cross References

Code	Description
0400	Comprehensive Plans
0420	School Plans/Site Councils
0420	School Plans/Site Councils
0440	District Technology Plan
0440	District Technology Plan
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0460	Local Control And Accountability Plan

0460	Local Control And Accountability Plan
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
1220	Citizen Advisory Committees
1220	Citizen Advisory Committees
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
2121	Superintendent's Contract
3100	Budget
3100	Budget
3230	Federal Grant Funds
3230	Federal Grant Funds
3311	Bids
3311	Bids
3312	Contracts
3320	Claims And Actions Against The District
<u>3320</u>	<u>Claims And Actions Against The District</u>
3460	Financial Reports And Accountability
3460	Financial Reports And Accountability
3514.2	Integrated Pest Management
3516	Emergencies And Disaster Preparedness Plan
3516	Emergencies And Disaster Preparedness Plan
3543	Transportation Safety And Emergencies

3550	Food Service/Child Nutrition Program
3550	Food Service/Child Nutrition Program
3551	Food Service Operations/Cafeteria Fund
3551	Food Service Operations/Cafeteria Fund
3553	Free And Reduced Price Meals
3553	Free And Reduced Price Meals
3580	District Records
3580	District Records
4040	Employee Use Of Technology
4040-E(1)	Employee Use Of Technology
4112.5	Criminal Record Check
4112.5-E(1)	Criminal Record Check
4112.6	Personnel Files
4113.5	Working Remotely
4117.5	Termination Agreements
4119.23	Unauthorized Release Of Confidential/Privileged Information
4119.42	Exposure Control Plan For Bloodborne Pathogens
4119.42	Exposure Control Plan For Bloodborne Pathogens
4119.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4140	Bargaining Units
4141	Collective Bargaining Agreement
4143.1	Public Notice - Personnel Negotiations
4143.1	Public Notice - Personnel Negotiations
4154	Health And Welfare Benefits
4154	Health And Welfare Benefits
4212.5	Criminal Record Check
4212.5-E(1)	Criminal Record Check
4212.6	Personnel Files
4213.5	Working Remotely
4217.5	Termination Agreements
4219.23	Unauthorized Release Of Confidential/Privileged Information

4219.42	Exposure Control Plan For Bloodborne Pathogens
4219.42	Exposure Control Plan For Bloodborne Pathogens
4219.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4240	Bargaining Units
4241	Collective Bargaining Agreement
4243.1	Public Notice - Personnel Negotiations
4243.1	Public Notice - Personnel Negotiations
4254	Health And Welfare Benefits
4254	Health And Welfare Benefits
4312.1	Contracts
4312.5	Criminal Record Check
4312.5-E(1)	Criminal Record Check
4312.6	Personnel Files
4313.5	Working Remotely
4317.5	Termination Agreements
4319.23	Unauthorized Release Of Confidential/Privileged Information
4319.42	Exposure Control Plan For Bloodborne Pathogens
4319.42	Exposure Control Plan For Bloodborne Pathogens
4319.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4340	Bargaining Units
4354	Health And Welfare Benefits
4354	Health And Welfare Benefits
5020	Parent Rights And Responsibilities
5020	Parent Rights And Responsibilities
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
5125.3	Challenging Student Records
5141.6	School Health Services

5141.6	School Health Services
5145.13	Response To Immigration Enforcement
5145.13	Response To Immigration Enforcement
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5148.3	Preschool/Early Childhood Education
5148.3	Preschool/Early Childhood Education
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
6162.5	Student Assessment
6162.51	State Academic Achievement Tests
6162.51	State Academic Achievement Tests
6163.1	Library Media Centers
7110	Facilities Master Plan
7214	General Obligation Bonds
7214	General Obligation Bonds
9010	Public Statements
9011	Disclosure Of Confidential/Privileged Information
9012	Board Member Electronic Communications
9124	Attorney
9200	Limits Of Board Member Authority
9223	Filling Vacancies
9270	Conflict Of Interest
9270-E(1)	Conflict Of Interest
9310	Board Policies
9320	Meetings And Notices
9321	Closed Session
9321-E(1)	Closed Session

9321-E(2)

Closed Session

9322

Agenda/Meeting Materials

9324

Minutes And Recordings

**Policy 3311: Bids**

**Status:** ADOPTED

**Original Adopted Date:** 08/01/2013 | **Last Revised Date:** 12/03/01/2016 2025 | **Last Reviewed Date:** 09/03/01/2023 2025

CSBA NOTE: Pursuant to Government Code 54202, districts are mandated to establish bidding procedures governing the purchase of equipment and supplies; this policy and the accompanying administrative regulation reflects the competitive bidding procedures applicable to these purchases.

Additionally, Public Contract Code 20111, requires public contracts for the lease or purchase of equipment, materials, supplies, or services or for "public projects," as defined, are required to be competitively bid when they involve expenditure of specified amounts.

An alternative procedure for public works projects is provided pursuant to the Uniform Public Construction Cost Accounting Act (UPCCAA) (Public Contract Code 22000-22045); for more information regarding UPCCAA see BP/AR 3311.1 - Uniform Public Construction Cost Accounting Procedures. Also see AR 3311.2 - Lease-Leaseback Contracts, AR 3311.3 - Design-Build Contracts, and AR 3311.4 - Procurement of Technological Equipment for procedures applicable to those contracts.

Due to the complexities of the bid process, it is recommended that districts consult CSBA's District and County Office of Education Legal Services or district legal counsel as appropriate.

The Governing Board is committed to promoting public accountability and ensuring prudent use of public funds. When leasing, purchasing, or contracting for equipment, materials, supplies, or services for the district, including when contracting for public projects involving district facilities, the Board shall explore lawful opportunities to obtain the greatest possible value for its expenditure of public funds. When required by law, or if the Board determines that it is in the best interest of the district, such contracts shall be made using competitive bidding.

No work, project, service, or purchase shall be split or separated into smaller work orders or projects for the purpose of evading legal requirements for competitive bidding. (Public Contract Code 20116)

CSBA NOTE: Requirements for competitive bidding, including notice and advertising, are specified in Public Contract Code 20110-20118.4. See See "Instructions and Procedures for Advertised Bids," in the accompanying administrative regulation.

The Superintendent or designee shall establish comprehensive bidding procedures for the district in accordance with law: Government Code 54202, and that meet the requirements for bidding

procedures specified in law. The procedures shall include a process for advertising bids, instructions and timelines for submitting and opening bids, and other relevant requirements.

CSBA NOTE: Pursuant to Public Contract Code 20111.5, the district is permitted, but not required, to establish prequalification procedures for any contract for which bids are legally required; see "Prequalification Procedure" in the accompanying administrative regulation. However, pursuant to Public Contract Code 20111.6, a district with average daily attendance of 2,500 or greater is required to prequalify all general contractors and electrical, mechanical, and plumbing subcontractors for public projects of \$1 million, 000,000 or more, if when the project uses state general funds, School Facilities Program funds (Education Code 17070.10-17079.30), or other uses or is reimbursed from future state school bonds ~~are used.~~ A model prequalification questionnaire is available on the Department of Industrial ~~Relations~~ Relations' website.

For award of contracts which, by law or Board policy, require prequalification, the procedures shall identify a uniform system for rating bidders on the basis of a completed questionnaire and financial statements.

CSBA NOTE: ~~Districts should be careful in crafting~~ It is recommended that districts carefully craft bid specifications, as a misleading specification that results in a lower bid than might have been made may make the district liable for the extra work done or expenses incurred by the contractor. In *Los Angeles Unified School District v. Great American Insurance Co.*, the California Supreme Court held in favor of a contractor who was misled by the district's nondisclosure of material information that would have affected the contractor's bid.

When calling for bids, the Superintendent or designee shall ensure that the bid specifications clearly describe in appropriate detail the quality, delivery, ~~and service required,~~ and include all information of which the district knows, or has in its possession, that is relevant to the work to be performed or that may impact the cost of performing the work.

### Award of Contract

CSBA NOTE: Pursuant to Public Contract Code 20111, a contract required to be put out to bid must be awarded to the lowest responsible bidder. As defined in Public Contract Code 1103, a "responsible bidder" is one who has demonstrated the attribute of trustworthiness and possesses the quality, fitness, capacity, and experience to satisfactorily perform the proposed work.

However, a bid may be awarded ~~to~~ other than to only the lowest responsible bidder when conditions specified in law exist.

Additionally, pursuant to Public Contract Code 6102, ~~as added by SB 34 (Ch. 297, Statutes of 2022), a contract executed on or after January 1, 2023, including a contract negotiated prior to January 1, 2023,~~ a contract is voidable if entered into in violation of a state or federal crime relating to bribery of a public official, including, but not limited to, a violation of Penal Code 68 or 86.

~~Except as authorized by law, contracts~~ Contracts shall be let to the lowest responsible bidder who shall give such security as the Board requires, or else all bids shall be rejected. (Public Contract Code 20111)

However, the Board may let contracts to other than only the lowest responsible bidder in the following circumstances:

1. When the contract is for the procurement and/or maintenance of electronic data processing systems and supporting software, in which case the Board may contract with any one of the three lowest responsible bidders (Public Contract Code 20118.1)
2. When the contract is for any transportation service which involves an expenditure of more than \$10,000 and which will be made with any person or corporation other than a common carrier, municipally owned transit system, or a parent/guardian of a student who is to be transported, in which case the Board may contract with other than the lowest bidder (Education Code 39802)

**CSBA NOTE:** Pursuant to Public Contract Code 20118, districts may be exempt from the bidding requirements and may "piggyback" onto the bid of any public corporation or agency for specific items when the Governing Board determines it is in the best interest of the district. See the accompanying administrative regulation for a list of those items that may be leased or purchased using this procedure. CSBA NOTE: Pursuant to Public Contract Code 2000-2002, a district is permitted to establish bidding requirements that facilitate the participation of minority, women, disabled veteran, and small business enterprises in contracts. Though minorities and women are included in Public Contract Code 2000, Article 1, Section 31(a) of the California Constitution prohibits the granting of preferences based on race, sex, color, ethnicity, or national origin in state employment and contracting. It is recommended that the district consult CSBA's District and County Office of Education Legal Services or district legal counsel with questions about the granting of preferences to any such business.

3. When the contract is one for which the Board has established goals and requirements relating to participation of disabled veteran or small business enterprises in accordance with Public Contract Code 2000-2002, in which case the Board may contract with the lowest responsible bidder who submits a responsive bid and complies or makes a good faith effort to comply with the goals and requirements (Public Contract Code 2000-2002)
4. When procuring a lease-leaseback contract, in which case the Board shall award the contract based on objective criteria for determining the best combination of price and qualifications in accordance with Education Code 17400 and 17406

CSBA NOTE: Districts may, in accordance with Education Code 17250.25, utilize the design-build method of construction delivery. The repeal of Education Code 17250.55, pursuant to SB 956 (Ch. 177, Statutes of 2024), has the effect of indefinitely extending the authorization for districts to use such method of construction delivery, which otherwise would have become inoperative January 1, 2025. Pursuant to Education Code 17250.15, "design-build" means a project delivery process in which both the design and construction of a project are procured from a single entity.

5. When procuring a design-build contract for a public works project in excess of \$1,000,000 in accordance with Education Code 17250.20, in which case the Board may award the contract to either the low bid or the best value to the district, taking into consideration, at a minimum, price, technical design and construction expertise, and life-cycle costs (Education Code 17250.20, 17250.25)

CSBA NOTE: Pursuant to Education Code 17250.60-17250.69, the district may, until January 1, 2029, utilize alternative design-build contracts for public works projects in excess of \$5,000,000. Pursuant to Education Code 17250.60, "alternative design-build" means a project delivery process in which both the design and construction of a project are procured from a single design-build entity based on its proposed design cost, general conditions, overhead, and profit as a component of the project price.

A contract for an alternative design-build project must be awarded to either the low bidder or the best value, and is subject to further negotiation and amendment pursuant to Education Code 17250.65. Alternative design-build subcontracts are subject to an open book evaluation by the district and the district sets the price based on this open book evaluation. The alternative design-build contract may be subject to further negotiation or amendment, and if the district and the design-build entity are unable to reach an agreement, the district may terminate the contract. A district that utilizes the alternative design-build procurement method is required to submit, by January 1, 2028, a report to the Legislature, as specified in Education Code 17250.67. See AR 3311.3 - Design-Build Contracts for more information specific to design-build and alternative design-build projects.

6. When procuring an alternative design-build contract for a public works project in excess of \$5,000,000 in accordance with Education Code 17250.62, in which case the Board may award the contract to either the low bid or the best value, taking into consideration, at a minimum, design cost, general conditions, overhead, and profit as a component of the project price; technical design and construction expertise; and life-cycle costs (Education Code 17250.61, 17250.62)

### Protests by Bidders

CSBA NOTE: The law does not specify a procedure for handling protests by bidders. The following optional section provides one such procedure and should be modified to reflect district practice.

If the bidder believes that the award is not in compliance with law, Board policy, administrative regulation, or the bid specification, the bidder may protest the award. A protest must be filed in writing with the Superintendent or designee within five working days after receipt of notification of the contract award and shall include all documents supporting or justifying the protest. A bidder's failure to file the protested documents in a timely manner shall constitute a waiver of the right to protest the award of the contract.

The Superintendent or designee shall review the documents submitted with the bidder's claims and render a decision in writing within 30 working days. The Superintendent or designee may also convene a meeting with the bidder in order to attempt to resolve the problem.

CSBA NOTE: The following paragraph provides a process for appealing a bid award to the Governing Board. Although the law does not specify the notice to be given in this circumstance, it is recommended that the district give notice to the bidder at least three business days before the Board meeting where the appeal will be heard, which is reflected below, and may be modified to reflect district practice.

The bidder may appeal the Superintendent or designee's decision to the Board. The Superintendent or designee shall provide notice to the bidder of the date and time for Board consideration of the protest at least three business days before the Board meeting. The Board's decision shall be final.

#### Bids Not Required

CSBA NOTE: Pursuant to Public Contract Code 20118, districts may be exempt from the bidding requirements and may "piggyback" onto the bid of any public corporation or agency for specific items when the Board determines it is in the best interest of the district.

The Attorney General opined, in 89 Ops.Cal.Atty.Gen. 1, 2006, that a district may not rely on the piggyback exception to contract for the acquisition and installation of factory-built modular building components (i.e., roofs and walls) for installation on a permanent foundation. This opinion does not clearly address whether the piggyback exception applies to typical portable or relocatable single-classroom buildings, that lack a permanent foundation. However, in 2022 the State Allocation Board (SAB) notified districts that permanent modular school facilities must be competitively bid and districts that use piggyback contracts for permanent modular facilities are ineligible for state funding from SAB administered programs. It is recommended that districts considering using the piggyback process for modular facilities which are relocatable, portable, or temporary consult CSBA's District and County Office of Education Legal Services or district legal counsel.

When the Board has determined that it is in the best interest of the district, the district may piggyback onto the contract of another public agency or corporation to lease or purchase any personal property ~~to the extent authorized by law,~~ including the lease of data processing equipment or the purchase of materials, supplies, equipment, automotive vehicles, tractors, and other personal property for the district in the manner that the other public corporation or agency is authorized to make the leases or purchases from a vendor. (Public Contract Code 20118) Alternatively, if the public corporation or agency has an existing contract with a vendor for the lease or purchase of personal property, the district may authorize the lease or purchase of personal property directly from the vendor and make payments under the same terms that are available to the public corporation or agency under the contract. (Public Contract Code 20118)

CSBA NOTE: The following optional paragraph reflects the authority granted to public agencies pursuant to Government Code 4217.10-4217.18 to enter into energy service contracts without competitive bidding when the agency's governing body determines that the contract is in the best interest of the agency based on the "cost-benefit" analysis specified in Government Code 4217.12. Without advertising for bids, the Board may enter into an energy service contract and any related facility ground lease, when it determines that the terms of the contract and lease are in the best interest of the district and meet the cost effectiveness requirements specified in Government Code 4217.12. The Board's determination shall be made at a regularly scheduled public hearing of which

notice is given to the public at least two weeks in advance and shall be based on a cost and saving comparison finding specified in Government Code 4217.12. (Government Code 4217.12)

CSBA NOTE: Pursuant to Public Contract Code 20113, a district may award contracts without competitive bidding in emergency situations, as specified below. In *Marshall v. Pasadena Unified School District*, a court held that the definition of "emergency" in Public Contract Code 1102 is applicable. Public Contract Code 1102 defines "emergency" as a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

In an emergency when any repairs, alterations, work, or improvement to any school facility is necessary to permit the continuance of existing school classes or to avoid danger to life or property, the Board may, by unanimous vote and with the approval of the County Superintendent of Schools, contract for labor and materials or supplies without advertising for or inviting bids or may authorize the use of day labor or force account for the emergency purpose. (Public Contract Code 1102, 20113)

#### **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**

Bus. Code 7056

Bus. Code 7057

Code of Civil Procedure 446

Ed. Code 17070.10-17079.30

Ed. Code 17250.10-17250.55<sup>52</sup>

Ed. Code 17250.60-17250.69

Ed. Code 17400

Ed. Code 17406

Ed. Code 17595

Ed. Code 17602

Ed. Code 38083

Ed. Code 38110-38120

Ed. Code 39802

#### **Description**

General engineering contractor

General building contractor

Verification of pleadings

Leroy F. Greene School Facilities Act

Design-build contracts

Alternative design-build contracts

#### Leasing Property

Lease-leaseback contract

Purchase of supplies through Department of General Services

Purchase of surplus property from federal agencies

Purchase of perishable foodstuffs and seasonal commodities

Apparatus and supplies

Transportation services

Gov. Code 4217.10-4217.18	Energy conservation contracts
Gov. Code 4330-4334	California made materials
Gov. Code 53060	Special services and advice
Gov. Code 54201-54205	Purchase of supplies and equipment by local agencies
Gov. Code 7920.530	<del>Definition of public</del> <u>Public record, definition</u>
Pub. Cont. Code 1102	<del>Definition of emergency</del> <u>Emergency, definition</u>
Pub. Cont. Code 1103	<del>Definition; responsible</del> <u>Responsible bidder, definition</u>
Pub. Cont. Code 12200	<del>Definitions; recycled</del> <u>Recycled goods, materials and supplies; definition</u>
Pub. Cont. Code 2000-2002	Responsive bidders
Pub. Cont. Code 20101-20103.7	Public construction projects; requirements for bidding
Pub. Cont. Code 20103.8	Award of contracts
Pub. Cont. Code 20110-20118.4	Local Agency Public Construction Act; school districts
Pub. Cont. Code 20189	Bidder's security; earthquake relief
Pub. Cont. Code 22000-22045	Uniform Public Construction Cost Accounting Act
Pub. Cont. Code 22152	Recycled product procurement
Pub. Cont. Code 3000-3010	Roofing projects
Pub. Cont. Code 3400	Bid specifications
Pub. Cont. Code 3410	U.S. produce and processed foods
Pub. Cont. Code 4113	Prime contractor; subcontractor
Pub. Cont. Code 6102	Bribery of public official; voidable contract
Pub. Cont. Code 6610	Bid visits
<u>CA Constitution, Article 2, Section 31(a)</u>	<u>Prohibition of discrimination in operation of public education</u>
<b>Management Resources</b>	<b>Description</b>
Attorney General Opinion	89 Ops.Cal.Atty.Gen. 1 (2006)
CA Department of General Services Publication	Office of Public School Construction, Piggyback Contracts
CA Department of General Services Publication	Office of Public School Construction Notification to School Districts Regarding Use of Piggyback Contracts for SAB-Administered Programs, July 2022
CA Department of Industrial Relations Publication	Model Prequalification Questionnaire

Court Decision	City of Inglewood-Los Angeles County Civic Center Authority v. Superior Court (1972) 7 Cal.3d 861
Court Decision	Great West Contractors Inc. v. Irvine Unified School District (2010) 187 Cal.App.4th 1425
Court Decision	Konica Business Machines v. Regents of the University of California (1988) 206 Cal.App.3d 449
Court Decision	Los Angeles Unified School District v. Great American Insurance Co. (2010) 49 Cal.4th 739
Court Decision	Marshall v. Pasadena Unified School District (2004) 119 Cal.App.4th 1241
Website	CSBA District and County Office of Education Legal Services
Website	California Department of General Services
Website	CSBA
Website	California Department of Education
Website	California Association of School Business Officials

### **Cross References**

<b>Code</b>	<b>Description</b>
0410	Nondiscrimination In District Programs And Activities
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1340	Access To District Records
1340	Access To District Records
3000	Concepts And Roles
3230	Federal Grant Funds
3230	Federal Grant Funds
3270	Sale And Disposal Of Books, Equipment And Supplies
3270	Sale And Disposal Of Books, Equipment And Supplies
3300	Expenditures And Purchases
3311.1	Uniform Public Construction Cost Accounting Procedures

3311.1	Uniform Public Construction Cost Accounting Procedures
3311.2	Lease-Leaseback Contracts
3311.3	Design-Build Contracts
3311.4	Procurement Of Technological Equipment
3312	Contracts
3314	Payment For Goods And Services
3314	Payment For Goods And Services
3510	Green School Operations
3511	Energy And Water Management
3511	Energy And Water Management
3511.1	Integrated Waste Management
3511.1	Integrated Waste Management
3512	Equipment
3512-E(1)	Equipment
3517	Facilities Inspection
3517-E(1)	Facilities Inspection
3540	Transportation
3551	Food Service Operations/Cafeteria Fund
3551	Food Service Operations/Cafeteria Fund
3580	District Records
3580	District Records
3600	Consultants
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
6163.1	Library Media Centers
7000	Concepts And Roles
7140	Architectural And Engineering Services

7140	Architectural And Engineering Services
9270	Conflict Of Interest
9270-E(1)	Conflict Of Interest
9320	Meetings And Notices
9323.2	Actions By The Board
9323.2-E(1)	Actions By The Board

## Regulation 3311: Bids

Status: ADOPTED

Original Adopted Date: 10/01/2015 | Last Revised Date: 09/03/01/2023~~2025~~ | Last Reviewed  
Date: 09/03/01/2023~~2025~~

CSBA NOTE: Pursuant to Government Code 54202, districts are **mandated** to establish bidding procedures governing the purchase of equipment and supplies. The following administrative regulation and accompanying Board policy reflects the competitive bidding procedures applicable to these purchases, as well as contracts pursuant to Public Contract Code 20111 for certain services, public works projects, and repairs and maintenance, when the contract exceeds the amount specified in law.

An alternative procedure for public works projects is provided pursuant to the Uniform Public Construction Cost Accounting Act (UPCCAA) (Public Contract Code 22000 22045), which allows public projects. Pursuant to Public Contract Code 22032, as amended by AB 2192 (Ch. 953, Statutes of \$60 2024), projects of \$75,000 or less to may be performed by district employees and public projects of \$200 220,000 or less to may be awarded through an contracted using a more informal bidding process. See For more information regarding UPCCAA, see BP/AR 3311.1 - Uniform Public Construction Cost Accounting Procedures. Districts that have adopted the UPCCAA procedures should modify the following regulation to delete or revise conflicting provisions related to contracts for public works. Also see AR 3311.2 - Lease-Leaseback Contracts, AR 3311.3 - Design-Build Contracts, and AR 3311.4 - Procurement of Technological Equipment for procedures applicable to those contracts.

### Advertised/Competitive Bids

The district shall advertise for any of the following: (Public Contract Code 20111)

1. A public project contract that involves an expenditure of \$15,000 or more, including a contract for construction, reconstruction, erection, alteration, renovation, improvement, painting, repainting, demolition, or repair work involving a district owned, leased, or operated facility

CSBA NOTE: For the contracts specified in Item #2a-c below, Public Contract Code 20111 requires the Superintendent of Public Instruction (SPI) to annually establish a bid limit that reflects U.S. Department of Commerce data. The following paragraph allows the amount to escalate automatically once the SPI has made the annual determination. For ~~2023 2025~~, the bid limit is ~~\$109,300 114,800~~.

2. A contract that exceeds the amount specified in law, as annually adjusted by the Superintendent of Public Instruction, for any of the following:

- a. The purchase of equipment, materials, or supplies to be furnished, sold, or leased to the district
- b. Services, not including construction services or special services and advice in accounting, financial, legal, or administrative matters
- c. Repairs that are not a public project, including maintenance

*Maintenance* means routine, recurring, and usual work for preserving, protecting, and keeping a district facility operating in a safe, efficient, and continually usable condition for the intended purpose for which it was designed, improved, constructed, altered, or repaired. Maintenance includes, but is not limited to, carpentry, electrical, plumbing, glazing, and other craft work designed to preserve the facility, as well as repairs, cleaning, and other operations on machinery and other permanently attached equipment. Maintenance also includes landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems. Maintenance does not include painting, repainting, or decorating, other than touchup, or among other types of work, minor repainting; janitorial or custodial services; and protection provided by security forces. (Public Contract Code 20115, 22002)

#### **Instructions and Procedures for Advertised Bids**

The Superintendent or designee shall call for bids by placing a notice at least once a week for two weeks in a local newspaper of general circulation published in the district, or if no such newspaper exists, then in some newspaper of general circulation that is circulated in the county.

The Additionally, the Superintendent or designee also may post the notice on the district's website or through an electronic portal. The notice shall state the work to be done or materials or supplies to be furnished and the time and place and website where bids will be opened. (Public Contract Code 20112)

The notice shall contain the time, date, and location of any mandatory prebid conference, site visit, or meeting and details regarding when and where project documents, including the final plan and specifications, are available. Any such mandatory visit or meeting shall occur not less than five calendar days after the publication of the initial notice. (Public Contract Code 6610)

**CSBA NOTE:** Pursuant to Public Contract Code 2600 all bid documents and construction contracts, when applicable, must contain a notice that the project is subject to the skilled and trained workforce requirements specified in Public Contract Code 2600-2603. Skilled and trained workforce requirements are required for lease-leaseback projects, design-build, and alternative design-build projects. Skilled and trained workforce is optional for all other construction delivery methods. See AR 3311.2 Lease-Leaseback Contracts and AR 3311.3 -- Design-Build Contracts for specific bidding requirements.

The notice shall contain the time, date, and location of any mandatory prebid conference, site visit, or meeting and details regarding when and where project documents, including the final plan and specifications, are available.

For lease-leaseback, design-build, and alternative design-

build projects, the notice shall additionally specify that the project is subject to skilled and trained workforce requirements. (Education Code 17250.25, 17250.62, 17407.5; Public Contract Code 2600, 6610)

Bid instructions and specifications shall include the following requirements and information:

1. All bidders shall certify in writing the minimum, if not exact, percentage of post-consumer materials in products, materials, goods, or supplies offered or sold. (Public Contract Code 22152)
2. All bids for construction work shall be presented under sealed cover. (Public Contract Code 20111)

       The district may accept a bid that has been submitted electronically or on paper. (Public Contract Code 20111, 20112)

The bid shall be accompanied by a form of bidder's security, including either cash, a cashier's check payable to the district, a certified check made payable to the district, or a bidder's bond executed by an admitted surety insurer and made payable to the district. The security of unsuccessful bidders shall be returned in a reasonable period of time, but in no event later than 60 days after the bid is awarded. (Public Contract Code 20111, 20112)

3. When a standardized proposal form is provided by the district, bids not presented on the standard form shall be disregarded. (Public Contract Code 20111.5)
4. Bids shall not be accepted after the advertised bid opening time, regardless of whether the bids are actually opened at that time. (Public Contract Code 20112)
5. When two or more identical lowest or highest bids are received, the Governing Board may determine by lot which bid shall be accepted. (Public Contract Code 20117)

CSBA NOTE: Public Contract Code 20103.8 specifies that, in those cases when the bid includes items that may be added to or deducted from the scope of the work in the contract, the bid solicitation must specify the method to be used to determine the lowest bid, as detailed below. Districts should it is recommended that districts consult with CSBA's District and County Office of Education Legal Services or district legal counsel, as appropriate, if they have with questions regarding the applicability of this law.

6. If the district requires that the bid ~~include~~ includes prices for items that may be added to or deducted from the scope of work in the contract, the bid solicitation shall specify which one of the following methods will be used to determine the lowest bid. (Public Contract Code 20103.8)

\_\_\_\_\_. In the absence of such a specification, only the method provided in Item #6a below shall be used. (Public Contract Code 20103.8)

- a. The lowest bid shall be the lowest total of the bid prices on the base contract without consideration of the prices on the additive or deductive items.
- b. The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that were specifically identified in the bid solicitation as being used for the purpose of determining the lowest bid price.
- c. The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that, when taken in order from a specifically identified list of those items in the solicitation, and added to or subtracted from the base contract, are less than or equal to a funding amount publicly disclosed by the district before the first bid is opened: (Public Contract Code 20103.8)

The lowest bid shall be determined in a manner that prevents any information that would identify any of the bidders or proposed subcontractors or suppliers from being revealed to the district before the ranking of all bidders from lowest to highest has been determined. (Public Contract Code 20103.8)

CSBA NOTE: For a bid to be successful, it must conform to bid specifications (i.e., it must be "responsive") and the bidder must be determined to be able to perform the work (i.e., the bidder must be "responsible" as defined in Public Contract Code 1103). There is no right to a due process hearing when the district has merely found the bid to be nonresponsive. ~~However, the district must be careful in making~~ It is recommended that districts provide clear and comprehensive bid specifications to bidders and that a determination on the "nonresponsiveness" of a bid be based only on anything other than the documents submitted. ~~To avoid any confusion, the district should provide clear and comprehensive bid specifications to bidders.~~

When rejecting the lowest responsive bid on the basis that the bidder is nonresponsive, the district ~~must~~ is required to inform the bidder of the evidence used when making the determination and afford the bidder a hearing with the right to present evidence that the bidder is responsible.

7. In determining the lowest bid, the district shall consider only responsive bids that conform to bid specifications and are submitted by responsible bidders who have demonstrated trustworthiness, quality, fitness, capacity, and experience to satisfactorily perform the public works contract:
  - a. When a bid is determined to be nonresponsive, the Superintendent or designee shall notify the bidder and give the bidder an opportunity to respond to the determination.

- b. When the lowest bidder is determined to be nonresponsible, the Superintendent or designee shall notify the bidder of the right to present evidence of the bidder's responsibility at a hearing before the Board.
8. After being opened, all submitted bids become public records pursuant to Government Code 7920.530 and shall be made available for public review pursuant to law, Board policy, and administrative regulation.

### Prequalification Procedure

CSBA NOTE: The following section is optional. Pursuant to Public Contract Code 20111.6, a district with average daily attendance (ADA) of 2,500 or greater is required to prequalify all general contractors and electrical, mechanical, and plumbing subcontractors for any public project of \$1,000,000 or more, when the project uses ~~or is reimbursed from~~ state general funds, School Facilities Program funds (Education Code 17070.10-17079.30), ~~or uses or other is reimbursed from~~ future state school bonds. A model prequalification questionnaire is available on the Department of Industrial ~~Relations~~ Relations website.

Additionally, pursuant to Public Contract Code 20111.5, districts are permitted, but not required, to establish prequalification procedures for other contracts which, by law, require competitive bidding.

When required by law or the Board, the Superintendent or designee shall establish a uniform system for rating bidders on the basis of completed questionnaires and financial statements in order to determine the size of contracts on which each bidder is qualified to bid. For this purpose, the Superintendent or designee shall furnish prospective bidders a standardized prequalification questionnaire and financial record which, when completed, shall indicate a bidder's statement of financial ability and experience in performing public works. The bidder's information shall be verified under oath in the manner in which civil law pleadings are verified. The questionnaires and financial statements shall not be public records and shall not be open to public inspection. (Code of Civil Procedure 446; Public Contract Code 20111.5, 20111.6)

When any public project involves an expenditure of \$1,000,000 or more and is funded or reimbursed wholly or partly by state general funds, the School Facilities Program funds, or other future state school bond, the district shall prequalify prospective bidders either quarterly or annually. The prequalification shall be valid for one year and the following requirements shall apply: (Public Contract Code 20111.6)

1. Prospective bidders, including, but not limited to, prime, general engineering, and general building contractors and electrical, mechanical, and plumbing subcontractors, as defined in Public Contract Code 4113 or Business and Professions Code 7056 or 7057, as applicable, shall submit a standardized questionnaire and financial statement 10 or more business days, as determined by the district, before the date fixed for the public opening of sealed bids.
2. Prospective bidders shall be prequalified by the district five or more business days, as determined by the district, before the date fixed for the public opening of sealed bids.

If the project includes electrical, mechanical, or plumbing components that will be performed by electrical, mechanical, or plumbing contractors, the Superintendent or designee shall make available to all bidders a list of prequalified general contractors and electrical, mechanical, and plumbing subcontractors five or more business days, as determined by the district, before the date fixed for the public opening of sealed bids. (Public Contract Code 20111.6)

For all other contracts requiring competitive bidding, the district may establish a procedure for prequalifying bidders on a quarterly basis and may authorize that prequalification be considered valid for up to one calendar year following the date of the initial prequalification. Prospective bidders for such contracts shall submit the questionnaire and financial statement at least five days before the date fixed for public opening of sealed bids and shall be prequalified by the district at least one day before the fixed bid-opening date. (Public Contract Code 20111.5)

### **Award of Contract**

The district shall award each contract to the lowest responsible bidder, except in the following circumstances:

1. When the contract is for the procurement and/or maintenance of electronic data processing systems and supporting software, in which case the Board may contract with any one of the three lowest responsible bidders (Public Contract Code 20118.1)
2. When the contract is for any transportation service which involves an expenditure of more than \$10,000 and which will be made with any person or corporation other than a common carrier, municipally owned transit system, or a parent/guardian of a student who is to be transported, in which case the Board may contract with other than the lowest bidder (Education Code 39802)

CSBA NOTE: Pursuant to Public Contract Code 2000-2002, a district is permitted to establish bidding requirements that facilitate the participation of minority, women, disabled veteran, and small business enterprises in contracts. Though minorities and women are included in Public Contract Code 2000, Article 1, Section 31(a) of the California Constitution prohibits the granting of preferences based on race, sex, color, ethnicity, or national origin in state employment and contracting. The district should consult with CSBA's District and County Office of Education Legal Services or district legal counsel if there is any question about the granting of preferences to any such business.

3. When the contract is one for which the Board has established goals and requirements relating to participation of disabled veteran or small business enterprises in accordance with Public Contract Code 2000-2002, in which case the Board may contract with the lowest responsible bidder who submits a responsive bid and complies or makes a good faith effort to comply with the goals and requirements (Public Contract Code 2000-2002)

4. When procuring a lease-leaseback contract, in which case the Board shall award the contract based on objective criteria for determining the best combination of price and qualifications in accordance with Education Code 17400 and 17406

CSBA NOTE: Until January 1, 2025, districts may, in accordance with Education Code 17250.25, utilize the design-build method of construction delivery. Pursuant to Education Code 17250.15, design-build means a project delivery process in which both the design and construction of a project are procured from a single entity.

5. When procuring a design-build contract for a public works project in excess of \$1,000,000 in accordance with Education Code 17250.20, in which case the Board may award the contract to either the low bid or the best value to the district, taking into consideration, at a minimum, price, technical design and construction expertise, and life-cycle costs (Education Code 17250.20, 17250.25)

CSBA NOTE: Pursuant to Education Code 17250.60-17250.69, as added by AB 185 (Ch. 571, Statutes of 2022), the district may, until January 1, 2029, utilize alternative design-build contracts for public works projects in excess of \$5,000,000. Pursuant to Education Code 17250.60, alternative design-build means a project delivery process in which both the design and construction of a project are procured from a single design-build entity based on its proposed design cost, general conditions, overhead, and profit as a component of the project price.

A contract for an alternative design-build project must be awarded to either the low bidder or the best value, and is subject to further negotiation and amendment pursuant to Education Code 17250.65. Alternative design-build subcontracts are subject to an open book evaluation by the district and the district sets the price based on this open book evaluation. The alternative design-build contract may be subject to further negotiation or amendment and if the district and the design-build entity are unable to reach an agreement, the district may terminate the contract. A district that utilizes the alternative design-build procurement method is required to submit, by January 1, 2028, a report to the Legislature, as specified in Education Code 17250.67. See AR 3311.3—Design-Build Contracts for more information specific to design-build and alternative design-build projects.

6. When procuring an alternative design-build contract for a public works project in excess of \$5,000,000 in accordance with Education Code 17250.62, in which case the Board may award the contract to either the low bid or the best value, taking into consideration, at a minimum design cost, general conditions, overhead, and profit as a component of the project price; technical design and construction expertise; and life-cycle costs (Education Code 17250.61, 17250.62)

### Protests by Bidders

CSBA NOTE: The law does not specify a procedure for handling protests by bidders. The following optional section provides one such procedure and should be modified to reflect district practice.

If the bidder believes that the award is not in compliance with law, Board policy, or the bid specification, the bidder may protest the award. A protest must be filed in writing with the Superintendent or designee within five working days after receipt of notification of the contract

award and shall include all documents supporting or justifying the protest. A bidder's failure to file the protested documents in a timely manner shall constitute a waiver of the right to protest the award of the contract.

The Superintendent or designee shall review the documents submitted with the bidder's claims and render a decision in writing within 30 working days. The Superintendent or designee may also convene a meeting with the bidder in order to attempt to resolve the problem.

**CSBA NOTE:** The following paragraph provides a process for appealing a bid award to the Board. Although the law does not specify the notice to be given in this circumstance, CSBA recommends at least three business days which may be modified to reflect district practice.

The bidder may appeal the Superintendent or designee's decision to the Board. The Superintendent or designee shall provide notice to the bidder of the date and time for Board consideration of the protest at least three business days before the Board meeting. The Board's decision shall be final.

### **Limitation on Use of Sole Sourcing**

**CSBA NOTE:** "Sole sourcing" is the practice by which one brand name product is specified, although comparable, competitive products are available. Public Contract Code 3400 allows sole sourcing in limited circumstances and requires that the specification of the designated product be followed by the words "or equal," so that bidders for such a contract are able to base their bids on the use of other products of equal functionality that may result in cost savings for the district. The following section is optional.

In any contract for the construction, alteration, or repair of school facilities, the Superintendent or designee shall ensure that the bid specification: (Public Contract Code ~~3002~~, 3400)

1. Does not directly or indirectly limit bidding to any one specific concern
2. Does not call for a designated material, product, thing, or service by a specific brand or trade name, unless the specification is followed by the words "or equal," so that bidders may furnish any equal material, product, thing, or service

In any such case, the bid specification shall provide a time period, before and/or after the award of the contract, for the contractor to submit data substantiating the request for substituting the designated material, product, thing, or service. If no such time period is specified, the contractor may submit the data within 35 days after the award of the contract.

**CSBA NOTE:** The following optional paragraph is for use by districts with ADA of more than 2,500. For the repair or replacement of the roof of a public facility, a material must meet the requirements specified below to be considered "equal" pursuant to Public Contract Code 3000-3010.

When the bid is for a roof project, a material, product, thing, or service is considered "equal" to that designated if it is equal in quality, durability, design, and appearance; will perform the intended function equally well; and conforms substantially to the detailed requirements in the bid specification. (Public Contract Code 3002)

However, the Superintendent or designee may designate a specific material, product, thing, or service by brand or trade name, also known as sole sourcing, if the Board has made a finding, described in the invitation for bids or request for proposals (RFP), that a particular material, product, thing, or service is designated for any of the following purposes: (Public Contract Code 3400)

1. To conduct a field test or experiment to determine its suitability for future use
2. To match others in use on a particular public improvement that has been completed or is in the course of completion
3. To obtain a necessary item that is only available from one source
4. To respond to the Board's declaration of an emergency, as so long as the declaration has been approved by four-fifths of the Board when issuing the invitation for bid or RFP

#### **Bids Not Required**

**CSBA NOTE:** The following paragraph lists those items that may be purchased through a "piggybacked" bid; see the accompanying Board policy. Many districts have used the piggyback procedure to purchase portable and relocatable buildings. The Attorney General has opined in 89 Ops.Cal.Atty.Gen. 1, 2006 that a district may not rely on the piggyback exception to contract for the acquisition and installation of factory-built modular building components (i.e., roofs and walls) for installation on a permanent foundation. This opinion does not apply to typical portable or relocatable single-classroom buildings, because they lack a permanent foundation and building mobility. Additionally, in 2022 the State Allocation Board (SAB) notified districts that modular school facilities must be competitively bid and districts that use piggyback contracts for modular facilities are ineligible for state funding from SAB administered programs. Districts considering using the piggyback process for relocatables, portables, modulares, and the like should consult CSBA's District and County Office of Education Legal Services or district legal counsel. **CSBA NOTE:** Districts may be exempt from certain bidding requirements; see "Bids Not Required" in the accompanying Board policy. The following optional paragraphs are additional instances that do not require competitive bidding.

Without advertising for bids and upon a determination that it is in the best interest of the district, the Board may "piggyback" by authorizing another public corporation or agency, by contract, lease, requisition, or purchase order, to lease data-processing equipment or to purchase materials, supplies, equipment, automotive vehicles, tractors, and other personal property for the district in the manner that the other public corporation or agency is authorized to make the leases or purchases from a vendor. Alternatively, if the public corporation or agency has an existing contract with a vendor for the lease or purchase of personal property, the district may authorize the lease or purchase of personal property directly from the vendor and make payments under the same terms

that are available to the public corporation or agency under the contract. (Public Contract Code 20118)

**CSBA NOTE:** The following optional paragraph reflects the authority granted to public agencies pursuant to Government Code 4217.10-4217.18 to enter into energy service contracts without competitive bidding when the agency's governing body determines that the contract is in the best interest of the agency based on the "cost-benefit" analysis specified in Government Code 4217.12.

Without advertising for bids, the Board may enter into an energy service contract and any related facility ground lease, when it determines that the terms of the contract and lease are in the best interest of the district and meet the cost effectiveness requirements specified in Government Code 4217.12. The Board's determination shall be made at a regularly scheduled public hearing of which notice is given to the public at least two weeks in advance and shall be based on a cost and saving comparison finding specified in Government Code 4217.12. (Government Code 4217.12)

Supplementary Without taking estimates or advertising for bids, supplementary textbooks, library books, educational films, audiovisual materials, test materials, workbooks, instructional computer software packages, or periodicals may be purchased in any amount without taking estimates or advertising for bids. (Public Contract Code 20118.3)

Perishable foodstuffs and seasonal commodities needed in the operations of cafeterias may be purchased through bid or on the open market. (Education Code 38083)

Bids shall not be required for day labor under circumstances specified in Public Contract Code 20114. Day labor shall include the use of maintenance personnel employed on a permanent or temporary basis. (Public Contract Code 20114)

**CSBA NOTE:** Pursuant to Public Contract Code 20113, a district may award contracts without competitive bidding in emergency situations, as specified below: In *Marshall v. Pasadena Unified School District*, a court held that the definition of "emergency" in Public Contract Code 1102 is applicable. Public Contract Code 1102 defines "emergency" as a "sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services."

In an emergency when any repairs, alterations, work, or improvement to any school facility is necessary to permit the continuance of existing school classes or to avoid danger to life or property, the Board may, by unanimous vote and with the approval of the County Superintendent of Schools, contract for labor and materials or supplies without advertising for or inviting bids or may authorize the use of day labor or force account for the emergency purpose. (Public Contract Code 1102, 20113)

The district may purchase any surplus property from the federal government or any of its agencies in any quantity needed for the operation of its schools without taking estimates or advertising for bids. (Education Code 17602)

#### **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**

Bus. Code 7056

Bus. Code 7057

Code of Civil Procedure 446

Ed. Code 17070.10-17079.30

Ed. Code 17250.10-17250.55 52

Ed. Code 17250.60-17250.69

Ed. Code 17400

Ed. Code 17406

Ed. Code 17595

Ed. Code 17602

Ed. Code 38083

Ed. Code 38110-38120

Ed. Code 39802

Gov. Code 4217.10-4217.18

Gov. Code 4330-4334

Gov. Code 53060

Gov. Code 54201-54205

Gov. Code 7920.530

Pub. Cont. Code 1102

Pub. Cont. Code 1103

Pub. Cont. Code 12200

Pub. Cont. Code 2000-2002

Pub. Cont. Code 20101-20103.7

Pub. Cont. Code 20103.8

**Description**

General engineering contractor

General building contractor

Verification of pleadings

Leroy F. Greene School Facilities Act

Design-build contracts

Alternative design-build contracts

Leasing Property

Lease-leaseback contract

Purchase of supplies through Department of General Services

Purchase of surplus property from federal agencies

Purchase of perishable foodstuffs and seasonal commodities

Apparatus and supplies

Transportation services

Energy conservation contracts

California made materials

Special services and advice

Purchase of supplies and equipment by local agencies

Definition of public Public record; definition

Definition of emergency Emergency; definition

Definition; responsible Responsible bidder; definition

Definitions, recycled Recycled goods, materials and supplies; definition

Responsive bidders

Public construction projects; requirements for bidding

Award of contracts

Pub. Cont. Code 20110-20118.4	Local Agency Public Construction Act; school districts
Pub. Cont. Code 20189	Bidder's security; earthquake relief
Pub. Cont. Code 22000-22045	Uniform Public Construction Cost Accounting Act
Pub. Cont. Code 22152	Recycled product procurement
Pub. Cont. Code 3000-3010	Roofing projects
Pub. Cont. Code 3400	Bid specifications
Pub. Cont. Code 3410	U.S. produce and processed foods
Pub. Cont. Code 4113	Prime contractor; subcontractor
Pub. Cont. Code 6102	Bribery of public official; voidable contract
Pub. Cont. Code 6610	Bid visits
<a href="#"><u>CA Constitution, Article 2, Section 31(a)</u></a>	<a href="#"><u>Prohibition of discrimination in operation of public education</u></a>
<b>Management Resources</b>	<b>Description</b>
Attorney General Opinion	89 Ops.Cal.Atty.Gen. 1 (2006)
CA Department of General Services Publication	Office of Public School Construction, Piggyback Contracts
CA Department of General Services Publication	Office of Public School Construction Notification to School Districts Regarding Use of Piggyback Contracts for SAB-Administered Programs, July 2022
CA Department of Industrial Relations Publication	Model Prequalification Questionnaire
Court Decision	City of Inglewood-Los Angeles County Civic Center Authority v. Superior Court (1972) 7 Cal.3d 861
Court Decision	Great West Contractors Inc. v. Irvine Unified School District (2010) 187 Cal.App.4th 1425
Court Decision	Konica Business Machines v. Regents of the University of California (1988) 206 Cal.App.3d 449
Court Decision	Los Angeles Unified School District v. Great American Insurance Co. (2010) 49 Cal.4th 739
Court Decision	Marshall v. Pasadena Unified School District (2004) 119 Cal.App.4th 1241
Website	CSBA District and County Office of Education Legal Services
Website	California Department of General Services
Website	CSBA

Website

California Department of Education

Website

California Association of School Business Officials

### **Cross References**

#### **Code**

#### **Description**

0410

Nondiscrimination In District Programs And Activities

1113

District And School Websites

1113

District And School Websites

1113-E(1)

District And School Websites

1340

Access To District Records

1340

Access To District Records

3000

Concepts And Roles

3230

Federal Grant Funds

3230

Federal Grant Funds

3270

Sale And Disposal Of Books, Equipment And Supplies

3270

Sale And Disposal Of Books, Equipment And Supplies

3300

Expenditures And Purchases

3311.1

Uniform Public Construction Cost Accounting Procedures

3311.1

Uniform Public Construction Cost Accounting Procedures

3311.2

Lease-Leaseback Contracts

3311.3

Design-Build Contracts

3311.4

Procurement Of Technological Equipment

3312

Contracts

3314

Payment For Goods And Services

3314

Payment For Goods And Services

3510

Green School Operations

3511

Energy And Water Management

3511

Energy And Water Management

3511.1

Integrated Waste Management

3511.1

Integrated Waste Management

3512	Equipment
3512-E(1)	Equipment
3517	Facilities Inspection
3517-E(1)	Facilities Inspection
3540	Transportation
3551	Food Service Operations/Cafeteria Fund
3551	Food Service Operations/Cafeteria Fund
3580	District Records
3580	District Records
3600	Consultants
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
6163.1	Library Media Centers
7000	Concepts And Roles
7140	Architectural And Engineering Services
7140	Architectural And Engineering Services
9270	Conflict Of Interest
9270-E(1)	Conflict Of Interest
9320	Meetings And Notices
9323.2	Actions By The Board
9323.2-E(1)	Actions By The Board

**Policy 3311.1: Uniform Public Construction Cost Accounting  
Procedures**

**Status:** ADOPTED

**Original Adopted Date:** 12/01/2016 | **Last Revised Date:** 03/01/2025 | **Last Reviewed Date:**  
09/01/2023 2025

CSBA NOTE: The following optional policy is for use by districts that elect to use an alternative procedure for awarding contracts for public works projects pursuant to the Uniform Public Construction Cost Accounting Act (UPCCAA) (Public Contract Code 22000-22045), which establishes a higher bid limit and a more informal bidding process for certain projects. See BP/AR 3311 - Bids for traditional bidding procedures pursuant to Public Contract Code 20110-20118.4.

Pursuant to Public Contract Code 22032, projects ~~as amended by AB 2192 (Ch. 953, Statutes of \$60 2024)~~, projects of \$75,000 or less may be performed by the district's own work force, projects of \$200 ~~220,000~~ or less may use ~~be contracted using~~ a more informal bidding procedure as specified, and projects over \$200 ~~220,000~~ ~~require~~ **are required to be let to contract by** formal bidding procedures. See the accompanying administrative regulation for related requirements.

In order to participate in the UPCCAA, Public Contract Code 22030 requires the Governing Board to adopt a resolution electing to use the UPCCAA for district contracting and to notify the State Controller of that action. In the event of a conflict with any other provision of law relative to bidding procedures, ~~the UPCCAA shall apply~~ **applies** for any district that has adopted a resolution and so notified the Controller. According to the California Uniform Construction Cost Accounting Commission's, "Frequently Asked Questions," available on its website, once the Board has adopted such a resolution, it can only withdraw from the UPCCAA by adopting a resolution of the election to withdraw and filing that resolution with the State Controller.

In awarding contracts for public works projects involving district facilities, the Governing Board desires to obtain the best value to the district and ensure the qualifications of contractors to complete the project in a satisfactory manner. The Board has, by resolution, adopted the procedures set forth in the Uniform Public Construction Cost Accounting Act (**UPCCAA**) pursuant to Public Contract Code 22030-22045, including the informal bidding procedures when allowed by law.

CSBA NOTE: The following paragraph may be revised to reflect district practice. In circumstances where the informal bidding procedure is authorized, Public Contract Code 22034 allows the Board to delegate the authority to award contracts to an appropriate district administrator. Additionally, Public Contract Code 22039 authorizes the Board to delegate the authority to adopt plans, specifications, and working details for projects subject to formal bidding procedures.

The Board delegates to the Superintendent or designee the responsibilities to award any contract eligible for informal bidding procedures and to develop plans, specifications, and working details for all public projects requiring formal bidding procedures.

No work, project, service, or purchase shall be split or separated into smaller work orders or projects for the purpose of evading legal requirements for competitive bidding. (Public Contract Code 22033)

If after the first invitation of bids pursuant to informal or formal bidding procedures under UPCCAA all bids are rejected, the Board may, by passage of a resolution by four-fifths vote, declare the project can be performed more economically by the employees of the district. (Public Contract Code 22038)

CSBA NOTE: In electing to be subject to the UPCCAA, the district ~~thereby~~ agrees to follow the cost accounting procedures set forth in the, "Cost Accounting Policies and Procedures Manual of the California Uniform Construction Cost Accounting Commission," pursuant to Public Contract Code 22017 and 22019. According to the Commission's, "Frequently Asked Questions," available on the Commission's its website, districts may use the statewide Standardized Account Code Structure to comply with tracking requirements.

Projects awarded through the UPCCAA shall be subject to the cost accounting procedures established by the California Uniform Construction Cost Accounting Commission. (Public Contract Code 22030)

### Emergency Actions

CSBA NOTE: Pursuant to Public Contract Code 22035 allows the, a district to may, in accordance with Public Contract Code 22050, replace or repair a school facility without going through the UPCCAA process in cases of emergency in accordance with Public Contract Code 22050. Public Contract Code 1102 defines "emergency" as a "sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services."

When formal bids are required by law, but an emergency necessitates immediate repair or replacements, the Board may, upon a four-fifths vote of the Board, proceed to replace or repair a facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts. The work may be done by day labor under the direction of the Board and/or contractor. The emergency action shall subsequently be reviewed by the Board in accordance with Public Contract Code 22050 and shall be terminated at the earliest possible date that conditions warrant, so that the remainder of the emergency action may be completed by giving notice for bids to let contracts. (Public Contract Code 1102, 22035, 22050)

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### State

### Description

Pub. Cont. Code 1102  
 Pub. Cont. Code 20110-20118.4  
 Pub. Cont. Code 22000-22020

Pub. Cont. Code 22000-22045  
 Pub. Cont. Code 22050

**Management Resources**

CA Uniform Construction Cost  
 Accounting Comm. Pub.  
 CA Uniform Construction Cost  
 Accounting Comm. Pub.  
 Website

Website

Website

Website

**Cross References**

**Code**

3311  
 3311  
 3312  
 7000  
 7110  
 9323.2  
 9323.2-E(1)

Definition of emergency

Local Agency Public Construction Act; school districts

California Uniform Construction Cost Accounting  
 Commission

Uniform Public Construction Cost Accounting Act

Emergency contracting procedures

**Description**

Cost Accounting Policies and Procedures Manual, 2021

Frequently Asked Questions, September 2022

CSBA District and County Office of Education Legal Services

California Uniform Construction Cost Accounting  
 Commission

CSBA

California Association of School Business Officials

**Description**

Bids  
 Bids  
 Contracts  
 Concepts And Roles  
 Facilities Master Plan  
 Actions By The Board  
 Actions By The Board

**Regulation 3311.1: Uniform Public Construction Cost Accounting Procedures**

**Status:** ADOPTED

**Original Adopted Date:** 12/01/2016 | **Last Revised Date:** 12/03/01/2018 2025 | **Last Reviewed Date:** 09/03/01/2023 2025

CSBA NOTE: The following administrative regulation is for use when the Governing Board has adopted a resolution to use the alternative procedures of the Uniform Public Construction Cost Accounting Act (UPCCAA) (Public Contract Code 22000-22045) for awarding public works projects; see the accompanying Board policy.

According to the California Uniform Construction Cost Accounting Commission's, "Frequently Asked Questions," available on its website, a district participating in the UPCCAA is subject to other requirements of the Public Contract Code in areas where the UPCCAA is silent. See BP/AR 3311 - Bids for traditional bidding procedures pursuant to Public Contract Code 20110-20118.4.

Public Contract Code 22032 establishes the following requirements based on the amount of the public project. Pursuant to Public Contract Code 22020, the Commission reviews these monetary limits every five years and recommends to the State Controller whether they need to be adjusted. The State Controller is required to notify all participating public agencies of any adjustment to these limits prior to the effective date.

Pursuant to Public Contract Code 22002, as amended by AB 2192 (Ch. 953, Statutes of 2024), the definition of "public project" was expanded to include "installation," which is reflected in the following definition.

Public project, in regard to the Uniform Public Construction Cost Accounting Act (UPCCAA), means any of the following: (Public Contract Code 22002)

1. Construction, reconstruction, erection, installation, alteration, renovation, improvement, demolition, and repair work involving any district-owned, leased, or operated facility
2. Painting or repainting of any district-owned, leased, or operated facility

CSBA NOTE: Public Contract Code 22032, as amended by AB 2192, establishes the following requirements based on the amount of the public project. Pursuant to Public Contract Code 22020, the Commission reviews these monetary limits every five years and recommends to the State Controller whether they need to be adjusted. The following represents the increase to bid limit threshold effective January 1, 2025. The State Controller is required to notify all participating public agencies of any adjustment to these limits prior to the effective date.

Procedures for awarding contracts for public works projects shall be determined on the basis of the amount of the project, as follows:

1. Public projects of \$~~60~~75,000 or less may be performed by district employees by force account, negotiated contract, or purchase order. (Public Contract Code 22032)

CSBA NOTE: Public Contract Code 22034, as amended by AB 2192, requires any public agency participating in UPCCAA to adopt an informal bidding ordinance, with specified components, to govern the selection of contractors to perform public projects of \$~~200~~220,000 or less, as described in Item #2 below. The Commission's, "Frequently Asked Questions," advise that districts and other agencies that cannot legally adopt ordinances discuss compliance with legal counsel.

The district may revise Item #2a to reflect the method(s) of notification of contractors used by the district.

2. Contracts for public projects of \$~~200~~220,000 or less may be awarded through the following informal procedures: (Public Contract Code 22032, 22034, 22038)

- a. The Superintendent or designee shall prepare a notice inviting informal bids which describes the project in general terms, explains how to obtain further information about the project, and states the time and place for the submission of bids.

This notice shall be disseminated by mail, fax, or email to either or both of the following:

- i. All contractors on a list of qualified contractors maintained by the district for the category of work being bid, unless the product or service is proprietary, at least 10 calendar days before bids are due
  - ii. All construction trade journals identified pursuant to Public Contract Code 22036
- b. The district shall review the informal bids that were submitted and award the contract, ~~except that:~~ as follows:

- i. The contract shall be awarded to the lowest responsible bidder

If two or more bids are the same and the lowest, the district may accept the one it chooses.

- ii. If all bids received through the informal process are in excess of \$~~200~~220,000, the contract may be awarded to the lowest responsible bidder, provided that the Governing Board adopts a resolution with a four-fifths vote to award the contract at \$~~242,500~~235,000 or less and the Board determines the district's cost estimate is reasonable.

- iii. At its discretion, the district may reject all bids presented and declare that the project can be more economically performed by district employees, provided

that the district notifies an apparent low bidder, in writing, of the district's intention to reject the bid

Such notice shall be mailed at least two business days prior to the hearing at which the district intends to reject the bid.

- iv. If no bids are received through the informal bid procedure, the project may be performed by district employees by force account or negotiated contract.

3. Public projects of more than \$200,000 shall, except as otherwise provided by law, be subject to formal bidding procedures, as follows: (Public Contract Code 22032, 22037, 22038)

CSBA NOTE: Pursuant to Public Contract Code 22037, if there is no newspaper of general circulation published in the jurisdiction of the district, the district ~~must~~ is required to post the bid notice in three locations as described below. Public Contract Code 22037 requires that these locations be identified in the agency's ordinance or regulation. Item #3a(1) may be revised to include such locations.

- a. Notice The Superintendent or designee shall prepare a notice inviting formal bids shall state, which states the time and place for receiving and opening sealed bids and distinctly describe the project:

a. The notice shall be disseminated in both of the following ways:

- i. Through publication in a newspaper of general circulation in the district's jurisdiction or, if there is no such newspaper, then by posting the notice in at least three places designated by the district as places for posting its notices:

Such notice shall be published at least 14 calendar days before the date that bids will be opened.

- ii. By mail and electronically, if available, by either fax or email, to all construction trade journals identified pursuant to Public Contract Code 22036:

Such notice shall be sent at least 15 calendar days before the date that bids will be opened.

- i. In addition to the notice required above, the district may give such other notice as it deems proper.

- b. The district shall review the formal bids that were submitted and award the contract as follows:

i. The contract shall be awarded to the lowest responsible bidder.

If two or more bids are the same and the lowest, the district may accept the one it chooses.

- ii. At its discretion, the district may reject all bids presented and declare that the project can be more economically performed by district employees, provided that the district notifies an apparent low bidder, in writing, of the district's intention to reject the bid.

Such notice shall be mailed at least two business days prior to the hearing at which the district intends to reject the bid.

- iii. If no bids are received through the formal bid procedure, the project may be performed by district employees by force account or negotiated contract.

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#### **State**

Pub. Cont. Code 1102

Pub. Cont. Code 20110-20118.4

~~Pub. Cont. Code 22000-22020~~

Pub. Cont. Code 22000-22045

Pub. Cont. Code 22050

#### **Management Resources**

CA Uniform Construction Cost  
Accounting Comm. Pub.

CA Uniform Construction Cost  
Accounting Comm. Pub.

Website

Website

Website

Website

#### **Description**

Definition of emergency

Local Agency Public Construction Act; school districts

California Uniform Construction Cost Accounting  
Commission

Uniform Public Construction Cost Accounting Act

Emergency contracting procedures

#### **Description**

Cost Accounting Policies and Procedures Manual, 2021

Frequently Asked Questions, September 2022

CSBA District and County Office of Education Legal Services

California Uniform Construction Cost Accounting  
Commission

CSBA

California Association of School Business Officials

## **Cross References**

<b>Code</b>	<b>Description</b>
3311	Bids
3311	Bids
3312	Contracts
7000	Concepts And Roles
7110	Facilities Master Plan
9323.2	Actions By The Board
9323.2-E(1)	Actions By The Board

**Policy 3312: Contracts**

**Status:** ADOPTED

**Original Adopted Date:** 11/01/2003 | **Last Revised Date:** 09/03/01/2023 ~~2025~~ | **Last Reviewed Date:** 09/03/01/2023 ~~2025~~

**CSBA NOTE:** ~~CSBA NOTE. The following policy is mandated for districts that enter into a contract that (1) grants exclusive or nonexclusive sales or advertising for carbonated beverages, non-nutritious beverages, or non-nutritious foods, pursuant to Education Code 35182.5, or (2) is for digital storage, management, or retrieval of student records, or digital educational software that authorizes a third-party provider of digital educational software to access, store, and use student records, pursuant to Education Code 49073.1.~~

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

Some contracts are subject to certain specific legal requirements which, if not complied with, may render the contract void or unenforceable. For instance, when contracting for the purchase of equipment, materials, or supplies in excess of the current bid limit (\$~~109,300~~ **114,800** for ~~2023~~ **2025**), the district ~~must~~ **is required to** seek competitive bids, pursuant to Public Contract Code 20111. See sections below titled **Additionally, pursuant to Labor Code 1771.8, as added by SB 1303 (Ch. 991, Statutes of 2024), when contracting with a private labor compliance entity on a public works project, the private labor compliance entity is required to disclose a potential conflict of interest.** See "Contracts for Non-nutritious Foods or Beverages," "Contracts for Electronic Products and Services," "Contracts for Digital Storage and Maintenance of Student Records," and "Contracts for Personal Services" **below**, for specific requirements and/or restrictions related to ~~these~~ **such** contracts. See AR 3311.3 - Design-Build Contracts for information about design-build contracts for public works projects in excess of \$1,000,000 and for alternative design-build projects in excess of \$5,000,000. ~~The~~ **It is recommended that the** district ~~should~~ consult CSBA's District and County Office of Education Legal Services or district legal counsel when questions arise about legal requirements for specific ~~kinds of contract~~ **contracts**.

The Governing Board recognizes its responsibility to enter into contracts on behalf of the district for the acquisition of equipment, supplies, services, and other resources necessary for the achievement of district goals. In exercising this authority to enter into a contract, the Board shall ensure that the district's ~~interest is~~ **interests are** protected, **and** that the terms of the contract conform to **any** applicable legal standards, including ~~the~~ **but not limited to** bidding requirements in Public Contract Code 20111.

CSBA NOTE: When entering into a contract, a school district is required to comply with California's conflict of interest laws, including, but not limited to, Government Code 1090 (financial interest in a contract), Government Code 87100-87500 (Political Reform Act), and Government Code 84308, as amended by SB 1439 (Ch. 848, Statutes of 2022), related to (conflict of interest from campaign contributions). The violation of any of these laws could result in cancellation of the contract and, in certain cases, the Board members and/or district officials implicated could be subject to civil and criminal penalties. For example, pursuant to Government Code 84308, as amended, SB 1243 (Ch. 1017, Statutes of 2024), Board members are prohibited from participating in decisions involving parties who have provided campaign contributions of more than \$250,500 in the prior 12 months. Additionally, pursuant to Public Contract Code 6102, as added by SB 34 (Ch. 297, Statutes of 2022), a contract executed on or after January 1, 2023, including a contract negotiated prior to January 1, 2023, is voidable if entered into in violation of a state or federal crime relating to bribery of a public official, including, but not limited to, a violation of Penal Code 68 or 86.

Additionally, Government Code 1097.6 clarifies that an independent contractor is not considered to be an "officer" and thereby not subject to the restrictions of Government Code 1090 when the district enters into a contract with an independent contractor to perform one phase of a project and later seeks to enter into a subsequent contract with that same independent contractor for another phase of the same project if the independent contractor's duties and services related to the initial contract did not include engaging in or advising on public contracting on behalf of the district.

For more information related to the policy on conflict of interest, see BB 9270 - Conflict of Interest.

In addition, Board members and district employees involved in the making of contracts on behalf of the district shall comply with applicable law and the district's conflict of interest policy, as specified in Board Bylaw 9270 - Conflict of Interest.

**CSBA NOTE:** The following optional paragraph may be revised to specify any desired limits to this delegation of authority. CSBA NOTE: The following optional paragraph may be revised to specify any desired limits to the delegation of authority to enter into contracts on behalf of the district. Pursuant to Education Code 35161, the Board may delegate any of its, or the district's, powers or duties authorized by law to an officer or employee of the district. However, the Board retains ultimate responsibility over the performance of such powers and duties. Additionally, pursuant to Education Code 17604 and 17605, the Board may adopt a rule delegating to any officer or employee the authority to purchase supplies, materials, apparatus, equipment, and services. The Board's rule is required to describe the limits of the delegation by prescribing time, money, and subject matter limits. The amount delegated may not be in excess of the amounts specified in Public Contract Code 20111, with any expenditures over those amounts required to be competitively bid. See BP 3300 – Expenditures and Purchases for language delegating the purchasing authority and setting the maximum limit.

The Board may, by a majority vote, delegate to the Superintendent or designee the authority to enter into contracts on behalf of the district. To be valid or to constitute an enforceable obligation

against the district, all such contracts must be approved and/or ratified by the Board. (Education Code 17604, 17605, 35161)

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

Every contract entered into on behalf of the district shall be made available for public inspection, except when the law prohibits disclosure.

CSBA NOTE: Pursuant to Government Code 7928.801, any executed contract for the purchase of goods or services by the district, including the price and terms of payment, is a public record subject to disclosure under the California Public Records Act. Because other state and/or federal law may also be applicable when contracting for goods or services outside of California or pursuant to federal law, it is recommended that districts with questions about such contracts consult CSBA's District and County Office of Education Legal Services or district legal counsel.

Unless otherwise exempt from disclosure under state or federal law, executed contracts for the purchase of goods or services, even if the contract contains provisions specifying that the contract is confidential or a proprietary record of the vendor, are public records to which members of the public shall have access. (Government Code 7928.801)

No contract shall prohibit a district employee from disparaging the goods or services of any contracting party. (Education Code 35182.5)

#### **Contracts for Non-nutritious Foods or Beverages**

CSBA NOTE: Pursuant to Labor Code 1771.8, as added by SB 1303, if the district utilizes a private labor compliance entity, that entity is required to submit a signed declaration under penalty of perjury verifying that it has no conflicts of interest. Pursuant to Labor Code 1771.8, as added by SB 1303, a violation of the conflict of interest provisions by a private labor compliance entity would void a contract between the parties and subject the private labor compliance entity to specified civil fines and fees. Because Labor Code 1771.8 does not apply to the Los Angeles Unified School District (LAUSD), LAUSD should delete the following four paragraphs.

If the district utilizes a private labor compliance entity, the Superintendent or designee shall verify that the entity does not have a conflict of interest. (Labor Code 1771.8)

A private labor compliance entity is a third-party company hired by a district to perform labor compliance and enforcement activities on public works projects on the district's behalf. (Labor Code 1771.8)

A conflict of interest is a situation in which a private labor compliance entity performs labor compliance work under contract for both the district and a contractor who is bidding a public works project for the district. (Labor Code 1771.8)

If the district's private labor compliance entity seeks to respond to an alleged conflict of interest, the Superintendent or designee shall confer with the entity and/or the contractor regarding the applicable contracts and relevant public works law. (Labor Code 1771.8)

#### Contracts for Non-Nutritious Foods or Beverages

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

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

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

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

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

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

1. Procedures that produce accurate and reliable financial statements and, at the same time, safeguard the assets, financial resources, and integrity of every employee responsible for handling money or property:

\_\_\_\_\_ Control systems shall be systematically evaluated and revised to keep pace with the changing responsibilities of management.

2. Procedures to ensure that district personnel do not handle cash or product at the school site:

\_\_\_\_\_ The contract shall specify that the vendor stock the machines and shall provide cash accounting, along with a check, for district proceeds directly to the control office.

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

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

1. The Superintendent or designee may invite parents/guardians, students, staff, and interested community members to make recommendations regarding the contract, including recommendations as to how the funds will be spent in a manner that benefits public education:
2. Prior to ratifying the contract, the Board shall designate the specific programs and activities that will be funded by the proceeds of the contract and consider how the contract reflects the district's vision and goals:
3. The contract shall specify that the contractor report, on a quarterly basis, to the Superintendent or designee the number of food items or beverages sold within the district and the amount of money raised by the sales:

\_\_\_\_\_ The Superintendent or designee shall report these amounts to the Board on a regular basis.

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

**CSBA NOTE:** Education Code 35182.5 mandates the Board to adopt policy to ensure that the contract is entered into on a competitive basis pursuant to Public Contract Code 20111 or through the issuance of a Request for Proposal. Public Contract Code 20111 requires districts to seek

competitive bids through advertisements for contracts or services exceeding an amount specified in law. For a detailed procedure for the bidding of contracts, see AR 3311 - Bids.

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

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

**OPTION 1: (Annual public hearing to review and discuss existing and potential contracts)**

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

**OPTION 1 ENDS HERE**

**OPTION 2: (Public hearing for the making or renewal of each contract)**

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

**OPTION 2 ENDS HERE**

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

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

The contract shall be a public record and shall be accessible to the public and. The district may not include a confidentiality clause that would prevent the district or a district school from making any part of the contract public. and may not enforce any such clause included by a contracting party. (Education Code 35182.5; Government Code 7928.801)

## Contracts for Electronic Products or Services

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

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

1. Enters into the contract at a noticed, public hearing of the Board.
2. Makes a finding that the electronic product or service is or would be an integral component of the education of students.
3. Makes a finding that the district cannot afford to provide the electronic product or service unless it contracts to permit dissemination of advertising to students.
4. As part of the district's normal, ongoing communication to parents/guardians, provides written notice that the advertising will be used in the classroom or other learning ~~center~~ centers.
5. Offers parents/guardians the opportunity to request in writing that ~~their child~~ the student not be exposed to the program that contains the advertising.

A request shall be honored for the school year in which it is submitted, or longer if specified, but may be withdrawn by the parents/guardians at any time.

## Contracts for Digital Storage and Maintenance of Student Records

CSBA NOTE: Pursuant to Education Code 49073.1, the Board is **mandated** to adopt a policy when the district chooses to enter into a contract with a third party to provide services specified in the following section.

The district may enter into or renew a contract with a third party for the purpose of providing services, including cloud-based services, for the digital storage, management, and retrieval of student records and/or to provide digital educational software that authorizes a third-party provider of digital educational software to access, store, and use student records. For these purposes, student records include any information maintained by the district that is directly related to a student and any information acquired directly from the student through the use of instructional software or applications assigned to the student by a teacher or other district employee, and do not include de-identified information. (Education Code 49073.1)

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

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

#### **Contracts for Personal Services**

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

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

CSBA NOTE: Education Code 45103.1 also permits personal service contracts that do not meet the conditions specified in the ~~above~~ paragraph ~~above~~ in so long as the circumstances as listed below exist.

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

1. The contract is for new district functions and the Legislature has specifically mandated or authorized the performance of the work by independent contractors
2. The services contracted are not available within the district, cannot be performed satisfactorily by district employees, or are of such a highly specialized or technical nature that the necessary expert knowledge, experience, and ability are not available through the district
3. The services are incidental to a contract for the purchase or lease of real or personal property, including, but not be limited to, agreements to service or maintain office equipment or computers that are leased or rented
4. The district's policy, administrative, or legal goals and purposes cannot be accomplished through the utilization of persons selected pursuant to the regular or ordinary district hiring process
5. The nature of the work is such that the criteria for emergency appointments, as defined in Education Code 45103.1, apply
6. The contractor will provide equipment, materials, facilities, or support services that could not feasibly be provided by the district in the location where the services are to be performed
7. The services are of such an urgent, temporary, or occasional nature that the delay that would result from using the district's regular or ordinary hiring process would frustrate their very purpose

**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**

5 CCR 15500

**Description**

Food sales in elementary schools

5 CCR 15501

Food sales in high schools and junior high schools

5 CCR 15575-15578

Requirements for foods and beverages outside the federal meals program

Ed. Code 14505

Provisions required in contracts for audits

Ed. Code 17250.10-17250.55

Design-build contracts

Ed. Code 17595-17606

Contracts

Ed. Code 200-270

Prohibition of discrimination

Ed. Code 35161Governing boards; powers and duties

Ed. Code 35182.5

Contracts for advertising

Ed. Code 45103.1

Personal services contracts

Ed. Code 45103.5

Contracts for management consulting services; restrictions

Ed. Code 49073.1

Contract requirements for digital storage, maintenance and retrieval of student records

Ed. Code 49431-49431.7

Nutritional standards

Gov. Code 1090Prohibition of financial interest in contracts by specified officersGov. Code 1097.6Independent contractors

Gov. Code 12990

Nondiscrimination and compliance employment programs

Gov. Code 53260

Contract provision re maximum cash settlement

Gov. Code 53262

Employment contracts

Gov. Code 7928.801Public Records Act; contracts for goods and services

Gov. Code 84308

Campaign ~~Disclosure~~ disclosureLab. Code 1771.8Private labor compliance entity; potential conflict of interest

Lab. Code 1775

Penalties for violations

Lab. Code 1810-1813

Working hours

Pub. Cont. Code 20104.50

Timely progress payments

Pub. Cont. Code 20111	Contracts over \$50,000; contracts for construction; award to lowest responsible bidder
Pub. Cont. Code 22300	Performance retentions
Pub. Cont. Code 4100-4114	Subletting and subcontracting fair practices
Pub. Cont. Code 6102	Awarding of contracts
Pub. Cont. Code 7104	Contracts for excavations; discovery of hazardous waste
Pub. Cont. Code 7106	Noncollusion affidavit

### **Federal**

20 USC 1232g

20 USC 1681-1688

7 CFR 210.1-210.33

7 CFR 220.1-220.21

### **Management Resources**

CSBA Publication

Website

Website

Website

[Website](#)

### **Description**

Family Educational Rights and Privacy Act (FERPA) of 1974

Title IX of the Education Amendments of 1972;  
discrimination based on sex

National School Lunch Program

National School Breakfast Program

### **Description**

Student Wellness: A Healthy Food and Physical Activity Policy  
Resource Guide, April 2006

CSBA District and County Office of Education Legal Services

CSBA

California Association of School Business Officials

[Financial Crisis & Management Assistance Team](#)

### **Cross References**

#### **Code**

0100

0200

0440

0440

1220

1220

1230

1230

1321

#### **Description**

Philosophy

Goals For The School District

District Technology Plan

District Technology Plan

Citizen Advisory Committees

Citizen Advisory Committees

School-Connected Organizations

School-Connected Organizations

Solicitation Of Funds From And By Students

1321	Solicitation Of Funds From And By Students
1325	Advertising And Promotion
1340	Access To District Records
1340	Access To District Records
1700	Relations Between Private Industry And The Schools
2121	Superintendent's Contract
3000	Concepts And Roles
3100	Budget
3100	Budget
3230	Federal Grant Funds
3230	Federal Grant Funds
3290	Gifts, Grants And Bequests
3300	Expenditures And Purchases
3311	Bids
3311	Bids
3311.1	Uniform Public Construction Cost Accounting Procedures
3311.1	Uniform Public Construction Cost Accounting Procedures
3311.2	Lease-Leaseback Contracts
3311.3	Design-Build Contracts
3311.4	Procurement Of Technological Equipment
3314	Payment For Goods And Services
3314	Payment For Goods And Services
3400	Management Of District Assets/Accounts
3400	Management Of District Assets/Accounts
3460	Financial Reports And Accountability
3460	Financial Reports And Accountability
3470	Debt Issuance And Management
3511.1	Integrated Waste Management
3511.1	Integrated Waste Management

3540	Transportation
3551	Food Service Operations/Cafeteria Fund
3551	Food Service Operations/Cafeteria Fund
3554	Other Food Sales
3554	Other Food Sales
3555	Nutrition Program Compliance
3555-E(1)	Nutrition Program Compliance
3600	Consultants
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4112.23	Special Education Staff
4112.4	Health Examinations
4132	Publication Or Creation Of Materials
4200	Classified Personnel
4200	Classified Personnel
4212.4	Health Examinations
4232	Publication Or Creation Of Materials
4312.1	Contracts
4312.4	Health Examinations
4332	Publication Or Creation Of Materials
5030	Student Wellness
5125	Student Records
5125	Student Records
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5148	Child Care And Development
5148	Child Care And Development
6162.6	Use Of Copyrighted Materials
6162.6	Use Of Copyrighted Materials

7140	Architectural And Engineering Services
7140	Architectural And Engineering Services
9000	Role Of The Board
9124	Attorney
9320	Meetings And Notices
9322	Agenda/Meeting Materials
9323	Meeting Conduct

## Policy 3516.5: Emergency Schedules

Status: ADOPTED

Original Adopted Date: 12/01/1992 | Last Revised Date: 09/02/01/2021 ~~2025~~ | Last Reviewed  
Date: 09/03/01/2021 ~~2025~~

In order to provide for the safety of students and staff, the Governing Board authorizes the Superintendent or designee to close a school site, change the regular school day schedule, or take any necessary action when hazardous environmental, health, or weather conditions, or other emergencies, warrant.

CSBA NOTE: Pursuant to Education Code 41422 and 46392, a district may apply to the Superintendent of Public Instruction to obtain apportionment credit for days and minutes lost due to emergency closure and material decreases in attendance due to emergency events such as a fire, flood, impassable roads, epidemic, earthquake, imminence of a major safety hazard, strike involving transportation services to students provided by a nonschool entity, ~~or~~ other "extraordinary condition-" or, as amended by SB 1429 (Ch. 477, Statutes of 2024), snowstorms, so that it may receive full average daily attendance apportionment.

When an emergency condition causes a school closure, reduction in attendance, or change in schedule pursuant to Education Code 41422 or 46392, thereby preventing the district from complying with the minimum number of instructional days or minutes required by law, the Superintendent or designee shall complete and submit to the Superintendent of Public Instruction (SPI) the necessary forms and/or affidavits for obtaining approval of apportionment credit for the days of the closure, reduction in attendance, or change in schedule. The Superintendent or designee shall submit other relevant district records as may be required.

CSBA NOTE: Education Code 46393, as added amended by AB 130 SB 153 (Ch. 44 38, Statutes of 2024 2024) and AB 176 (Ch. 998, Statutes of 2024), requires districts submitting affidavits regarding emergency events occurring after September 1, 2021 but before July 1, 2026, to certify that the district has a plan for offering independent study to impacted students within 10 instructional days of the first day of a school closure or material decrease in attendance. For events occurring on or after July 1, 2026, Education Code 46393, as amended by SB 153 and AB 176, requires districts to certify that the district's comprehensive safety plan includes an instructional continuity plan, and that the district offered student engagement and instruction consistent with the instructional continuity plan, or certify that it did not do so due to extenuating circumstances.

For school closures or material decreases in attendance due to emergency events occurring after that occur between September ~~12~~, 2021 and June 30, 2026, the Superintendent or designee shall develop certify in the affidavit submitted to the SPI that the district has a plan for offering independent study within 10 instructional days of the school closure to any student impacted by the emergency condition. The plan shall also address the establishment, within a reasonable time, of independent study master agreements as specified in ~~BP~~ Board Policy 6158 - Independent Study.

The plan shall, and require reopening in person as soon as possible once allowable under the direction from the city or county health officer. The (Education Code 46393)

For school closures or material decreases in attendance due to emergency events occurring on or after July 1, 2026, the Superintendent or designee shall certify that the district has a plan for independent study in the affidavit submitted to the SPI pursuant to Education Code 46392. that the district's comprehensive safety plan includes an instructional continuity plan, and that the district offered student engagement and instruction consistent with the instructional continuity plan, or that it did not do so due to extenuating circumstances. (Education Code 46393)

CSBA NOTE: Vehicle Code 34501.6 mandates the Governing Board of any district that provides student transportation to adopt procedures that limit the home-to-school operation of school buses when atmospheric conditions reduce visibility to 200 feet or less; see AR 3543 - Transportation Safety and Emergencies for language implementing this mandate. The following optional paragraph may be revised to reflect district practice.

The Superintendent or designee shall establish a system for informing students and parents/guardians when with timely notice in advance of any changes to the school day, a school closure, or if school buses are not operating as scheduled, the school day schedule is changed, or the school is closed. The district's notification system shall include, but is not limited to, notifying local television, streaming services, and /or radio stations; posting on district web site website(s); and/or social media account(s); sending email and text messages; and/or making telephone calls.

CSBA NOTE: Pursuant to Public Utilities Code 2874, as amended by AB 2905 (Ch. 316, Statutes of 2024), when a district or school uses an automatic dialing-announcing device, the person making calls and operating the device is required, prior to operating the device, to personally make an unrecorded, natural voice announcement to those being called which (1) states the nature of the call and the name, address, and telephone number of the district or school, (2) inquires whether the person called consents to hear the prerecorded message of the person calling, and (3) informs the person if the prerecorded message uses an artificial voice. Districts and schools are required to disconnect the device from the telephone line upon the termination of the call.]

When the district makes any notification to students and/or parents/guardians utilizing an automatic dialing-announcing device, the device shall be operated by a person who shall follow all procedures required by law prior to operating the device, and disconnect the device from the telephone line upon the termination of the call. (Public Utilities Code 2874)

Whenever the school day schedule changes after students have arrived at school, the Superintendent or designee shall ensure that students are supervised in accordance with the procedures specified in the district's emergency and disaster preparedness plan.

Board Policy/Administrative Regulation 3516 – Emergencies and Disaster Preparedness Plan.

The following paragraph is for districts that provide a means for students to make up lost instructional time due to an emergency and may be revised to reflect district practice. Pursuant to Education Code 46211, as added by SB 153, a district may, beginning July 1, 2025, implement attendance recovery programs for students in grades transitional kindergarten-12 to make up lost

instructional time and offset absences due to emergency events, 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 may not be compulsory or punitive. Attendance recovery programs may be operated before or after school, on weekends, or during intersessional periods. However, Education Code 46210, as added by SB 153, expresses legislative intent that access to instruction as part of a regular instructional program is the preferred method of student learning and that the availability of attendance recovery should not discourage districts that regularly experience school closures from maintaining school calendars of greater than 180 days to maximize instruction in the regular instructional program. For more information regarding attendance recovery programs, see BP/AR 5113.1 – Chronic Absence and Truancy.

The Superintendent or designee may provide a means to make up lost instructional time later during the year. Students and parents/guardians shall receive timely notice in advance of any resulting changes in the school calendar or school day schedule.

#### 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	Description
Ed. Code 41420	Apportionment withholding; schools not maintained for 175 days
Ed. Code 41422	Schools not maintained for 175 days
Ed. Code 46010	Total days of attendance
Ed. Code 46100-46208	Attendance; maximum credit; minimum day
<u>Ed. Code 46210-46211</u>	<u>Attendance Recovery Programs</u>
Ed. Code 46390	Calculation of ADA in emergency
Ed. Code 46391	Lost or destroyed ADA records
Ed. Code 46392	Emergencies
Ed. Code 46393	Certification of plan for independent study; <u>instructional continuity plan</u>
<u>Public Utilities Code 2874</u>	<u>Automatic dialing-announcing devices</u>
Veh. Code 34501.6	School buses; reduced visibility
Management Resources	Description

CA DOE [California Department of Education](#) Correspondence

California Department of Education  
Publication

Website

Website

90-01 Average Daily Attendance Credit During Periods of  
Emergency, February 10, 2005

Frequently Asked Questions - Form J-13A

CSBA District and County Office of Education Legal Services

California Department of Education

### Cross References

Code	Description
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
1112	Media Relations
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
2210	Administrative Discretion Regarding Board Policy
3511	Energy And Water Management
3511	Energy And Water Management
3514	Environmental Safety
3514	Environmental Safety
3516	Emergencies And Disaster Preparedness Plan
3516	Emergencies And Disaster Preparedness Plan
3516.2	Bomb Threats
3542	School Bus Drivers
3543	Transportation Safety And Emergencies
3580	District Records
3580	District Records
4113.5	Working Remotely
4157	Employee Safety
4157	Employee Safety
4213.5	Working Remotely

4257	Employee Safety
4257	Employee Safety
4313.5	Working Remotely
4357	Employee Safety
4357	Employee Safety
<u>5113.1</u>	<u>Chronic Absence and Truancy</u>
5142	Safety
5142	Safety
<del>5148.2</del>	<u>Before/After School Programs</u>
<del>5148.2</del>	<u>Before/After School Programs</u>
6111	School Calendar
6112	School Day
6112	School Day
6158	Independent Study
6158	Independent Study

**Policy 3580: District Records**

**Status:** ADOPTED

Original Adopted Date: 11/01/2009 | Last Revised Date: 12/03/01/2024 ~~2025~~ | Last Reviewed  
Date: 12/03/01/2024 ~~2025~~

CSBA NOTE: The following optional policy and accompanying administrative regulation address the classification and retention of district records pursuant to 5 CCR 16020-16027 and may be ~~modified~~ revised to reflect district practice. For more information about personnel records, including the contents and retention of such records pursuant to 5 CCR 16023, see AR 4112.6/4212.6/4312.6 - Personnel Files. For additional requirements pertaining to student records, including the contents and retention of such records pursuant to Education Code 49069.7, 5 CCR 430-433 ~~438~~, and the Family Educational Rights and Privacy Act (20 USC 1232g and 34 CFR 99.1-99.8), see BP/AR 5125 - Student Records. For requirements pertaining to public access to certain records in accordance with the California Public Records Act (~~CPRA~~) (Government Code 7920.000 - 7930.170 ~~215~~), see BP/AR 1340 - Access to District Records and BB 9012 - Board Member Electronic Communications.

The Governing Board recognizes the importance of securing and retaining district documents. The Superintendent or designee shall ensure that district records are developed, maintained, and disposed of in accordance with law, Board policy, and administrative regulation.

CSBA NOTE: 5 CCR 16020 defines a "record" as any ~~paper or~~ document which the district is required ~~by law to maintain~~ prepare or retain or which the district prepares or ~~maintains~~ retains as necessary to the discharge of official duty. 5 CCR 16022 requires the Superintendent or designee to annually review and classify these records in order to determine the length of time for which they must be retained. Depending on their content, electronic communications such as email, voicemail, and text messages may also be considered "records" and thus are subject to the same classification and retention schedule as paper documents.

Code of Civil Procedure 1985.8 (the California Electronic Discovery Act) and Code of Civil Procedure 2031.010 ~~make~~ describe the procedural rules requiring the disclosure of documents to the opposing party in litigation applicable to electronically stored information. These state ~~rules~~ statutes are similar to federal Rules of Civil Procedure that apply to actions in federal courts and which also include provisions related to electronically stored information. In general, the rules require parties in litigation to identify and disclose potentially relevant electronic information and, upon notification by district legal counsel of pending or anticipated litigation, halt the routine destruction of paper or electronic records (e.g., suspend automatic monthly erasure of back-up tapes) that could be potentially relevant (a "litigation hold").

It is important that districts have an efficient and consistent system in place for discarding those documents, including email, that are not considered "records." Such a system may help reduce storage costs and prevent unnecessary disclosure. For example, Government Code 7927.500 exempts from disclosure "preliminary drafts" not retained by the district. The purpose of this exemption is to allow a measure of confidentiality for pending district action. However, if preliminary drafts are not regularly discarded ~~200~~ then they may be considered a "record" that has

been retained by the district and thus subject to disclosure under the Public Records Act CPRA.

The following optional paragraph, which may be revised to reflect district practice, directs the Superintendent or designee to create a document management system which includes a process for the storage and destruction of electronic materials. Each district will need to do an analysis of the type of system needed based on the size of the district, number of school sites, number of employees, and the type, practice, and capability of the district's information technology system. It is recommended that districts with questions about records retention requirements consult CSBA's District and County Office of Education Legal Services or district legal counsel.

The Superintendent or designee shall consult with district legal counsel, site administrators, district information technology staff, personnel department staff, and others as necessary to develop a secure document management system that provides for the storage, retrieval, archiving, and destruction of district documents, including electronically stored information such as email. This document management system shall be designed to comply with state and federal laws regarding security of records, record retention and destruction, response to "litigation hold" discovery requests, and the recovery of records in the event of a disaster or emergency.

CSBA NOTE: Pursuant to Government Code 8586.5, the California Cybersecurity Integration Center (CSIC) serves as the central organizing hub of the state government's cybersecurity preparedness and response activities. Government Code 8586.5 requires CSIC to coordinate cyber intelligence and information sharing with specified public and private entities, and, as amended by AB 1023 (Ch. 555, Statutes of 2023), requires such sharing of information, including cyber threat information, with school districts. Government Code 11549.3 authorizes districts, at district expense, to request the Military Department, in consultation with CSIC, 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 and utilize resources such as the State Threat Assessment System and Regional Fusion Centers to help assess potential threats.

Additionally, in an effort to enhance cybersecurity across K-12 schools, the U.S. Department of Education and the Cybersecurity and Infrastructure Security Agency launched the Government Coordinating Council for the Education Facilities Subsector in 2024. Districts who meet the federal universal service discounts for Internet access (E-rate discounts) eligibility requirements may be eligible for funding to purchase cybersecurity services and equipment through the Federal Communications Commission's Schools and Libraries Cybersecurity Pilot Program. The State Educational Technology Directors Association's 2023 guidance, "Small Districts, Big Hurdles: Cybersecurity Support for Small, Rural, and Under-resourced Districts," provides additional information regarding the use of leadership development, partnership building, vulnerability assessment, and staff training to enhance cybersecurity readiness.

The Superintendent or designee shall ensure the confidentiality of records as required by law and shall establish regulations to safeguard data against damage, loss, or theft. including damage, loss, or theft which may be caused by cybersecurity breaches.

The Superintendent or designee shall ensure that employees receive information about the district's document management system, including retention and confidentiality requirements and an employee's obligations in the event of a litigation hold established on the advice of legal counsel or California Public Records Act request established on the advice of legal counsel. Additionally, the Superintendent or designee shall ensure that employees receive information and training about cybersecurity, including ways to protect district records from breaches to the district's digital infrastructure.

CSBA NOTE: Pursuant to Civil Code 1798.29, districts are required to disclose any breach of security of any records that contain personal information, as defined. The required formatting and

contents of the notification are detailed in Civil Code 1798.29. A district may maintain its own notification procedure as part of an information security policy provided that the notification is consistent with the requirements in Civil Code 1798.29 regarding timing of the notification.

Additionally, pursuant to Education Code 35266, districts that experience a cyberattack, as defined, which impacts more than 500 students or personnel, are required to report such cyberattack to CSIC.

If the district discovers or is notified that a breach of ~~the~~ security of district records containing ~~unencrypted~~ has resulted in the release of personal information ~~has occurred~~, the Superintendent or designee shall notify every individual whose personal information was, or is reasonably believed to have been, acquired by an unauthorized person: , if that information was either unencrypted or encrypted under the circumstances specified in Civil Code 1798.29. "Personal information" includes, but is not limited to, a social security number, driver's license or identification card number, medical information, health insurance information, or an account number in combination with an access code or password that would permit access to a financial account. (Civil Code 1798.29)

The Superintendent or designee shall provide the notice in a timely manner either in writing or electronically, unless otherwise provided in law. The notice shall include the material specified in Civil Code 1798.29, be formatted as required, and be distributed in a timely manner, consistent with the legitimate needs of law enforcement to conduct an uncompromised investigation or any measures necessary to determine the scope of the breach and restore reasonable integrity of the data system. (Civil Code 1798.29)

#### **Safe at Home Program**

If the district experiences a cyberattack that impacts more than 500 students or personnel, the Superintendent or designee shall report the cyberattack to the California Cybersecurity Integration Center. (Education Code 35266)

#### **Safe at Home Program**

**CSBA NOTE:** The Secretary of State's Safe at Home address confidentiality program creates a confidential address has been in existence pursuant to Government Code 6205-6210 and mail-forwarding program for 6215-6216 to protect victims of domestic violence, stalking, or sexual assault, stalking, human trafficking, and elder or dependent adult abuse, and members of their households, as well as district employees who face threats of violence, or violence or harassment from the public because of the employee's work for the district. This type of protection has been extended to district employees and Governing Board members who face threats of violence, or violence or harassment from the public because of the employee's work for the district, and, pursuant to Government Code 6205-6210, as amended by AB 243 (Ch. 642, Statutes of 2023), to victims of child abduction and members of their households. Government Code 6207 provides that, when creating a public record, the district ~~must~~ may not include actual residences of students, parents/guardians, or employees when a substitute address is designated through the Safe at Home program. Districts are required to accept the program participation card issued by the Secretary of State and to substitute a post office box as the participant's address.

District public records shall not include the actual addresses of students, parents/guardians, or employees when a substitute address is designated by the Secretary of State pursuant to the Safe at Home program. (Government Code 6206, 6207)

**CSBA NOTE:** According to the Secretary of State, a participant's confidential, actual address may only be used to establish student enrollment eligibility and for school emergency purposes. Pursuant to Government Code 6207, a participant's confidential, actual address is not a public record and should not be made available to anyone under any circumstances. See also For more information regarding establishing district residency when a student or parent/guardian is participating in the Safe at Home/Confidential Address Program, see AR 5111.1 - District Residency.

When a substitute address card is provided pursuant to this program, the confidential, actual address may be used only to establish district residency requirements for enrollment and for school emergency purposes.

Records containing a participant's confidential address information shall be kept in a confidential location and not shared with the public.

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

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<b>State</b>	<b>Description</b>
5 CCR 16020-16022	Records; general provisions
5 CCR 16023-16027	District records; retention and destruction
5 CCR 430- <u>438</u>	<u>Individual student records; definition</u> <u>Individual student records</u>
<u>5 CCR 432</u>	<u>Student records</u>
Civ. Code 1798.29	District records; breach of security
Code of Civil Procedure 1985.8	Electronic Discovery Act
Code of Civil Procedure 2031.010-2031.060	Civil Discovery Act; scope of discovery demand
Code of Civil Procedure 2031.210-2031.320	Civil Discovery Act; response to inspection demand
Ed. Code 35145	Public meetings
Ed. Code 35163	Official actions, minutes and journal
Ed. Code 35252-35255	Records and reports
<u>Ed. Code 35266</u>	<u>Cybersecurity</u>

Ed. Code 44031	Personnel file contents and inspection
Ed. Code 49065	Reasonable charge for transcripts
Ed. Code 49069.7	Absolute right to access
<a href="#">Gov. Code 11549.3</a>	<a href="#">Office of Information Security</a>
Gov. Code 12946	Fair Employment and Housing Act: discrimination prohibited
Gov. Code 6205-6210	Confidentiality of addresses for victims of domestic violence, sexual assault, stalking, <del>or human trafficking</del> , child abduction, <del>and elder or dependent adult abuse</del>
<a href="#">Gov. Code 6215-6216</a>	<a href="#">Address confidentiality; reproductive health care providers, employees, volunteers, patients, and other individuals who face threats or violence</a>
Gov. Code 7920.000-7930.470 <del>215</del>	California Public Records Act
<a href="#">Gov. Code 8586.5</a>	<a href="#">Office of Emergency Services; California Cybersecurity Information Center</a>
Pen. Code 11170	Retention of child abuse reports
<b>Federal</b>	<b>Description</b>
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
34 CFR 99.1-99.8	Family Educational Rights and Privacy Act
<b>Management Resources</b>	<b>Description</b>
<a href="#">California Secretary of State Publication</a>	<a href="#">Records Management Handbook</a> ( <a href="https://www.sos.ca.gov/archives/records-management-and-appraisal/records-management-handbook">https://www.sos.ca.gov/archives/records-management-and-appraisal/records-management-handbook</a> )
<a href="#">State Educational Technology Directors Association Publication</a>	<a href="#">Small Districts, Big Hurdles: Cybersecurity Support for Small, Rural, and Under-resourced School Districts, October 2023</a> ( <a href="https://drive.google.com/file/d/1xFzytKS6gtFAiKstP_H3ES_Tpm9OF8l8/view?usp=sharing">https://drive.google.com/file/d/1xFzytKS6gtFAiKstP_H3ES_Tpm9OF8l8/view?usp=sharing</a> )
Website	CSBA District and County Office of Education Legal Services
Website	California Secretary of State
<a href="#">Website</a>	<a href="#">California Office of Emergency Services</a> ( <a href="https://www.caloes.ca.gov/">https://www.caloes.ca.gov/</a> )
<a href="#">Website</a>	<a href="#">Cybersecurity and Infrastructure Security Agency, Government Coordinating Councils</a> ( <a href="https://www.cisa.gov/resources-tools/groups/government-coordinating-councils">https://www.cisa.gov/resources-tools/groups/government-coordinating-councils</a> )
<a href="#">Website</a>	<a href="#">Federal Communications Commission, Schools and Libraries Cybersecurity Pilot Program</a> ( <a href="https://www.fcc.gov/cybersecurity-pilot-program">https://www.fcc.gov/cybersecurity-pilot-program</a> )
<a href="#">Website</a>	<a href="#">Safe at Home: Schools</a> ( <a href="https://www.sos.ca.gov/registries/safe-">https://www.sos.ca.gov/registries/safe-</a>

## Cross References

Code	Description
0440	District Technology Plan
0440	District Technology Plan
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
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
2121	Superintendent's Contract
3100	Budget
3100	Budget
3230	Federal Grant Funds
3230	Federal Grant Funds
3280	Sale Or Lease Of District-Owned Real Property
3280	Sale Or Lease Of District-Owned Real Property
3311	Bids
3311	Bids
3440	Inventories
3452	Student Activity Funds
3460	Financial Reports And Accountability
3460	Financial Reports And Accountability
3514	Environmental Safety
3514	Environmental Safety

3514.2	Integrated Pest Management
3516	Emergencies And Disaster Preparedness Plan
3516	Emergencies And Disaster Preparedness Plan
3516.5	Emergency Schedules
3523	Electronic Signatures
3523	Electronic Signatures
3542	School Bus Drivers
3543	Transportation Safety And Emergencies
3550	Food Service/Child Nutrition Program
3550	Food Service/Child Nutrition Program
3551	Food Service Operations/Cafeteria Fund
3551	Food Service Operations/Cafeteria Fund
3552	Summer Meal Program
3552	Summer Meal Program
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4040	Employee Use Of Technology
4040-E(1)	Employee Use Of Technology
4111.2	Legal Status Requirement
4111.2	Legal Status Requirement
4112.2	Certification
4112.2	Certification
4112.42	Drug And Alcohol Testing For School Bus Drivers
4112.42	Drug And Alcohol Testing For School Bus Drivers
4112.5	Criminal Record Check
4112.5-E(1)	Criminal Record Check
4112.6	Personnel Files
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4113	Assignment
4113	Assignment
	206

4113.5	Working Remotely
4119.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4119.12-E(1)	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4119.21	Professional Standards
4119.21-E(1)	Professional Standards
4119.42	Exposure Control Plan For Bloodborne Pathogens
4119.42	Exposure Control Plan For Bloodborne Pathogens
4119.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4131	Staff Development
4151	Employee Compensation
4211.2	Legal Status Requirement
4211.2	Legal Status Requirement
4212.42	Drug And Alcohol Testing For School Bus Drivers
4212.42	Drug And Alcohol Testing For School Bus Drivers
4212.5	Criminal Record Check
4212.5-E(1)	Criminal Record Check
4212.6	Personnel Files
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4213.5	Working Remotely
4217.11	Preretirement Part-Time Employment
4219.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.12-E(1)	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.21	Professional Standards
4219.21-E(1)	Professional Standards
4219.42	Exposure Control Plan For Bloodborne Pathogens
4219.42	Exposure Control Plan For Bloodborne Pathogens
4219.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4231	Staff Development

4251	Employee Compensation
4311.2	Legal Status Requirement
4311.2	Legal Status Requirement
4312.42	Drug And Alcohol Testing For School Bus Drivers
4312.42	Drug And Alcohol Testing For School Bus Drivers
4312.5	Criminal Record Check
4312.5-E(1)	Criminal Record Check
4312.6	Personnel Files
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4313.5	Working Remotely
4319.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4319.12-E(1)	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4319.21	Professional Standards
4319.21-E(1)	Professional Standards
4319.42	Exposure Control Plan For Bloodborne Pathogens
4319.42	Exposure Control Plan For Bloodborne Pathogens
4319.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4331	Staff Development
4351	Employee Compensation
5111.1	District Residency
5111.1	District Residency
5113.2	Work Permits
5113.2	Work Permits
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
5141	Health Care And Emergencies

5141	Health Care And Emergencies
5143	Insurance
5143	Insurance
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5145.7	Sex Discrimination and Sex-Based Harassment
5145.7	Sex Discrimination and Sex-Based Harassment
5145.71	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
5145.71-E(1)	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
5148	Child Care And Development
5148	Child Care And Development
5148.2	Before/After School Programs
5148.2	Before/After School Programs
5148.3	Preschool/Early Childhood Education
5148.3	Preschool/Early Childhood Education
6145.2	Athletic Competition
6145.2	Athletic Competition
6158	Independent Study
6158	Independent Study
6159.2	Nonpublic, Nonsectarian School And Agency Services For Special Education
6159.2	Nonpublic, Nonsectarian School And Agency Services For Special Education
6171	Title I Programs
6171	Title I Programs
6174	<u>Education For English Learners</u>
6174	<u>Education For English Learners</u>
7214	General Obligation Bonds
7214	General Obligation Bonds

9011	Disclosure Of Confidential/Privileged Information
9012	Board Member Electronic Communications
9324	Minutes And Recordings

## Regulation 3580: District Records

Status: ADOPTED

Original Adopted Date: 11/01/2009 | Last Revised Date: 12/03/01/2024 2025 | Last Reviewed  
Date: 12/03/01/2024 2025

CSBA NOTE: The following optional administrative regulation reflects classification and retention requirements for district records: and may be revised to reflect district practice. For more information about personnel records, including the contents and retention of such records pursuant to 5 CCR 16023, see AR 4112.6/4212.6/4312.6 - Personnel Files. For additional requirements pertaining to student records, including the contents and retention of such records pursuant to Education Code 49069.7, 5 CCR 430-433 438, and the Family Educational Rights and Privacy Act (20 USC 1232g and 34 CFR 99.1-99.8), see BP/AR 5125 - Student Records. For requirements pertaining to public access to certain records in accordance with the California Public Records Act (CPRA) (Government Code 7920.000 - 7930.170 215), see BP/AR 1340 - Access to District Records and BB 9012 - Board Member Electronic Communications.

### Classification of Records

CSBA NOTE: Pursuant to 5 CCR 16020, only those documents which the district is required to prepare or retain or that are prepared or retained as part of the discharge of official duty are considered as "records" that must be classified and retained. In addition, under the CPRA (Government Code ~~6250-6270~~ 7920.000 - 7930.215), a "public record" is defined as any writing relating to the conduct of district business that is prepared, owned, used, or retained by the district; see BP/AR 1340 - Access to District Records. Documents Pursuant to Government Code 7920.545, emails and other electronic communications related in a substantive manner to district business are considered public records. However, documents and other writings that are not prepared or used by the district in the conduct of district business are generally not considered to be "records" and thus are not subject to the requirements of this regulation.

Records means all records, maps, books, papers, and documents of a school district required by law to be prepared or retained as necessary or convenient to the discharge of official duty. (5 CCR 16020)

Before January 1, the Superintendent or designee shall review the prior year's records and shall classify them as either a Class 1 (Permanent), Class 2 (Optional), or Class 3 (Disposable) record. (5 CCR 16022)

Records of a continuing nature (, such as documents that are active and useful for administrative, legal, fiscal, or other purposes over a period of years) shall not be classified until such usefulness has ceased. (5 CCR 16022)

An Any historical inventory of equipment shall be a continuing record and shall not be classified until the inventory is superseded or until the equipment is removed from district ownership. (5 CCR 16022)

A student's cumulative record, if not transferred, is a continuing record until the student ceases to

be enrolled in the district. (5 CCR 16022)

When an electronic or photographed copy of a Class 1 (Permanent) record has been made, the copy may be classified as Class 1 (Permanent) and the original classified as either Class 2 (Optional) or Class 3 (Disposable). However, no original record that is basic to any required audit may be destroyed prior to the second July 1st succeeding the completion of the audit. (Education Code 35254; 5 CCR 16022)

### **Class 1 - Permanent Records**

The original of each of the following records, or one exact copy of it when the original is required by law to be filed with another agency, is a Class 1 (Permanent) record and shall be retained indefinitely unless microfilmed in accordance with 5 CCR 16022: (5 CCR 16023)

#### **1. Annual Reports**

- a. Official budget
- b. Financial reports of all funds, including cafeteria and student body funds
- c. Audit of all funds
- d. Average daily attendance, including Period 1 and Period 2 reports
- e. Other major annual reports, including:
  - i. Those containing information relating to property, activities, financial condition, or transactions
  - ii. Those declared by Governing Board minutes to be permanent

#### **2. Official Actions**

- a. Minutes of the Board or Board committees, including the text of rules, regulations, policies, or resolutions not set forth verbatim in the minutes, but included by reference only
- b. The call for and the result of any elections called, conducted, or canvassed by the Board
- c. Records transmitted by another agency pertaining to its action with respect to district reorganization

#### **3. Personnel Records**

Class 1 (Permanent) records include all detailed records relating to employment; assignment; amounts and dates of service rendered; termination or dismissal of an employee in any position; sick leave record; rate of compensation, salaries, or wages paid; and deductions or withholdings made and the person or agency to whom such amounts were paid.

       In lieu of the detailed records, a complete proven summary payroll record for each employee containing the same data may be classified as a Class 1 (Permanent) record and the detailed records may then be classified as Class 3 (Disposable) records.

Information of a derogatory nature as defined in Education Code 44031 shall be retained as a Class 1 (Permanent) record only when the time for filing a grievance has passed or the document has been sustained by the grievance process.

#### 4. Student Records

The records of enrollment and scholarship for each student required by 5 CCR 432 and all records pertaining to any accident or injury involving a minor for which a claim for damages had been filed as required by law shall be classified as Class 1 (Permanent) records.

\_\_\_\_\_ These include any related policy of liability insurance, except that these records cease to be Class 1 (Permanent) records one year after the claim has been settled or the statute of limitations has expired.

#### 5. Property Records

Class 1 (Permanent) records include all detailed records relating to land, buildings, and equipment.

\_\_\_\_\_ In lieu of detailed records, a complete property ledger may be classified as a Class 1 (Permanent) record. The detailed records may then be classified as Class 3 (Disposable) records if the property ledger includes all fixed assets; an equipment inventory; and, for each piece of property, the date of acquisition, name of previous owner, a legal description, amount paid, and comparable data if the unit is disposed of.

#### **Class 2 - Optional Records**

Any records considered temporarily worth keeping, but which are not Class 1 records, may be classified as Class 2 (Optional) records and shall be retained until reclassified as Class 3 (Disposable) records. If, by agreement of the Board and Superintendent or designee, classification of the prior year records has not been made before January 1 as specified in 5 CCR 16022, all records of the prior year may be classified as Class 2 (Optional) records pending further review and classification within one year. (5 CCR 16024)

#### **Class 3 - Disposable Records**

All records not classified as Class 1 (Permanent) or as Class 2 (Optional) records shall be classified as Class 3 (Disposable) records. These include, but are not limited to, detailed records basic to audit, including those relating to attendance, average daily attendance, or business or financial transactions; detailed records used in preparing another report; teachers' registers if all information required by 5 CCR 432 is retained in other records or if the General Records pages are removed from the register and classified as Class 1 (Permanent) records; and periodic reports, including daily, weekly, and monthly reports, bulletins, and instructions. (5 CCR 16025)

All Class 3 (Disposable) records shall be destroyed during the third school year after the school year in which the records originated. In addition, Class 3 (Disposable) records shall not be destroyed until after the third school year following the completion of any legally required audit or the retention period required by any agency other than the State of California, whichever is later. A continuing record shall not be destroyed until the fourth year after it has been classified as a Class 3 (Disposable) record. (5 CCR 16026, 16027)

## Electronically Stored Information

**CSBA NOTE:** In the conduct of official district business, many records and informational materials are generated and maintained in electronic format, making it necessary for districts to design a system for easily saving and retrieving such information when needed. The following optional section contains suggestions for the handling of such electronically stored information and may be revised to reflect district practice.

In *City of San Jose v. Superior Court*, the California Supreme Court held that a public official's or employee's electronic communications regarding public business, even if transmitted on the official's or employee's personal account or device, are public records and are not categorically excluded from disclosure upon request under the CPRA. The court noted that the CPRA requires public agencies to use "reasonable effort" to locate existing records in response to a public records request, but that such including those records contained on a public official's or employee's personal device regardless of whether they were transmitted through district servers. Such searches need not be extraordinary extraordinarily extensive or intrusive. The following paragraph reflects the court's suggestion for ensuring that district-related communications transmitted through a public employee's or official's personal device or account can be retrieved without violating the employee's or official's privacy rights. For further information, see CSBA's "Legal Alert: Tips for Governing Boards in Response to Public Records Act Ruling on Electronic Communications." Also see AR 3580 - District Records, BP 4040 - Employee Use of Technology, and BB 9012 - Board Member Electronic Communications.

All electronically stored information related to the conduct of district business, including information created, saved, sent, or received on a district employee's or Board member's personal account or device, shall be saved as an electronic file to a district-provided account or device and retained in accordance with the section "Classification of Records" above. Such information includes, but is not limited to, email, text messages, instant messages sent via apps, computer files, and other electronic communications related to district business. In addition, when appropriate, the information may All records, including electronic documents, should be printed organized and physically filed for easy retrieval based on information contained in a way that allows it to be easily retrieved when needed., and the purpose of, the record.

**CSBA NOTE:** The following optional paragraph may be revised to reflect district practice. Districts have the authority to monitor the use of district-owned property and equipment, including those provided to employees to enable them to perform their duties efficiently, such as computers, cell phones, and other electronic communication devices. In such situations, an employee's expectation of privacy as it relates to the equipment is limited and the district may monitor it for appropriate use. See BP/E 4040 - Employee Use of Technology.

Employees shall be required to regularly purge their email accounts and district-issued computers, cell phones, and other communication devices of personal electronically stored information and other information unrelated to district business. The Superintendent or designee may check for appropriate use of any district-owned equipment at any time.

Any person to whom a district-owned computer, cell phone, or other electronic communication device is provided shall be notified about the district's electronic information management system and, as necessary, provided training on the effective use of the device.

**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**

5 CCR 16020-16022

5 CCR 16023-16027

5 CCR 430-~~438~~

~~5 CCR 432~~

Civ. Code 1798.29

Code of Civil Procedure 1985.8

Code of Civil Procedure 2031.010-  
2031.060

Code of Civil Procedure 2031.210-  
2031.320

Ed. Code 35145

Ed. Code 35163

Ed. Code 35252-35255

Ed. Code 35266

Ed. Code 44031

Ed. Code 49065

Ed. Code 49069.7

Gov. Code 11549.3

Gov. Code 12946

Gov. Code 6205-6210

Gov. Code 6215-6216

Gov. Code 7920.000-7930.170~~215~~

Gov. Code 8586.5

Pen. Code 11170

**Description**

Records; general provisions

District records; retention and destruction

~~Individual student records; definition~~ Individual student records

Student records

District records; breach of security

Electronic Discovery Act

Civil Discovery Act; scope of discovery demand

Civil Discovery Act; response to inspection demand

Public meetings

Official actions, minutes and journal

Records and reports

Cybersecurity

Personnel file contents and inspection

Reasonable charge for transcripts

Absolute right to access

Office of Information Security

Fair Employment and Housing Act: discrimination prohibited

Confidentiality of addresses for victims of domestic violence, sexual assault, stalking, ~~or~~ human trafficking, child abduction, and elder or dependent adult abuse

Address confidentiality; reproductive health care providers, employees, volunteers, patients, and other individuals who face threats or violence

California Public Records Act

Office of Emergency Services; California Cybersecurity Information Center

Retention of child abuse reports

**Federal**

20 USC 1232g

34 CFR 99.1-99.8

**Description**

Family Educational Rights and Privacy Act (FERPA) of 1974

Family Educational Rights and Privacy Act

**Management Resources**California Secretary of State Publication**Description**Records Management Handbook(<https://www.sos.ca.gov/archives/records-management-and-appraisal/records-management-handbook/>)State Educational Technology Directors Association PublicationSmall Districts, Big Hurdles: Cybersecurity Support for Small, Rural, and Under-resourced School Districts, October 2023  
([https://drive.google.com/file/d/1xFzytKS6gtFAiKstP\\_H3ES\\_Tpm9OF8l8/view?usp=sharing](https://drive.google.com/file/d/1xFzytKS6gtFAiKstP_H3ES_Tpm9OF8l8/view?usp=sharing))

Website

CSBA District and County Office of Education Legal Services

Website

California Secretary of State

WebsiteCalifornia Office of Emergency Services  
(<https://www.caloes.ca.gov/>)WebsiteCybersecurity and Infrastructure Security Agency, Government Coordinating Councils  
(<https://www.cisa.gov/resources-tools/groups/government-coordinating-councils>)WebsiteFederal Communications Commission, Schools and Libraries Cybersecurity Pilot Program  
(<https://www.fcc.gov/cybersecurity-pilot-program>)WebsiteSafe at Home: Schools  
([https://www.sos.ca.gov/registries/safe-home/schools#:~:text=Back%20to%20Top-Verifying%20Enrollment,\(916\)%20653%2D1769](https://www.sos.ca.gov/registries/safe-home/schools#:~:text=Back%20to%20Top-Verifying%20Enrollment,(916)%20653%2D1769))**Cross References****Code**

0440

**Description**

District Technology Plan

0440

District Technology Plan

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

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
2121	Superintendent's Contract
3100	Budget
3100	Budget
3230	Federal Grant Funds
3230	Federal Grant Funds
3280	Sale Or Lease Of District-Owned Real Property
3280	Sale Or Lease Of District-Owned Real Property
3311	Bids
3311	Bids
3440	Inventories
3452	Student Activity Funds
3460	Financial Reports And Accountability
3460	Financial Reports And Accountability
3514	Environmental Safety
3514	Environmental Safety
3514.2	Integrated Pest Management
3516	Emergencies And Disaster Preparedness Plan
3516	Emergencies And Disaster Preparedness Plan
3516.5	Emergency Schedules
3523	Electronic Signatures
3523	Electronic Signatures
3542	School Bus Drivers
3543	Transportation Safety And Emergencies
3550	Food Service/Child Nutrition Program
3550	Food Service/Child Nutrition Program
3551	Food Service Operations/Cafeteria Fund
3551	Food Service Operations/Cafeteria Fund

3552	Summer Meal Program
3552	Summer Meal Program
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4040	Employee Use Of Technology
4040-E(1)	Employee Use Of Technology
4111.2	Legal Status Requirement
4111.2	Legal Status Requirement
4112.2	Certification
4112.2	Certification
4112.42	Drug And Alcohol Testing For School Bus Drivers
4112.42	Drug And Alcohol Testing For School Bus Drivers
4112.5	Criminal Record Check
4112.5-E(1)	Criminal Record Check
4112.6	Personnel Files
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4113	Assignment
4113	Assignment
4113.5	Working Remotely
4119.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4119.12-E(1)	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4119.21	Professional Standards
4119.21-E(1)	Professional Standards
4119.42	Exposure Control Plan For Bloodborne Pathogens
4119.42	Exposure Control Plan For Bloodborne Pathogens
4119.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4131	Staff Development
4151	Employee Compensation
4211.2	Legal Status Requirement

4211.2	Legal Status Requirement
4212.42	Drug And Alcohol Testing For School Bus Drivers
4212.42	Drug And Alcohol Testing For School Bus Drivers
4212.5	Criminal Record Check
4212.5-E(1)	Criminal Record Check
4212.6	Personnel Files
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4213.5	Working Remotely
4217.11	Preretirement Part-Time Employment
4219.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.12-E(1)	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4219.21	Professional Standards
4219.21-E(1)	Professional Standards
4219.42	Exposure Control Plan For Bloodborne Pathogens
4219.42	Exposure Control Plan For Bloodborne Pathogens
4219.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4231	Staff Development
4251	Employee Compensation
4311.2	Legal Status Requirement
4311.2	Legal Status Requirement
4312.42	Drug And Alcohol Testing For School Bus Drivers
4312.42	Drug And Alcohol Testing For School Bus Drivers
4312.5	Criminal Record Check
4312.5-E(1)	Criminal Record Check
4312.6	Personnel Files
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4313.5	Working Remotely

4319.12	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4319.12-E(1)	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
4319.21	Professional Standards
4319.21-E(1)	Professional Standards
4319.42	Exposure Control Plan For Bloodborne Pathogens
4319.42	Exposure Control Plan For Bloodborne Pathogens
4319.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4331	Staff Development
4351	Employee Compensation
5111.1	District Residency
5111.1	District Residency
5113.2	Work Permits
5113.2	Work Permits
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
5141	Health Care And Emergencies
5141	Health Care And Emergencies
5143	Insurance
5143	Insurance
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5145.7	Sex Discrimination and Sex-Based Harassment
5145.7	Sex Discrimination and Sex-Based Harassment
5145.71	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures

5145.71-E(1)	Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures
5148	Child Care And Development
5148	Child Care And Development
5148.2	Before/After School Programs
5148.2	Before/After School Programs
5148.3	Preschool/Early Childhood Education
5148.3	Preschool/Early Childhood Education
6145.2	Athletic Competition
6145.2	Athletic Competition
6158	Independent Study
6158	Independent Study
6159.2	Nonpublic, Nonsectarian School And Agency Services For Special Education
6159.2	Nonpublic, Nonsectarian School And Agency Services For Special Education
6171	Title I Programs
6171	Title I Programs
<del>6174</del>	<u>Education For English Learners</u>
<del>6174</del>	<u>Education For English Learners</u>
7214	General Obligation Bonds
7214	General Obligation Bonds
9011	Disclosure Of Confidential/Privileged Information
9012	Board Member Electronic Communications
9324	Minutes And Recordings

## Policy 4151: Employee Compensation

Status: ADOPTED

Original Adopted Date: 02/01/1997 | Last Revised Date: 09/03/01/2023 2025 | Last Reviewed  
Date: 09/03/01/2023 2025

CSBA NOTE: Districts that include provisions related to employee compensation in their collective bargaining agreements should modify or delete the following optional policy accordingly.

In order to recruit and retain employees committed to the district's goals for student learning, the Governing Board recognizes the importance of offering a competitive compensation package which that includes salaries and health and welfare benefits.

CSBA NOTE: Education Code 45023 and 45162 require the Governing Board to adopt salary schedules for certificated and classified employees, respectively. For districts operating under a merit system, Education Code 45268 specifies that the personnel commission will recommend a salary schedule for classified employees to the Board for approval and that the Board may not amend the schedule without first giving the commission an a reasonable opportunity to respond to the amendments.

The Board shall adopt separate salary schedules for certificated, classified, and supervisory and administrative personnel. These schedules shall that comply with law and applicable collective bargaining agreements and shall be printed and made available for review at the district office. (Education Code 45022, 45023, 45160, 45162, 45268)

Each certificated employee, except an employee in an administrative or supervisory position, shall be classified on the salary schedule on the basis of uniform allowance for education level and years of experience, unless the Board and employee organization negotiate and mutually agree to a salary schedule based on different criteria. Certificated employees shall not be placed in different classifications on the schedule, nor paid different salaries, solely on the basis of the grade levels at which they teach. (Education Code 45028)

Salary schedules for staff who are not a part of a bargaining unit shall be determined by the Board at the recommendation of the Superintendent or designee.

The salary schedules adopted by the Board shall be printed and made available for review at the district office. (Education Code 45023)

CSBA NOTE: Pursuant to Education Code 42238.016, as added by AB 938 (Ch. 345, Statutes of 2024), districts are required, beginning January 31, 2026, to annually complete the Salary and Benefit Schedule for Bargaining Units (Form J-90), for classified and certificated staff assigned to a district school site and report the Form J-90 to the California Department of Education.

Additionally, by January 31, 2026, and annually thereafter, the Superintendent or designee shall complete the Salary and Benefit Schedule for Bargaining Units (Form J-90) for classified and

certificated staff assigned to a district school site and report the Form J-90 to the California Department of Education. (Education Code 42238.016)

CSBA NOTE: Pursuant to Education Code 45038, certificated employees may be paid once every two weeks, twice a month, or once every four weeks. ~~The~~ Additionally, the Board may also choose to pay certificated employees, or one or more individual employees, in 10, 11, or 12 equal payments over the year: ~~instead of by the school month.~~ Education Code 45039 provides that, if the Board arranges to pay certificated employees in 12 equal payments for the year, it may pay each monthly installment at the end of each calendar month, regardless of whether the employees are actually engaged in teaching during the month. Education Code 45165 addresses salary payments for classified employees who are employed 9-11 months per year.

~~Additionally~~ In addition, pursuant to Education Code 45500, districts may participate in the Classified School Employee Summer Assistance Program whereby eligible classified employees may elect to have up to 10 percent of the employee's monthly salary withheld and paid out during the summer recess in either one or two payments.

Education Code 45048 and 45165 provide specific timelines for issuing salary payments depending on the frequency of payments. If payments are not made in a timely manner, the district is required to pay the employee interest on the unpaid amount.

The following paragraph may be revised to reflect the payroll schedule determined by the Board: or as provided for in any applicable collective bargaining agreement.

The Board Unless otherwise provided for in any applicable collective bargaining agreement, district employees shall ~~determine the~~ be paid (insert frequency) and schedule of salary in equal payments, including whether payments for employees who work less than 12 months per year will be made over the course of the school year or in equal installments over the calendar year. year However, if the district participates in the Classified School Employee Summer Assistance Program, eligible classified employees may elect to have up to 10 percent of the employee's monthly salary withheld and paid out during the summer recess in either one or two payments. (Education Code 45038, 45039, 45048, 45165, 45500)

CSBA NOTE: According to Office of Management and Budget Memorandum M-20-17, during extraordinary circumstances, such as a pandemic, which interrupt district operations, employees paid with federal grant funds can continue to be paid out of federal grant funds as long as other similarly situated employees paid with nonfederal funds are continuing to get compensated. The following optional paragraph establishes such emergency contingencies so that the Board may continue to provide employee compensation during such times:

~~In extraordinary circumstances or emergency situations, the Board may determine to continue to compensate employees during periods of extended closure or disruption of normal district operations when permitted by law and consistent with collective bargaining agreements and memoranda of understanding.~~

CSBA NOTE: Pursuant to 29 CFR 516.4, districts are required to post a notice of the minimum wage provisions of the Fair Labor Standards Act (FLSA) (29 USC 201-219) in a conspicuous place at

all work sites. The poster that must be used by state and local governments is available on the website of the U.S. Department of Labor's Wage and Hour Division.

The Superintendent or designee shall post a notice explaining the Fair Labor Standards Act's wage and hour provisions in a conspicuous place at each work site. (29 CFR 516.4)

### Overtime Compensation

CSBA NOTE: Pursuant to the FLSA (29 CFR 553.20) and Education Code 45128, districts are required to pay employees who are not specifically exempted by law, including classified employees in both merit and non-merit system districts, ~~must receive~~ overtime pay or compensatory time off at a rate not less than one and one-half times their regular rate of pay for hours worked in excess of eight hours in any one day and/or in excess of 40 hours per calendar week. However, if the Board has established a work day of less than eight hours but at least seven hours, and a work week of less than 40 hours but at least 35 hours, all time worked in excess of the established work schedule must be deemed overtime.

Pursuant to Education Code 45130, districts are not required to pay overtime for any classified positions established by the Board, or by the personnel commission in a merit system district, as supervisory, administrative, or executive. In approving positions for exclusion from the overtime provisions, the Board or personnel commission must certify in writing that the duties, flexibility of hours, salary, benefit structure, and authority of the positions are of such a nature that they should be set apart from those positions which are subject to the overtime provisions; see BP/AR 4300 - Administrative and Supervisory Personnel. However, Education Code 45130 ~~requires~~ provides that, if a classified employee in an exempt position is required to work on a holiday designated in law or by the Board, the employee ~~must~~ is required to be paid the regular pay for that day plus compensation or compensatory time off at a rate not less than the employee's normal rate of pay:

Overtime pay requirements are also; see BP/AR 6115 - Ceremonies and Observances for more information regarding holidays designated in law or by the Board.

Additionally, overtime pay requirements are not applicable to school administrators or teachers in elementary or secondary schools under specific exemptions in 29 USC 213 and 29 CFR 541.303. Pursuant to 29 CFR 541.303 and 541.600, teachers do not need to meet the salary level requirement to be exempt from overtime rules. 29 CFR 541.204 provides that, to be exempt from overtime rules, administrators must either meet the salary level requirement or be compensated on a salary basis that is at least equal to the entrance salary for teachers in the administrator's school.

Labor Code provisions are not applicable to school districts unless specifically provided for in law. For example, in Johnson v. Arvin-Edison Water Storage District, the appellate court held in part that Labor Code 510, which provides for overtime compensation including that an employee who works in excess of 12 hours in one day or eight hours on the seventh consecutive day of a workweek is entitled to twice the regular rate of pay, does not apply to public agencies, including school districts.

Due to the complex interactions between federal law and state law, as well as between different state law provisions and classes of employees, it is recommended that districts consult CSBA's

District and County Office of Education Legal Services or district legal counsel regarding employee overtime compensation, as necessary.

District employees shall be paid an overtime rate of not less than one and one-half times their regular rate of pay for any hours worked in excess of eight hours in one day and/or 40 hours in one work week; or twice their regular rate of pay for any hours worked in excess of 12 hours in one day or eight hours on the seventh consecutive day of work. However, teachers, school administrators, and other employees in positions established by the Board as executive, administrative, or professional shall be exempt from overtime rules. (Education Code 45128, 45130; 29 USC 213; 29 CFR 541.0-204, 541.710 303, 541.600 , 553.27, 553.32)

If the district requires a classified employee in an exempt position to work on a holiday designated in law or by the Board, the employee shall be paid the regular pay for that day plus compensation or compensatory time off at a rate not less than the employee's normal rate of pay. (Education Code 45130)

**CSBA NOTE:** The following optional paragraph is for use by districts that allow employees to take compensatory time off in lieu of overtime compensation as authorized by 29 USC 207 and 29 CFR 553.20-553.25. Time off in lieu of overtime compensation is allowed only if provided for in a collective bargaining agreement or other agreement and must be provided at the rate of at least one and one-half hours for each hour of overtime work.

Pursuant to 29 CFR 553.21, an employee must be allowed to use earned compensatory time within a "reasonable period" after making the request. 29 CFR 553.25 provides that a "reasonable period" is determined on a case-by-case basis by considering customary work practices such as the normal work schedule, anticipated peak workloads based on past experience, emergency requirements for staff and services, and the availability of qualified substitute staff. Education Code 45129 provides that the compensatory time off must be used within 12 calendar months.

When authorized in a collective bargaining agreement or other agreement between the district and employees, an employee may take compensatory time off in lieu of overtime compensation, provided the employee has not accrued compensatory time in excess of the limits specified in 29 USC 207. An employee who has requested the use of compensatory time shall be allowed to use such time within 12 calendar months after making the request following the month the overtime was worked if the use of the compensatory time does not unduly disrupt district operations. (Education Code 45129; 29 USC 207; 29 CFR 553.20-553.25)

For each nonexempt employee, the Superintendent or designee shall maintain records on the employee's wages, hours, and other information specified in 29 CFR 516.5-516.6.

### **Wage Overpayment**

**CSBA NOTE:** Education Code 44042.5, as added by AB 185 (Ch. 571, Statutes of 2022) and amended by SB 114 (Ch. 48, Statutes of 2023), requires districts to follow the process specified below when a wage overpayment is made to a district employee. If the provisions of this section are in conflict with a collective bargaining agreement or a memorandum of understanding that was in effect on July 31, 2022, such agreements shall be controlling until the expiration or renewal of such

agreements. ~~The~~ It is recommended that the district ~~should~~ consult CSBA's District and County Office of Education Legal Services or district legal counsel when questions arise about legal requirements for specific wage overpayments.

If, following the determination of an overpayment, the employee disputes the existence or amount of the overpayment, the district ~~shall~~ is required to first initiate legal action and obtain a court order or binding arbitration decision validating the overpayment amount. Binding arbitration may only apply to such overpayment disputes if a memorandum of understanding between the district and exclusive representative sets forth procedures for adjudicating such wage overpayment disputes that meet the minimum requirements set forth in Education Code 44042.5.

If the district determines an employee has been overpaid, the district shall notify the employee in writing of the overpayment, afford the employee an opportunity to respond before commencing any recoupment actions, and inform the employee of the employee's rights to dispute the existence or amount of the claimed overpayment. If the employee agrees there was an overpayment in the claimed amount, reimbursement shall be made to the district through one of the methods described in Education Code 44042.5, as mutually agreed upon by the employee and the district. (Education Code 44042.5)

If a mutual agreement on a method of reimbursement is not reached, within 30 days of the employee verifying the overpayment amount, the district shall recoup the overpayment through payroll deductions in accordance with Education Code 44042.5.

If the employee does not respond or disputes the existence or amount of the district's claimed overpayment, the district ~~shall, with board approval, initiate a legal action to~~ may only recover the overpayment: after pursuing appropriate legal action. (Education Code 44042.5)

If the employee separates from the district before the overpayment is fully repaid, the district shall withhold the remaining balance due from any money owed to the employee upon separation, provided that the state minimum wage is still paid to the employee as required by Education Code 44042.5. The Superintendent or designee may consult with legal counsel to calculate the amount to withhold.

If an outstanding overpayment balance still remains, the district ~~shall, with Board approval,~~ may exercise any legal means to recover the remaining amount owed by the employee. (Education Code 44042.5)

Legal action to recover any overpayment under this policy shall be initiated within three years from the date of the overpayment, which for leave credits is the date that the employee receives compensation in exchange for leave erroneously credited to the employee. (Education Code 44042.5)

#### **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

8 CCR 11040

#### Description

Wages and hours; definitions of administrative, executive, and professional employees

[Ed. Code 42238.016](#)

[Salary and Benefit Schedule for the Bargaining Units \(Form J-90\)](#)

Ed. Code 44042.5

Wage overpayment

Ed. Code 45022-45061.5

Salaries [for certificated employees](#)

Ed. Code 45023

Availability of salary schedule

Ed. Code 45028

Salary schedule and exceptions

Ed. Code 45127-45133.5

Classified employees; work week; overtime provisions

Ed. Code 45160-45169

Salaries for classified employees

Ed. Code 45268

Salary schedule for classified service in merit system districts

Ed. Code 45500

Classified School Employee Summer Assistance Program

Gov. Code 3540-3549.3

Meeting and negotiating

Gov. Code 3543.2

Scope of representation

Gov. Code 3543.7

Duty to meet and negotiate in good faith

Lab. Code 226

Employee access to payroll records

Lab. Code 232

Disclosure of wages

[Lab. Code 510](#)

[Overtime Compensation](#)

#### Federal

26 CFR 1.409A-1

#### Description

Definitions and covered plans

26 USC 409A

Deferred compensation plans

29 CFR 516.4

Notice of minimum wage and overtime provisions

29 CFR 516.5-516.6

Records

29 CFR 541.0-541.710

Exemptions for executive, administrative, and professional employees

29 CFR 553.1-553.51

Fair Labor Standards Act; applicability to public agencies

29 USC 201-219

Fair Labor Standards Act

29 USC 203

Definitions

29 USC 207

Fair Labor Standards Act

29 USC 213	Exemptions from minimum wage and overtime requirements
<b>Management Resources</b>	<b>Description</b>
Court Decision	Flores v. City of San Gabriel (9th Cir., 2016) 824 F.3d 890
Office of Management and Budget Publication	Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by COVID-19 due to Loss of Operations, Memo M-20-17, March 19, 2020
<a href="#">Court Decision</a>	<a href="#">Johnson v. Arvin-Edison Water Storage District (2009) 174 Cal.App.4th 729</a>
Website	CSBA District and County Office of Education Legal Services
Website	U.S. Department of Labor, Wage and Hour Division
Website	Internal Revenue Service
Website	School Services of California, Inc.
Website	CSBA
<a href="#">Website</a>	<a href="#">California Department of Education (https://www.cde.ca.gov/)</a>

## Cross References

Code	Description
3100	Budget
3100	Budget
3400	Management Of District Assets/Accounts
3400	Management Of District Assets/Accounts
3580	District Records
3580	District Records
4000	Concepts And Roles
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4112.6	Personnel Files
4113.5	Working Remotely
4121	Temporary/Substitute Personnel
4121	Temporary/Substitute Personnel
4140	Bargaining Units
4141	Collective Bargaining Agreement

4143	Negotiations/Consultation
4154	Health And Welfare Benefits
4154	Health And Welfare Benefits
4212	Appointment And Conditions Of Employment
4212.6	Personnel Files
4213.5	Working Remotely
4240	Bargaining Units
4241	Collective Bargaining Agreement
4243	Negotiations/Consultation
4254	Health And Welfare Benefits
4254	Health And Welfare Benefits
4312.1	Contracts
4312.6	Personnel Files
4313.5	Working Remotely
4340	Bargaining Units
4354	Health And Welfare Benefits
4354	Health And Welfare Benefits
<u>6115</u>	<u>Ceremonies and Observances</u>

**Policy 4158: Employee Security**

**Status:** ADOPTED

Original Adopted Date: 07/01/2001 | Last Revised Date: 06/03/01/2024-2025 | Last Reviewed  
Date: 06/03/01/2024-2025

CSBA NOTE: Pursuant to Government Code 3543.2, safety conditions in employment are a mandatory subject of collective bargaining. The following Board policy and accompanying administrative regulation may be revised to reflect district practice and the terms of the district's collective bargaining agreements.

The Governing Board desires to provide a safe and orderly work environment for all employees. As part of the district's comprehensive safety plan, the Superintendent or designee shall develop strategies for protecting employees from potentially dangerous persons and situations and for providing necessary assistance and support when emergency situations occur.

Any person who threatens the safety of others at any district facility may be removed by the Superintendent or designee in accordance with AR Administrative Regulation 3515.2 - Disruptions.

CSBA NOTE: Code of Civil Procedure 527.8 allows the district authorizes districts to seek a temporary restraining order and injunction (TRO) on behalf of an employee against any other individual employees who has have been subjected the employee to harassment, unlawful violence, or a credible threat of violence in the workplace. In City A collective bargaining representative may also seek a TRO on behalf of San Jose v. William Garbett, a California Court of Appeal held a district employee if the collective bargaining representative serves that a court's issuance of employee in employment or labor matters at the employee's workplace. Before filing a temporary restraining order and injunction against petition for a person TRO, the district or collective bargaining representative is required to provide the employee who had verbally threatened suffered unlawful violence or a city official was credible threat of violence an opportunity to decline to be named in the TRO. If such a denial occurs, the district or collective bargaining representative is not a violation of that person's right to free speech and right of access to prohibited from seeking a public place.  
TRO on behalf of other employees at the workplace, and, if appropriate, other employees at other workplaces in the district.

Pursuant to Penal Code 18150 and 18170, a gun violence restraining order prohibiting a person from owning, having custody or control of, purchasing, possessing, or receiving a firearm or ammunition may be petitioned by that person's employer, a coworker who has had substantial and regular interactions with the person for at least one year and has the employer's approval, or an employee or teacher of a secondary school that the person has attended in the past six months if the employee or teacher has obtained the approval of a school administrator or designee.

Any employee against whom harassment, violence, or any threat of violence has been directed in the workplace shall notify the Superintendent or designee immediately. As appropriate, the Superintendent or designee shall initiate legal and security measures to protect the employee and others in the workplace. Such measures may include seeking a temporary restraining order (TRO)

on behalf of the employee pursuant to Code of Civil Procedure 527.8 and/or a gun violence restraining order pursuant to Penal Code 18150 and 18170.

Additionally, a collective bargaining representative may seek a TRO on behalf of a district employee against whom harassment, violence, or credible threat of violence has been directed in the workplace, if the collective bargaining representative serves that employee in employment or labor matters at the employee's workplace. (Code of Civil Procedure 527.8)

Upon request by an employee who is a victim of domestic violence, sexual assault, or stalking, the Superintendent or designee shall provide reasonable accommodations in accordance with ~~Labor~~Government Code ~~230-230.1~~12945.8 and the accompanying administrative regulation to protect the employee's safety while at work.

CSBA NOTE: Pursuant to Education Code 48904 and 48905, an employee who is injured or whose property is damaged by willful misconduct of a district student under the conditions described below may request that the district pursue legal action against the student or the student's parent/guardian. See For more information regarding recovery for damages when an employee is injured or whose property is damaged by the willful misconduct of a district student, see BP 3515.4 - Recovery for Property Loss or Damage and AR 5125.2 - Withholding Grades, Diploma or Transcripts. The ~~it is recommended that the district should consult~~ CSBA's District and County Office of Education Legal Services or district legal counsel when considering whether to pursue legal action.

The Superintendent or designee may pursue legal action on behalf of an employee against a student or the student's parent/guardian to recover damages for injury to the employee's person or property caused by the student's willful misconduct that occurred on district property, at a school or district activity, or in retaliation for lawful acts of the employee in the performance of the employee's duties. (Education Code 48904, 48905)

CSBA NOTE: Pursuant to Education Code 32289.6, as added by AB 1858 (Ch. 530, Statutes of 2024), on or before June 15, 2025, the California Department of Education is required to curate and post on its website best practices pertaining to school shooter or other armed assailant drills, with which districts are encouraged to comply.

Additionally, the 2024, "Executive Order on Combating Emerging Firearms Threats and Improving School-Based Active-Shooter Drills," 89 Fed. Reg. 80345, establishes an interagency Emerging Firearms Threats Task Force and requires the Secretary of Education and the Secretary of Homeland Security to release guidance related to school-based active-shooter drills for schools.

The Superintendent or designee shall provide staff development in crisis prevention and intervention techniques, which may include training in classroom management, effective communication techniques, procedures for responding to an active shooter situation, and crisis resolution.

In accordance with law, the Superintendent or designee shall inform teachers, administrators, and/or counselors of crimes and offenses committed by students who may pose a danger in the classroom. (Education Code 48201, 49079; Welfare and Institutions Code 827)

The Superintendent or designee may make available at appropriate locations, including, but not

limited to, district and school offices, gyms, and classrooms, communication devices that would enable two-way communication with law enforcement and others when emergencies occur.

### Use of Pepper Spray

CSBA NOTE: The following section is optional and may be revised to reflect district practice. Penal Code 22810 authorizes adults, with certain exceptions, to carry an approved tear gas weapon such as pepper spray for purposes of self-defense. Penal Code 626.9 and 626.10, which prohibit the possession of weapons on school grounds, do not prohibit the possession of pepper spray on school grounds. Thus, the Governing Board may determine whether to allow or disallow, with certain exceptions, the possession of pepper spray on school property or at school activities. See the accompanying administrative regulation for related procedures. It is recommended that districts allowing employees to carry pepper spray consult CSBA's District and County Office of Education Legal Services or district counsel regarding potential liability related to an employee's possession of pepper spray and revise the corresponding regulation accordingly.

Employees shall not carry or possess pepper spray on school property or at school activities, except when authorized by the Superintendent or designee for self-defense purposes. When allowed, an employee may only possess pepper spray in accordance with Board policy, administrative regulations regulation, and Penal Code 22810. Any employee authorized to carry or possess pepper spray on school property who is negligent or careless in the possession or handling of pepper spray is acting outside of the scope of employment and shall be subject to appropriate disciplinary measures.

### Reporting of Injurious Objects

CSBA NOTE: The following optional section specifies actions to be taken in the event an employee becomes aware of any person who is in possession of an injurious object, and is consistent with the actions described in AR 5131.7 - Weapons and Dangerous Instruments related to student possession.

Pursuant to Education Code 49334, a school employee who initially notifies law enforcement regarding a student or adult who is in possession of an injurious object while on school grounds or under the authority of school personnel cannot be subject to any civil or administrative proceeding, including disciplinary action, for violation of any district policy or procedure related to the notification of a law enforcement agency. Education Code 49334 requires such an employee to conform with district procedures after exercising the option to notify a law enforcement agency.

Employees shall take immediate action upon being made aware that any person is in possession of a weapon or unauthorized injurious object on ~~school grounds~~ district property or at a ~~school-~~ district related or school-sponsored activity. Employees shall exercise their best judgment as to the potential danger involved and shall do one of the following:

1. Confiscate the object and deliver it to the principal immediately
2. Immediately notify the principal or supervisor, who shall take appropriate action
3. Immediately call 911 and the principal or supervisor

When informing the principal about the possession or seizure of a weapon or dangerous device, an employee shall report the name(s) of persons involved, witnesses, location, and the circumstances of any seizure.

**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>
Civ. Code 51.7	Freedom from violence or intimidation
Code of Civil Procedure 527.8	Workplace violence safety
Ed. Code 32210-32212	Willful disturbance; public schools or meetings
Ed. Code 32225-32226	Communications devices in classrooms
<u>Ed. Code 32282</u>	<u>School safety plans</u>
<u>Ed. Code 32289.6</u>	<u>Best practices pertaining to school shooter drills</u>
Ed. Code 35208	Liability insurance
Ed. Code 35213	Reimbursement for loss or damage of personal property
Ed. Code 44014	Report of assault by <u>pupil student</u> against school employee
Ed. Code 44807	Teachers' duty concerning conduct of students
Ed. Code 48201	Transfer student's record for acts that resulted in suspension or expulsion
Ed. Code 48900-48926	Suspension and expulsion
Ed. Code 49079	Notification to teacher; student who has engaged in acts <u>re: regarding</u> grounds <u>for</u> suspension or expulsion
Ed. Code 49330-49335	Injurious objects
Gov. Code 12926	Definitions
<u>Gov. Code 12945.8</u>	<u>Employee accommodations for domestic violence, sexual assault, stalking, and other qualifying acts of violence</u>
Gov. Code 3543.2	Scope of representation
Gov. Code 995-996.4	Defense of public employees
<u>Lab. Code 230-230.2</u>	<u>Leaves for victims of domestic violence, sexual assault or specified felonies</u>
Pen. Code 18150	Gun violence restraining orders

Pen. Code 18170	Gun violence restraining order issued after notice and hearing
Pen. Code 22810	Purchase, possession, and use of tear gas
Pen. Code 240-246.3	Assault and battery
Pen. Code 241.3	Assault against school bus drivers
Pen. Code 241.6	Assault on school employee including board member
Pen. Code 243.3	Battery against school bus drivers
Pen. Code 243.6	Battery against school employee including board members
Pen. Code 245.5	Assault with deadly weapon against school employee including board member
Pen. Code 290	Registration of sex offenders
Pen. Code 601	Trespass by person making credible threat
Pen. Code 626-626.11	Weapons on school grounds and other school crimes
Pen. Code 646.9	Stalking
Pen. Code 71	Threatening public officers and employees and school officials
W&I Code 827	Limited exception to juvenile court record
W&I Code 828.1	District police or security department; disclosure of juvenile records

### **Federal**

Executive Order 14127

### **Description**

Combating Emerging Firearms Threats and Improving School-Based Active Shooter Drills, September 2024  
<https://www.federalregister.gov/documents/2024/10/02/2024-22938/combating-emerging-firearms-threats-and-improving-school-based-active-shooter-drills>

### **Management Resources**

Court Decision

### **Description**

City of San Jose v. William Garbett (2010) 190 Cal. App. 4th 526

Website

CSBA District and County Office of Education Legal Services

Website

California Department of Education, Safe Schools

Website

CSBA

### **Cross References**

#### **Code**

0450

#### **Description**

Comprehensive Safety Plan

0450

Comprehensive Safety Plan

1313

Civility

3320	Claims And Actions Against The District
<u>3320</u>	<u>Claims And Actions Against The District</u>
3515	Campus Security
3515	Campus Security
3515.2	Disruptions
3515.2	Disruptions
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
3515.7	Firearms On School Grounds
3530	Risk Management/Insurance
3530	Risk Management/Insurance
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.21	Professional Standards
4119.21-F(1)	Professional Standards
4131	Staff Development
4140	Bargaining Units
4156.3	Employee Property Reimbursement
4157	Employee Safety
4157	Employee Safety
<u>4161</u>	<u>Leaves</u>
<u>4161.1</u>	<u>Personal Illness/Injury Leave:</u>
4161.2	Personal Leaves
<u>4161.8</u>	<u>Family Care and Medical Leave</u>
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications

4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.21	Professional Standards
4219.21-E(1)	Professional Standards
4231	Staff Development
4240	Bargaining Units
4256.3	Employee Property Reimbursement
4257	Employee Safety
4257	Employee Safety
<u>4261</u>	<u>Leaves</u>
<u>4261.1</u>	<u>Personal Illness/Injury Leave</u>
4261.2	Personal Leaves
<u>4261.8</u>	<u>Family Care and Medical Leave</u>
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4319.21	Professional Standards
4319.21-E(1)	Professional Standards
4331	Staff Development
4340	Bargaining Units
4356.3	Employee Property Reimbursement
4357	Employee Safety
4357	Employee Safety
<u>4361</u>	<u>Leaves</u>
<u>4361.1</u>	<u>Personal Illness/Injury Leave</u>
4361.2	Personal Leaves
<u>4361.8</u>	<u>Family Care and Medical Leave</u>
5125	Student Records
5125	Student Records
5125.2	Withholding Grades, Diploma Or Transcripts
5131.4	Student Disturbances
5131.4	Student Disturbances

5131.7	Weapons And Dangerous Instruments
5131.7	Weapons And Dangerous Instruments
5141	Health Care And Emergencies
5141	Health Care And Emergencies
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)

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## Regulation 4158: Employee Security

Status: ADOPTED

Original Adopted Date: 11/01/2000 | Last Revised Date: 06/03/01/2021/2025 | Last Reviewed  
Date: 06/03/01/2021/2025

CSBA NOTE: In order to help ensure the safety of students and staff, Education Code 32282 requires schools to include in their comprehensive safety plans procedures to assess and respond to reports of any dangerous, violent, or unlawful activity that is being conducted or threatened to be conducted at the school, at an activity sponsored by the school, or on a school bus serving the school. For more information regarding comprehensive safety plans, see BP/AR 0450 - Comprehensive Safety Plan.

An employee may use reasonable and necessary force for self-defense or defense of another person, to quell a disturbance threatening physical injury to others or damage to property, or to obtain possession of weapons or other dangerous objects within the control of a student. (Education Code 44807, 49001)

CSBA NOTE: Pursuant to Education Code 44014, it is the duty of an employee and the employee's immediate supervisor to report to law enforcement any attack, assault, or physical threat made against the employee by a student. Compliance with district procedures related to reporting incidents, as specified in the paragraph below, does not exempt an employee or supervisor from the duty to make a report to law enforcement. Failure to report such an attack, assault, or physical threat is an infraction punishable by a fine. It is also an infraction for a Governing Board member or employee to prevent the filing of the report or to impose any sanction against an employee for doing so.

Although the law only requires employees to report attacks, assaults, or physical threats made by students, the district may revise the following paragraph to require employees to report any attack, assault, or physical threat made against them by any other individual on school grounds.

The following paragraph relates to the reporting by an employee of an attack, assault, or physical threat, as well as any action taken in response, and should be modified to reflect district practice and to ensure consistency with the district's comprehensive safety plan.

An employee shall promptly report to the principal or other immediate supervisor any attack, assault, or physical threat made against the employee by a student or by any other individual in relation to the performance of the employee's duties, and any action the employee took in response. Reports of an attack, assault, or threat shall be forwarded immediately to the Superintendent or designee.

**CSBA NOTE: Pursuant to Education Code 44014, it is the duty of an employee and the employee's immediate supervisor to report to law enforcement any attack, assault, or physical threat made against the employee by a student. Compliance with district procedures related to reporting incidents, as specified in the paragraph above, does not exempt an employee or supervisor from the duty to make a report to law enforcement. Failure to report such an attack, assault, or physical threat is an infraction punishable by a fine. It is also an infraction for a Governing Board member or employee to prevent the filing of the report or to impose any sanction against an employee for doing so.**

Although the law only requires employees to report attacks, assaults, or threats made by students, the district may revise the following paragraph to require employees to report any attack, assault, or threat made against them by any other individual on school grounds.

In addition ~~Additionally~~, the employee and the principal or other immediate supervisor shall promptly report to local law enforcement authorities an attack, assault, or physical threat made against the employee by a student. ~~Reports of an attack, assault, or physical threat shall be forwarded immediately to the Superintendent or designee.~~ (Education Code 44014)

### Notice Regarding Student Offenses

When a student commits certain offenses that may endanger staff or others, the following procedures shall be implemented to notify staff members as appropriate:

#### 1. Acts That Are Grounds for Suspension or Expulsion

CSBA NOTE: Education Code 49079 requires the district to inform teachers of students who have committed specified acts that constitute grounds for suspension or expulsion. ~~School district~~ District officers or employees who knowingly fail to provide this information are guilty of a misdemeanor punishable by a fine and/or imprisonment.

- a. The Superintendent or designee shall inform the teacher(s) of each student who, during the previous three school years, has engaged in or is reasonably suspected to have engaged in any act, except the possession or use of tobacco products, that would constitute a ground for suspension or expulsion as specified in AR Administrative Regulation 5144.1 - Suspension and Expulsion/Due Process: (Education Code 49079)

       This information shall be based upon district records maintained in the ordinary course of business or records received from a law enforcement agency. (Education Code 49079)

CSBA NOTE: Education Code 48201 requires districts to request records of a transferring student regarding acts that resulted in the student's suspension or expulsion from the previous school, as specified below; see AR 5125 - Student Records. Once the record is received, the Superintendent or designee ~~must~~ is required to inform the student's teacher(s) of the acts as specified below.

- b. Upon receiving a transfer student's record regarding acts committed by the student that resulted in suspension or expulsion, the Superintendent or designee shall inform the student's teacher(s) that the student was suspended from school or expelled from the former district and of the act that resulted in the suspension or expulsion. (Education Code 48201)
- c. Information received by teacher(s) shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher. (Education Code 48201, 49079)

#### 2. Offenses Reported to the District by a Court

CSBA NOTE: Welfare and Institutions Code 827 requires a court, within seven days, to provide written notification to the Superintendent when a minor student has been found by the court to have committed a felony or misdemeanor involving specified offenses. Upon receiving such notification, the Superintendent ~~must~~ is required to notify certain counselors, teachers, and administrators, as described in ~~item ltc~~ item #2.

~~In addition~~ Additionally, Welfare and Institutions Code 828.1 specifies that a ~~school~~ district police or security department may provide written notification to the Superintendent when a minor student has been found by a court to have illegally used, sold, or possessed a controlled substance or committed specified crimes involving serious acts of violence. In such cases, the information may be transmitted to a teacher, counselor, or administrator with direct supervisorial or disciplinary responsibility over the student, and such information ~~must~~ is required to be received in confidence for the limited purpose for which it was provided. Districts that maintain their own police or security department may expand the following item to authorize the department to notify the Superintendent of such offenses.

- a. When informed by a court that a minor student has been found by the court to have committed any felony or any misdemeanor involving curfew, gambling, alcohol, ~~drugs, tobacco products, carrying of weapons, a sex offense listed in Penal Code 290, assault or battery, larceny, vandalism, or graffiti~~, the Superintendent or designee shall expeditiously notify the school principal: or designee (Welfare and Institutions Code 827)
- b. The principal or designee shall expeditiously disseminate this information to any counselor who directly supervises or reports on the student's behavior or progress and to any teacher or administrator directly supervising or reporting on the student's behavior or progress whom the principal or designee thinks may need the information in order to work with the student appropriately, to avoid being needlessly vulnerable, or to protect others from vulnerability. (Welfare and Institutions Code 827)
- c. Any court-initiated information that a teacher, counselor, or administrator receives shall be kept confidential and used only to rehabilitate the student and protect other students and staff. (Welfare and Institutions Code 827)

       The information shall be further disseminated only when communication with the student, parent/guardian, law enforcement staff, and probation officer is necessary to rehabilitate the student or to protect students and staff. (Welfare and Institutions Code 827)

- d. When a student is removed from school as a result of an offense, the Superintendent shall hold the court's information in a separate confidential file until the student is returned to the district: (Welfare and Institutions Code 827)

       If the student is returned to a different district, the Superintendent shall transmit the information provided by the student's parole or probation officer to the superintendent of the new district of attendance. (Welfare and Institutions Code 827)

- e. Any confidential file of court-initiated information shall be kept until the student becomes 18, graduates from high school, or is released from juvenile court jurisdiction, whichever occurs first, and shall then be destroyed. (Welfare and Institutions Code 827)

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. Intentional violation of the confidentiality provisions of Welfare and Institutions Code 827 is a misdemeanor punishable by a fine.

In order to maintain confidentiality when providing information about student offenses to a counselor or teacher, the principal or designee shall send the staff member a written notification that a student has committed an offense that requires review of a student's file in the school office. This notice shall not name or otherwise identify the student. The staff member shall initial the notification and shall also initial the student's file when reviewing it in the school office.

**Accommodations for Victims of Domestic Violence, Sexual Assault, or Stalking, or Other Qualifying Acts of Violence**

CSBA NOTE: Pursuant to ~~Labor~~ Government Code 230, 12945.8, as added by AB 2499 (Ch. 967, Statutes of 2024), the district is required to provide reasonable accommodations at work, upon request, to an employee who is a victim, or whose family member is a victim, of domestic violence, sexual assault, or stalking, and other qualifying acts of violence.

The district is not required to provide reasonable accommodations to an employee who has not disclosed the employee's status, or family member's status, as a victim of domestic violence, sexual assault, or stalking, or other qualifying acts of violence specified in Government Code 12945.8, nor to undertake an action that constitutes an undue hardship, as defined by Government Code 12926.

In addition, ~~Labor~~ Government Code 230 and 230.1 allow 12945.8, as added by AB 2499, authorizes, subject to any applicable collective bargaining agreement, employees who are victims of domestic violence, sexual assault, or stalking, or other qualifying acts of violence, including employees who are victims of a crime that caused physical injury, or mental injury with a threat of physical injury, and employees whose immediate family member is deceased as the direct result of a crime, to use available leave, including vacation, personal leave, paid sick leave, or compensatory time off, for the purposes of (1) obtaining or attempting to obtain relief (e.g., a temporary restraining order, restraining order, or injunctive relief) to protect the health, safety, or welfare of the employee or the employee's child; or family of the employee, (2) seeking, obtaining, or assisting a family member to seek or obtain, medical attention for or to recover from injuries caused by the crime or abuse; a qualifying act of violence, (3) seeking, obtaining, or assisting a family member to seek or obtain services from a domestic violence shelter, program, rape crisis center, or victim services organization or agency; as a result of a qualifying act of violence, (4) seeking, obtaining, or assisting a family member to seek or obtain psychological counseling or mental health services related to an experience of crime or abuse; and/or a qualifying act of violence, (5) participating in safety planning and or taking other actions to increase safety from future crime or abuse qualifying acts of violence, (6) relocating or engaging in the process of securing a new residence due to the qualifying act of violence, including, securing temporary or permanent relocation. As amended by AB 2992 (Ch. 224, Statutes of 2020), Labor Code 230 and 230.1 expand these provisions to include employees housing or enrolling children in a new school or child care, (7) providing care to a family

member who are victims of a crime that is recovering from injuries caused physical injury, or mental injury with a threat of physical injury; and employees whose immediate family member is deceased as the direct result of a crime. See by a qualifying act of violence, (8) seeking, obtaining, or assisting a family member to seek or obtain civil or criminal legal services in relation to the qualifying act of violence, (9) preparing for, participating in, or attending any civil, administrative, or criminal legal proceeding related to the qualifying act of violence, or (10) seeking, obtaining, or providing child care or care to a care-dependent adult if the child care or care is necessary to ensure the safety of the child or dependent adult as a result of the qualifying act of violence.

For more information regarding leaves, see BP/AR 4161/4261/4361 - Leaves, AR 4161.1/4361.1 - Personal Illness/Injury Leave, 4261.1 - Personal Illness/Injury Leave, AR 4161.2/4261.2/4361.2 - Personal Leaves, and AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave.

When requested by an employee who is a victim of domestic violence, sexual assault, or stalking, or other qualifying acts of violence, the district shall provide the employee reasonable accommodations which may include the implementation of safety measures, including: (Labor Code 230, but not limited to: (Government Code 12945.8))

1. A transfer, reassignment, or modified schedule
2. A changed work telephone or work station, including the permission to carry a telephone at work
3. An installed lock
4. Assistance in documenting domestic violence, sexual assault, stalking, or other crime qualifying act of violence that occurs in the workplace
5. Referral to a victim assistance organization
6. Another safety procedure or adjustment to a job structure, workplace facility, or work requirement in response to domestic violence, sexual assault, stalking, or other crime qualifying act of violence

The Superintendent or designee shall engage in a timely, good faith, and interactive process with the employee to determine effective reasonable accommodations that do not pose an undue hardship on the district. In determining whether an accommodation is reasonable, the Superintendent or designee shall consider any exigent circumstance or danger facing the employee: (Labor Code 230 or their family member. (Government Code 12945.8))

Upon the request of the Superintendent or designee, an employee requesting a reasonable accommodation shall provide a written statement, signed by the employee or an individual acting on the employee's behalf, certifying that the accommodation is for an authorized purpose. The Superintendent or designee may also request that the employee provide certification of the employee's status as a victim of domestic violence, sexual assault, or stalking, or other qualifying act of violence. Such certification may include: (Labor Government Code 230 12945.8)

1. A police report indicating that the employee, or a family member of the employee, was a victim
2. A court order protecting or separating the employee, or family member of the employee, from the perpetrator of the crime or abuse, or other evidence from the court or prosecuting attorney that the employee has appeared in court
3. Documentation from a licensed medical professional or health care provider, domestic violence or sexual assault counselor, victim advocate, or counselor that the employee, or family member of the employee, was undergoing treatment or receiving services for physical or mental injuries or abuse resulting in victimization from the crime or abuse
4. Any other form of documentation that reasonably verifies that the crime or abuse occurred, including, but not limited to, a written statement signed by the employee or by an individual acting on the employee's behalf

Any verbal or written statement, police or court record, or other documentation identifying an employee, or a family member of the employee, as a victim shall be confidential and shall not be disclosed by the district except as required by federal or state law or as necessary to protect the employee's safety in the workplace. The employee shall be notified before any authorized disclosure. (~~Labor~~ Government Code 230 12945.8)

Every six months after the date of the certification, the Superintendent or designee may request recertification of the employee's status as a victim of domestic violence, sexual assault, ~~or~~ other specified offense, or ongoing circumstances related to the crime or abuse. The employee shall notify the Superintendent or designee if, due to changing circumstances, the employee needs a new accommodation or no longer needs an accommodation. (~~Labor~~ Code 230)

~~The district shall not~~ If a new accommodation is needed, the Superintendent or designee shall follow the procedures described above when making the initial determination regarding effective reasonable accommodations. (Government Code 12945.8)

The district shall not discharge or retaliate against an employee because of the employee's status as a victim of crime or abuse or for requesting a reasonable accommodation, regardless of whether the request was granted. (~~Labor~~ Government Code 230 12945.8)

### Use of Pepper Spray

CSBA NOTE: The following optional section may be revised to reflect district practice. See the accompanying Board policy for further information and the Board's determination to allow or disallow, with certain exceptions, the possession of pepper spray on school property or at school activities. It is recommended that districts allowing employees to carry pepper spray consult CSBA's District and County Office of Education Legal Services or district counsel regarding potential liability related to an employee's possession of pepper spray.

The Superintendent or designee shall notify employees of the district's policy prohibiting the possession of pepper spray on school property or at school-related activities without prior approval of the Superintendent or designee. Employees wishing to carry pepper spray shall submit to the Superintendent or designee a written request setting forth the need for the to carry or possess

pepper spray and for how long the need is anticipated to last. The Superintendent or designee shall notify the employee in writing as to whether the request was approved or denied.

When approving an employee's request, the Superintendent or designee shall inform the employee of the following conditions:

1. The pepper spray shall be used only in self-defense pursuant to Penal Code 22810.
2. An employee who uses pepper spray other than in self-defense shall be subject to disciplinary action by the district and, in accordance with law, a fine and/or imprisonment.
3. The pepper spray must be stored in a secure place and not be accessible to students or other individuals. ~~Negligent storage of the pepper spray may subject the employee to disciplinary action.~~

Negligent storage or use of the pepper spray may subject the employee to disciplinary action.

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#### **State**

Civ. Code 51.7

Code of Civil Procedure 527.8

Ed. Code 32210-32212

Ed. Code 32225-32226

Ed. Code 32282

Ed. Code 32289.6

Ed. Code 35208

Ed. Code 35213

Ed. Code 44014

Ed. Code 44807

Ed. Code 48201

Ed. Code 48900-48926

#### **Description**

Freedom from violence or intimidation

Workplace violence safety

Willful disturbance; public schools or meetings

Communications devices in classrooms

School safety plans

Best practices pertaining to school shooter drills

Liability insurance

Reimbursement for loss or damage of personal property

Report of assault by pupil student against school employee

Teachers' duty concerning conduct of students

Transfer student's record for acts that resulted in suspension or expulsion

Suspension and expulsion

Ed. Code 49079	Notification to teacher; student who has engaged in acts <u>re: regarding</u> grounds <u>for</u> suspension or expulsion
Ed. Code 49330-49335	Injurious objects
Gov. Code 12926	Definitions
<u>Gov. Code 12945.8</u>	<u>Employee accommodations for domestic violence, sexual assault, stalking, and other qualifying acts of violence</u>
Gov. Code 3543.2	Scope of representation
Gov. Code 995-996.4	Defense of public employees
<del>Lab. Code 230-230.2</del>	<u>Leaves for victims of domestic violence, sexual assault or specified felonies</u>
Pen. Code 18150	Gun violence restraining orders
Pen. Code 18170	Gun violence restraining order issued after notice and hearing
Pen. Code 22810	Purchase, possession, and use of tear gas
Pen. Code 240-246.3	Assault and battery
Pen. Code 241.3	Assault against school bus drivers
Pen. Code 241.6	Assault on school employee including board member
Pen. Code 243.3	Battery against school bus drivers
Pen. Code 243.6	Battery against school employee including board members
Pen. Code 245.5	Assault with deadly weapon against school employee including board member
Pen. Code 290	Registration of sex offenders
Pen. Code 601	Trespass by person making credible threat
Pen. Code 626-626.11	Weapons on school grounds and other school crimes
Pen. Code 646.9	Stalking
Pen. Code 71	Threatening public officers and employees and school officials
W&I Code 827	Limited exception to juvenile court record
W&I Code 828.1	District police or security department; disclosure of juvenile records
<b>Federal</b>	<b>Description</b>
<u>Executive Order 14127</u>	<u>Combating Emerging Firearms Threats and Improving School-Based Active Shooter Drills, September 2024</u> ( <a href="https://www.federalregister.gov/documents/2024/10/02/2024-22938/combating-emerging-firearms-threats-and-improving-school-based-active-shooter-drills">https://www.federalregister.gov/documents/2024/10/02/2024-22938/combating-emerging-firearms-threats-and-improving-school-based-active-shooter-drills</a> )

## Management Resources

## Description

Court Decision	City of San Jose v. William Garbett (2010) 190 Cal. App. 4th 526
Website	CSBA District and County Office of Education Legal Services
Website	California Department of Education, Safe Schools
Website	CSBA

## Cross References

Code	Description
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
1313	Civility
3320	Claims And Actions Against The District
<u>3320</u>	<u>Claims And Actions Against The District</u>
3515	Campus Security
3515	Campus Security
3515.2	Disruptions
3515.2	Disruptions
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
3515.7	Firearms On School Grounds
3530	Risk Management/Insurance
3530	Risk Management/Insurance
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.21	Professional Standards
4119.21-E(1)	Professional Standards
4131	Staff Development

4140	Bargaining Units
4156.3	Employee Property Reimbursement
4157	Employee Safety
4157	Employee Safety
<u>4161</u>	<u>Leaves</u>
<u>4161.1</u>	<u>Personal Illness/Injury Leave</u>
4161.2	Personal Leaves
<u>4161.8</u>	<u>Family Care and Medical Leave</u>
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.21	Professional Standards
4219.21-E(1)	Professional Standards
4231	Staff Development
4240	Bargaining Units
4256.3	Employee Property Reimbursement
4257	Employee Safety
4257	Employee Safety
<u>4261</u>	<u>Leaves</u>
<u>4261.1</u>	<u>Personal Illness/Injury Leave</u>
4261.2	Personal Leaves
<u>4261.8</u>	<u>Family Care and Medical Leave</u>
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4319.21	Professional Standards
4319.21-E(1)	Professional Standards
4331	Staff Development
4340	Bargaining Units
4356.3	Employee Property Reimbursement
4357	Employee Safety

4357	Employee Safety
<u>4361</u>	<u>Leaves</u>
<u>4361.1</u>	<u>Personal Illness/Injury Leave</u>
4361.2	Personal Leaves
<u>4361.8</u>	<u>Family Care and Medical Leave</u>
5125	Student Records
5125	Student Records
5125.2	Withholding Grades, Diploma Or Transcripts
5131.4	Student Disturbances
5131.4	Student Disturbances
5131.7	Weapons And Dangerous Instruments
5131.7	Weapons And Dangerous Instruments
5141	Health Care And Emergencies
5141	Health Care And Emergencies
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)

**Policy 4251: Employee Compensation**

**Status:** ADOPTED

**Original Adopted Date:** 02/01/1997 | **Last Revised Date:** 09/03/01/2023 ~~2025~~ | **Last Reviewed Date:** 09/03/01/2023 ~~2025~~

CSBA NOTE: Districts that include provisions related to employee compensation in their collective bargaining agreements should modify or delete the following optional policy accordingly.

In order to recruit and retain employees committed to the district's goals for student learning, the Governing Board recognizes the importance of offering a competitive compensation package ~~which~~ that includes salaries and health and welfare benefits.

CSBA NOTE: Education Code 45023 and 45162 require the Governing Board to adopt salary schedules for certificated and classified employees, respectively. For districts operating under a merit system, Education Code 45268 specifies that the personnel commission will recommend a salary schedule for classified employees to the Board for approval and that the Board may not amend the schedule without first giving the commission an a reasonable opportunity to respond to the amendments.

The Board shall adopt separate salary schedules for certificated, classified, and supervisory and administrative personnel. ~~These schedules shall~~ that comply with law and applicable collective bargaining agreements ~~and shall be printed and made available for review at the district office.~~  
(Education Code 45022, 45023, 45160, 45162, 45268)

Each certificated employee, except an employee in an administrative or supervisory position, shall be classified on the salary schedule on the basis of uniform allowance for education level and years of experience, unless the Board and employee organization negotiate and mutually agree to a salary schedule based on different criteria. Certificated employees shall not be placed in different classifications on the schedule, nor paid different salaries, solely on the basis of the grade levels at which they teach. (Education Code 45028)

Salary schedules for staff who are not a part of a bargaining unit shall be determined by the Board at the recommendation of the Superintendent or designee.

The salary schedules adopted by the Board shall be printed and made available for review at the district office. (Education Code 45023)

CSBA NOTE: Pursuant to Education Code 42238.016, as added by AB 938 (Ch. 345, Statutes of 2024), districts are required, beginning January 31, 2026, to annually complete the Salary and Benefit Schedule for Bargaining Units (Form J-90), for classified and certificated staff assigned to a district school site and report the Form J-90 to the California Department of Education.

Additionally, by January 31, 2026, and annually thereafter, the Superintendent or designee shall complete the Salary and Benefit Schedule for Bargaining Units (Form J-90) for classified and

certificated staff assigned to a district school site and report the Form J-90 to the California Department of Education. (Education Code 42238.016)

CSBA NOTE: Pursuant to Education Code 45038, certificated employees may be paid once every two weeks, twice a month, or once every four weeks. The Additionally, the Board may also choose to pay certificated employees, or one or more individual employees, in 10, 11, or 12 equal payments over the year: instead of by the school month. Education Code 45039 provides that, if the Board arranges to pay certificated employees in 12 equal payments for the year, it may pay each monthly installment at the end of each calendar month, regardless of whether the employees are actually engaged in teaching during the month. Education Code 45165 addresses salary payments for classified employees who are employed 9-11 months per year.

Additionally In addition, pursuant to Education Code 45500, districts may participate in the Classified School Employee Summer Assistance Program whereby eligible classified employees may elect to have up to 10 percent of the employee's monthly salary withheld and paid out during the summer recess in either one or two payments.

Education Code 45048 and 45165 provide specific timelines for issuing salary payments depending on the frequency of payments. If payments are not made in a timely manner, the district is required to pay the employee interest on the unpaid amount.

The following paragraph may be revised to reflect the payroll schedule determined by the Board: or as provided for in any applicable collective bargaining agreement.

The Board Unless otherwise provided for in any applicable collective bargaining agreement, district employees shall determine the be paid (insert frequency) and schedule of salary in equal payments, including whether payments for employees who work less than 12 months per year will be made over the course of the school year or in equal installments over the calendar year: year. However, if the district participates in the Classified School Employee Summer Assistance Program, eligible classified employees may elect to have up to 10 percent of the employee's monthly salary withheld and paid out during the summer recess in either one or two payments. (Education Code 45038, 45039, 45048, 45165, 45500)

CSBA NOTE: According to Office of Management and Budget Memorandum M-20-17, during extraordinary circumstances, such as a pandemic, which interrupt district operations, employees paid with federal grant funds can continue to be paid out of federal grant funds as long as other similarly situated employees paid with nonfederal funds are continuing to get compensated. The following optional paragraph establishes such emergency contingencies so that the Board may continue to provide employee compensation during such times:

In extraordinary circumstances or emergency situations, the Board may determine to continue to compensate employees during periods of extended closure or disruption of normal district operations when permitted by law and consistent with collective bargaining agreements and memoranda of understanding.

CSBA NOTE: Pursuant to 29 CFR 516.4, districts are required to post a notice of the minimum wage provisions of the Fair Labor Standards Act (FLSA) (29 USC 201-219) in a conspicuous place at

all work sites. The poster that must be used by state and local governments is available on the website of the U.S. Department of Labor's Wage and Hour Division.

The Superintendent or designee shall post a notice explaining the Fair Labor Standards Act's wage and hour provisions in a conspicuous place at each work site. (29 CFR 516.4)

### Overtime Compensation

CSBA NOTE: Pursuant to the FLSA (29 CFR 553.20) and Education Code 45128, districts are required to pay employees who are not specifically exempted by law, including classified employees in both merit and non-merit system districts, must receive overtime pay or compensatory time off at a rate not less than one and one-half times their regular rate of pay for hours worked in excess of eight hours in any one day and/or in excess of 40 hours per calendar week. However, if the Board has established a work day of less than eight hours but at least seven hours, and a work week of less than 40 hours but at least 35 hours, all time worked in excess of the established work schedule must be deemed overtime.

Pursuant to Education Code 45130, districts are not required to pay overtime for any classified positions established by the Board, or by the personnel commission in a merit system district, as supervisory, administrative, or executive. In approving positions for exclusion from the overtime provisions, the Board or personnel commission must certify in writing that the duties, flexibility of hours, salary, benefit structure, and authority of the positions are of such a nature that they should be set apart from those positions which are subject to the overtime provisions; see BP/AR 4300 - Administrative and Supervisory Personnel. However, Education Code 45130 requires/provides that, if a classified employee in an exempt position is required to work on a holiday designated in law or by the Board, the employee must/is required to be paid the regular pay for that day plus compensation or compensatory time off at a rate not less than the employee's normal rate of pay:

Overtime pay requirements are also; see BP/AR 6115 - Ceremonies and Observances for more information regarding holidays designated in law or by the Board.

Additionally, overtime pay requirements are not applicable to school administrators or teachers in elementary or secondary schools under specific exemptions in 29 USC 213 and 29 CFR 541.303. Pursuant to 29 CFR 541.303 and 541.600, teachers do not need to meet the salary level requirement to be exempt from overtime rules. 29 CFR 541.204 provides that, to be exempt from overtime rules, administrators must either meet the salary level requirement or be compensated on a salary basis that is at least equal to the entrance salary for teachers in the administrator's school.

Labor Code provisions are not applicable to school districts unless specifically provided for in law. For example, in Johnson v. Arvin-Edison Water Storage District, the appellate court held in part that Labor Code 510, which provides for overtime compensation including that an employee who works in excess of 12 hours in one day or eight hours on the seventh consecutive day of a workweek is entitled to twice the regular rate of pay, does not apply to public agencies, including school districts.

Due to the complex interactions between federal law and state law, as well as between different state law provisions and classes of employees, it is recommended that districts consult CSBA's

District and County Office of Education Legal Services or district legal counsel regarding employee overtime compensation, as necessary.

District employees shall be paid an overtime rate of not less than one and one-half times their regular rate of pay for any hours worked in excess of eight hours in one day and/or 40 hours in one work week, or ~~twice their regular rate of pay for any hours worked in excess of 12 hours in one day or eight hours on the seventh consecutive day of work.~~ However, teachers, school administrators, and other employees in positions established by the Board as executive, administrative, or professional shall be exempt from overtime rules. (Education Code 45128, 45130; 29 USC 213; 29 CFR 541.0-~~204~~, 541.710~~303~~, 541.600, 553.27, 553.32)

If the district requires a classified employee in an exempt position to work on a holiday designated in law or by the Board, the employee shall be paid the regular pay for that day plus compensation or compensatory time off at a rate not less than the employee's normal rate of pay. (Education Code 45130)

CSBA NOTE: The following optional paragraph is for use by districts that allow employees to take compensatory time off in lieu of overtime compensation as authorized by 29 USC 207 and 29 CFR 553.20-553.25. Time off in lieu of overtime compensation is allowed only if provided for in a collective bargaining agreement or other agreement and must be provided at the rate of at least one and one-half hours for each hour of overtime work.

Pursuant to 29 CFR 553.21, an employee must be allowed to use earned compensatory time within a "reasonable period" after making the request. 29 CFR 553.25 provides that a "reasonable period" is determined on a case-by-case basis by considering customary work practices such as the normal work schedule, anticipated peak workloads based on past experience, emergency requirements for staff and services, and the availability of qualified substitute staff. Education Code 45129 provides that the compensatory time off must be used within 12 calendar months.

When authorized in a collective bargaining agreement or other agreement between the district and employees, an employee may take compensatory time off in lieu of overtime compensation, provided the employee has not accrued compensatory time in excess of the limits specified in 29 USC 207. An employee who has requested the use of compensatory time shall be allowed to use such time within 12 calendar months ~~after making the request~~ following the month the overtime was worked if the use of the compensatory time does not unduly disrupt district operations. (Education Code 45129; 29 USC 207; 29 CFR 553.20-553.25)

For each nonexempt employee, the Superintendent or designee shall maintain records on the employee's wages, hours, and other information specified in 29 CFR 516.5-516.6.

### **Wage Overpayment**

CSBA NOTE: Education Code 44042.5, as added by AB 185 (Ch. 571, Statutes of 2022) and amended by SB 114 (Ch. 48, Statutes of 2023), requires districts to follow the process specified below when a wage overpayment is made to a district employee. If the provisions of this section are in conflict with a collective bargaining agreement or a memorandum of understanding that was in effect on July 31, 2022, such agreements shall be controlling until the expiration or renewal of such

agreements. ~~The~~ it is recommended that the district ~~should~~ consult CSBA's District and County Office of Education Legal Services or district legal counsel when questions arise about legal requirements for specific wage overpayments.

If, following the determination of an overpayment, the employee disputes the existence or amount of the overpayment, the district ~~shall~~ is required to first initiate legal action and obtain a court order or binding arbitration decision validating the overpayment amount. Binding arbitration may only apply to such overpayment disputes if a memorandum of understanding between the district and exclusive representative sets forth procedures for adjudicating such wage overpayment disputes that meet the minimum requirements set forth in Education Code 44042.5.

If the district determines an employee has been overpaid, the district shall notify the employee in writing of the overpayment, afford the employee an opportunity to respond before commencing any recoupment actions, and inform the employee of the employee's rights to dispute the existence or amount of the claimed overpayment. If the employee agrees there was an overpayment in the claimed amount, reimbursement shall be made to the district through one of the methods described in Education Code 44042.5, as mutually agreed upon by the employee and the district. (Education Code 44042.5)

If a mutual agreement on a method of reimbursement is not reached, within 30 days of the employee verifying the overpayment amount, the district shall recoup the overpayment through payroll deductions in accordance with Education Code 44042.5.

If the employee does not respond or disputes the existence or amount of the district's claimed overpayment, the district ~~shall, with board approval, initiate a legal action to~~ may only recover the overpayment: after pursuing appropriate legal action. (Education Code 44042.5)

If the employee separates from the district before the overpayment is fully repaid, the district shall withhold the remaining balance due from any money owed to the employee upon separation, provided that the state minimum wage is still paid to the employee as required by Education Code 44042.5. The Superintendent or designee may consult with legal counsel to calculate the amount to withhold.

If an outstanding overpayment balance still remains, the district ~~shall, with Board approval,~~ may exercise any legal means to recover the remaining amount owed by the employee. (Education Code 44042.5)

Legal action to recover any overpayment under this policy shall be initiated within three years from the date of the overpayment, which for leave credits is the date that the employee receives compensation in exchange for leave erroneously credited to the employee. (Education Code 44042.5)

#### **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>
8 CCR 11040	Wages and hours; definitions of administrative, executive, and professional employees
<a href="#">Ed. Code 42238.016</a>	<a href="#">Salary and Benefit Schedule for the Bargaining Units (Form J-90)</a>
Ed. Code 44042.5	Wage overpayment
Ed. Code 45022-45061.5	Salaries <a href="#">for certificated employees</a>
Ed. Code 45023	Availability of salary schedule
Ed. Code 45028	Salary schedule and exceptions
Ed. Code 45127-45133.5	Classified employees; work week; overtime provisions
Ed. Code 45160-45169	Salaries for classified employees
Ed. Code 45268	Salary schedule for classified service in merit system districts
Ed. Code 45500	Classified School Employee Summer Assistance Program
Gov. Code 3540-3549 <a href="#">.3</a>	Meeting and negotiating
Gov. Code 3543.2	Scope of representation
Gov. Code 3543.7	Duty to meet and negotiate in good faith
Lab. Code 226	Employee access to payroll records
Lab. Code 232	Disclosure of wages
<a href="#">Lab. Code 510</a>	<a href="#">Overtime Compensation</a>
<b>Federal</b>	<b>Description</b>
26 CFR 1.409A-1	Definitions and covered plans
26 USC 409A	Deferred compensation plans
29 CFR 516.4	Notice of minimum wage and overtime provisions
29 CFR 516.5-516.6	Records
29 CFR 541.0-541.710	Exemptions for executive, administrative, and professional employees
29 CFR 553.1-553.51	Fair Labor Standards Act; applicability to public agencies
29 USC 201-219	Fair Labor Standards Act
29 USC 203	Definitions
29 USC 207	Fair Labor Standards Act

29 USC 213

**Management Resources**

Court Decision

Office of Management and Budget  
Publication

Court Decision

Website

Website

Website

Website

Website

Website

Exemptions from minimum wage and overtime requirements

**Description**

Flores v. City of San Gabriel (9th Cir., 2016) 824 F.3d 890

Administrative Relief for Recipients and Applicants of Federal  
Financial Assistance Directly Impacted by COVID-19 due to  
Loss of Operations, Memo M-20-17, March 19, 2020

Johnson v. Arvin-Edison Water Storage District (2009) 174  
Cal.App.4th 729

CSBA District and County Office of Education Legal Services

U.S. Department of Labor, Wage and Hour Division

Internal Revenue Service

School Services of California, Inc.

CSBA

California Department of Education  
(<https://www.cde.ca.gov/>)

**Cross References**

**Code**

3100

3100

3400

3400

3580

3580

4000

4030

4030

4112.6

4113.5

4121

4121

4140

4141

**Description**

Budget

Budget

Management Of District Assets/Accounts

Management Of District Assets/Accounts

District Records

District Records

Concepts And Roles

Nondiscrimination In Employment

Nondiscrimination In Employment

Personnel Files

Working Remotely

Temporary/Substitute Personnel

Temporary/Substitute Personnel

Bargaining Units

Collective Bargaining Agreement

4143	Negotiations/Consultation
4154	Health And Welfare Benefits
4154	Health And Welfare Benefits
4212	Appointment And Conditions Of Employment
4212.6	Personnel Files
4213.5	Working Remotely
4240	Bargaining Units
4241	Collective Bargaining Agreement
4243	Negotiations/Consultation
4254	Health And Welfare Benefits
4254	Health And Welfare Benefits
4312.1	Contracts
4312.6	Personnel Files
4313.5	Working Remotely
4340	Bargaining Units
4354	Health And Welfare Benefits
4354	Health And Welfare Benefits
<u>6115</u>	<u>Ceremonies and Observances</u>

## Policy 4258: Employee Security

Status: ADOPTED

Original Adopted Date: 07/01/2001 | Last Revised Date: 06/03/01/2021 2025 | Last Reviewed  
Date: 06/03/01/2021 2025

CSBA NOTE: Pursuant to Government Code 3543.2, safety conditions in employment are a mandatory subject of collective bargaining. The following Board policy and accompanying administrative regulation may be revised to reflect district practice and the terms of the district's collective bargaining agreements.

The Governing Board desires to provide a safe and orderly work environment for all employees. As part of the district's comprehensive safety plan, the Superintendent or designee shall develop strategies for protecting employees from potentially dangerous persons and situations and for providing necessary assistance and support when emergency situations occur.

Any person who threatens the safety of others at any district facility may be removed by the Superintendent or designee in accordance with AR Administrative Regulation 3515.2 - Disruptions.

CSBA NOTE: Code of Civil Procedure 527.8 allows the district authorizes districts to seek a temporary restraining order and injunction (TRO) on behalf of an employee against any other individual employees who has have been subjected the employee to harassment, unlawful violence, or a credible threat of violence in the workplace. In City A a collective bargaining representative may also seek a TRO on behalf of San Jose v. William Garbett, a California Court of Appeal held a district employee if the collective bargaining representative serves that a court's issuance of employee in employment or labor matters at the employee's workplace. Before filing a temporary restraining order and injunction against petition for a person TRO, the district or collective bargaining representative is required to provide the employee who had verbally threatened suffered unlawful violence or a city official was credible threat of violence an opportunity to decline to be named in the TRO. If such a denial occurs, the district or collective bargaining representative is not a violation of that person's right to free speech and right of access to prohibited from seeking a public place. TRO on behalf of other employees at the workplace, and, if appropriate, other employees at other workplaces in the district.

Pursuant to Penal Code 18150 and 18170, a gun violence restraining order prohibiting a person from owning, having custody or control of, purchasing, possessing, or receiving a firearm or ammunition may be petitioned by that person's employer, a coworker who has had substantial and regular interactions with the person for at least one year and has the employer's approval, or an employee or teacher of a secondary school that the person has attended in the past six months if the employee or teacher has obtained the approval of a school administrator or designee.

Any employee against whom harassment, violence, or any threat of violence has been directed in the workplace shall notify the Superintendent or designee immediately. As appropriate, the Superintendent or designee shall initiate legal and security measures to protect the employee and others in the workplace. Such measures may include seeking a temporary restraining order (TRO)

on behalf of the employee pursuant to Code of Civil Procedure 527.8 and/or a gun violence restraining order pursuant to Penal Code 18150 and 18170.

Additionally, a collective bargaining representative may seek a TRO on behalf of a district employee against whom harassment, violence, or credible threat of violence has been directed in the workplace, if the collective bargaining representative serves that employee in employment or labor matters at the employee's workplace. (Code of Civil Procedure 527.8)

Upon request by an employee who is a victim of domestic violence, sexual assault, or stalking, the Superintendent or designee shall provide reasonable accommodations in accordance with ~~Labor~~Government Code ~~230-230.1~~ 12945.8 and the accompanying administrative regulation to protect the employee's safety while at work.

CSBA NOTE: Pursuant to Education Code 48904 and 48905, an employee who is injured or whose property is damaged by willful misconduct of a district student under the conditions described below may request that the district pursue legal action against the student or the student's parent/guardian. See For more information regarding recovery for damages when an employee is injured or whose property is damaged by the willful misconduct of a district student, see BP 3515.4 - Recovery for Property Loss or Damage and AR 5125.2 - Withholding Grades, Diploma or Transcripts. The it is recommended that the district should consult CSBA's District and County Office of Education Legal Services or district legal counsel when considering whether to pursue legal action.

The Superintendent or designee may pursue legal action on behalf of an employee against a student or the student's parent/guardian to recover damages for injury to the employee's person or property caused by the student's willful misconduct that occurred on district property, at a school or district activity, or in retaliation for lawful acts of the employee in the performance of the employee's duties. (Education Code 48904, 48905)

CSBA NOTE: Pursuant to Education Code 32289.6, as added by AB 1858 (Ch. 530, Statutes of 2024), on or before June 15, 2025, the California Department of Education is required to curate and post on its website best practices pertaining to school shooter or other armed assailant drills, with which districts are encouraged to comply.

Additionally, the 2024, "Executive Order on Combating Emerging Firearms Threats and Improving School-Based Active-Shooter Drills," 89 Fed. Reg. 80345, establishes an interagency Emerging Firearms Threats Task Force and requires the Secretary of Education and the Secretary of Homeland Security to release guidance related to school-based active-shooter drills for schools.

The Superintendent or designee shall provide staff development in crisis prevention and intervention techniques, which may include training in classroom management, effective communication techniques, procedures for responding to an active shooter situation, and crisis resolution.

In accordance with law, the Superintendent or designee shall inform teachers, administrators, and/or counselors of crimes and offenses committed by students who may pose a danger in the classroom. (Education Code 48201, 49079; Welfare and Institutions Code 827)

The Superintendent or designee may make ~~258~~ 258 at appropriate locations, including, but not

limited to, district and school offices, gyms, and classrooms, communication devices that would enable two-way communication with law enforcement and others when emergencies occur.

### Use of Pepper Spray

CSBA NOTE: The following section is optional and may be revised to reflect district practice. Penal Code 22810 authorizes adults, with certain exceptions, to carry an approved tear gas weapon such as pepper spray for purposes of self-defense. Penal Code 626.9 and 626.10, which prohibit the possession of weapons on school grounds, do not prohibit the possession of pepper spray on school grounds. Thus, the Governing Board may determine whether to allow or disallow, with certain exceptions, the possession of pepper spray on school property or at school activities. See the accompanying administrative regulation for related procedures. It is recommended that districts allowing employees to carry pepper spray consult CSBA's District and County Office of Education Legal Services or district counsel regarding potential liability related to an employee's possession of pepper spray and revise the corresponding regulation accordingly.

Employees shall not carry or possess pepper spray on school property or at school activities, except when authorized by the Superintendent or designee for self-defense purposes. When allowed, an employee may only possess pepper spray in accordance with Board policy, administrative regulations regulation, and Penal Code 22810. Any employee authorized to carry or possess pepper spray on school property who is negligent or careless in the possession or handling of pepper spray is acting outside of the scope of employment and shall be subject to appropriate disciplinary measures.

### Reporting of Injurious Objects

CSBA NOTE: The following optional section specifies actions to be taken in the event an employee becomes aware of any person who is in possession of an injurious object, and is consistent with the actions described in AR 5131.7 - Weapons and Dangerous Instruments related to student possession.

Pursuant to Education Code 49334, a school employee who initially notifies law enforcement regarding a student or adult who is in possession of an injurious object while on school grounds or under the authority of school personnel cannot be subject to any civil or administrative proceeding, including disciplinary action, for violation of any district policy or procedure related to the notification of a law enforcement agency. Education Code 49334 requires such an employee to conform with district procedures after exercising the option to notify a law enforcement agency.

Employees shall take immediate action upon being made aware that any person is in possession of a weapon or unauthorized injurious object on school grounds district property or at a school-district related or school-sponsored activity. Employees shall exercise their best judgment as to the potential danger involved and shall do one of the following:

1. Confiscate the object and deliver it to the principal immediately
2. Immediately notify the principal or supervisor, who shall take appropriate action
3. Immediately call 911 and the principal or supervisor

When informing the principal about the possession or seizure of a weapon or dangerous device, an employee shall report the name(s) of persons involved, witnesses, location, and the circumstances of any seizure.

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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	Description
Civ. Code 51.7	Freedom from violence or intimidation
Code of Civil Procedure 527.8	Workplace violence safety
Ed. Code 32210-32212	Willful disturbance; public schools or meetings
Ed. Code 32225-32226	Communications devices in classrooms
<a href="#">Ed. Code 32282</a>	<a href="#">School safety plans</a>
<a href="#">Ed. Code 32289.6</a>	<a href="#">Best practices pertaining to school shooter drills</a>
Ed. Code 35208	Liability insurance
Ed. Code 35213	Reimbursement for loss or damage of personal property
Ed. Code 44014	Report of assault by <del>pupil</del> <a href="#">student</a> against school employee
Ed. Code 44807	Teachers' duty concerning conduct of students
Ed. Code 48201	Transfer student's record for acts that resulted in suspension or expulsion
Ed. Code 48900-48926	Suspension and expulsion
Ed. Code 49079	Notification to teacher; student who has engaged in acts <del>re:</del> <a href="#">regarding</a> grounds <a href="#">for</a> suspension or expulsion
Ed. Code 49330-49335	Injurious objects
Gov. Code 12926	Definitions
<a href="#">Gov. Code 12945.8</a>	<a href="#">Employee accommodations for domestic violence, sexual assault, stalking, and other qualifying acts of violence</a>
Gov. Code 3543.2	Scope of representation
Gov. Code 995-996.4	Defense of public employees
<a href="#">Lab. Code 230-230.2</a>	<a href="#">Leaves for victims of domestic violence, sexual assault or specified felonies</a>
Pen. Code 18150	Gun violence restraining orders

Pen. Code 18170	Gun violence restraining order issued after notice and hearing
Pen. Code 22810	Purchase, possession, and use of tear gas
Pen. Code 240-246.3	Assault and battery
Pen. Code 241.3	Assault against school bus drivers
Pen. Code 241.6	Assault on school employee including board member
Pen. Code 243.3	Battery against school bus drivers
Pen. Code 243.6	Battery against school employee including board members
Pen. Code 245.5	Assault with deadly weapon against school employee including board member
Pen. Code 290	Registration of sex offenders
Pen. Code 601	Trespass by person making credible threat
Pen. Code 626-626.11	Weapons on school grounds and other school crimes
Pen. Code 646.9	Stalking
Pen. Code 71	Threatening public officers and employees and school officials
W&I Code 827	Limited exception to juvenile court record
W&I Code 828.1	District police or security department; disclosure of juvenile records

#### **Federal**

Executive Order 14127

#### **Management Resources**

Court Decision

Website

Website

Website

#### **Cross References**

##### **Code**

0450

0450

1313

##### **Description**

Combating Emerging Firearms Threats and Improving School-Based Active Shooter Drills, September 2024  
<https://www.federalregister.gov/documents/2024/10/02/2024-22938/combating-emerging-firearms-threats-and-improving-school-based-active-shooter-drills>

##### **Description**

City of San Jose v. William Garbett (2010) 190 Cal. App. 4th 526

CSBA District and County Office of Education Legal Services

California Department of Education, Safe Schools

CSBA

##### **Description**

Comprehensive Safety Plan

Comprehensive Safety Plan

Civility

3320	Claims And Actions Against The District
<u>3320</u>	<u>Claims And Actions Against The District</u>
3515	Campus Security
3515	Campus Security
3515.2	Disruptions
3515.2	Disruptions
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
3515.7	Firearms On School Grounds
3530	Risk Management/Insurance
3530	Risk Management/Insurance
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.21	Professional Standards
4119.21-E(1)	Professional Standards
4131	Staff Development
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4319.21	Professional Standards
4319.21-E(1)	Professional Standards
4331	Staff Development
4340	Bargaining Units
4356.3	Employee Property Reimbursement
4357	Employee Safety
4357	Employee Safety
<u>4361</u>	<u>Leaves</u>
<u>4361.1</u>	<u>Personal Illness/Injury Leave</u>
4361.2	Personal Leaves
<u>4361.8</u>	<u>Family Care and Medical Leave</u>
5125	Student Records
5125	Student Records
5125.2	Withholding Grades, Diploma Or Transcripts
5131.4	Student Disturbances
5131.4	Student Disturbances

5131.7	Weapons And Dangerous Instruments
5131.7	Weapons And Dangerous Instruments
5141	Health Care And Emergencies
5141	Health Care And Emergencies
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)

**Regulation 4258: Employee Security**

**Status:** ADOPTED

**Original Adopted Date:** 11/01/2000 | **Last Revised Date:** 06/01/2021 ~~2025~~ | **Last Reviewed**  
**Date:** 06/01/2021 ~~2025~~

CSBA NOTE: In order to help ensure the safety of students and staff, Education Code 32282 requires schools to include in their comprehensive safety plans procedures to assess and respond to reports of any dangerous, violent, or unlawful activity that is being conducted or threatened to be conducted at the school, at an activity sponsored by the school, or on a school bus serving the school. For more information regarding comprehensive safety plans, see BP/AR 0450 - Comprehensive Safety Plan.

An employee may use reasonable and necessary force for self-defense or defense of another person, to quell a disturbance threatening physical injury to others or damage to property, or to obtain possession of weapons or other dangerous objects within the control of a student. (Education Code 44807, 49001)

CSBA NOTE: Pursuant to Education Code 44014, it is the duty of an employee and the employee's immediate supervisor to report to law enforcement any attack, assault, or physical threat made against the employee by a student. Compliance with district procedures related to reporting incidents, as specified in the paragraph below, does not exempt an employee or supervisor from the duty to make a report to law enforcement. Failure to report such an attack, assault, or physical threat is an infraction punishable by a fine. It is also an infraction for a Governing Board member or employee to prevent the filing of the report or to impose any sanction against an employee for doing so.

Although the law only requires employees to report attacks, assaults, or physical threats made by students, the district may revise the following paragraph to require employees to report any attack, assault, or physical threat made against them by any other individual on school grounds.

The following paragraph relates to the reporting by an employee of an attack, assault, or physical threat, as well as any action taken in response, and should be modified to reflect district practice and to ensure consistency with the district's comprehensive safety plan.

An employee shall promptly report to the principal or other immediate supervisor any attack, assault, or physical threat made against the employee by a student or by any other individual in relation to the performance of the employee's duties, and any action the employee took in response. Reports of an attack, assault, or threat shall be forwarded immediately to the Superintendent or designee.

CSBA NOTE: Pursuant to Education Code 44014, it is the duty of an employee and the employee's immediate supervisor to report to law enforcement any attack, assault, or physical threat made against the employee by a student. Compliance with district procedures related to reporting incidents, as specified in the paragraph above, does not exempt an employee or supervisor from the duty to make a report to law enforcement. Failure to report such an attack, assault, or physical threat is an infraction punishable by a fine. It is also an infraction for a Governing Board member or employee to prevent the filing of the report or to impose any sanction against an employee for doing so.

Although the law only requires employees to report attacks, assaults, or threats made by students, the district may revise the following paragraph to require employees to report any attack, assault, or threat made against them by any other individual on school grounds.

In addition ~~Additionally~~, the employee and the principal or other immediate supervisor shall promptly report to local law enforcement authorities an attack, assault, or physical threat made against the employee by a student. Reports of an attack, assault, or physical threat shall be forwarded immediately to the Superintendent or designee. (Education Code 44014)

### Notice Regarding Student Offenses

When a student commits certain offenses that may endanger staff or others, the following procedures shall be implemented to notify staff members as appropriate:

#### 1. Acts That Are Grounds for Suspension or Expulsion

CSBA NOTE: Education Code 49079 requires the district to inform teachers of students who have committed specified acts that constitute grounds for suspension or expulsion. ~~School district~~ District officers or employees who knowingly fail to provide this information are guilty of a misdemeanor punishable by a fine and/or imprisonment.

- a. The Superintendent or designee shall inform the teacher(s) of each student who, during the previous three school years, has engaged in or is reasonably suspected to have engaged in any act, except the possession or use of tobacco products, that would constitute a ground for suspension or expulsion as specified in AR Administrative Regulation 5144.1 - Suspension and Expulsion/Due Process: (Education Code 49079)

       This information shall be based upon district records maintained in the ordinary course of business or records received from a law enforcement agency. (Education Code 49079)

CSBA NOTE: Education Code 48201 requires districts to request records of a transferring student regarding acts that resulted in the student's suspension or expulsion from the previous school, as specified below; see AR 5125 - Student Records. Once the record is received, the Superintendent or designee ~~must~~ is required to inform the student's teacher(s) of the acts as specified below.

- b. Upon receiving a transfer student's record regarding acts committed by the student that resulted in suspension or expulsion, the Superintendent or designee shall inform the student's teacher(s) that the student was suspended from school or expelled from the former district and of the act that resulted in the suspension or expulsion. (Education Code 48201)
- c. Information received by teacher(s) shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher. (Education Code 48201, 49079)

#### 2. Offenses Reported to the District by a Court

CSRA NOTE: Welfare and Institutions Code 827 requires a court, within seven days, to provide written notification to the Superintendent when a minor student has been found by the court to have committed a felony or misdemeanor involving specified offenses. Upon receiving such notification, the Superintendent ~~must~~ is required to notify certain counselors, teachers, and administrators, as described in ~~item~~ Item #2.

~~In addition~~ Additionally, Welfare and Institutions Code 828.1 specifies that a school district police or security department may provide written notification to the Superintendent when a minor student has been found by a court to have illegally used, sold, or possessed a controlled substance or committed specified crimes involving serious acts of violence. In such cases, the information may be transmitted to a teacher, counselor, or administrator with direct supervisorial or disciplinary responsibility over the student, and such information ~~must~~ is required to be received in confidence for the limited purpose for which it was provided. Districts that maintain their own police or security department may expand the following item to authorize the department to notify the Superintendent of such offenses.

- a. When informed by a court that a minor student has been found by the court to have committed any felony or any misdemeanor involving curfew, gambling, alcohol, drugs, tobacco products, carrying of weapons, a sex offense listed in Penal Code 290, assault or battery, larceny, vandalism, or graffiti, the Superintendent or designee shall expeditiously notify the school principal: or designee (Welfare and Institutions Code 827)
- b. The principal or designee shall expeditiously disseminate this information to any counselor who directly supervises or reports on the student's behavior or progress and to any teacher or administrator directly supervising or reporting on the student's behavior or progress whom the principal or designee thinks may need the information in order to work with the student appropriately, to avoid being needlessly vulnerable, or to protect others from vulnerability: (Welfare and Institutions Code 827)
- c. Any court-initiated information that a teacher, counselor, or administrator receives shall be kept confidential and used only to rehabilitate the student and protect other students and staff: (Welfare and Institutions Code 827)

       The information shall be further disseminated only when communication with the student, parent/guardian, law enforcement staff, and probation officer is necessary to rehabilitate the student or to protect students and staff. (Welfare and Institutions Code 827)

- d. When a student is removed from school as a result of an offense, the Superintendent shall hold the court's information in a separate confidential file until the student is returned to the district: (Welfare and Institutions Code 827)

       If the student is returned to a different district, the Superintendent shall transmit the information provided by the student's parole or probation officer to the superintendent of the new district of attendance. (Welfare and Institutions Code 827)

- e. Any confidential file of court-initiated information shall be kept until the student becomes 18, graduates from high school, or is released from juvenile court jurisdiction, whichever occurs first, and shall then be destroyed. (Welfare and Institutions Code 827)

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. Intentional violation of the confidentiality provisions of Welfare and Institutions Code 827 is a misdemeanor punishable by a fine.

In order to maintain confidentiality when providing information about student offenses to a counselor or teacher, the principal or designee shall send the staff member a written notification that a student has committed an offense that requires review of a student's file in the school office. This notice shall not name or otherwise identify the student. The staff member shall initial the notification and shall also initial the student's file when reviewing it in the school office.

#### **Accommodations for Victims of Domestic Violence, Sexual Assault, or Stalking, or Other Qualifying Acts of Violence**

CSBA NOTE: Pursuant to ~~Labor~~ Government Code 230, 12945.8, as added by AB 2499 (Ch. 967, Statutes of 2024), the district is required to provide reasonable accommodations ~~at work, upon request, to an employee who is a victim, or whose family member is a victim,~~ of domestic violence, sexual assault, or stalking; and other qualifying acts of violence.

The district is not required to provide reasonable accommodations to an employee who has not disclosed the employee's status, or family member's status, as a victim of domestic violence, sexual assault, or stalking; or other qualifying acts of violence specified in Government Code 12945.8, nor to undertake an action that constitutes an undue hardship, as defined by Government Code 12926.

In addition, ~~Labor~~ Government Code 230 and 230.1 allow 12945.8, as added by AB 2499, authorizes, subject to any applicable collective bargaining agreement, employees who are victims of domestic violence, sexual assault, or stalking; or other qualifying acts of violence, including employees who are victims of a crime that caused physical injury, or mental injury with a threat of physical injury, and employees whose immediate family member is deceased as the direct result of a crime, to use available leave, including vacation, personal leave, paid sick leave, or compensatory time off, for the purposes of (1) obtaining or attempting to obtain relief (e.g., a temporary restraining order, restraining order, or injunctive relief) to protect the health, safety, or welfare of the employee or the employee's child; or family of the employee, (2) seeking, obtaining, or assisting a family member to seek or obtain, medical attention for or to recover from injuries caused by the crime or abuse; a qualifying act of violence, (3) seeking, obtaining, or assisting a family member to seek or obtain services from a domestic violence shelter, program, rape crisis center, or victim services organization or agency; as a result of a qualifying act of violence, (4) seeking, obtaining, or assisting a family member to seek or obtain psychological counseling or mental health services related to an experience of crime or abuse; and/or a qualifying act of violence, (5) participating in safety planning and/or taking other actions to increase safety from future crime or abuse qualifying acts of violence, (6) relocating or engaging in the process of securing a new residence due to the qualifying act of violence, including, securing temporary or permanent relocation. As amended by AB 2992 (Ch. 224, Statutes of 2020), ~~Labor Code 230 and 230.1 expand these provisions to include employees housing or enrolling children in a 268 school or child care,~~ (7) providing care to a family

member who are victims of a crime that is recovering from injuries caused physical injury, or mental injury with a threat of physical injury, and employees whose immediate family member is deceased as the direct result of a crime. See by a qualifying act of violence, (8) seeking, obtaining, or assisting a family member to seek or obtain civil or criminal legal services in relation to the qualifying act of violence, (9) preparing for, participating in, or attending any civil, administrative, or criminal legal proceeding related to the qualifying act of violence, or (10) seeking, obtaining, or providing child care or care to a care-dependent adult if the child care or care is necessary to ensure the safety of the child or dependent adult as a result of the qualifying act of violence.

For more information regarding leaves, see BP/AR 4161/4261/4361 - Leaves, AR 4161.1/4361.1 - Personal Illness/Injury Leave, 4261.1 - Personal Illness/Injury Leave, AR 4161.2/4261.2/4361.2 - Personal Leaves, and AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave.

When requested by an employee who is a victim of domestic violence, sexual assault, or stalking, or other qualifying acts of violence, the district shall provide the employee reasonable accommodations which may include the implementation of safety measures, including: (Labor Code 230, but not limited to: (Government Code 12945.8)

1. A transfer, reassignment, or modified schedule
2. A changed work telephone or work station, including the permission to carry a telephone at work
3. An installed lock
4. Assistance in documenting domestic violence, sexual assault, stalking, or other crime qualifying act of violence that occurs in the workplace
5. Referral to a victim assistance organization
6. Another safety procedure or adjustment to a job structure, workplace facility, or work requirement in response to domestic violence, sexual assault, stalking, or other crime qualifying act of violence

The Superintendent or designee shall engage in a timely, good faith, and interactive process with the employee to determine effective reasonable accommodations that do not pose an undue hardship on the district. In determining whether an accommodation is reasonable, the Superintendent or designee shall consider any exigent circumstance or danger facing the employee: (Labor Code 230 or their family member. (Government Code 12945.8)

Upon the request of the Superintendent or designee, an employee requesting a reasonable accommodation shall provide a written statement, signed by the employee or an individual acting on the employee's behalf, certifying that the accommodation is for an authorized purpose. The Superintendent or designee may also request that the employee provide certification of the employee's status as a victim of domestic violence, sexual assault, or stalking, or other qualifying act of violence. Such certification may include: (Labor Government Code 230 12945.8)

1. A police report indicating that the employee, or a family member of the employee, was a victim
2. A court order protecting or separating the employee, or family member of the employee, from the perpetrator of the crime or abuse, or other evidence from the court or prosecuting attorney that the employee has appeared in court
3. Documentation from a licensed medical professional or health care provider, domestic violence or sexual assault counselor, victim advocate, or counselor that the employee, or family member of the employee, was undergoing treatment or receiving services for physical or mental injuries or abuse resulting in victimization from the crime or abuse
4. Any other form of documentation that reasonably verifies that the crime or abuse occurred, including, but not limited to, a written statement signed by the employee or by an individual acting on the employee's behalf

Any verbal or written statement, police or court record, or other documentation identifying an employee, or a family member of the employee, as a victim shall be confidential and shall not be disclosed by the district except as required by federal or state law or as necessary to protect the employee's safety in the workplace. The employee shall be notified before any authorized disclosure. (~~Labor~~ Government Code 230 12945.8)

Every six months after the date of the certification, the Superintendent or designee may request recertification of the employee's status as a victim of domestic violence, sexual assault, ~~or~~ stalking, other specified offense, or ongoing circumstances related to the crime or abuse. The employee shall notify the Superintendent or designee if, due to changing circumstances, the employee needs a new accommodation or no longer needs an accommodation. (~~Labor~~ Code 230)

~~The district shall not~~ If a new accommodation is needed, the Superintendent or designee shall follow the procedures described above when making the initial determination regarding effective reasonable accommodations. (Government Code 12945.8)

The district shall not discharge or retaliate against an employee because of the employee's status as a victim of crime or abuse or for requesting a reasonable accommodation, regardless of whether the request was granted. (~~Labor~~ Government Code 230 12945.8)

### **Use of Pepper Spray**

CSBA NOTE: The following optional section may be revised to reflect district practice. See the accompanying Board policy for further information and the Board's determination to allow or disallow, with certain exceptions, the possession of pepper spray on school property or at school activities. It is recommended that districts allowing employees to carry pepper spray consult CSBA's District and County Office of Education Legal Services or district counsel regarding potential liability related to an employee's possession of pepper spray.

The Superintendent or designee shall notify employees of the district's policy prohibiting the possession of pepper spray on school property or at school-related activities without prior approval of the Superintendent or designee. Employees wishing to carry pepper spray shall submit to the Superintendent or designee a written request setting forth the need for the to carry or possess

pepper spray and for how long the need is anticipated to last. The Superintendent or designee shall notify the employee in writing as to whether the request was approved or denied.

When approving an employee's request, the Superintendent or designee shall inform the employee of the following conditions:

1. The pepper spray shall be used only in self-defense pursuant to Penal Code 22810.
2. An employee who uses pepper spray other than in self-defense shall be subject to disciplinary action by the district and, in accordance with law, a fine and/or imprisonment.
3. The pepper spray must be stored in a secure place and not be accessible to students or other individuals. ~~Negligent storage of the pepper spray may subject the employee to disciplinary action.~~

Negligent storage or use of the pepper spray may subject the employee to disciplinary action.

#### Policy Reference UPDATE Service

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#### State

Civ. Code 51.7

Code of Civil Procedure 527.8

Ed. Code 32210-32212

Ed. Code 32225-32226

Ed. Code 32282

Ed. Code 32289.6

Ed. Code 35208

Ed. Code 35213

Ed. Code 44014

Ed. Code 44807

Ed. Code 48201

Ed. Code 48900-48926

#### Description

Freedom from violence or intimidation

Workplace violence safety

Willful disturbance; public schools or meetings

Communications devices in classrooms

School safety plans

Best practices pertaining to school shooter drills

Liability insurance

Reimbursement for loss or damage of personal property

Report of assault by pupil student against school employee

Teachers' duty concerning conduct of students

Transfer student's record for acts that resulted in suspension or expulsion

Suspension and expulsion

Ed. Code 49079	Notification to teacher; student who has engaged in acts <u>re: regarding</u> grounds <u>for</u> suspension or expulsion
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Pen. Code 646.9	Stalking
Pen. Code 71	Threatening public officers and employees and school officials
W&I Code 827	Limited exception to juvenile court record
W&I Code 828.1	District police or security department; disclosure of juvenile records

### **Federal**

Executive Order 14127

### **Description**

Combating Emerging Firearms Threats and Improving School-Based Active Shooter Drills, September 2024  
<https://www.federalregister.gov/documents/2024/10/02/2024-22938/combating-emerging-firearms-threats-and-improving-school-based-active-shooter-drills>

### **Management Resources**

### **Description**

Court Decision	City of San Jose v. William Garbett (2010) 190 Cal. App. 4th 526
Website	CSBA District and County Office of Education Legal Services
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Website	CSBA

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5141	Health Care And Emergencies
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)

## Policy 4351: Employee Compensation

Status: ADOPTED

Original Adopted Date: 02/01/1997 | Last Revised Date: 09/03/01/2023 2025 | Last Reviewed Date: 09/03/01/2023 2025

CSBA NOTE: Districts that include provisions related to employee compensation in their collective bargaining agreements should modify or delete the following optional policy accordingly.

In order to recruit and retain employees committed to the district's goals for student learning, the Governing Board recognizes the importance of offering a competitive compensation package which that includes salaries and health and welfare benefits.

CSBA NOTE: Education Code 45023 and 45162 require the Governing Board to adopt salary schedules for certificated and classified employees, respectively. For districts operating under a merit system, Education Code 45268 specifies that the personnel commission will recommend a salary schedule for classified employees to the Board for approval and that the Board may not amend the schedule without first giving the commission an a reasonable opportunity to respond to the amendments.

The Board shall adopt separate salary schedules for certificated, classified, and supervisory and administrative personnel. ~~These schedules shall~~ that comply with law and applicable collective bargaining agreements ~~and shall be printed and made available for review at the district office.~~ (Education Code 45022, ~~45023~~, 45160, 45162, 45268)

Each certificated employee, except an employee in an administrative or supervisory position, shall be classified on the salary schedule on the basis of uniform allowance for education level and years of experience, unless the Board and employee organization negotiate and mutually agree to a salary schedule based on different criteria. Certificated employees shall not be placed in different classifications on the schedule, nor paid different salaries, solely on the basis of the grade levels at which they teach. (Education Code 45028)

Salary schedules for staff who are not a part of a bargaining unit shall be determined by the Board at the recommendation of the Superintendent or designee.

The salary schedules adopted by the Board shall be printed and made available for review at the district office. (Education Code 45023)

CSBA NOTE: Pursuant to Education Code 42238.016, as added by AB 938 (Ch. 345, Statutes of 2024), districts are required, beginning January 31, 2026, to annually complete the Salary and Benefit Schedule for Bargaining Units (Form J-90), for classified and certificated staff assigned to a district school site and report the Form J-90 to the California Department of Education.

Additionally, by January 31, 2026, and annually thereafter, the Superintendent or designee shall complete the Salary and Benefit Schedule for Bargaining Units (Form J-90) for classified and

certificated staff assigned to a district school site and report the Form J-90 to the California Department of Education. (Education Code 42238.016)

CSBA NOTE: Pursuant to Education Code 45038, certificated employees may be paid once every two weeks, twice a month, or once every four weeks. ~~The~~ Additionally, the Board may also choose to pay certificated employees, or one or more individual employees, in 10, 11, or 12 equal payments over the year. ~~instead of by the school month.~~ Education Code 45039 provides that, if the Board arranges to pay certificated employees in 12 equal payments for the year, it may pay each monthly installment at the end of each calendar month, regardless of whether the employees are actually engaged in teaching during the month. Education Code 45165 addresses salary payments for classified employees who are employed 9-11 months per year.

~~Additionally~~ In addition, pursuant to Education Code 45500, districts may participate in the Classified School Employee Summer Assistance Program whereby eligible classified employees may elect to have up to 10 percent of the employee's monthly salary withheld and paid out during the summer recess in either one or two payments.

Education Code 45048 and 45165 provide specific timelines for issuing salary payments depending on the frequency of payments. If payments are not made in a timely manner, the district is required to pay the employee interest on the unpaid amount.

The following paragraph may be revised to reflect the payroll schedule determined by the Board: or as provided for in any applicable collective bargaining agreement.

The Board Unless otherwise provided for in any applicable collective bargaining agreement, district employees shall determine the ~~be paid~~ (insert frequency) and schedule of salary ~~in~~ equal payments, including whether payments for employees who work less than 12 months per year will be made over the course of the school year or in equal installments over the calendar year. ~~year.~~ However, if the district participates in the Classified School Employee Summer Assistance Program, eligible classified employees may elect to have up to 10 percent of the employee's monthly salary withheld and paid out during the summer recess in either one or two payments. (Education Code 45038, 45039, 45048, 45165, 45500)

CSBA NOTE: According to Office of Management and Budget Memorandum M-20-17, during extraordinary circumstances, such as a pandemic, which interrupt district operations, employees paid with federal grant funds can continue to be paid out of federal grant funds as long as other similarly situated employees paid with nonfederal funds are continuing to get compensated. The following optional paragraph establishes such emergency contingencies so that the Board may continue to provide employee compensation during such times.

In extraordinary circumstances or emergency situations, the Board may determine to continue to compensate employees during periods of extended closure or disruption of normal district operations when permitted by law and consistent with collective bargaining agreements and memoranda of understanding.

CSBA NOTE: Pursuant to 29 CFR 516.4, districts are required to post a notice of the minimum wage provisions of the Fair Labor Standards Act (FLSA) (29 USC 201-219) in a conspicuous place at

all work sites. The poster that must be used by state and local governments is available on the website of the U.S. Department of Labor's Wage and Hour Division.

The Superintendent or designee shall post a notice explaining the Fair Labor Standards Act's wage and hour provisions in a conspicuous place at each work site. (29 CFR 516.4)

### Overtime Compensation

CSBA NOTE: Pursuant to the FLSA (29 CFR 553.20) and Education Code 45128, districts are required to pay employees who are not specifically exempted by law, including classified employees in both merit and non-merit system districts, ~~must receive~~ overtime pay or compensatory time off at a rate not less than one and one-half times their regular rate of pay for hours worked in excess of eight hours in any one day and/or in excess of 40 hours per calendar week. However, if the Board has established a work day of less than eight hours but at least seven hours, and a work week of less than 40 hours but at least 35 hours, all time worked in excess of the established work schedule must be deemed overtime.

Pursuant to Education Code 45130, districts are not required to pay overtime for any classified positions established by the Board, or by the personnel commission in a merit system district, as supervisory, administrative, or executive. In approving positions for exclusion from the overtime provisions, the Board or personnel commission must certify in writing that the duties, flexibility of hours, salary, benefit structure, and authority of the positions are of such a nature that they should be set apart from those positions which are subject to the overtime provisions; see BP/AR 4300 - Administrative and Supervisory Personnel. However, Education Code 45130 ~~requires~~ provides that, if a classified employee in an exempt position is required to work on a holiday designated in law or by the Board, the employee ~~must~~ is required to be paid the regular pay for that day plus compensation or compensatory time off at a rate not less than the employee's normal rate of pay.

Overtime pay requirements are also; see BP/AR 6115 – Ceremonies and Observances for more information regarding holidays designated in law or by the Board.

Additionally, overtime pay requirements are not applicable to school administrators or teachers in elementary or secondary schools under specific exemptions in 29 USC 213 and 29 CFR 541.303. Pursuant to 29 CFR 541.303 and 541.600, teachers do not need to meet the salary level requirement to be exempt from overtime rules. 29 CFR 541.204 provides that, to be exempt from overtime rules, administrators must either meet the salary level requirement or be compensated on a salary basis that is at least equal to the entrance salary for teachers in the administrator's school.

Labor Code provisions are not applicable to school districts unless specifically provided for in law. For example, in Johnson v. Arvin-Edison Water Storage District, the appellate court held in part that Labor Code 510, which provides for overtime compensation including that an employee who works in excess of 12 hours in one day or eight hours on the seventh consecutive day of a workweek is entitled to twice the regular rate of pay, does not apply to public agencies, including school districts.

Due to the complex interactions between federal law and state law, as well as between different state law provisions and classes of employees, it is recommended that districts consult CSBA's

District and County Office of Education Legal Services or district legal counsel regarding employee overtime compensation, as necessary.

District employees shall be paid an overtime rate of not less than one and one-half times their regular rate of pay for any hours worked in excess of eight hours in one day and/or 40 hours in one work week; ~~or twice their regular rate of pay for any hours worked in excess of 12 hours in one day or eight hours on the seventh consecutive day of work.~~ However, teachers, school administrators, and other employees in positions established by the Board as executive, administrative, or professional shall be exempt from overtime rules. (Education Code 45128, 45130; 29 USC 213; 29 CFR 541.0-~~204~~ ~~541.710~~ ~~303~~, 541.600, 553.27, 553.32)

If the district requires a classified employee in an exempt position to work on a holiday designated in law or by the Board, the employee shall be paid the regular pay for that day plus compensation or compensatory time off at a rate not less than the employee's normal rate of pay. (Education Code 45130)

CSBA NOTE: The following optional paragraph is for use by districts that allow employees to take compensatory time off in lieu of overtime compensation as authorized by 29 USC 207 and 29 CFR 553.20-553.25. Time off in lieu of overtime compensation is allowed only if provided for in a collective bargaining agreement or other agreement and must be provided at the rate of at least one and one-half hours for each hour of overtime work.

Pursuant to 29 CFR 553.21, an employee must be allowed to use earned compensatory time within a "reasonable period" after making the request. 29 CFR 553.25 provides that a "reasonable period" is determined on a case-by-case basis by considering customary work practices such as the normal work schedule, anticipated peak workloads based on past experience, emergency requirements for staff and services, and the availability of qualified substitute staff. Education Code 45129 provides that the compensatory time off must be used within 12 calendar months.

When authorized in a collective bargaining agreement or other agreement between the district and employees, an employee may take compensatory time off in lieu of overtime compensation, provided the employee has not accrued compensatory time in excess of the limits specified in 29 USC 207. An employee who has requested the use of compensatory time shall be allowed to use such time within 12 calendar months ~~after making the request~~ following the month the overtime was worked if the use of the compensatory time does not unduly disrupt district operations. (Education Code 45129; 29 USC 207; 29 CFR 553.20-553.25)

For each nonexempt employee, the Superintendent or designee shall maintain records on the employee's wages, hours, and other information specified in 29 CFR 516.5-516.6.

### **Wage Overpayment**

CSBA NOTE: Education Code 44042.5, as added by AB 185 (Ch. 571, Statutes of 2022) and amended by SB 114 (Ch. 48, Statutes of 2023), requires districts to follow the process specified below when a wage overpayment is made to a district employee. If the provisions of this section are in conflict with a collective bargaining agreement or a memorandum of understanding that was in effect on July 31, 2022, such agreements shall be controlling until the expiration or renewal of such

agreements. ~~The~~ It is recommended that the district ~~should~~ consult CSBA's District and County Office of Education Legal Services or district legal counsel when questions arise about legal requirements for specific wage overpayments.

If, following the determination of an overpayment, the employee disputes the existence or amount of the overpayment, the district ~~shall~~ is required to first initiate legal action and obtain a court order or binding arbitration decision validating the overpayment amount. Binding arbitration may only apply to such overpayment disputes if a memorandum of understanding between the district and exclusive representative sets forth procedures for adjudicating such wage overpayment disputes that meet the minimum requirements set forth in Education Code 44042.5.

If the district determines an employee has been overpaid, the district shall notify the employee in writing of the overpayment, afford the employee an opportunity to respond before commencing any recoupment actions, and inform the employee of the employee's rights to dispute the existence or amount of the claimed overpayment. If the employee agrees there was an overpayment in the claimed amount, reimbursement shall be made to the district through one of the methods described in Education Code 44042.5 as mutually agreed upon by the employee and the district. (Education Code 44042.5)

~~If a mutual agreement on a method of reimbursement is not reached, within 30 days of the employee verifying the overpayment amount, the district shall recoup the overpayment through payroll deductions in accordance with Education Code 44042.5.~~

If the employee does not respond or disputes the existence or amount of the district's claimed overpayment, the district ~~shall, with board approval, initiate a legal action to~~ may only recover the overpayment: after pursuing appropriate legal action. (Education Code 44042.5)

If the employee separates from the district before the overpayment is fully repaid, the district shall withhold the remaining balance due from any money owed to the employee upon separation, provided that the state minimum wage is still paid to the employee as required by Education Code 44042.5. The Superintendent or designee may consult with legal counsel to calculate the amount to withhold.

If an outstanding overpayment balance still remains, the district ~~shall, with Board approval,~~ may exercise any legal means to recover the remaining amount owed by the employee. (Education Code 44042.5)

Legal action to recover any overpayment under this policy shall be initiated within three years from the date of the overpayment, which for leave credits is the date that the employee receives compensation in exchange for leave erroneously credited to the employee. (Education Code 44042.5)

#### **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>
8 CCR 11040	Wages and hours; definitions of administrative, executive, and professional employees
<u>Ed. Code 42238.016</u>	<u>Salary and Benefit Schedule for the Bargaining Units (Form L-90)</u>
Ed. Code 44042.5	Wage overpayment
Ed. Code 45022-45061.5	Salaries <u>for certificated employees</u>
Ed. Code 45023	Availability of salary schedule
Ed. Code 45028	Salary schedule and exceptions
Ed. Code 45127-45133.5	Classified employees; work week; overtime provisions
Ed. Code 45160-45169	Salaries for classified employees
Ed. Code 45268	Salary schedule for classified service in merit system districts
Ed. Code 45500	Classified School Employee Summer Assistance Program
Gov. Code 3540-3549.3	Meeting and negotiating
Gov. Code 3543.2	Scope of representation
Gov. Code 3543.7	Duty to meet and negotiate in good faith
Lab. Code 226	Employee access to payroll records
Lab. Code 232	Disclosure of wages
<u>Lab. Code 510</u>	<u>Overtime Compensation</u>
<b>Federal</b>	<b>Description</b>
26 CFR 1.409A-1	Definitions and covered plans
26 USC 409A	Deferred compensation plans
29 CFR 516.4	Notice of minimum wage and overtime provisions
29 CFR 516.5-516.6	Records
29 CFR 541.0-541.710	Exemptions for executive, administrative, and professional employees
29 CFR 553.1-553.51	Fair Labor Standards Act; applicability to public agencies
29 USC 201-219	Fair Labor Standards Act
29 USC 203	Definitions
29 USC 207	Fair Labor Standards Act

29 USC 213

**Management Resources**

Court Decision

Office of Management and Budget  
Publication

[Court Decision](#)

Website

Website

Website

Website

Website

[Website](#)

**Cross References**

**Code**

3100

3100

3400

3400

3580

3580

4000

4030

4030

4112.6

4113.5

4121

4121

4140

4141

Exemptions from minimum wage and overtime requirements

**Description**

Flores v. City of San Gabriel (9th Cir., 2016) 824 F.3d 890

Administrative Relief for Recipients and Applicants of Federal  
Financial Assistance Directly Impacted by COVID-19 due to  
Loss of Operations, Memo M-20-17, March 19, 2020

[Johnson v. Arvin-Edison Water Storage District \(2009\) 174  
Cal.App.4th 729](#)

CSBA District and County Office of Education Legal Services

U.S. Department of Labor, Wage and Hour Division

Internal Revenue Service

School Services of California, Inc.

CSBA

[California Department of Education  
\(https://www.cde.ca.gov/\)](#)

**Description**

Budget

Budget

Management Of District Assets/Accounts

Management Of District Assets/Accounts

District Records

District Records

Concepts And Roles

Nondiscrimination In Employment

Nondiscrimination In Employment

Personnel Files

Working Remotely

Temporary/Substitute Personnel

Temporary/Substitute Personnel

Bargaining Units

Collective Bargaining Agreement

4143	Negotiations/Consultation
4154	Health And Welfare Benefits
4154	Health And Welfare Benefits
4212	Appointment And Conditions Of Employment
4212.6	Personnel Files
4213.5	Working Remotely
4240	Bargaining Units
4241	Collective Bargaining Agreement
4243	Negotiations/Consultation
4254	Health And Welfare Benefits
4254	Health And Welfare Benefits
4312.1	Contracts
4312.6	Personnel Files
4313.5	Working Remotely
4340	Bargaining Units
4354	Health And Welfare Benefits
4354	Health And Welfare Benefits
<u>6115</u>	<u>Ceremonies and Observances</u>

**Policy 4358: Employee Security**

**Status:** ADOPTED

**Original Adopted Date:** 07/01/2001 | **Last Revised Date:** 06/03/01/2021 2025 | **Last Reviewed**  
**Date:** 06/03/01/2021 2025

CSBA NOTE: Pursuant to Government Code 3543.2, safety conditions in employment are a mandatory subject of collective bargaining. The following Board policy and accompanying administrative regulation may be revised to reflect district practice and the terms of the district's collective bargaining agreements.

The Governing Board desires to provide a safe and orderly work environment for all employees. As part of the district's comprehensive safety plan, the Superintendent or designee shall develop strategies for protecting employees from potentially dangerous persons and situations and for providing necessary assistance and support when emergency situations occur.

Any person who threatens the safety of others at any district facility may be removed by the Superintendent or designee in accordance with AR Administrative Regulation 3515.2 - Disruptions.

CSBA NOTE: Code of Civil Procedure 527.8 allows the district authorizes districts to seek a temporary restraining order and injunction (TRO) on behalf of an employee against any other individual employees who has have been subjected the employee to harassment, unlawful violence, or a credible threat of violence in the workplace. In City A collective bargaining representative may also seek a TRO on behalf of San Jose v. William Garbett, a California Court of Appeal held a district employee if the collective bargaining representative serves that a court's issuance of employee in employment or labor matters at the employee's workplace. Before filing a temporary restraining order and injunction against petition for a person TRO, the district or collective bargaining representative is required to provide the employee who had verbally threatened suffered unlawful violence or a city official was credible threat of violence an opportunity to decline to be named in the TRO. If such a denial occurs, the district or collective bargaining representative is not a violation of that person's right to free speech and right of access to prohibited from seeking a public place.

TRO on behalf of other employees at the workplace, and, if appropriate, other employees at other workplaces in the district.

Pursuant to Penal Code 18150 and 18170, a gun violence restraining order prohibiting a person from owning, having custody or control of, purchasing, possessing, or receiving a firearm or ammunition may be petitioned by that person's employer, a coworker who has had substantial and regular interactions with the person for at least one year and has the employer's approval, or an employee or teacher of a secondary school that the person has attended in the past six months if the employee or teacher has obtained the approval or a school administrator or designee.

Any employee against whom harassment, violence, or any threat of violence has been directed in the workplace shall notify the Superintendent or designee immediately. As appropriate, the Superintendent or designee shall initiate legal and security measures to protect the employee and others in the workplace. Such measures may include seeking a temporary restraining order (TRO)

on behalf of the employee pursuant to Code of Civil Procedure 527.8 and/or a gun violence restraining order pursuant to Penal Code 18150 and 18170.

Additionally, a collective bargaining representative may seek a TRO on behalf of a district employee against whom harassment, violence, or credible threat of violence has been directed in the workplace, if the collective bargaining representative serves that employee in employment or labor matters at the employee's workplace. (Code of Civil Procedure 527.8)

Upon request by an employee who is a victim of domestic violence, sexual assault, or stalking, the Superintendent or designee shall provide reasonable accommodations in accordance with Labor Government Code 230-230.1 12945.8 and the accompanying administrative regulation to protect the employee's safety while at work.

CSBA NOTE: Pursuant to Education Code 48904 and 48905, an employee who is injured or whose property is damaged by willful misconduct of a district student under the conditions described below may request that the district pursue legal action against the student or the student's parent/guardian. See For more information regarding recovery for damages when an employee is injured or whose property is damaged by the willful misconduct of a district student, see BP 3515.4 - Recovery for Property Loss or Damage and AR 5125.2 - Withholding Grades, Diploma or Transcripts. The it is recommended that the district should consult CSBA's District and County Office of Education Legal Services or district legal counsel when considering whether to pursue legal action.

The Superintendent or designee may pursue legal action on behalf of an employee against a student or the student's parent/guardian to recover damages for injury to the employee's person or property caused by the student's willful misconduct that occurred on district property, at a school or district activity, or in retaliation for lawful acts of the employee in the performance of the employee's duties. (Education Code 48904, 48905)

CSBA NOTE: Pursuant to Education Code 32289.6, as added by AB 1858 (Ch. 530, Statutes of 2024), on or before June 15, 2025, the California Department of Education is required to curate and post on its website best practices pertaining to school shooter or other armed assailant drills, with which districts are encouraged to comply.

Additionally, the 2024, "Executive Order on Combating Emerging Firearms Threats and Improving School-Based Active-Shooter Drills," 89 Fed. Reg. 80345, establishes an interagency Emerging Firearms Threats Task Force and requires the Secretary of Education and the Secretary of Homeland Security to release guidance related to school-based active-shooter drills for schools.

The Superintendent or designee shall provide staff development in crisis prevention and intervention techniques, which may include training in classroom management, effective communication techniques, procedures for responding to an active shooter situation, and crisis resolution.

In accordance with law, the Superintendent or designee shall inform teachers, administrators, and/or counselors of crimes and offenses committed by students who may pose a danger in the classroom. (Education Code 48201, 49079; Welfare and Institutions Code 827)

The Superintendent or designee may make available at appropriate locations, including, but not

limited to, district and school offices, gyms, and classrooms, communication devices that would enable two-way communication with law enforcement and others when emergencies occur.

### Use of Pepper Spray

CSBA NOTE: The following section is optional and may be revised to reflect district practice. Penal Code 22810 authorizes adults, with certain exceptions, to carry an approved tear gas weapon such as pepper spray for purposes of self-defense. Penal Code 626.9 and 626.10, which prohibit the possession of weapons on school grounds, do not prohibit the possession of pepper spray on school grounds. Thus, the Governing Board may determine whether to allow or disallow, with certain exceptions, the possession of pepper spray on school property or at school activities. See the accompanying administrative regulation for related procedures. It is recommended that districts allowing employees to carry pepper spray consult CSBA's District and County Office of Education Legal Services or district counsel regarding potential liability related to an employee's possession of pepper spray and revise the corresponding regulation accordingly.

Employees shall not carry or possess pepper spray on school property or at school activities, except when authorized by the Superintendent or designee for self-defense purposes. When allowed, an employee may only possess pepper spray in accordance with Board policy, administrative regulations, regulation, and Penal Code 22810. Any employee authorized to carry or possess pepper spray on school property who is negligent or careless in the possession or handling of pepper spray is acting outside of the scope of employment and shall be subject to appropriate disciplinary measures.

### Reporting of Injurious Objects

CSBA NOTE: The following optional section specifies actions to be taken in the event an employee becomes aware of any person who is in possession of an injurious object, and is consistent with the actions described in AR 5131.7 - Weapons and Dangerous Instruments related to student possession.

Pursuant to Education Code 49334, a school employee who initially notifies law enforcement regarding a student or adult who is in possession of an injurious object while on school grounds or under the authority of school personnel cannot be subject to any civil or administrative proceeding, including disciplinary action, for violation of any district policy or procedure related to the notification of a law enforcement agency. Education Code 49334 requires such an employee to conform with district procedures after exercising the option to notify a law enforcement agency.

Employees shall take immediate action upon being made aware that any person is in possession of a weapon or unauthorized injurious object on ~~school grounds~~ district property or at a ~~school~~ district related or school-sponsored activity. Employees shall exercise their best judgment as to the potential danger involved and shall do one of the following:

1. Confiscate the object and deliver it to the principal immediately
2. Immediately notify the principal or supervisor who shall take appropriate action
3. Immediately call 911 and the principal or supervisor

When informing the principal about the possession or seizure of a weapon or dangerous device, an employee shall report the name(s) of persons involved, witnesses, location, and the circumstances of any seizure.

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#### Policy Reference Disclaimer:

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#### State

Civ. Code 51.7

Code of Civil Procedure 527.8

Ed. Code 32210-32212

Ed. Code 32225-32226

Ed. Code 32282

Ed. Code 32289.6

Ed. Code 35208

Ed. Code 35213

Ed. Code 44014

Ed. Code 44807

Ed. Code 48201

Ed. Code 48900-48926

Ed. Code 49079

Ed. Code 49330-49335

Gov. Code 12926

Gov. Code 12945.8

Gov. Code 3543.2

Gov. Code 995-996.4

Lab. Code 230-230.2

Pen. Code 18150

#### Description

Freedom from violence or intimidation

Workplace violence safety

Willful disturbance; public schools or meetings

Communications devices in classrooms

School safety plans

Best practices pertaining to school shooter drills

Liability insurance

Reimbursement for loss or damage of personal property

Report of assault by pupil student against school employee

Teachers' duty concerning conduct of students

Transfer student's record for acts that resulted in suspension or expulsion

Suspension and expulsion

Notification to teacher; student who has engaged in acts re: regarding grounds for suspension or expulsion

Injurious objects

Definitions

Employee accommodations for domestic violence, sexual assault, stalking, and other qualifying acts of violence

Scope of representation

Defense of public employees

Leaves for victims of domestic violence, sexual assault or specified felonies

Gun violence restraining orders

Pen. Code 18170	Gun violence restraining order issued after notice and hearing
Pen. Code 22810	Purchase, possession, and use of tear gas
Pen. Code 240-246.3	Assault and battery
Pen. Code 241.3	Assault against school bus drivers
Pen. Code 241.6	Assault on school employee including board member
Pen. Code 243.3	Battery against school bus drivers
Pen. Code 243.6	Battery against school employee including board members
Pen. Code 245.5	Assault with deadly weapon against school employee including board member
Pen. Code 290	Registration of sex offenders
Pen. Code 601	Trespass by person making credible threat
Pen. Code 626-626.11	Weapons on school grounds and other school crimes
Pen. Code 646.9	Stalking
Pen. Code 71	Threatening public officers and employees and school officials
W&I Code 827	Limited exception to juvenile court record
W&I Code 828.1	District police or security department; disclosure of juvenile records

#### **Federal**

Executive Order 14127

#### **Description**

Combating Emerging Firearms Threats and Improving School-Based Active Shooter Drills, September 2024  
<https://www.federalregister.gov/documents/2024/10/02/2024-22938/combating-emerging-firearms-threats-and-improving-school-based-active-shooter-drills>

#### **Management Resources**

Court Decision

#### **Description**

City of San Jose v. William Garbett (2010) 190 Cal. App. 4th 526

Website

CSBA District and County Office of Education Legal Services

Website

California Department of Education, Safe Schools

Website

CSBA

#### **Cross References**

##### **Code**

0450

##### **Description**

Comprehensive Safety Plan

0450

Comprehensive Safety Plan

1313

Civility

**288**

3320	Claims And Actions Against The District
<u>3320</u>	<u>Claims And Actions Against The District</u>
3515	Campus Security
3515	Campus Security
3515.2	Disruptions
3515.2	Disruptions
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
3515.7	Firearms On School Grounds
3530	Risk Management/Insurance
3530	Risk Management/Insurance
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.21	Professional Standards
4119.21-E(1)	Professional Standards
4131	Staff Development
4140	Bargaining Units
4156.3	Employee Property Reimbursement
4157	Employee Safety
4157	Employee Safety
<u>4161</u>	<u>Leaves</u>
<u>4161.1</u>	<u>Personal Illness/Injury Leave</u>
4161.2	Personal Leaves
<u>4161.8</u>	<u>Family Care and Medical Leave</u>
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications

4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.21	Professional Standards
4219.21-E(1)	Professional Standards
4231	Staff Development
4240	Bargaining Units
4256.3	Employee Property Reimbursement
4257	Employee Safety
4257	Employee Safety
<u>4261</u>	<u>Leaves</u>
<u>4261.1</u>	<u>Personal Illness/Injury Leave</u>
4261.2	Personal Leaves
<u>4261.8</u>	<u>Family Care and Medical Leave</u>
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4319.21	Professional Standards
4319.21-E(1)	Professional Standards
4331	Staff Development
4340	Bargaining Units
4356.3	Employee Property Reimbursement
4357	Employee Safety
4357	Employee Safety
<u>4361</u>	<u>Leaves</u>
<u>4361.1</u>	<u>Personal Illness/Injury Leave</u>
4361.2	Personal Leaves
<u>4361.8</u>	<u>Family Care and Medical Leave</u>
5125	Student Records
5125	Student Records
5125.2	Withholding Grades, Diploma Or Transcripts
5131.4	Student Disturbances
5131.4	Student Disturbances

5131.7	Weapons And Dangerous Instruments
5131.7	Weapons And Dangerous Instruments
5141	Health Care And Emergencies
5141	Health Care And Emergencies
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)

**Regulation 4358: Employee Security**

**Status:** ADOPTED

Original Adopted Date: 11/01/2000 | Last Revised Date: 06/03/01/2021~~2023~~ | Last Reviewed  
Date: 06/03/01/2021~~2023~~

CSBA NOTE: In order to help ensure the safety of students and staff, Education Code 32282 requires schools to include in their comprehensive safety plans procedures to assess and respond to reports of any dangerous, violent, or unlawful activity that is being conducted or threatened to be conducted at the school, at an activity sponsored by the school, or on a school bus serving the school. For more information regarding comprehensive safety plans, see BP/AR 0450 - Comprehensive Safety Plan.

An employee may use reasonable and necessary force for self-defense or defense of another person, to quell a disturbance threatening physical injury to others or damage to property, or to obtain possession of weapons or other dangerous objects within the control of a student. (Education Code 44807, 49001)

CSBA NOTE: Pursuant to Education Code 44014, it is the duty of an employee and the employee's immediate supervisor to report to law enforcement any attack, assault, or physical threat made against the employee by a student. Compliance with district procedures related to reporting incidents, as specified in the paragraph below, does not exempt an employee or supervisor from the duty to make a report to law enforcement. Failure to report such an attack, assault, or physical threat is an infraction punishable by a fine. It is also an infraction for a Governing Board member or employee to prevent the filing of the report or to impose any sanction against an employee for doing so.

Although the law only requires employees to report attacks, assaults, or physical threats made by students, the district may revise the following paragraph to require employees to report any attack, assault, or physical threat made against them by any other individual on school grounds.

The following paragraph relates to the reporting by an employee of an attack, assault, or physical threat, as well as any action taken in response, and should be modified to reflect district practice and to ensure consistency with the district's comprehensive safety plan.

An employee shall promptly report to the principal or other immediate supervisor any attack, assault, or physical threat made against the employee by a student or by any other individual in relation to the performance of the employee's duties, and any action the employee took in response. Reports of an attack, assault, or threat shall be forwarded immediately to the Superintendent or designee.

**CSBA NOTE: Pursuant to Education Code 44014, it is the duty of an employee and the employee's immediate supervisor to report to law enforcement any attack, assault, or physical threat made against the employee by a student. Compliance with district procedures related to reporting incidents, as specified in the paragraph above, does not exempt an employee or supervisor from the duty to make a report to law enforcement. Failure to report such an attack, assault, or physical threat is an infraction punishable by a fine. It is also an infraction for a Governing Board member or employee to prevent the filing of the report or to impose any sanction against an employee for doing so.**

Although the law only requires employees to report attacks, assaults, or threats made by students, the district may revise the following paragraph to require employees to report any attack, assault, or threat made against them by any other individual on school grounds.

In addition ~~Additionally~~, the employee and the principal or other immediate supervisor shall promptly report to local law enforcement authorities an attack, assault, or physical threat made against the employee by a student. Reports of an attack, assault, or physical threat shall be forwarded immediately to the Superintendent or designee. (Education Code 44014)

### Notice Regarding Student Offenses

When a student commits certain offenses that may endanger staff or others, the following procedures shall be implemented to notify staff members as appropriate:

#### 1. Acts That Are Grounds for Suspension or Expulsion

CSBA NOTE: Education Code 49079 requires the district to inform teachers of students who have committed specified acts that constitute grounds for suspension or expulsion. ~~School district~~ District officers or employees who knowingly fail to provide this information are guilty of a misdemeanor punishable by a fine and/or imprisonment.

- a. The Superintendent or designee shall inform the teacher(s) of each student who, during the previous three school years, has engaged in or is reasonably suspected to have engaged in any act, except the possession or use of tobacco products, that would constitute a ground for suspension or expulsion as specified in AR Administrative Regulation 5144.1 - Suspension and Expulsion/Due Process: (Education Code 49079)

       This information shall be based upon district records maintained in the ordinary course of business or records received from a law enforcement agency. (Education Code 49079)

CSBA NOTE: Education Code 48201 requires districts to request records of a transferring student regarding acts that resulted in the student's suspension or expulsion from the previous school, as specified below; see AR 5125 - Student Records. Once the record is received, the Superintendent or designee ~~must~~ is required to inform the student's teacher(s) of the acts as specified below.

- b. Upon receiving a transfer student's record regarding acts committed by the student that resulted in suspension or expulsion, the Superintendent or designee shall inform the student's teacher(s) that the student was suspended from school or expelled from the former district and of the act that resulted in the suspension or expulsion: (Education Code 48201)
- c. Information received by teacher(s) shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher. (Education Code 48201, 49079)

#### 2. Offenses Reported to the District by a Court

CSBA NOTE: Welfare and Institutions Code 827 requires a court, within seven days, to provide written notification to the Superintendent when a minor student has been found by the court to have committed a felony or misdemeanor involving specified offenses. Upon receiving such notification, the Superintendent ~~must~~ is required to notify certain counselors, teachers, and administrators, as described in ~~item~~ Item #2.

~~In addition~~ Additionally, Welfare and Institutions Code 828.1 specifies that a ~~school~~ district police or security department may provide written notification to the Superintendent when a minor student has been found by a court to have illegally used, sold, or possessed a controlled substance or committed specified crimes involving serious acts of violence. In such cases, the information may be transmitted to a teacher, counselor, or administrator with direct supervisorial or disciplinary responsibility over the student, and such information ~~must~~ is required to be received in confidence for the limited purpose for which it was provided. Districts that maintain their own police or security department may expand the following item to authorize the department to notify the Superintendent of such offenses.

- a. When informed by a court that a minor student has been found by the court to have committed any felony or any misdemeanor involving curfew, gambling, alcohol, ~~drugs, tobacco products, carrying of weapons, a sex offense listed in Penal Code 290, assault or battery, larceny, vandalism, or graffiti,~~ the Superintendent or designee shall expeditiously notify the school principal: or designee (Welfare and Institutions Code 827)
- b. The principal or designee shall expeditiously disseminate this information to any counselor who directly supervises or reports on the student's behavior or progress and to any teacher or administrator directly supervising or reporting on the student's behavior or progress whom the principal or designee thinks may need the information in order to work with the student appropriately, to avoid being needlessly vulnerable, or to protect others from vulnerability. (Welfare and Institutions Code 827)
- c. Any court-initiated information that a teacher, counselor, or administrator receives shall be kept confidential and used only to rehabilitate the student and protect other students and staff: (Welfare and Institutions Code 827)

       The information shall be further disseminated only when communication with the student, parent/guardian, law enforcement staff, and probation officer is necessary to rehabilitate the student or to protect students and staff. (Welfare and Institutions Code 827)

- d. When a student is removed from school as a result of an offense, the Superintendent shall hold the court's information in a separate confidential file until the student is returned to the district: (Welfare and Institutions Code 827)

       If the student is returned to a different district, the Superintendent shall transmit the information provided by the student's parole or probation officer to the superintendent of the new district of attendance. (Welfare and Institutions Code 827)

- e. Any confidential file of court-initiated information shall be kept until the student becomes 18, graduates from high school, or is released from juvenile court jurisdiction, whichever occurs first, and shall then be destroyed: (Welfare and Institutions Code 827)

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. Intentional violation of the confidentiality provisions of Welfare and Institutions Code 827 is a misdemeanor punishable by a fine.

In order to maintain confidentiality when providing information about student offenses to a counselor or teacher, the principal or designee shall send the staff member a written notification that a student has committed an offense that requires review of a student's file in the school office. This notice shall not name or otherwise identify the student. The staff member shall initial the notification and shall also initial the student's file when reviewing it in the school office.

#### **Accommodations for Victims of Domestic Violence, Sexual Assault, ~~or~~ Stalking, or Other Qualifying Acts of Violence**

CSBA NOTE: Pursuant to ~~Labor~~ Government Code 230, 12945.8, as added by AB 2499 (Ch. 967, Statutes of 2024), the district is required to provide reasonable accommodations at work, upon request, to an employee who is a victim, or whose family member is a victim, of domestic violence, sexual assault, ~~or~~ stalking, and other qualifying acts of violence.

The district is not required to provide reasonable accommodations to an employee who has not disclosed the employee's status, or family member's status, as a victim of domestic violence, sexual assault, ~~or~~ stalking, or other qualifying acts of violence specified in Government Code 12945.8, nor to undertake an action that constitutes an undue hardship, as defined by Government Code 12926.

In addition, ~~Labor~~ Government Code 230 and ~~230.1~~ allow 12945.8, as added by AB 2499, authorizes, subject to any applicable collective bargaining agreement, employees who are victims of domestic violence, sexual assault, ~~or~~ stalking, or other qualifying acts of violence, including employees who are victims of a crime that caused physical injury, or mental injury with a threat of physical injury, and employees whose immediate family member is deceased as the direct result of a crime, to use available leave, including vacation, personal leave, paid sick leave, or compensatory time off, for the purposes of (1) obtaining or attempting to obtain relief (e.g., a temporary restraining order, restraining order, or injunctive relief) to protect the health, safety, or welfare of the employee or the employee's child; or family of the employee, (2) seeking, obtaining, or assisting a family member to seek or obtain medical attention for or to recover from injuries caused by the crime or abuse; a qualifying act of violence, (3) seeking, obtaining, or assisting a family member to seek or obtain services from a domestic violence shelter, program, rape crisis center, or victim services organization or agency; as a result of a qualifying act of violence, (4) seeking, obtaining, or assisting a family member to seek or obtain psychological counseling or mental health services related to an experience of crime or abuse; and/or a qualifying act of violence, (5) participating in safety planning and/or taking other actions to increase safety from future crime or abuse qualifying acts of violence, (6) relocating or engaging in the process of securing a new residence due to the qualifying act of violence, including, securing temporary or permanent relocation. As amended by AB 2992 (Ch. 224, Statutes of 2020), Labor Code 230 and 230.1 expand these provisions to include employees housing or enrolling children in a new school or child care, (7) providing care to a family

member who are victims of a crime that is recovering from injuries caused physical injury, or mental injury with a threat of physical injury, and employees whose immediate family member is deceased as the direct result of a crime. See by a qualifying act of violence, (8) seeking, obtaining, or assisting a family member to seek or obtain civil or criminal legal services in relation to the qualifying act of violence, (9) preparing for, participating in, or attending any civil, administrative, or criminal legal proceeding related to the qualifying act of violence, or (10) seeking, obtaining, or providing child care or care to a care-dependent adult if the child care or care is necessary to ensure the safety of the child or dependent adult as a result of the qualifying act of violence.

For more information regarding leaves, see BP/AR 4161/4261/4361 - Leaves, AR 4161.1/4361.1 - Personal Illness/Injury Leave, 4261.1 - Personal Illness/Injury Leave, AR 4161.2/4261.2/4361.2 - Personal Leaves, and AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave.

When requested by an employee who is a victim of domestic violence, sexual assault, or stalking, or other qualifying acts of violence, the district shall provide the employee reasonable accommodations which may include the implementation of safety measures, including: (Labor Code 230, but not limited to: (Government Code 12945.8)

1. A transfer, reassignment, or modified schedule
2. A changed work telephone or work station, including the permission to carry a telephone at work
3. An installed lock
4. Assistance in documenting domestic violence, sexual assault, stalking, or other crime qualifying act of violence that occurs in the workplace
5. Referral to a victim assistance organization
6. Another safety procedure or adjustment to a job structure, workplace facility, or work requirement in response to domestic violence, sexual assault, stalking, or other crime qualifying act of violence

The Superintendent or designee shall engage in a timely, good faith, and interactive process with the employee to determine effective reasonable accommodations that do not pose an undue hardship on the district. In determining whether an accommodation is reasonable, the Superintendent or designee shall consider any exigent circumstance or danger facing the employee. (~~Labor Code 230~~ or their family member. (Government Code 12945.8))

Upon the request of the Superintendent or designee, an employee requesting a reasonable accommodation shall provide a written statement, signed by the employee or an individual acting on the employee's behalf, certifying that the accommodation is for an authorized purpose. The Superintendent or designee may also request that the employee provide certification of the employee's status as a victim of domestic violence, sexual assault, or stalking, or other qualifying act of violence. Such certification may include: (~~Labor~~ Government Code 230 12945.8)

1. A police report indicating that the employee, or a family member of the employee, was a victim
2. A court order protecting or separating the employee, or family member of the employee, from the perpetrator of the crime or abuse, or other evidence from the court or prosecuting attorney that the employee has appeared in court
3. Documentation from a licensed medical professional or health care provider, domestic violence or sexual assault counselor, victim advocate, or counselor that the employee, or family member of the employee, was undergoing treatment or receiving services for physical or mental injuries or abuse resulting in victimization from the crime or abuse
4. Any other form of documentation that reasonably verifies that the crime or abuse occurred, including, but not limited to, a written statement signed by the employee or by an individual acting on the employee's behalf

Any verbal or written statement, police or court record, or other documentation identifying an employee, or a family member of the employee, as a victim shall be confidential and shall not be disclosed by the district except as required by federal or state law or as necessary to protect the employee's safety in the workplace. The employee shall be notified before any authorized disclosure. (~~Labor~~ Government Code 230 12945.8)

Every six months after the date of the certification, the Superintendent or designee may request recertification of the employee's status as a victim of domestic violence, sexual assault, or stalking, other specified offense, or ongoing circumstances related to the crime or abuse. The employee shall notify the Superintendent or designee if, due to changing circumstances, the employee needs a new accommodation or no longer needs an accommodation. (~~Labor~~ Code 230)

~~The district shall not~~ If a new accommodation is needed, the Superintendent or designee shall follow the procedures described above when making the initial determination regarding effective reasonable accommodations. (Government Code 12945.8)

The district shall not discharge or retaliate against an employee because of the employee's status as a victim of crime or abuse or for requesting a reasonable accommodation, regardless of whether the request was granted. (~~Labor~~ Government Code 230 12945.8)

### Use of Pepper Spray

CSBA NOTE: The following optional section may be revised to reflect district practice. See the accompanying Board policy for further information and the Board's determination to allow or disallow, with certain exceptions, the possession of pepper spray on school property or at school activities. It is recommended that districts allowing employees to carry pepper spray consult CSBA's District and County Office of Education Legal Services or district counsel regarding potential liability related to an employee's possession of pepper spray.

The Superintendent or designee shall notify employees of the district's policy prohibiting the possession of pepper spray on school property or at school-related activities without prior approval of the Superintendent or designee. Employees wishing to carry pepper spray shall submit to the Superintendent or designee a written request setting forth the need for the to carry or possess

pepper spray and for how long the need is anticipated to last. The Superintendent or designee shall notify the employee in writing as to whether the request was approved or denied.

When approving an employee's request, the Superintendent or designee shall inform the employee of the following conditions:

1. The pepper spray shall be used only in self-defense pursuant to Penal Code 22810.
2. An employee who uses pepper spray other than in self-defense shall be subject to disciplinary action by the district and, in accordance with law, a fine and/or imprisonment.
3. The pepper spray must be stored in a secure place and not be accessible to students or other individuals. Negligent storage of the pepper spray may subject the employee to disciplinary action.

Negligent storage or use of the pepper spray may subject the employee to disciplinary action.

#### **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 51.7

Code of Civil Procedure 527.8

Ed. Code 32210-32212

Ed. Code 32225-32226

Ed. Code 32282

Ed. Code 32289.6

Ed. Code 35208

Ed. Code 35213

Ed. Code 44014

Ed. Code 44807

Ed. Code 48201

Ed. Code 48900-48926

#### **Description**

Freedom from violence or intimidation

Workplace violence safety

Willful disturbance; public schools or meetings

Communications devices in classrooms

School safety plans

Best practices pertaining to school shooter drills

Liability insurance

Reimbursement for loss or damage of personal property

Report of assault by pupil student against school employee

Teachers' duty concerning conduct of students

Transfer student's record for acts that resulted in suspension or expulsion

Suspension and expulsion

Fd. Code 49079	Notification to teacher; student who has engaged in acts <u>re: regarding</u> grounds <u>for</u> suspension or expulsion
Ed. Code 49330-49335	Injurious objects
Gov. Code 12926	Definitions
<u>Gov. Code 12945.6</u>	<u>Employee accommodations for domestic violence, sexual assault, stalking, and other qualifying acts of violence</u>
Gov. Code 3543.2	Scope of representation
Gov. Code 995-996.4	Defense of public employees
<del>Lab. Code 230-230.2</del>	<u>Leaves for victims of domestic violence, sexual assault or specified felonies</u>
Pen. Code 18150	Gun violence restraining orders
Pen. Code 18170	Gun violence restraining order issued after notice and hearing
Pen. Code 22810	Purchase, possession, and use of tear gas
Pen. Code 240-246.3	Assault and battery
Pen. Code 241.3	Assault against school bus drivers
Pen. Code 241.6	Assault on school employee including board member
Pen. Code 243.3	Battery against school bus drivers
Pen. Code 243.6	Battery against school employee including board members
Pen. Code 245.5	Assault with deadly weapon against school employee including board member
Pen. Code 290	Registration of sex offenders
Pen. Code 601	Trespass by person making credible threat
Pen. Code 626-626.11	Weapons on school grounds and other school crimes
Pen. Code 646.9	Stalking
Pen. Code 71	Threatening public officers and employees and school officials
W&I Code 827	Limited exception to juvenile court record
W&I Code 828.1	District police or security department; disclosure of juvenile records
<b><u>Federal</u></b>	<b><u>Description</u></b>
<u>Executive Order 14127</u>	<u>Combating Emerging Firearms Threats and Improving School-Based Active Shooter Drills, September 2024</u> <u>(<a href="https://www.federalregister.gov/documents/2024/10/02/2024-22938/combating-emerging-firearms-threats-and-improving-school-based-active-shooter-drills">https://www.federalregister.gov/documents/2024/10/02/2024-22938/combating-emerging-firearms-threats-and-improving-school-based-active-shooter-drills</a>)</u>

## Management Resources

## Description

Court Decision

City of San Jose v. William Garbett (2010) 190 Cal. App. 4th 526

Website

CSBA District and County Office of Education Legal Services

Website

California Department of Education, Safe Schools

Website

CSBA

### **Cross References**

#### **Code**

#### **Description**

0450

Comprehensive Safety Plan

0450

Comprehensive Safety Plan

1313

Civility

3320

Claims And Actions Against The District

3320

Claims And Actions Against The District

3515

Campus Security

3515

Campus Security

3515.2

Disruptions

3515.2

Disruptions

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

3515.7

Firearms On School Grounds

3530

Risk Management/Insurance

3530

Risk Management/Insurance

4112.9

Employee Notifications

4112.9-E(1)

Employee Notifications

4118

Dismissal/Suspension/Disciplinary Action

4118

Dismissal/Suspension/Disciplinary Action

4119.21

Professional Standards

4119.21-E(1)

Professional Standards

4131

Staff Development