

GRIDLEY UNIFIED SCHOOL DISTRICT

AGENDA ITEM NUMBERS: 14.A	Date: 01/15/2023
AGENDA ITEM DESCRIPTION: Conduct Second Reading and approve Board Policies, Administrative Regulations and Exhibits Updated: <u>September 2023:</u> BP 1160 – Political Processes BP/AR/E 1330 – Use of School Facilities AR 3311 – Bids AR 3311.3 – Design-Build Contracts BP 3312 – Contracts BP 3460 – Financial Reports and Accountability BP/AR 3551 – Food Service Operations/Cafeteria fund BP 4151/4251/4351 – Employee Compensation AR 4217.3 – Layoff/Rehire BP 5131.9 – Academic Honesty BP 6154 – Homework/Makeup Work BP 6162.5 – Student Assessment AR 7140 – Architectural and Engineering Services BB 9124 – Attorney <u>October 2023:</u> BP 0410 – Nondiscrimination in District Programs and Activities BP/AR/E 1312.2 – Complaints Concerning Instructional Materials BP/AR 1312.3 – Uniform Complaint Procedures AR/E 1312.4 – Williams Uniform Complaint Procedures BP 5145.3 – Nondiscrimination/Harassment BP/AR 6143 – Courses of Study BP/AR/E 6161.1 – Selection and Evaluation of Instructional Materials BP 6163.1 – Library Media Centers BP 3452 – Student Activity Funds BP 1321 – Solicitation of Funds From and By Students	
BACKGROUND: California School Boards Association provides districts with a recommended board policy manual and publishes legal updates for board policies. The attached Board Policies, Administrative Regulations and Exhibits need to be approved in order to bring the district’s policy manual up-to-date.	
STATUS: The first reading was conducted at the October 18, Board meeting. The second reading was conducted at the November 1, 2023 Board meeting; policies have been reviewed by the Superintendent.	
FISCAL IMPACT: N/A	

EDUCATIONAL IMPACT: Having a current board policy manual will allow the district to adhere to Ed Code and have policies and procedures in place that allow district staff to provide quality services to our students.

RECOMMENDATION: Approve Board Policies, Administrative Regulations and Exhibits Updated September 2023 and October 2023
Second: roll call vote

ROLL CALL VOTE:	Ayes	Noes	Abstained	Absent
Eric Waterbury				
Art Cota				
Sonia Zarate				
Cheryl Argetsinger				
Drew Becker				
Joe Dewsnup				
Ben Taylor				

Policy 1160: Political Processes

Status: DRAFT

Original Adopted Date: 02/01/1996 | Last Revised Date: 03/09/01/2011/2023 | Last Reviewed
Date: 03/09/01/2011/2023

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

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

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

Ballot Measures/Candidates

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

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

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

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

CSBA NOTE: Elections Code 9170, as added by AB 1416 (Ch. 751, Statutes of 2022), requires the ballot label or similar description of a school district measure, or other local government measure, on a county ballot to list, either as a supporter or an opponent of the measure, the associations, nonprofit organizations, businesses, or individuals, including current or former elected officials such as board members, who have signed the ballot argument or are listed in the text of the argument for or against the measure, unless the county board of supervisors elects not to list such supporters and opponents.

Individual School Board members may include their name in support of or opposition to a county, city, district, or school measure on a county ballot in accordance with Elections Code 9170.

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

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

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

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

District resources, including email or computer systems, shall not be used to disseminate campaign literature. In addition, district resources shall not be used to purchase advertisements, bumper stickers, posters, or similar promotional items that advocate an election result or urge voters to take any action in support of or in opposition to a measure.

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

for a campaign, raising funds for the campaign, or hiring a consultant to develop a strategy for building support for the measure.

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

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

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

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

Legislation

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

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

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

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

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

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

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

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

Legal Advocacy

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

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

Political Forums

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

Policy Reference UPDATE Service

Copyright 2023 by **California School Boards Association**, West Sacramento, California 95691
All rights reserved.

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
2 CCR 18600-18640	Lobbyists
2 CCR 18901.1	Campaign related mailings sent at public expense
Ed. Code 35160	Authority of governing boards
Ed. Code 35172	Promotional activities
Ed. Code 7050-7058	Political activities of school officers and employees
Ed. Code 7054	Use of district property
Ed. Code 7054.1	Requested appearance
Ed. Code 7056	Soliciting or receiving political funds
<u>Elec. Code 9170</u>	<u>Ballot label; support and opposition listings</u>
Elec. Code 9501	School district elections; arguments for or against a measure
Gov. Code 53060.5	Attendance at legislative body; expenses
Gov. Code 54953.5	Audio or video recording of proceedings
Gov. Code 54953.6	Broadcasts of proceedings
Gov. Code 81000-91014	Political Reform Act

Gov. Code 82031	Definition of independent expenditure
Gov. Code 8314	Unlawful use of state resources
Management Resources	Description
Attorney General Opinion	73 Ops.Cal.Atty.Gen. 255 (1990)
Attorney General Opinion	88 Ops.Cal.Atty.Gen. 46 (2005)
Court Decision	Choice-in-Education League et al v. Los Angeles Unified School District; (1993) 17 Cal.App.4th 415
Court Decision	League of Women Voters v. Countywide Criminal Justice Coordination Committee; (1988) 203 Cal.App.3d 529
Court Decision	Miller v. Miller; (1978) 87 Cal.App.3d 762
Court Decision	Santa Barbara County Coalition Against Automobile Subsidies v. Santa Barbara County Association of Governments; (2008) 167 Cal.App.4th 1229
Court Decision	Stanson v. Mott; (1976) 17 Cal.-3d 206
Court Decision	Vargas v. City of Salinas; (2009) 46 Cal.-4th 1
Court Decision	Yes on Measure A v. City of Lake Forest; (1997) 60 Cal.App.4th 620
CSBA Publication	Legal Guidelines for Lobbying Activity, Fact Sheet, February 2011
CSBA Publication	Legal Guidelines: -Use of Public Resources for Ballot Measures and Candidates, Fact Sheet, February 2011
Institute for Local Government Publication	Legal Issues Associated with Use of Public Resources and Ballot Measure Activities, June 2010
Website	CSBA District and County Office of Education Legal Services
Website	Institute for Local Government
Website	Fair Political Practices Commission
Website	CSBA

Cross References

Code	Description
0000	Vision
0200	Goals For The School District
1000	Concepts And Roles
1100	Communication With The Public
1112	Media Relations
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media

1325	Advertising And Promotion
1330	Use Of School Facilities
1330	Use Of School Facilities
1330-E(1)	Use Of School Facilities
1400	Relations Between Other Governmental Agencies And The Schools
4119.25	Political Activities Of Employees
4119.25	Political Activities Of Employees
4219.25	Political Activities Of Employees
4219.25	Political Activities Of Employees
4319.25	Political Activities Of Employees
4319.25	Political Activities Of Employees
7131	Relations With Local Agencies
7214	General Obligation Bonds
7214	General Obligation Bonds
9000	Role Of The Board
9010	Public Statements
9124	Attorney
9200	Limits Of Board Member Authority
9230	Orientation
9250	Remuneration, Reimbursement And Other Benefits
9250-E(1)	Remuneration, Reimbursement And Other Benefits
9320	Meetings And Notices
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session

Policy 1330: Use Of School Facilities

Status: DRAFT

Original Adopted Date: 04/01/2013 | Last Revised Date: 07/09/01/20182023 | Last Reviewed Date: 07/09/01/20182023

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

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

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

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

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

1. Aid, encourage, and assist groups desiring to use school facilities for approved activities
2. Preserve order in school facilities and on school grounds and protect school facilities, ~~designating~~ including the designation of a person to supervise this task, if necessary
3. Ensure that the use of school facilities or grounds is not inconsistent with their use for school purposes and does not interfere with the regular conduct of ~~school work~~ schoolwork

CSBA NOTE: The following paragraph is optional and may be modified to reflect district practice.

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

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

CSBA NOTE: The following optional paragraph may be modified to reflect district practice. A district may enter into an agreement with another entity for the joint use of school facilities or

grounds. For considerations to guide the development of such an agreement, see BP 1330.1 - Joint Use Agreements.

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

Fees

CSBA NOTE: Education Code 38134 authorizes districts to charge an amount "not ~~exceeding~~to exceed" direct costs for the use of school facilities or grounds by community groups and entities. 5 CCR 14037-14041 contain specific rules adopted by the State Board of Education for determining "direct costs" to be charged for use of school facilities and grounds. See the section "Calculating Direct Costs" below. If the district chooses to charge fees, 5 CCR 14041 requires the Board to adopt a fee schedule that specifies the hourly fee to be charged by the district either for specific school facilities and grounds or for types or categories of school facilities or grounds (e.g., all gymnasiums or playgrounds).

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

CSBA NOTE: Education Code 38134 **mandates** each district that chooses to charge the community a fee for the use of school facilities to adopt a policy specifying the activities and organizations that shall be subjected to the fees.

The options below provide suggestions on how districts that choose to charge fees may categorize activities and organizations for that purpose. Option 1 is for use by districts that choose to charge an amount "not ~~exceeding~~to exceed" direct costs to all community groups. Option 2 is for use by districts that choose to grant free use to nonprofit organizations and to groups organized to promote youth and school activities but charge other groups an amount "not ~~exceeding~~to exceed" direct costs. Option 3 is for use by districts that grant free use to school-related organizations only.

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

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

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

OPTION 1 ENDS HERE

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

~~CSBA NOTE: This option reflects the common practice among districts to allow free use of school facilities by nonprofit organizations and clubs and associations that promote youth and school activities pursuant to Education Code 38134. Districts that wish to allow free use by some groups but charge other groups should proceed cautiously and ensure that such free use or discount is granted on a reasonable and nondiscriminatory basis. It is strongly recommended that districts~~

~~consult CSBA's District and County Office of Education Legal Services or district legal counsel before deciding which groups will or will not be charged and, based upon legal counsel's advice, decide whether it would be appropriate to specifically name in the district's policy the community groups that will or will not be charged.~~

~~The Board authorizes the use of school facilities or grounds, without charge, by nonprofit organizations and by clubs or associations organized to promote youth and school activities, including, but not limited to, Girl Scouts, Boy Scouts, Camp Fire USA, YMCA, parent teacher associations, school community advisory councils, and recreational youth sports leagues that charge participants no more than an average of \$60 per month. Other groups that request the use of school facilities under the Civic Center Act shall be charged an amount not exceedingto exceed direct costs determined in accordance with 5 CCR 14037-14041. (Education Code 38134)~~

OPTION 2 ENDS HERE

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

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

OPTION 3 ENDS HERE

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

Pursuant to Education Code 38134, a district must charge "at least" direct costs to any group authorized to useusing school facilities for religious services must beeven if the district selects Option 2 or Option 3 above and does not charge other groups. However, this may conflict with the U.S. Supreme Court's ruling in Good News Club v. Milford Central School, which held that a district's refusal to let a Christian club hold after-school meetings because of its religious nature, while permitting other secular character-building clubs to meet, constituted impermissible viewpoint discrimination under the First Amendment. Due to the potential conflict between this case and state law, districts should take caution in selecting Option 2 or Option 3 above or adopting a policy that charges religious groups direct costs when those costs are not charged "at least" direct costs to other groups. Districts are advised to consult with CSBA's District and County Office of Education Legal Services or district legal counsel with questions about charging religious groups for use of district facilities.

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

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

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

Calculating Direct Costs

Direct costs to be charged for community use of each, or each type of, school facility or grounds shall be calculated in accordance with 5 CCR 14038 and may reflect the community's proportionate share of the following costs: (Education Code 38134; 5 CCR 14038-14041)

1. Capital direct costs calculated in accordance with 5 CCR 14039, including the estimated costs of maintenance, repair, restoration, and refurbishment of non-classroom space school facilities or grounds
2. Operational direct costs calculated in accordance with 5 CCR 14040, including estimated costs of supplies, utilities, janitorial services, other services performed by district employees and/or contracted workers, and salaries and benefits paid to district employees directly associated with the administration of the Civic Center Act to operate and maintain school facilities and grounds

CSBA NOTE: The following optional paragraph applies to districts that choose to discount direct cost fees based on the type or category of the applicant, such as to groups with tax-exempt status as authorized pursuant to 5 CCR 14041.

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

Expending Funds Collected as Capital Direct Costs

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

Use of School Facility as Polling Place

CSBA NOTE: Pursuant to Elections Code 12283, an elections official requesting the use of a school building as a polling place or vote center must include in ~~his/her~~the request a list of the schools needed. Such requests must be made within sufficient time before the start of the school year so that the Board can determine and notify parents/guardians whether (1) the school will remain in session on those days, (2) the school day will be designated for staff training and development, or (3) the school will be closed to students and nonclassified employees. See BP 6111 - School Calendar.

The Board may authorize the use of school buildings as polling places ~~on any~~, or vote centers for election day; ~~and~~. The Board may also authorize the use of school buildings, without cost, for the storage of voting machines and other vote-tabulating devices. However, if a city or county elections official specifically requests the use of a school building as a polling place, or vote center on election day and/or during the 10 days preceding election day, as well as during key dates necessary for drop-off, set-up, and pick-up of election materials, as determined by the elections official, the Board shall allow its use for such purpose. If school will be in session, the Superintendent or designee shall identify to elections officials the specific areas of the school buildings not occupied by school activities that will be allowed for use as ~~a polling place~~. place or vote center. (Elections Code 12283)

When a school is used as a polling place or vote center, the Superintendent or designee shall provide the elections official a site with an adequate amount of space that will allow the precinct board to perform its duties in a manner that will not impede, interfere, or interrupt the normal process of voting and shall make a telephone line for Internet access available for use by local elections officials if so requested. ~~He/she~~The Superintendent or designee shall make a reasonable

effort to ensure that the site is accessible to persons with disabilities. (Elections Code 12283)

The Superintendent or designee shall establish procedures to ensure student safety and minimize disruptions whenever school is in session while the facilities are being used as a polling place:
[or vote center.](#)

Policy Reference UPDATE Service

Copyright 2023 by **California School Boards Association**, West Sacramento, California 95691

All rights reserved.

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
5 CCR 14037-14042	Proportionate direct costs for use of school facilities and grounds
Bus. Code 25608	Alcohol on school property; use in connection with instruction
Ed. Code 10900-10914.5	Community recreation programs
Ed. Code 32280-32289.5	School safety plans
Ed. Code 37220	School holidays
Ed. Code 38130-38138	Civic Center Act; use of school property for public purposes
Ed. Code 51860	Time and facilities for bicycle and scooter safety instruction
Elec. Code 12283	Polling places; schools
Gov. Code 54950-54963	The Ralph M. Brown Act
M&V Code 1800	Definitions
Federal	Description
20 USC 7905	Equal access to public school facilities
40 CFR 141.1-141.723	Drinking water standards
Management Resources	Description
Attorney General Opinion	79 Ops.Cal.Atty.Gen. 248 (1996)
Attorney General Opinion	82 Ops.Cal.Atty.Gen. 90 (1999)
Court Decision	Ellis v. Board of Education; (1945) 27 Cal.2d 322
Court Decision	Good News Club v. Milford Central School; (2001) 533 U.S. 98
Court Decision	Lamb's Chapel v. Center Moriches Union Free School District; (1993) 508 U.S. 384
Court Decision	ACLU v. Board of Education of Los Angeles; (1961) 55 Cal .2d 167

Court Decision	Cole v. Richardson, (1972) 405 U.S. 676
Court Decision	Connell v. Higgenbotham, (1971) 403 U.S. 207
CSBA Publication	Building Healthy Communities: A School Leader's Guide to Collaboration and Community Engagement, 2009 https://www.csba.org/~media/4D07909373B14A0BB5CA2CCF41F98351.ashx
CSBA Publication	Maximizing Opportunities for Physical Activity Through Joint Use of Facilities, Policy Brief, February 2010 https://www.csba.org/EducationIssues/EducationIssues/~/-/media/Files/EducationIssues/Wellness/201002_JointUse_PolicyBrief.ashx
Website	CSBA District and County Office of Education Legal Services
Website	California Department of Education
Website	CSBA

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0470	COVID-19 Mitigation Plan
1000	Concepts And Roles
1160	Political Processes
1230	School-Connected Organizations
1230	School-Connected Organizations
1325	Advertising And Promotion
1330.1	Joint Use Agreements
1400	Relations Between Other Governmental Agencies And The Schools
3280	Sale Or Lease Of District-Owned Real Property
3280	Sale Or Lease Of District-Owned Real Property
3513.3	Tobacco-Free Schools
3513.3	Tobacco-Free Schools
3513.4	Drug And Alcohol Free Schools
3515.2	Disruptions
3515.2	Disruptions
3515.21	Unmanned Aircraft Systems (Drones)
3516	Emergencies And Disaster Preparedness Plan

3516	Emergencies And Disaster Preparedness Plan
3530	Risk Management/Insurance
3530	Risk Management/Insurance
4119.25	Political Activities Of Employees
4119.25	Political Activities Of Employees
4219.25	Political Activities Of Employees
4219.25	Political Activities Of Employees
4319.25	Political Activities Of Employees
4319.25	Political Activities Of Employees
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
6111	School Calendar
6115	Ceremonies And Observances
6115	Ceremonies And Observances
6141.2	Recognition Of Religious Beliefs And Customs
6141.2	Recognition Of Religious Beliefs And Customs
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
6145.5	Student Organizations And Equal Access
6145.5	Student Organizations And Equal Access
7160	Charter School Facilities
7160	Charter School Facilities
9320	Meetings And Notices

Regulation 1330: Use Of School Facilities

Status: DRAFT

Original Adopted Date: 07/01/2018 | Last Reviewed Date: 07/01/2018 2023

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

Application for Use of Facilities

CSBA NOTE: Districts are encouraged to consult with CSBA's District and County Office of Education Legal Services or district legal counsel to create a facilities use application and agreement for the use of school facilities and grounds by any entity other than the district.

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

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

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

~~Persons or organizations applying for the use of school facilities or grounds shall submit a facilities use statement indicating that they uphold the state and federal constitutions and do not intend to use school premises or facilities to commit unlawful acts.~~ Anyone applying to use school facilities shall do so as specified in district procedures and in accordance with law.

Civic Center Use

Subject to district policies and regulations, school facilities and grounds shall be available to citizens and community groups as a civic center for the following purposes: (Education Code 32282, 38131, 51860)

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

CSBA NOTE: ~~An~~ The Attorney General ~~Opinion (opined in 79 Ops.Cal.Atty.Gen. 248 (1996)) found unconstitutional~~ that the section of Education Code 38131 which provides that a board may grant the use of school facilities to a religious group to conduct services only when the religious group has no other suitable meeting place: is unconstitutional. Although Attorney General opinions do not carry the force of law, they are given deference by the courts in the case of legal challenge.

Therefore, a district should consult [CSBA's District and County Office of Education Legal Services or district](#) legal counsel before requiring a religious organization to establish that it lacks another suitable meeting place for the conduct of its services in order to rent school facilities. In that same opinion, the Attorney General also determined that Education Code 38131 does not limit the renewability of the temporary use permit for school facilities by a religious organization. Thus, legal counsel should also be consulted before a district refuses to renew a temporary permit. Item #3 below is consistent with the Attorney General's interpretation of Education Code 38131.

3. The conduct of religious services for temporary periods, on a one-time or renewable basis, by any church or religious organization
4. Child care programs to provide supervision and activities for children of preschool and elementary school age
5. The administration of examinations for the selection of personnel or the instruction of precinct board members by public agencies
6. Supervised recreational activities, including, but not limited to, sports league activities [for youth](#) that are arranged for and supervised by entities, including religious organizations or churches, and in which youth may participate regardless of religious belief or denomination
7. A community youth center

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

8. Mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare
- [9.](#) A ceremony, patriotic celebration, or related educational assembly conducted by a veterans' organization

~~9.~~ A *veterans' organization* means the American Legion, Veterans of Foreign Wars, Disabled American Veterans, United Spanish War Veterans, Grand Army of the Republic, or other duly recognized organization of honorably discharged soldiers, sailors, or marines of the United States, or any of their territories. (Military and Veterans Code 1800)

[CSBA NOTE: To enable the district to provide students safety instruction related to using electric, motorized, or nonmotorized bicycles and scooters, Education Code 51860, as amended by AB 2028 \(Ch. 116, Statutes of 2022\), authorizes the Governing Board to assist local law enforcement, nonprofit associations or organizations specified in Education Code 38134, such as the Girls Scouts, Boys Scouts, and parent-teacher associations, and public agencies that provide such safety instruction, in providing safety instruction to district students.](#)

- [10. Bicycle, scooter, electric bicycle, motorized bicycle, or motorized scooter safety instruction for district students by local law enforcement, public agencies, nonprofit associations, or organizations specified in Education Code 38134](#)

CSBA NOTE: Education Code 38131 allows the district to grant use of school facilities for other purposes as deemed appropriate. The district may add any other purposes approved by the Governing Board and not inconsistent with existing law.

~~10.11.~~ 11. Other purposes deemed appropriate by the Governing Board

Restrictions

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

Because federal and state constitutional free speech issues may be involved when a district denies the use of school facilities to certain groups, it is strongly recommended that a district consult with CSBA's District and County Office of Education Legal Services or district legal counsel before doing so.

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

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

CSBA NOTE: Pursuant to Business and Professions Code 25608, it is a misdemeanor to possess, consume, sell, give, or deliver any alcoholic beverage to any person in a school building or on school grounds unless a specified exception applies. One such exception is serving alcohol during a special event, pursuant to a license or permit obtained under the Alcohol Beverage Control Act, at district-owned facilities at a time when students are not present. For this purpose, "facilities" include, but are not limited to, office complexes, conference centers, or retreat facilities. Although Business and Professions Code 25608 allows this exception, the district should consult CSBA's District and County Office of Education Legal Services, district legal counsel, and/or risk management personnel when determining whether to allow alcohol on district property pursuant to this exception. When a district allows the use of its facilities or grounds for events that may involve the serving or consumption of alcoholic beverages, it is recommended that rules and/or limitations be established to minimize risks to the district and attendees at such events (e.g., requiring security guards and/or additional insurance, limiting the presence of alcoholic beverages to designated areas, limiting the types of beverages and/or how many drinks can be served at a time, specifying the time period during which alcoholic beverages may be served). Item #4 is optional and may be deleted or revised to reflect any limitations imposed on the facility user.

4. Any use which involves the possession, consumption, or sale of alcoholic beverages, except for special events approved by the Superintendent or designee pursuant to Business and

Professions Code 25608 which are covered by a special events permit pursuant to Division 9 of the Business and Professions Code and which will occur at a time when students are not on the grounds. Any such use of school facilities shall be subject to any limitations that may be necessary to reduce risks to the district and ensure the safety of participants, as determined by the Superintendent or designee. Applicable limitations shall be clearly stated in the facility use agreement to be signed by the user's representative.

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

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

Damage and Liability

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

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

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

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

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

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

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

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

Policy Reference UPDATE Service

Copyright 2023 by California School Boards Association, West Sacramento, California 95691
All rights reserved.

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
5 CCR 14037-14042	Proportionate direct costs for use of school facilities and grounds
Bus. Code 25608	Alcohol on school property; use in connection with instruction
Ed. Code 10900-10914.5	Community recreation programs
Ed. Code 32280-32289.5	School safety plans
Ed. Code 37220	School holidays
Ed. Code 38130-38138	Civic Center Act; use of school property for public purposes
<u>Ed. Code 51860</u>	<u>Time and facilities for bicycle and scooter safety instruction</u>
Elec. Code 12283	Polling places; schools <u>Polling places; schools</u>
Gov. Code 54950-54963	The Ralph M. Brown Act
M&V Code 1800	Definitions
Federal	Description
20 USC 7905	Equal access to public school facilities
40 CFR 141.1-141.723	Drinking water standards
Management Resources	Description
Attorney General Opinion	79 Ops.Cal.Atty.Gen. 248 (1996)
Attorney General Opinion	82 Ops.Cal.Atty.Gen. 90 (1999)
Court Decision	Ellis v. Board of Education; (1945) 27 Cal.2d 322
Court Decision	Good News Club v. Milford Central School; (2001) 533 U.S. 98
Court Decision	Lamb's Chapel v. Center Moriches Union Free School District; (1993) 508 U.S. 384
Court Decision	ACLU v. Board of Education of Los Angeles; (1961) 55 Cal .2d 167

Court Decision	Cole v. Richardson, (1972) 405 U.S. 676
Court Decision	Connell v. Higgenbotham, (1971) 403 U.S. 207
CSBA Publication	Building Healthy Communities: A School Leader's Guide to Collaboration and Community Engagement, 2009 https://www.csba.org/~media/4D07909373B14A0BB5CA2CCF41F98351.ashx
CSBA Publication	Maximizing Opportunities for Physical Activity Through Joint Use of Facilities, Policy Brief, February 2010 https://www.csba.org/EducationIssues/EducationIssues/~/-/media/Files/EducationIssues/Wellness/201002_JointUse_PolicyBrief.ashx
Website	CSBA District and County Office of Education Legal Services
Website	California Department of Education
Website	CSBA

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0470	COVID-19 Mitigation Plan
1000	Concepts And Roles
1160	Political Processes
1230	School-Connected Organizations
1230	School-Connected Organizations
1325	Advertising And Promotion
1330.1	Joint Use Agreements
1400	Relations Between Other Governmental Agencies And The Schools
3280	Sale Or Lease Of District-Owned Real Property
3280	Sale Or Lease Of District-Owned Real Property
3513.3	Tobacco-Free Schools
3513.3	Tobacco-Free Schools
3513.4	Drug And Alcohol Free Schools
3515.2	Disruptions
3515.2	Disruptions
3515.21	Unmanned Aircraft Systems (Drones)
3516	Emergencies And Disaster Preparedness Plan

3516	Emergencies And Disaster Preparedness Plan
3530	Risk Management/Insurance
3530	Risk Management/Insurance
4119.25	Political Activities Of Employees
4119.25	Political Activities Of Employees
4219.25	Political Activities Of Employees
4219.25	Political Activities Of Employees
4319.25	Political Activities Of Employees
4319.25	Political Activities Of Employees
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
6111	School Calendar
6115	Ceremonies And Observances
6115	Ceremonies And Observances
6141.2	Recognition Of Religious Beliefs And Customs
6141.2	Recognition Of Religious Beliefs And Customs
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
6145.5	Student Organizations And Equal Access
6145.5	Student Organizations And Equal Access
7160	Charter School Facilities
7160	Charter School Facilities
9320	Meetings And Notices

DELETE EXHIBIT

Exhibit 1330-E(1): Use Of School Facilities

Status: ADOPTED

Original Adopted Date: 09/01/1987 | **Last Revised Date:** 04/01/2013 | **Last Reviewed Date:** 04/01/2013

CSBA NOTE: The following exhibit is provided for the management and control of school facilities pursuant to Education Code 38133 and may be modified to reflect other district requirements such as specific restrictions and insurance documents.

===== **SCHOOL DISTRICT FACILITIES USE STATEMENT**

The undersigned, _____, is duly authorized by _____(name of organization)_____, to act on its behalf in requesting the use of school facilities, including, but not limited to, executing any agreement or undertaking required by law and district policy and regulations governing the use of the facilities.

The organization shall comply with all restrictions placed on the use of the school facilities by law or district policy or regulations.

The organization recognizes that, in accordance with Education Code 38134, it is liable for any damage to the school facilities or for any injury to any person due to the organization's negligence in using the school facilities.

_____(Signed)

_____(Date)

_____(Organization
)

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 14037-14042

Bus. Code 25608

Ed. Code 10900-10914.5

Ed. Code 32280-32289.5

Ed. Code 37220

Ed. Code 38130-38138

Description

Proportionate direct costs for use of school facilities and grounds

Alcohol on school property; use in connection with instruction

Community recreation programs

School safety plans

School holidays

Civic Center Act; use of school property for public purposes

Elec. Code 12283

Gov. Code 54950-54963

M&V Code 1800

Federal

20 USC 7905

40 CFR 141.1-141.723

Management Resources

Attorney General Opinion

Attorney General Opinion

Court Decision

Court Decision

Court Decision

Court Decision

Court Decision

Court Decision

CSBA Publication

CSBA Publication

Website

Website

Website

[Polling places: schools](#)

[The Ralph M. Brown Act](#)

[Definitions](#)

Description

Equal access to public school facilities

Drinking water standards

Description

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

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

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

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

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

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

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

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

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

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

[CSBA District and County Office of Education Legal Services](#)

[California Department of Education](#)

[CSBA](#)

Cross References

Code

0410

0450

0450

0470

1000

1160

1230

1230

Description

[Nondiscrimination In District Programs And Activities](#)

[Comprehensive Safety Plan](#)

[Comprehensive Safety Plan](#)

[COVID-19 Mitigation Plan](#)

[Concepts And Roles](#)

[Political Processes](#)

[School-Connected Organizations](#)

[School-Connected Organizations](#)

1325	<u>Advertising And Promotion</u>
1330.1	<u>Joint Use Agreements</u>
1400	<u>Relations Between Other Governmental Agencies And The Schools</u>
3280	<u>Sale Or Lease Of District-Owned Real Property</u>
3280	<u>Sale Or Lease Of District-Owned Real Property</u>
3513.3	<u>Tobacco-Free Schools</u>
3513.3	<u>Tobacco-Free Schools</u>
3513.4	<u>Drug And Alcohol Free Schools</u>
3515.2	<u>Disruptions</u>
3515.2	<u>Disruptions</u>
3515.21	<u>Unmanned Aircraft Systems (Drones)</u>
3516	<u>Emergencies And Disaster Preparedness Plan</u>
3516	<u>Emergencies And Disaster Preparedness Plan</u>
3530	<u>Risk Management/Insurance</u>
3530	<u>Risk Management/Insurance</u>
4119.25	<u>Political Activities Of Employees</u>
4119.25	<u>Political Activities Of Employees</u>
4219.25	<u>Political Activities Of Employees</u>
4219.25	<u>Political Activities Of Employees</u>
4319.25	<u>Political Activities Of Employees</u>
4319.25	<u>Political Activities Of Employees</u>
5148	<u>Child Care And Development</u>
5148	<u>Child Care And Development</u>
5148.2	<u>Before/After School Programs</u>
5148.2	<u>Before/After School Programs</u>
5148.3	<u>Preschool/Early Childhood Education</u>
5148.3	<u>Preschool/Early Childhood Education</u>
6111	<u>School Calendar</u>
6115	<u>Ceremonies And Observances</u>
6115	<u>Ceremonies And Observances</u>
6141.2	<u>Recognition Of Religious Beliefs And Customs</u>
6141.2	<u>Recognition Of Religious Beliefs And Customs</u>

6145	<u>Extracurricular And Cocurricular Activities</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145.5	<u>Student Organizations And Equal Access</u>
6145.5	<u>Student Organizations And Equal Access</u>
7160	<u>Charter School Facilities</u>
7160	<u>Charter School Facilities</u>
9320	<u>Meetings And Notices</u>

ORIGINAL DRAFT

SEE PROPOSED CHANGES DRAFT FOR ADDITIONS/DELETIONS

CSBA Sample District Policy Manual
CSBA Sample Manual Site

Regulation 3311: Bids

Status: DRAFT

Original Adopted Date: 10/01/2015 | Last Revised Date: ~~12/09/01/2016~~2023 | Last Reviewed
Date: ~~12/09/01/2016~~2023

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 reflects the competitive bidding procedures applicable to these purchases, as well as contracts 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), ~~as amended by AB 2249 (Ch. 169, Statutes of 2018)~~, which allows public projects of \$60,000 or less to be performed by district employees and public projects of \$200,000 or less to be awarded through an informal bidding process. 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, operated facility~~

CSBA NOTE: For the contracts specified in ~~item~~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 ~~2019~~2023, the bid limit is ~~\$92,600~~109,300.

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 does not include painting, repainting, or decorating other than touchup, or among other types of work, janitorial or custodial services and protection provided by security forces. (Public Contract Code 20115)

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 Superintendent or designee also may post the notice on the district's ~~web site~~[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 ~~web site~~[website](#) where bids will be opened. (Public Contract Code 20112)

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. Any such mandatory visit or meeting shall occur not less than five calendar days after the publication of the initial notice. (Public Contract Code [For lease-leaseback, design-build, and alternative design-build projects, the notice shall 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. 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 consult with [CSBA's District and County Office of Education Legal Services or district](#) legal counsel, as appropriate, if they have questions regarding the applicability of this law.

6. If the district requires that the bid include 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. In the absence of such a specification, only the method provided in ~~item~~[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.

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., ~~he/she~~[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 a determination on the "nonresponsiveness" of a bid based 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 inform the bidder of the evidence used when making the determination and afford him/her the bidder a hearing with the right to present evidence that he/she the bidder is responsible. (~~City of Inglewood-Los Angeles County Civic Center Authority v. Superior Court and Great West Contractors Inc. v. Irvine Unified School District~~).

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 him/her the bidder an opportunity to respond to the determination.
 - b. When the lowest bidder is determined to be nonresponsive, the Superintendent or designee shall notify the bidder of his/her the right to present evidence of his/her 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 million, 000,000 or more, when the project uses or is reimbursed from School Facilities Program funds (Education Code 17070.10-17079.30) or other future state school bonds. A model prequalification questionnaire is available on the Department of Industrial 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 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, etc., 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 ~~17400~~ (cf. 3311.2 - Lease-
Leaseback Contracts
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 may protest a bid award if he/she 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 ~~protest~~protested documents in a timely manner shall constitute a waiver of his/~~her~~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 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. ~~However, this~~ 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 district legal counsel. ~~While Attorney General opinions are not binding, they are often given deference by the court and may also be considered by the State Allocation Board when making funding decisions.~~ CSBA's District and County Office of Education Legal Services or district legal counsel.

Without advertising for bids and upon a determination that it is in the best interest of the district, the Board may authorize "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 (~~"piggyback"~~). 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 ~~"costs-benefits"~~ 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 ~~savings~~saving comparison ~~findings~~finding specified in Government Code 4217.12. (Government Code 4217.12)

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

Copyright 2023 by California School Boards Association, West Sacramento, California 95691
All rights reserved.

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

Description

General engineering contractor

General building contractor

Verification of pleadings

Ed. Code 17070.10-17079.30	Leroy F. Greene School Facilities Act
Ed. Code 17250.10-17250.55	Design-build contracts
<u>Ed. Code 17250.60-17250.69</u>	<u>Alternative design-build contracts</u>
Ed. Code 17406	Lease-leaseback contract
Ed. Code 17595	Purchase of supplies through Department of General Services
Ed. Code 17602	Purchase of surplus property from federal agencies
Ed. Code 38083	Purchase of perishable foodstuffs and seasonal commodities
Ed. Code 38110-38120	Apparatus and supplies
Ed. Code 39802	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	Definition of public record
Pub. Cont. Code 1102	Definition of emergency
Pub. Cont. Code 1103	Definition; responsible bidder
Pub. Cont. Code 12200	Definitions; recycled goods, materials, and supplies
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	<u>Alternative procedures for public projects (UPCCAA)</u> <u>Uniform Public Construction Cost Accounting Act</u>
Pub. Cont. Code 22152	Recycled product procurement
Pub. Cont. Code 3000-3010	Roofing projects
Pub. Cont. Code 3400	Bid specifications; preference for materials
Pub. Cont. Code 3410	U.S. produce and processed foods
Pub. Cont. Code 4113	Prime contractor; subcontractor

Pub. Cont. Code 6102

Pub. Cont. Code 6610

Management Resources

Attorney General Opinion

Court Decision

Court Decision

Court Decision

Court Decision

Court Decision

California Department of General Services Publication

California Department of Industrial Relations Publication

Website

Website

Website

Website

Website

Website

Cross References

Bribery of public official; voidable contract

Bid visits

Description

89 Ops.Cal.Atty.Gen. 1 (2006)

City of Inglewood-Los Angeles County Civic Center Authority v. Superior Court, (1972) 7 Cal.3d 861

Great West Contractors Inc. v. Irvine Unified School District, (2010) 187 Cal.App.4th 1425

Konica Business Machines v. Regents of the University of California, (1988) 206 Cal.App.3d 449

Los Angeles Unified School District v. Great American Insurance Co., (2010) 49 Cal.4th 739

Marshall v. Pasadena Unified School District, (2004) 119 Cal.App.4th 1241

Office of Public School Construction Notification to School Districts Regarding Use of Piggyback Contracts for SAB-Administered Programs, July 2022
(<https://www.dgs.ca.gov/-/media/Divisions/OPSC/Resources/Piggyback-Contracts/Piggyback-Contract-Email-Blast-July-5-2022FINAL-ADA.pdf?la=en&hash=9594C7B8BD4C9796DDB57D68775331EEA8CE658A>)

Model Prequalification Questionnaire
(<https://www.dir.ca.gov/Public-Works/Public-Works-Pre%E2%80%90Qualification-of-Contractors.html>)

CSBA District and County Office of Education Legal Services

California Department of General Services

Office of Public School Construction, Piggyback Contracts
(<https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Piggyback-Contracts-for-SAB-Administered-Programs>)

CSBA

California Department of Education

California Association of School Business Officials

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
9323.2-E(2)	Actions By The Board

PROPOSED CHANGES DRAFT

Board Policy Manual Gridley Unified School District

Regulation 3311: Bids

Status: DRAFT

Original Adopted Date: 10/01/2015 | **Last Revised Date:** 01/20/2021 | **Last Reviewed Date:** 10/12/2023

Advertised/Competitive Bids

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

1. Pursuant to the Uniform Public Construction Cost Accounting Act (UPCCAA) (Public Contract Code 22000-22045) any public project under \$60,000 may be performed by the public agency's own forces, by negotiated contract, or by purchase order. Public projects in the amount of \$200,000 or less may use the informal or formal bidding procedures set forth in Section 22032 (b) or (c) of the Act. Public projects at a cost of more than \$200,000 must use formal bidding procedures to let the contract pursuant to PCC Section 22032 (c).
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 does not include painting, repainting, or decorating other than touchup, or among other types of work, janitorial or custodial services and protection provided by security forces. (Public Contract Code 20115)

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 Superintendent or designee also may post the notice on the district's web site 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 web site 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)

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. 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)
6. If the district requires that the bid include 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. 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.

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)
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 him/her an opportunity to respond to the determination.
 - b. When the lowest bidder is determined to be nonresponsive, the Superintendent or designee shall notify the bidder of his/her right to present evidence of his/her responsibility at a hearing before the Board.
8. After being opened, all submitted bids become public records pursuant to Government Code 6252 and shall be made available for public review pursuant to law, Board policy, and administrative regulation.

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)
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 1740(c). 3311.2 - Lease-Leaseback Contracts

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)

Protests by Bidders

A bidder may protest a bid award if he/she believes that the award is not in compliance with law, Board policy, or the bid specification. 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 protest documents in a timely manner shall constitute a waiver of his/her 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.

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

The Superintendent or designee may designate a specific material, product, thing, or service by brand or trade name (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 long as the declaration has been approved by four-fifths of the Board when issuing the invitation for bid or RFP

Bids Not Required

Without advertising for bids and upon a determination that it is in the best interest of the district, the Board may authorize 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 ("piggyback"). 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)

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)

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)

Regulation 3311.3: Design-Build Contracts

Status: DRAFT

Original Adopted Date: 12/01/2016 | Last Revised Date: 03/09/01/2021/2023 | Last Reviewed
Date: 03/09/01/2021/2023

CSBA NOTE: As an alternative to the more traditional design-bid-build process (see BP/AR 3311 - Bids) or a lease-leaseback process (see AR 3311.2 - Lease-Leaseback Contracts), the district may, until January 1, 2025, enter into a design-build contract for a public works project in excess of \$1 million, 000,000 pursuant to Education Code 17250.10-17250.55. As defined by 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. Additionally, pursuant to Education Code 17250.61, as added by AB 185 (Ch. 571, Statutes of 2022), the district may, until January 1, 2029, enter into an alternative design-build contract for a public works project in excess of \$5,000,000. As defined by 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. Education Code 17250.15 and, 17250.25, 17250.60, and 17250.61 provide that such contracts may be awarded to either the low bid or best value, as defined.

The Until January 1, 2025, the Governing Board may approve a design-build contract with a single entity for both design and construction of any school facility in excess of \$1,000,000, awarding the contract to either the low bid or the best value as determined by evaluation of objective criteria. (Education Code 17250.20)

Additionally, until January 1, 2029, the Board may approve an alternative design-build contract with a single entity for both design and construction of any school facility in excess of \$5,000,000. Such contracts may be awarded to 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. The district's determination of price shall be based on the open book evaluation of construction subcontracts. The contract may be subject to further negotiations or amendment and may be terminated by the district if the district and the design-build entity are unable to reach an agreement. (Education Code 17250.61, 17250.62, 17250.65)

Design-build documents shall not include provisions for long-term project operations, but may include operations during a training or transition period. (Education Code 17250.25, 17250.62)

Procedures for Awarding the Contract

The procurement process for design-build and alternative design-build projects shall be as follows: (Education Code 17250.25, 17250.35, 17250.62, 17250.65; Public Contract Code 2600)

1. Performance Specifications: The district shall prepare a set of documents setting forth the scope and estimated price of the project. The documents may include, but are not limited to:

- a. The size, type, and desired design character of the project
- b. Performance specifications that cover the quality of materials, equipment, and workmanship
- c. Preliminary plans or building layouts
- d. Any other information deemed necessary to describe adequately the district's needs

The performance specifications and any plans shall be prepared by a design professional who is duly licensed and registered in California.

2. Prequalification: The district shall prepare and issue a request for qualifications in order to prequalify, or develop a short list of, the design-build entities whose proposals shall be evaluated for final selection. The request for qualifications shall include, but is not limited to, all of the following elements:
 - a. Identification of the basic scope and needs of the project or contract, the expected cost range, the methodology that will be used by the district to evaluate proposals, the procedure for final selection of the design-build entity, and any other information deemed necessary by the district to inform interested parties of the contracting opportunity
 - b. Significant factors that the district reasonably expects to consider in evaluating qualifications, including technical design and construction expertise, acceptable safety record, and all other non-price-related factors
 - c. A standard template request for statements of qualifications prepared by the district, which shall contain all of the information required pursuant to Education Code 17250.25 or 17250.62

CSBA NOTE: Public Contract Code 2600; as amended by AB 2311 (Ch. 347, Statutes of 2020), adds a requirement to include in all bid documents and construction contracts, when applicable, a notice that the project is subject to the skilled and trained workforce requirements specified in Public Contract Code 2600-2603. Pursuant to Education Code 17250.25 and 17250.62, design-build contracts are subject to such requirements.

- d. A notice that the project is subject to the skilled and trained workforce requirements specified in Public Contract Code 2600-2603

The district also may identify specific types of subcontractors that must be included in the statement of qualifications and proposal.

3. Request for Proposals: The district shall prepare a request for proposals (RFP) that invites prequalified or short-listed entities to submit competitive sealed proposals in a manner prescribed by the district. The RFP shall include the information identified in ~~items~~ Items #2a, 2b, and 2d above and the relative importance or weight assigned to each of the factors. If the district uses a best value selection method for a project, the district may reserve the right to request proposal revisions and hold discussions and negotiations with responsive proposers, in which case the district shall so specify in the request for proposals and shall publish separately or incorporate into the request for proposals applicable procedures to be

observed by the district to ensure that any discussions or negotiations are conducted in good faith.

4. Selection Based on Low Bid: For those projects utilizing low bid as the final selection method, the bidding process shall result in lump-sum bids by the prequalified or short-listed design-build entities, and the contract shall be awarded to the lowest responsible bidder.
5. Selection Based on Best Value: For those projects utilizing best value as a selection method, the following procedures shall be used:
 - a. Competitive proposals shall be evaluated using only the criteria and selection procedures specifically identified in the request for proposals. Criteria shall be weighted as deemed appropriate by the district and The proposal for a design-build project, as specified in 17250.25, shall, at a minimum, include price, unless a stipulated sum is specified; technical design and construction experience; and life-cycle costs over 15 or more years. The proposal for an alternative design-build project, as specified in 17250.62, shall, at a minimum, include design cost, general conditions, overhead, and profit as a component of the project price, unless a stipulated sum for the project is specified; technical design and construction expertise; and life-cycle costs over 15 or more years.
 - b. Following any discussions or negotiations with responsive proposers and completion of the evaluation process, the responsive proposers shall be ranked on a determination of value provided, provided that no more than three proposers are required to be ranked.
 - c. The contract shall be awarded to the responsible entity whose proposal is determined by the district to have offered the best value to the public.
 - d. The district shall publicly announce the contract award, identifying the entity to which the award is made and the basis of the award. This statement and the contract file shall provide sufficient information to satisfy an external audit.

Skilled and Trained Workforce

CSBA NOTE: Education Code 17250.25 requires the district to obtain an enforceable commitment that the contractor will comply with the requirements to use a skilled and trained workforce, as defined, in accordance with Public Contract Code 2600-2603. Pursuant to Public Contract Code 2600.5, as added by AB 2311, failure to provide the notice described in ~~items~~ Items #2d and 3 above does not excuse the district from the requirement to obtain an enforceable commitment that a contractor or other entity will use a skilled and trained workforce to complete a contract or project.

A design-build entity shall not be prequalified or short-listed unless the entity provides an enforceable commitment to the district that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades. The entity may demonstrate such commitment through a project labor agreement, by becoming a party to the district's project labor agreement, or through an agreement with the district to provide evidence of compliance on a monthly basis during the performance of the project or contract. (Education Code 17250.25, 17250.62; Public Contract Code 2602)

Skilled and trained workforce means that all the workers performing the work are either skilled journeypersons or apprentices registered in a state-approved apprenticeship program. At least 60 percent of the skilled journeypersons employed to perform the work shall be graduates of an apprenticeship program for the applicable occupation or at least 60 percent of the hours worked by skilled journeypersons shall be performed by graduates of an apprenticeship program, with the exception of certain occupations specified in Public Contract Code 2601 which are subject to a 30 percent threshold. (Public Contract Code 2601)

If the contractor fails to provide the monthly report demonstrating compliance with the skilled and trained workforce requirements or provides an incomplete report, the district shall withhold further payments until a complete report is provided. If a report does not demonstrate compliance with the skilled and trained workforce requirements, the district shall withhold further payments until the contractor provides a sufficient plan to achieve substantial compliance with respect to the relevant apprenticeable occupation, prior to completion of the contract or project. In addition, the district shall forward to the Labor Commissioner a copy of the monthly report, any plan to achieve compliance, and the district's response to that plan. (Public Contract Code 2602)

Policy Reference UPDATE Service

Copyright 2023 by **California School Boards Association**, West Sacramento, California 95691
All rights reserved.

Policy Reference Disclaimer:

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

State

Ed. Code 17250.10-17250.55

[Ed Code 17250.60-17250.69](#)

Pub. Cont. Code 2600-2603

Description

Design-build contracts

[Alternative design-build contracts](#)

Skilled and trained workforce requirements

Management Resources

Website

Website

Website

Website

Description

CSBA District and County Office of Education Legal Services

California Association of School Business Officials

California Department of Education, School Facilities

CSBA

Cross References

Code

3311

3311

3312

7000

Description

Bids

Bids

Contracts

Concepts And Roles

7110	Facilities Master Plan
7140	Architectural And Engineering Services
7140	Architectural And Engineering Services

Policy 3312: Contracts

Status: DRAFT

Original Adopted Date: 11/01/2003 | **Last Revised Date:** 04/09/01/20152023 | **Last Reviewed Date:** 04/09/01/20152023

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

Some contracts are subject to certain specific legal requirements which, if not complied with, may render the contract void or unenforceable. For instance, when contracting for the purchase of equipment, materials, or supplies in excess of the current bid limit (~~\$92,600~~109,300 for 20192023), the district must seek competitive bids, pursuant to Public Contract Code 20111. See sections below titled "Contracts for Non-nutritious Foods or Beverages," "Contracts for Electronic Products and Services," "Contracts for Digital Storage and Maintenance of Student Records," and "Contracts for Personal Services" for specific requirements and/or restrictions related to those contracts. See AR 3311.3 - Design-Build Contracts for information about design-build contracts for public works projects in excess of \$1 million,000,000 and for alternative design-build projects in excess of \$5,000,000. The district should consult its 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.

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

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, Board members are prohibited from participating in decisions involving parties who have provided campaign contributions of more than \$250 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. 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 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.

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.

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. No contract shall prohibit a district employee from disparaging the goods or services of any contracting party.

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. Schools that do not participate in the National School Lunch or Breakfast program are required to comply with the nutritional standards in Education Code 49431-49431.7 and 5 CCR 15500-15501 and 15575-15578 from one-half hour before the school day to one-half hour after it. Schools that participate in the National School Lunch or Breakfast program must comply with the stricter of the nutritional standards in 7 CFR 210.11 and 220.12 and Education Code 49431-49431.7 between midnight before and one-half hour after the end of the school day.

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

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), and should be modified to reflect the specific internal controls developed by the district.

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

1. Procedures that produce accurate and reliable financial statements and, at the same time, safeguard the assets, financial resources, and integrity of every employee responsible for handling money or property. Control systems shall be systematically evaluated and revised to keep pace with the changing responsibilities of management.
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~~ 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** that Board 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 ~~for~~ 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 hearing~~**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, **or 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 accessible to the public and may not include a confidentiality clause that would prevent the district or a district school from making any part of the contract public. (Education Code 35182.5)

Contracts 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.

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

Contracts for Digital Storage and Maintenance of Student Records

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

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

The district may enter into or renew a contract with a third party for the purpose of providing services, including cloud-based services, for the digital storage, management, and retrieval of 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.); 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 paragraph above in the circumstances as listed below.

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

1. The contract is for new district functions and the Legislature has specifically mandated or authorized the performance of the work by independent contractors;
2. The services contracted are not available within the district, cannot be performed satisfactorily by district employees, or are of such a highly specialized or technical nature that the necessary expert knowledge, experience, and ability are not available through the district;
3. The services are incidental to a contract for the purchase or lease of real or personal property, including, but not be limited to, agreements to service or maintain office

equipment or computers that are leased or rented:

4. The district's policy, administrative, or legal goals and purposes cannot be accomplished through the utilization of persons selected pursuant to the regular or ordinary district hiring process:
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

Copyright 2023 by **California School Boards Association**, West Sacramento, California 95691

All rights reserved.

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
5 CCR 15500	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 200-262.4	Prohibition of discrimination
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 12990	Nondiscrimination and compliance employment programs

Gov. Code 53260	Contract provision re maximum cash settlement
Gov. Code 53262	Employment contracts
Gov. Code 84308	Campaign disclosure
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	Description
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
7 CFR 210.1-210.31	National School Lunch Program
7 CFR 220.1-220.21	National School Breakfast Program
Management Resources	Description
CSBA Publication	Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide, rev. 2005
CSBA Publication	Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide, rev. April 2006
Website	CSBA District and County Office of Education Legal Services
Website	CSBA
Website	California Association of School Business Officials

Cross References

Code	Description
0100	Philosophy
0200	Goals For The School District
0440	District Technology Plan

0440	District Technology Plan
1220	Citizen Advisory Committees
1220	Citizen Advisory Committees
1230	School-Connected Organizations
1230	School-Connected Organizations
1321	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 3460: Financial Reports And Accountability

Status: DRAFT

Original Adopted Date: 11/01/2004 | **Last Revised Date:** 12/09/01/20222023 | **Last Reviewed Date:** 12/09/01/20222023

CSBA NOTE: The following policy is optional and should be revised to reflect district practice.

The Governing Board is committed to ensuring public accountability and the fiscal health of the district. The Board shall adopt sound fiscal management policies and practices, oversee the district's financial condition, and continually evaluate whether the district's budget and financial operations support the district's goals for student achievement.

CSBA NOTE: The following optional paragraph sets the Governing Board's expectation that the district's financial reports will adhere to generally accepted financial and accounting standards. The Governmental Accounting Standards Board (GASB) is a nonprofit agency that establishes financial and accounting standards for state and local government agencies, including school districts. By using the California Department of Education's (CDE) standardized account code structure (SACS) software to develop financial reports, the district will be assured of complying with generally accepted accounting principles prescribed by GASB and meeting other state and federal reporting guidelines.

The Superintendent or designee shall ensure that district financial reports are prepared in accordance with law and in conformity with generally accepted accounting principles and financial reporting standards stipulated by the Governmental Accounting Standards Board and the California Department of Education (CDE). The Superintendent or designee shall establish a system of ongoing internal controls to ensure the reliability of financial reporting.

When required by law or as directed by the Board, the Superintendent or designee shall submit to the Board reports of the district's financial status, including, but not limited to, any report specified in this Board policy or accompanying administrative regulation. When submission of any such report to a local, state, and/or federal agency requires prior Board approval, the Superintendent or designee shall provide the report to the Board in sufficient time to enable the Board to carefully review the report without breaking any applicable submission deadline.

CSBA NOTE: The Fiscal Crisis and Management Assistance Team (FCMAT) is an independent entity ~~created~~ whose primary mission is to help districts identify, prevent, and resolve financial, operational, and data management challenges, including assisting districts to avert fiscal insolvency ~~and to provide,~~ providing districts with fiscal management assistance. ~~In August 2019, FCMAT revised the 15 identified predictors of fiscal distress common in districts needing state intervention,~~ and creating efficient organizational operations. According to FCMAT's, "Indicators of Risk or Potential Insolvency for K-12 Local Education Agencies," the indicators of risk or potential insolvency include, ~~but are not limited to,~~ conditions related to unreliable budget development, insufficient budget monitoring or updates, inadequate cash management, mismanaged collective bargaining agreements, increasing and/or unplanned contributions and transfers, continuing deficit spending, mismanaged employee benefits, ~~and~~ inattention to enrollment and attendance reporting, decreasing fund balance and reserve for economic uncertainty, ineffective internal controls and fraud prevention, breakdown in leadership and

communication, lack of multiyear planning, inattention to non-voter-approved debt and risk management, lack of position control, and other issues of concern.

In reviewing the district's budget (see AR 3100 - Budget), the County Superintendent of Schools is required by Education Code 42127 and 42127.6 to consider any studies, reports, evaluations, or audits of the district that contain evidence of fiscal distress based on the standards and criteria specified in Education Code 33127 or a finding that the district is in moderate or high risk of intervention based on the most common FCMAT indicators of a district needing intervention; see BP/AR 3100 - Budget. In the event of any such evidence or finding, or if the district is showing fiscal distress under state criteria and standards for budgets or interim reports, as specified in 5 CCR 15440-15451 and 15453-15464, the County Superintendent is required to investigate whether the district may be unable to meet the current year's or two subsequent fiscal years' financial obligations.

The Board shall regularly assess the district's financial position and communicate the results to the public, and shall use financial reports to determine the actions and budget amendments, if any, that are needed to ensure the district's financial stability. If district conditions predict fiscal distress or indicate that the district might not be able to meet its fiscal obligations, the Board and Superintendent or designee shall take action to resolve these conditions without delay. The Board shall work cooperatively with the County Superintendent of Schools to improve the district's fiscal health and may contract with an external individual or organization to provide the district with needed advice or fiscal management or training.

CSBA NOTE: When a district is fiscally insolvent and is considering applying to the state for an emergency apportionment that exceeds 200 percent of the recommended reserve for that district, Education Code 41326 requires the Board to first discuss the need for that apportionment at a regular or special meeting. At that meeting, the Board must is required to receive testimony from parents/guardians, exclusive representatives of employees of the district, and other community members. Any district that receives such an apportionment is subject to the conditions set forth in Education Code 41326, including assumption of all the Board's legal rights, duties, and powers by a state-appointed administrator, the County Superintendent, who is required to appoint, with concurrence from the Superintendent of Public Instruction (SPI) and President of the State Board of Education (SBE), or the President's designee, an administrator to exercise the authority.

If the district is facing fiscal insolvency, the Board may consider applying to the state for an emergency apportionment that exceeds 200 percent of the district's recommended reserve. Before applying for such emergency apportionment, the Board shall discuss, at a regular or special meeting, the need for an emergency apportionment and receive testimony regarding the apportionment from parents/guardians, the exclusive representatives of employees of the district, and other members of the community. (Education Code 41326)

Unaudited Actual Receipts and Expenditures

On or before September 15, the Board shall approve and file with the County Superintendent a statement of the district's unaudited actual receipts and expenditures for the preceding fiscal year. The Superintendent or designee shall prepare this statement using the state's standardized account code structure (SACS) as prescribed by the Superintendent of Public Instruction (SPI). (Education Code 42100)

Gann Appropriations Limit Resolution

On or before September 15, the Board shall, at a regular or special meeting, adopt a resolution identifying, pursuant to Government Code 7900-7914, the district's estimated appropriations limit for the current fiscal year and the actual appropriations limit for the preceding fiscal year. Documentation used to identify these limits shall be made available to the public on the day of the Board meeting. (Education Code 42132; Government Code 7910)

Interim Reports/Certification of Ability to Meet Fiscal Obligations

CSBA NOTE: Education Code 42130 requires that the district issue two interim reports, as described below, based on the criteria and standards for fiscal stability adopted by the ~~State Board of Education~~ (SBE) pursuant to Education Code 33127. These criteria and standards are delineated in 5 CCR 15453-15464. See the accompanying administrative regulation for further information about the contents of the interim reports.

Each fiscal year, the Superintendent or designee shall submit two interim reports to the Board. The first report shall cover the district's financial and budgetary status for the period ending October 31 and the second report shall cover the period ending January 31. These reports and supporting data shall be made available by the district for public review. (Education Code 42130)

Within 45 days after the close of the period reported, the Board shall approve the interim report and, on the basis of the interim report and any additional financial information known by the Board, shall certify in writing whether the district will be able to meet its fiscal obligations for the remainder of the fiscal year and, based on current forecasts, for the two subsequent fiscal years. The certification shall be classified as one of the following: (Education Code 42130, 42131)

1. 1. "Positive certification" indicating that the district will meet its financial obligations for the current fiscal year and two subsequent fiscal years
2. 2. "Qualified certification" indicating that the district may not meet its financial obligations for the current fiscal year or two subsequent fiscal years
3. 3. "Negative certification" indicating that the district will be unable to meet its financial obligations for the remainder of the fiscal year or the subsequent fiscal year

CSBA NOTE: Education Code 42130 and 42131 require that the interim report and certification be submitted to the County Superintendent in a format or on forms prescribed by the ~~Superintendent of Public Instruction (SPI)~~ SPI. CDE requires that these be reported using the SACS software. Pursuant to Education Code 42131, upon receiving the certification, the County Superintendent is required to send any qualified or negative certification, along with the interim report, to the State Controller and the SPI.

The Superintendent or designee shall submit a copy of each interim report and certification to the County Superintendent using the state's SACS software, as prescribed by the SPI. (Education Code 42130, 42131)

CSBA NOTE: Education Code 42131 gives the County Superintendent 75 days after the close of the reporting period to downgrade the district's positive certification to qualified or negative or a

qualified certification to negative. Districts may appeal the County Superintendent's determination to the SPI, who will then determine the certification to be given to the district.

If the district's certification is subsequently changed by the County Superintendent from a positive to a qualified or negative certification, or from a qualified to a negative certification, the Board may appeal the decision to the SPI within five days of receiving the notice of change. (Education Code 42131)

CSBA NOTE: Whenever the district receives a qualified or negative certification, Education Code 42131 requires the County Superintendent, within 75 days after the close of the reporting period, to submit comments on the certification to the State Controller and the SPI and report any remedial action proposed or taken under the authority granted by Education Code 42127.6. Pursuant to Education Code 42127.6, the County Superintendent is required to take one or more of the following actions: (1) assign a fiscal expert to advise the district on the financial problems; (2) conduct a study of the district's financial and budgetary conditions including, but not limited to, a review of internal controls; (3) direct the district to submit a financial projection of all fund and cash balances as of June 30 of the current year and subsequent fiscal years; (4) require the district to encumber all contracts and other obligations, prepare appropriate cash flow analyses and monthly or quarterly budget revisions, and appropriately record all receivables and payables; (5) direct the district to submit a proposal for addressing the fiscal conditions that caused the negative or qualified certification; (6) withhold Board stipend and Superintendent compensation if requested financial information is not provided; and/or (7) assign FCMAT to review and provide recommendations to improve the district's teacher hiring process, teacher retention rate, ~~extent of teacher misassignment~~, and percentage of provision of highly qualified teachers, and extent of teacher misassignment. Education Code 42131 also authorizes the State Controller to conduct an audit or review of the financial condition of any district having a negative or qualified certification.

Pursuant to Education Code 42652, a district that receives a qualified or negative certification also may lose the County Superintendent's or SPI's approval to draw warrants on the county treasury. Furthermore, pursuant to Education Code 42133, a district that receives a qualified or negative certification must have the County Superintendent's approval before issuing any certificates of participation, tax anticipation notes, revenue bonds, or other non-voter-approved debt (see the section "Non-Voter-Approved Debt Report" in the accompanying administrative regulation).

Whenever a district with a qualified or negative certification is negotiating a collective bargaining agreement, it must allow the County Superintendent 10 working days to review and comment on the proposed collective bargaining agreement pursuant to Government Code 3540.2; see BP 4143/4243 - Negotiations/Consultation.

Whenever the district receives a qualified or negative certification from the Board or the County Superintendent, the Superintendent or designee shall cooperate in the implementation of any remedial actions taken or prescribed by the County Superintendent. (Education Code 42131)

CSBA NOTE: Whenever the district's second interim report is accompanied by a qualified or negative certification, the district must submit another financial statement by June 1 as described below; this report is sometimes referred to as the "third interim report."

If the second interim report is accompanied by a qualified or negative certification, the Board shall, no later than June 1, provide to the County Superintendent, the State Controller, and the SPI a financial statement as of April 30 ("third interim report") that projects the district's fund and cash balances through June 30. (Education Code 42131)

CSBA NOTE: Education Code 42637 authorizes the County Superintendent, upon concluding at any time during the fiscal year, that the district's budget does not comply with criteria and standards for fiscal stability adopted by the SBE, to conduct a comprehensive review of the district's financial and budgetary conditions and, if such a review is conducted, requires the County Superintendent to report the findings to the Board at a public meeting. According to FCMAT's "Fiscal Oversight Guide," the County Superintendent must exercise this authority when the district receives a negative certification and is authorized to do so when the district receives a qualified certification. After receiving the report, the Board is required to respond to the recommendations within 15 days.

If at any time during the fiscal year, the County Superintendent concludes that the district's budget does not comply with the standards and criteria for financial stability and conducts a comprehensive review of the district's financial and budgetary conditions, the Board shall review any report of the County Superintendent's findings and recommendations at a public Board meeting. Within 15 days of receiving the report, the district shall notify the County Superintendent and the SPI of the Board's proposed actions on the recommendation. (Education Code 42637)

Audit Report

CSBA NOTE: Pursuant to Education Code 41020, the Board must, no later than May 1 of each year, arrange for an audit of all the district's funds. However, if the Board has not provided for an audit by April 1, the County Superintendent must do so at the district's cost. Thus, the paragraph below reflects the April 1 deadline.

Pursuant to Education Code 41020, any district contract for auditing services must be approved by the Board and the County Superintendent if the district has a disapproved budget, has received a negative certification on any budget or interim report during the current fiscal year or either of the two preceding fiscal years, or has otherwise been determined by the County Superintendent to have a lack of going concern.

By April 1 of each year, the Board shall provide for an annual audit of the district's books and accounts. (Education Code 41020)

CSBA NOTE: Education Code 41020 requires the Board to select an auditor from a directory of certified public accountants and public accountants deemed by the State Controller as qualified to conduct audits of local education agencies. The State Controller is required to publish this directory by December 31 of each year.

In addition, Education Code 41020.5 prohibits the Board from employing any accountant identified by the State Controller as ineligible based on failure of past audits to comply with provisions of the K-12 annual audit guide. The State Controller will annually notify districts of ineligible accountants by March 1.

To conduct the audit, the Board shall select a certified public accountant or public accountant licensed by the State Board of Accountancy from among those deemed qualified by the State Controller. (Education Code 41020, 41020.5)

CSBA NOTE: Education Code 41020 requires that districts rotate auditors as specified below. However, the district may request that the Education Audit Appeals Panel waive this requirement if no otherwise eligible auditor is available to perform the audit.

Except when, as determined by the Education Audits Appeal Panel, no otherwise eligible auditor is available, a public accounting firm whose lead or coordinating audit partner having primary responsibility for the audit or whose audit partner responsible for reviewing the audit has performed audit services for the district in each of the six previous fiscal years shall not be selected to perform a district audit. (Education Code 41020)

CSBA NOTE: Education Code 41020.3 requires the Board to review the audit report at an open meeting by January 31 of each year. However, Education Code 41020 requires that the audit report be filed with the County Superintendent, CDE, and State Controller no later than December 15. Thus, it is recommended that the Board conduct its review of the audit prior to December 15 whenever possible.

No later than December 15, the report of the audit for the preceding fiscal year shall be filed with the County Superintendent, the CDE, and the State Controller. (Education Code 41020)

Prior to December 15 whenever possible, but in no case later than January 31, the Board shall review, at an open meeting, the annual district audit for the prior year, any audit exceptions identified in that audit, the recommendations or findings of any management letter issued by the auditor, and any description of correction or plans to correct any exceptions or any issue raised in a management letter. (Education Code 41020.3)

The Board shall have an opportunity at the meeting to ask questions of the auditor and request further information about the audit findings.

Audit Committee

CSBA NOTE: The following optional section may be revised to reflect district practice. Although it is the responsibility of district staff to prepare financial statements and the responsibility of the independent auditor to assure that the information in the statements is reliable and fairly presented, establishment of an audit committee provides an additional mechanism to ensure fiscal responsibility, as well as providing an opportunity for community participation. Committees established by Board action are subject to the Brown Act; see BP/AR 1220 - Citizen Advisory Committees and BB 9130 - Board Committees.

The Board may appoint an audit committee composed of staff knowledgeable about fiscal matters, other staff, and representatives of the community.

The committee shall serve in an advisory capacity and may:

1. 1. Make recommendations regarding the selection of the external independent auditor in accordance with Education Code 41020 and 41020.5
2. 2. Review the plan for the audit process with the independent auditor to determine the adequacy of the nature, scope, and timetable of the audit
3. 3. Review the results of the audit and participate with the independent auditor and management in preparing final recommendations and responses

4. 4. Participate with the independent auditor in presenting the audit report to the Board
5. 5. Review Board policies and administrative regulations to recommend any revisions needed to ensure effective financial reporting
6. 6. Provide input on the effectiveness of the independent auditor
7. 7. Periodically report to the Board regarding the status of previous audit recommendations for improving the accounting and internal control systems

Policy Reference UPDATE Service

Copyright 2023 by **California School Boards Association**, West Sacramento, California 95691

All rights reserved.

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

2 CCR 1859.104

Description

Leroy F. Greene School Facilities Program; reporting requirements

5 CCR 15060

Standardized account code structure

5 CCR 15070

Submission of reports using standardized account code structure

5 CCR 15440-15451

Criteria and standards for school district budgets

5 CCR 15453-15464

Criteria and standards for school district interim reports

5 CCR 19810-19816 19826.1

Audits

Ed. Code 1240

County superintendent of schools; duties

Ed. Code 14500-14508

Financial and compliance audits

Ed. Code 17070.10-17079.30

Leroy F. Greene School Facilities Act

Ed. Code 17150-17150.1

Public disclosure of non-voter-approved debt

Ed. Code 17170-17199.56

California School Finance Authority

Ed. Code 33127

Standards and criteria for local budgets and expenditures

Ed. Code 33128

Standards and criteria; inclusions

Ed. Code 33129

Standards and criteria; use by local agencies

Ed. Code 35035

Powers and duties of the superintendent; transfer authority

Ed. Code 41010-41024	Accounting system and audits
Ed. Code 41326 <u>41320-41322</u>	Emergency apportionments
<u>Ed. Code 41325-41329</u>	<u>Conditions on emergency apportionments</u>
Ed. Code 41344	Repayment of apportionment significant audit exceptions
Ed. Code 41344.1	Appeals of audit findings
Ed. Code 41455	Examination of financial problems of local districts
Ed. Code 42100-42105	Requirement to prepare and file annual statement
Ed. Code 42122-42129	Budget requirements
Ed. Code 42130-42134	Financial reports and certifications
Ed. Code 42140-42142	Public disclosure of fiscal obligations
Ed. Code 42637	County superintendent review of district's financial and budgetary conditions
Ed. Code 42652	Revocation or suspension of warrant authority
Ed. Code 48300-48316	Student attendance alternatives; school district of choice program
Ed. Code 52060-52077	Local control and accountability plan
Gov. Code 16429.1	Local agency investment fund
Gov. Code 3540.2	Meeting and negotiating in public educational employment
Gov. Code 53646	Treasurer reports and statements of investment policy
Gov. Code 7900-7914	Appropriations limit
Federal	Description
2 CFR 200.0-200.521	Federal uniform grant guidance
31 USC 7501-7507	Single audits of federal program funds
Management Resources	Description
California Department of Education Communication	New Financial Reporting Requirements for Postemployment Benefits Other than Pensions, February 26, 2007
California Department of Education Communication	Audit Resolution Process: Repayment Plans, December 8, 2000
Fiscal Crisis & Management Assistance Team Pub.	Indicators of Risk or Potential Insolvency For K-12 Local Education Agencies
Fiscal Crisis & Management Assistance Team Pub.	Fiscal Oversight Guide for AB 1200, AB 2756, AB 1840 and Related Legislation, September 2021
Governmental Accounting Standards Board Statement	Statement 87, Leases, June 2017

Governmental Accounting Standards Board Statement	Statement 54, Fund Balance Reporting and Governmental Fund Type Definitions, March February 2009
Governmental Accounting Standards Board Statement	Statement 75, Accounting and Financial Reporting by Employers for Post-employment Benefits Other Than Pensions, June 2015
Governmental Accounting Standards Board Statement	Statement 34, Basic Financial Statements and Management's Discussion and Analysis - For State and Local Governments, June 1999
Education Audit Appeals Panel Publication	Guide for Annual Audits of K-12 Local Educational Agencies and State Compliance Reporting
Office of Attorney General Publication	Guidance Regarding Laws Governing School Closures and Best Practices for Implementation in California, April 2023
State Controller Publication	Standards and Procedures for Audits of California K-12 Local Educational Agencies
U.S. Gov. Accountability Office & PCIE Publication	Financial Audit Manual, revised 2008
U.S. Gov. Accountability Office & PCIE Publication	Government Auditing Standards, 2011
Website	CSBA District and County Office of Education Legal Services
Website	Governmental Accounting Standards Board
Website	California State Controller
Website	U.S. Government Accountability Office
Website	California County Superintendents Educational Services Association
Website	California Department of Education, Finance and Grants
Website	Education Audit Appeals Panel
Website	Fiscal Crisis and Management Assistance Team
Website	CSBA
Website	California Association of School Business Officials
Website	Office of Management and Budget
Website	School Services of California, Inc.

Cross References

Code	Description
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan

0500	Accountability
1220	Citizen Advisory Committees
1220	Citizen Advisory Committees
1340	Access To District Records
1340	Access To District Records
3000	Concepts And Roles
3100	Budget
3100	Budget
3110	Transfer Of Funds
3220.1	Lottery Funds
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
3290	Gifts, Grants And Bequests
3300	Expenditures And Purchases
3312	Contracts
3314	Payment For Goods And Services
3314	Payment For Goods And Services
3314.2	Revolving Funds
3400	Management Of District Assets/Accounts
3400	Management Of District Assets/Accounts
3430	Investing
3430	Investing
3451	Petty Cash Funds
3452	Student Activity Funds
3470	Debt Issuance And Management
3510	Green School Operations
3551	Food Service Operations/Cafeteria Fund
3551	Food Service Operations/Cafeteria Fund
3580	District Records

3580	District Records
4143	Negotiations/Consultation
4143.1	Public Notice - Personnel Negotiations
4143.1	Public Notice - Personnel Negotiations
4154	Health And Welfare Benefits
4154	Health And Welfare Benefits
4243	Negotiations/Consultation
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
4331	Staff Development
4354	Health And Welfare Benefits
4354	Health And Welfare Benefits
5117	Interdistrict Attendance
5117	Interdistrict Attendance
5126	Awards For Achievement
5126	Awards For Achievement
6117	Year-Round Schedules
7210	Facilities Financing
7212	Mello-Roos Districts
7214	General Obligation Bonds
7214	General Obligation Bonds
9000	Role Of The Board
9130	Board Committees
9140	Board Representatives
9322	Agenda/Meeting Materials

Policy 3551: Food Service Operations/Cafeteria Fund

Status: DRAFT

Original Adopted Date: 03/01/2018 | **Last Revised Date:** 06/09/01/2022 2023 | **Last Reviewed Date:** 06/09/01/2022 2023

CSBA NOTE: The following **conditionally mandated** policy may be revised to reflect district practice. Pursuant to U.S. Department of Agriculture's (USDA) Memorandum SP 46-2016, districts participating in the National School Lunch and/or Breakfast Program (42 USC 1751-1769j, 1773) are **mandated** to adopt policy addressing meal charges; see the section "Meal Sales" below and the accompanying administrative regulation. However, with the establishment of the California Universal Meal Program pursuant to Education Code 49501.5, as added by AB 130 (Ch. 44, Statutes of 2021), all public schools in California must provide free of charge, a nutritionally adequate breakfast and lunch to any student who requests a meal, regardless of the student's free or reduced-price meal eligibility status. ~~Consequently, certain program requirements may no longer be applicable.~~ Consequently, certain program requirements may no longer be applicable. For example, the California Department of Education (CDE) which, by law, provides guidance and oversight on the use of federal funding in nutrition programs, clarifies in Nutrition Services Division Management Bulletin SNP-04-2023 that districts that operate a non-pricing program such as the California Universal Meals Program, the Community Eligibility Program, or Provision 2 at all sites are not required to establish a meal charge policy because no students are charged for meals.

In view of the potential conflict between the federal requirement and CDE guidance, it is recommended that districts adopt this policy and accompanying administrative regulation which addresses meal charges, even if the district operates a non-pricing program such as the California Universal Meals Program. Districts with questions about meal charge policies should consult CSBA's District and County Offices of Education or district legal counsel.

Pursuant to 7 CFR 210.9, 210.14, and 220.7, districts participating in the National School Lunch and/or Breakfast program must maintain a nonprofit school food service program. Revenues received through the program may be used for the operation or improvement of the food service program, but not to purchase land or buildings unless otherwise approved by USDA's Food and Nutrition Services, or to construct buildings. Authorized expenditures are specified in Education Code 38101 and defined in the California Department of Education's (CDE) CDE's, "California School Accounting Manual."

The Governing Board intends that school food services shall be a self-supporting, nonprofit program. To ensure program quality and cost effectiveness, the Superintendent or designee shall centralize and direct the purchasing of foods and supplies, the planning of menus, and the auditing of all food service accounts for the district.

CSBA NOTE: The following paragraph is for use by districts that participate in the National School Lunch and/or Breakfast Program and may be adapted for use by other districts. Pursuant to 42 USC 1776 and 7 CFR 210.30, USDA has established minimum professional standards for food service directors and granted CDE the authority to adopt more flexible standards for districts with average daily attendance of less than 2,500. See CDE's Nutrition Services Division Management Bulletin SNP-13-2020 for updated information about state hiring standards.

The Superintendent or designee shall ensure that food service director(s) possess the qualifications required by 7 CFR 210.30 and California Department of Education (CDE) standards.

CSBA NOTE: The following paragraph is for use by districts participating in the National School Lunch and/or Breakfast Program. Pursuant to 42 USC 1776, such districts must ensure that food service personnel and other appropriate personnel who conduct or oversee administrative procedures receive training, at least once each year, on food service administrative practices (i.e., training in application, certification, verification, meal counting, and meal claiming procedures). In addition, all food service personnel are required to receive annual training that is designed to improve the accuracy of approvals for free and reduced-price meals and the identification of reimbursable meals at the point of service and to ensure program compliance and integrity. Food service personnel must obtain certification on an annual basis to demonstrate competence in the training. Such training is required to include modules on nutrition, health and food safety standards and methodologies, and any other appropriate topics as determined by the U.S. Secretary of Agriculture. See CDE's ~~web site~~ [website](#) for online training that meets these requirements.

At least once each year, food service administrators, other appropriate personnel who conduct or oversee administrative procedures, and other food service personnel shall receive training provided by CDE. (42 USC 1776)

Meal Sales

CSBA NOTE: ~~Commencing~~ [In accordance with the 2022-23 school year, Education Code 49501.5](#), each district is required; pursuant to Education Code 49501.5, as added by AB 130, to provide a nutritionally adequate breakfast and lunch free of charge, to any student who requests a meal, regardless of the student's eligibility for participation in the federal free or reduced-price meal program. Consequently, only nonprogram foods may be sold to students. For further information, see BP 3553 - Free and Reduced Price Meals.

[Pursuant to Education Code 49495, as added by AB 558 \(Ch. 905, Statutes of 2022\), CDE has developed guidance, "Breakfast and Snacks for Nonschoolaged Children," available on its website, which provides information on the allowability and options for offering nonschoolaged children breakfast or a morning snack at a school site.](#)

Any student who requests a meal shall be served a nutritionally adequate breakfast and lunch free of charge, each school day. (Education Code 49501.5)

As permitted by law, additional or second meals, adult meals, and other nonprogram foods, such as smart snack compliant food and beverages sold in vending machines, may be sold to students. (Education Code 38082, 49501.5)

Meals may be sold to district employees, Board members, and employees or members of the fund or association maintaining the cafeteria. (Education Code 38082)

CSBA NOTE: Pursuant to Education Code 38082, the Governing Board is authorized to adopt a resolution to permit the serving of meals to individuals and organizations other than those specified in the preceding paragraph. CDE's Nutrition Services Division Management Bulletin SNP-04-2021 states that funds from the National School Lunch or Breakfast Program may not be used to serve any nonstudent; [that the price of an adult meal must fully cover all costs incurred in the production of the meal, including USDA Food fair market value, and that the common practice of 50 cent markup method to price adult meals may not be in compliance with USDA FNS instruction.](#) The following optional paragraph is for districts that have adopted such a resolution and should be revised to reflect district practice.

In addition, meals may be sold to nonstudents, including parents/guardians, volunteers, students' siblings, or other individuals, who are authorized by the Superintendent or designee to be on

campus. Any meals served to nonstudents shall not be subsidized by federal or state reimbursements, food service revenues, or U.S. Department of Agriculture (USDA) foods.

CSBA NOTE: Pursuant to Education Code 38084, the district may determine meal prices consistent with the goal of paying the costs of maintaining the cafeterias (exclusive of the costs of housing and equipping cafeterias or other costs determined by Board resolution, which are paid from district funds other than the cafeteria fund, pursuant to Education Code 38100).

Meal prices, as recommended by the Superintendent or designee and approved by the Board, shall be based on the costs of providing food services and consistent with Education Code 38084 and 42 USC 1760.

CSBA NOTE: Pursuant to USDA Memorandum SP 46-2016, districts participating in the National School Lunch and/or Breakfast Program are **mandated** to have a written and clearly communicated meal charge policy. See the accompanying administrative regulation for additional language fulfilling this mandate.

The Superintendent or designee shall establish strategies and procedures for the collection of meal payments. Such procedures shall conform with 2 CFR 200.426 and any applicable CDE guidance. The Superintendent or designee shall clearly communicate these procedures to students and parents/guardians, and shall make this policy and the accompanying administrative regulation available to the public pursuant to Education Code 49557.5.

Cafeteria Fund and Account

CSBA NOTE: Pursuant to Education Code 38090, money received for the sale of food or for any services performed by the cafeterias may be paid into the county treasury to the credit of a "cafeteria fund" for the district.

The Superintendent or designee shall establish a cafeteria fund independent of the district's general fund.

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. 2 CFR Part 200, Appendix VII and ~~USDA's guidance, "Indirect Costs: Guidance for State Agencies and School Food Authorities,"~~ USDA Memorandum SP60-2016 provide information regarding allowable indirect costs that may be charged to the nonprofit school food service account. Also see the accompanying administrative regulation.

The Superintendent or designee shall ensure that state and federal funds provided through school meal programs are allocated only for purposes related to the operation or improvement of food services and for reasonable and necessary indirect program costs as allowed by law.

CSBA NOTE: Education Code 38103 allows the Board, at its discretion and with the approval of the County Superintendent of Schools who is responsible for a countywide payroll/retirement system under Education Code 42646, to have wages, salaries, and benefits of food service employees paid either from the district's general fund (Option 1 below) or from the district's cafeteria fund (Option 2).

OPTION 1: ~~(Food service employees paid from general fund)~~

~~The wages, salaries, and benefits of food service employees shall be paid from the district's general fund. At any time, the Board may order reimbursement from the district's cafeteria fund for these payments in amounts prescribed by the Board and not exceeding the costs actually incurred. (Education Code 38103)~~

OPTION 1 ENDS HERE

OPTION 2: (Food service employees paid from cafeteria fund)

The wages, salaries, and benefits of food service employees shall be paid from the cafeteria fund. (Education Code 38103)

OPTION 2 ENDS HERE

Contracts with Outside Services

CSBA NOTE: The following section is optional. Pursuant to Education Code 45103.5, the district is authorized to contract for consulting services related to food service management. Education Code 45103.5, 42 USC 1758, and 7 CFR 210.16 authorize a district, under specified conditions, and with approval of CDE, to contract with a food service management company to manage food service operations in any district school. See the accompanying administrative regulation for related requirements.

With Board approval, the district may enter into a contract for food service consulting services or management services in one or more district schools. (Education Code 45103.5; 42 USC 1758; 7 CFR 210.16)

Procurement of Foods, Equipment and Supplies

CSBA NOTE: The following two paragraphs reflect requirements for districts participating in the National School Lunch and/or Breakfast Program.

Pursuant to 7 CFR 210.21, districts are required to comply with all requirements for purchasing commercial food products served in the school meal programs, including those outlined in the Buy American provision. USDA's Memorandum SP 38-2017 clarifies that a district participating in the National School Lunch and/or Breakfast Program or any entity purchasing food on its behalf must, to the maximum extent practicable, purchase domestically grown and processed foods, as defined. According to the Memorandum, a domestic commodity or product is deemed to be "substantially using" domestic agricultural commodities when over 51 percent of the final processed product consists of agricultural commodities produced in the United States. Districts should include a Buy American clause in all product specifications, solicitations, purchase orders, and any other procurement documents to ensure contractors are aware of this requirement.

Limited exceptions to the Buy American requirement are described in USDA's Memorandum SP 38-2017. If the district is using one of these exceptions, it must maintain documentation justifying the exception(s).

Pursuant to Education Code 49563, CDE is required to make resources, requirements, and best practices related to the Buy American provision has made information available on its web site and to provide districts with related USDA guidance or regulations as updates are issued. website; see the, "Buy American Provision," section in, "Procurement in the CNPs Frequently Asked Questions".

To the maximum extent practicable, foods purchased for use in school meals by the district or by any entity purchasing food on its behalf shall be domestic commodities or products. Domestic commodity or product means an agricultural commodity that is produced in the United States and a food product that is processed in the United States substantially using agricultural commodities that are produced in the United States. (42 USC 1760; 7 CFR 210.21)

CSBA NOTE: Pursuant to Food and Agriculture Code 58596.3, as added by SB 490 (Ch. 602, Statutes of 2022), commencing on January 1, 2024, districts participating in the National School Lunch and/or Breakfast Program, except those with annual reimbursement of less than \$1,000,000, are also required to comply with the requirements specified in the following paragraph.

When soliciting for bids and contracts for the purchase of an agricultural food product, the district shall specify in the solicitation that only the purchase of agricultural food products grown, packed, or processed domestically is authorized, unless a specific exception applies. A nondomestic food product may be purchased for use in the district's food service program only as a last resort when the product is not produced or manufactured in the United States in sufficient and reasonably available quantities of a satisfactory quality, ~~or when competitive bids reveal the costs~~ quality of a ~~United States~~ the domestic product are significantly higher than is inferior to the quality of the nondomestic product, or the bid or price of the nondomestic product is more than 25 percent lower than the bid or price of the domestic product. In such cases, the Superintendent or designee shall retain documentation justifying the use of the exception:

~~Furthermore,~~ for three years from the date of purchase. (Food and Agriculture Code 58596.3)

CSBA NOTE: The following paragraph applies to all districts, whether or not they participate in the National School Lunch or Breakfast Program. Food and Agriculture Code 58595, as amended by AB 778 (Ch. 576, Statutes of 2022), requires a district shall to accept a bid or price for an agricultural food product grown in California before accepting a bid or price for an a domestic agricultural food product that is grown outside the state, when the conditions specified below are met.]

Furthermore, the district shall accept a bid or price for an agricultural food product grown in California before accepting a bid or price for a domestic agricultural food product that is grown outside the state, if the quality of the California-grown product is comparable and the bid or price does not exceed the lowest bid or price of ~~a~~ for domestic product produced outside the state. (Food and Agriculture Code 58595)

CSBA NOTE: Pursuant to Public Contract Code 20111, districts participating in a federally funded child nutrition program, such as the National School Lunch and/or Breakfast Program, must comply with the federal procurement standards of 2 CFR 200.318-200.326 in regard to bid solicitations and awards. Also see BP/AR 3230 - Federal Grant Funds. Districts that do not participate in such a program may revise the following paragraph.

Bid solicitations and awards for purchases of equipment, materials, or supplies in support of the district's child nutrition program, or for contracts awarded pursuant to Public Contract Code 2000, shall be consistent with the federal procurement standards in 2 CFR 200.318-200.326. Awards shall be let to the most responsive and responsible party. Price shall be the primary consideration, but not the only determining factor, in making such an award. (Public Contract Code 20111)

Program Monitoring and Evaluation

The Superintendent or designee shall present to the Board, at least annually, financial reports regarding revenues and expenditures related to the food service program.

CSBA NOTE: The following paragraph is for use by districts that have one or more schools participating in the National School Lunch Program, School Breakfast Program, Seamless Summer Feeding Option, and/or other federal meal program. The state monitoring process (the Administrative Review) includes a review of district compliance with requirements for federal meal programs, including a review of resource management in the food service program as provided in

the following paragraph. The CDE performs an ~~Administrative Review~~[administrative review](#) of participating districts every three years. See CDE's nutrition services ~~web site~~[website](#) for a current list of documents that may be requested for the review.

The Superintendent or designee shall provide all necessary documentation required for the Administrative Review conducted by CDE to ensure compliance of the district's food service program with federal requirements.

Policy Reference UPDATE Service
 Copyright 2023 by **California School Boards Association**, West Sacramento, California 95691
 All rights reserved.

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
5 CCR 15550-15565	School lunch and breakfast programs
12 CCR 18928-18998.4	Short-lived climate pollutants
Ed. Code 38080-38086	School meals
Ed. Code 38090-38095	Cafeterias; funds and accounts
Ed. Code 38100-38103	Cafeterias; allocation of charges
Ed. Code 42646	Alternate payroll procedure
Ed. Code 45103.5	Contracts for management consulting services; restrictions
Ed. Code 49490-49494	School breakfast and lunch programs
Ed. Code 49500-49505	School meals
Ed. Code 49550-49564.5	Meals for needy students
Ed. Code 49554	Contract for services
Ed. Code 49580-49581	Food recovery program
F&A Code 58595	Preference for California-grown agricultural products
F&A Code 58596.1-58596.5	Buy American Food Act; purchase of nondomestic agricultural food products
H&S Code 113700-114437	California Retail Food Code; sanitation and safety requirements
Pub. Cont. Code 2000-2002	Responsive bidders
Pub. Cont. Code 20111	Contracts over \$50,000; contracts for construction; award to lowest responsible bidder
Pub. Cont. Code 3410	U.S. produce and processed foods
Federal	Description

2 CFR 200	Appendix VII Indirect cost proposals
2 CFR 200.318-200.326	Procurement standards
2 CFR 200.400-200.475	Cost principles
2 CFR 200.56	Indirect costs; definition
42 USC 1751-1769j	School Lunch Program
42 USC 1771-1793	Child Nutrition Act
42 USC 1773	School Breakfast Program
7 CFR 210.1-210.31	National School Lunch Program
7 CFR 210.1-210.33	National School Lunch Program
7 CFR 220.1-220.21	National School Breakfast Program
7 CFR 220.1-220.22	National School Breakfast Program
7 CFR 245.8	Nondiscrimination practices for students eligible for free and reduced price meal and free milk
7 CFR 250.1-250.70	USDA foods
Management Resources	Description
CA Department of Education Publication	California School Accounting Manual (https://www.cde.ca.gov/fg/ac/sa/)
California Department of Education Publication	Pricing of Adult Meals in the National School Lunch and School Breakfast Programs, NSD Management Bulletin, SNP-04-2021, August 2021 (https://www.cde.ca.gov/ls/nu/sn/mbsnp042021.asp)
California Department of Education Publication	Procuring and Monitoring of Food Service Management Contracts, NSD Management Bulletin, SNP-13-2015, January 2015 (https://www.cde.ca.gov/ls/nu/sn/mbsnp132015.asp)
California Department of Education Publication	Cafeteria Funds— — Allowable Uses, NSD Management Bulletin, NSD -SNP-05-2020, February 2020 (https://www.cde.ca.gov/ls/nu/sn/mbsnp052020.asp)
<u>California Department of Education Publication</u>	<u>Excess Net Cash Resources – Revised to Increase Limitation, NSD Management Bulletin, SNP-04-2022, May 2022</u> (https://www.cde.ca.gov/ls/nu/sn/mbsnp042022.asp)
<u>California Department of Education Publication</u>	<u>Unpaid Meal Charges: Local Meal Charge Policies, Clarification on Collection of Delinquent Meal Payments, and Excess Student Account Balances, NSD Management Bulletin, SNP-04-2023, July 2023</u> (https://www.cde.ca.gov/ls/nu/sn/mbsnp042023.asp)
<u>California Department of Education Publication</u>	<u>Food Service Management Company Contract Preapproval, NSD Management Bulletin, SNP-05-2023, March 2023</u> (https://www.cde.ca.gov/ls/nu/sn/mbsnp052523.asp)

California Department of Education Social Services Publication	Food Distribution Program Administrative Manual (https://www.cdss.ca.gov/cacfp/resources/cacfp-administrative-manual)
California Department of Education Publication	Storage and Inventory Management of U.S. Department of Agriculture Foods, NSD Management Bulletin, FDP-01-2018, January 2018 (https://www.cde.ca.gov/ls/nu/fd/mbfdp012018.asp)
U.S. Department of Agriculture Publication	Procuring Local Foods for Child Nutrition Programs, January 2022 (https://www.fns.usda.gov/f2s/procuring-local-foods)
U.S. Department of Agriculture Publication	Indirect Costs: Guidance for State Agencies and School Food Authorities, SP 60-2016, September 2016 (https://www.fns.usda.gov/cn/indirect-cost-guidance)
U.S. Department of Agriculture Publication	Buy American and the Agriculture Improvement Act of 2018, SP-32-2019, August 2019 (https://www.fns.usda.gov/cn/buy-american-and-agriculture-improvement-act)
U.S. Department of Agriculture Publication	Compliance with and Enforcement of the Buy American Provision in the National School Lunch Program, SP-38-2017, June 2017 (https://www.fns.usda.gov/nslp/compliance-enforcement-buy-american)
U.S. Department of Agriculture Publication	Discretionary Elimination of Reduced Price Charges in the School Meal Programs, SP 17-2014, January 2014 (https://www.fns.usda.gov/cn/discretionary-elimination-reduced-price-charges-school-meal-programs)
U.S. Department of Agriculture Publication	Unpaid Meal Charges: Local Meal Charge Policies, SP-46-2016, July 2016 (https://www.fns.usda.gov/cn/unpaid-meal-charges-local-meal-charge-policies)
U.S. Dept of Agriculture Publication	School Meals — FAQs (https://www.fns.usda.gov/cn/school-meals-faqs)
Website	CSBA District and County Office of Education Legal Services
Website	U.S. Department of Agriculture, Food and Nutrition Service
Website	California Department of Education, Nutrition Services Division
Website	California Department of Education, Accounting (https://www.cde.ca.gov/fg/ac/)
Website	CalRecycle, Resources for Local Education Agencies: K-12 Public Schools and School Districts (https://calrecycle.ca.gov/organics/slcp/schools/)
Website	California School Nutrition Association

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
3100	Budget
3100	Budget
3110	Transfer Of Funds
3230	Federal Grant Funds
3230	Federal Grant Funds
3260	Fees And Charges
3260	Fees And Charges
3300	Expenditures And Purchases
3311	Bids
3311	Bids
3312	Contracts
3314.2	Revolving Funds
3400	Management Of District Assets/Accounts
3400	Management Of District Assets/Accounts
3460	Financial Reports And Accountability
3460	Financial Reports And Accountability
3510	Green School Operations
3511	Energy And Water Management
3511	Energy And Water Management
3512	Equipment
3512-E(1)	Equipment
3515.6	Criminal Background Checks For Contractors
3550	Food Service/Child Nutrition Program
3550	Food Service/Child Nutrition Program
3552	Summer Meal Program
3552	Summer Meal Program
3553	Free And Reduced Price Meals
3553	Free And Reduced Price Meals

3554	Other Food Sales
3554	Other Food Sales
3555	Nutrition Program Compliance
3555-E(1)	Nutrition Program Compliance
3580	District Records
3580	District Records
4112.4	Health Examinations
4212	Appointment And Conditions Of Employment
4212.4	Health Examinations
4231	Staff Development
4312.4	Health Examinations
4331	Staff Development
5030	Student Wellness
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications

Regulation 3551: Food Service Operations/Cafeteria Fund

Status: DRAFT

Original Adopted Date: 03/01/2018 | **Last Revised Date:** 06/09/01/20222023 | **Last Reviewed Date:** 06/09/01/20222023

CSBA NOTE: With the establishment of the California Universal Meal Program pursuant to Education Code 49501.5, as added by AB 130 (Ch. 44, Statutes of 2021), all public schools in California must provide free of charge, a nutritionally adequate breakfast and lunch to any student who requests a meal, regardless of the student's free or reduced-price meal eligibility status. To receive state reimbursement for the two meals, districts must participate in both the National School Lunch Program and the School Breakfast Program and comply with the requirement to have a written and clearly communicated meal charge policy as **mandated** pursuant to U.S. Department of Agriculture's (USDA) Memorandum SP 46-2016. However, some requirements of the National School Lunch Program and/or School Breakfast Program are no longer applicable.

The California Department of Education's (CDE) Nutrition Services Division Management Bulletin SNP-04-2023 clarifies that districts that operate a non-pricing program such as the California Universal Meals Program, the Community Eligibility Program, or Provision 2 at all sites are not required to establish a meal charge policy because no students are charged for meals. However, if any school in the district charges for meals because it does not only operate a non-pricing program at all sites, the district is mandated to adopt and communicate a meal charge policy.

In view of the potential conflict between the federal requirement and CDE guidance, it is recommended that districts adopt this administrative regulation and accompanying Board policy which addresses meal charges, even if the district operates a non-pricing program such as the California Universal Meals Program. Districts with questions about meal charge policies should consult CSBA's District and County Offices of Education or district legal counsel.

The district may revise the following paragraphs accordingly.

Payments for Meals

The Superintendent or designee shall maintain a system for accurately recording payments received and tracking meals provided to each student.

At the beginning of the school year, the Superintendent or designee shall communicate the district's meal payment policies through multiple methods, including, but not limited to:

1. Explaining the meal charge policy within registration materials provided to parents/guardians at the start of the school year
2. Including the policy in print versions of student handbooks, if provided to parents/guardians annually
3. Providing the policy whenever parents/guardians are notified regarding the application process for free and reduced-price meals, such as in the distribution of eligibility forms at the start of the school year
4. Posting the policy on the district's ~~web site~~ website

Reimbursement Claims

CSBA NOTE: To streamline administration of state and federal meal programs, the California Department of Education (CDE) **CSBA NOTE: Pursuant to Education Code 49501.5, as amended by SB 114 (Ch. 48, Statutes of 2023), CDE is required to provide state meal reimbursement to districts that participate in, and meet the requirements of, the federal School Breakfast Program and National School Lunch Program, and any applicable state laws or regulations, for reduced-price and paid meals served to students. For additional information on California's Universal Meals Program, see BP/AR 3550 – Food Service/Child Nutrition Program and BP/AR 3553 – Free and Reduced Price Meals.**

To streamline administration of state and federal meal programs, CDE has developed an online Child Nutrition Information and Payment System which must be used to submit reimbursement claims and to submit and track the status of applications and USDA food requests.

The Superintendent or designee shall maintain records of the number of meals served each day by school site and by category of free and reduced-price meals. The Superintendent or designee shall submit reimbursement claims for school meals to the California Department of Education (CDE) using the online Child Nutrition Information and Payment System.

Donation of Leftover Food

~~To~~The District shall take steps to minimize food waste and reduce food insecurity; in district schools. (Health and Safety Code 114079)

CSBA NOTE: Beginning January 1, 2024, districts with an on-site food facility, such as a school cafeteria, are required to donate edible food that would otherwise be thrown away to a food recovery organization, unless the district demonstrates the existence of extraordinary circumstances beyond its control that makes such compliance impracticable. Additionally, pursuant to 14 CCR 18995.1 and 18995.4, beginning January 1, 2024, districts with an on-site food facility will be inspected by the governmental entity that provides solid waste collection services regarding its edible food recovery program and may be issued a Notice of Violation for noncompliance. If a Notice of Violation is issued, compliance is required within 60 days, unless extended by the enforcing agency because compliance is impracticable due to extenuating circumstances, as specified in 14 CCR 18991.3. For more information regarding organic waste reduction requirements, including a model edible food recovery agreement, see CalRecycle's, "Resources for Local Education Agencies: K-12 Public Schools and School Districts," available on its website. Also see BP/AR 3511.1 -- Integrated Waste Management for additional requirements related to waste diversion and recovery.

The Superintendent or designee shall arrange to recover the maximum amount of edible food that would otherwise be disposed for donation to a local food recovery organization. (14 CCR 18991.3)

The district may also provide sharing tables where students and staff may return appropriate unused cafeteria food items to be made available to students during the course of a regular school meal time. If food on the sharing tables is not taken by a student, the school cafeteria may donate the food to a food bank or any other nonprofit charitable organization. (Health and Safety Code 114079)

Food that may be donated includes prepackaged, nonpotentially hazardous food with the packaging still intact and in good condition, whole uncut produce that complies with Health and Safety Code 113992, unopened bags of sliced fruit, unopened containers of milk that are immediately stored in a

cooling bin maintained at 41 degrees Fahrenheit or below, and perishable prepackaged food if it is placed in a proper temperature-controlled environment. The preparation, safety, and donation of food shall be consistent with Health and Safety Code 113980. (Health and Safety Code 114079)

The Superintendent or designee shall maintain records related to edible food recovery including a list of each food recovery service or organization that collects or receives the district's edible food, contact information for the service or organization, the types of food, frequency, and quantity that will be collected or hauled by the district, and a copy of contracts or written agreements between the district and food recovery services or organizations. (14 CCR 18991.4)

Cafeteria Fund and Account

CSBA NOTE: Education Code 38093 authorizes the Governing Board to establish one or more cafeteria revolving accounts to be treated as revolving cash accounts of the cafeteria fund.

All proceeds from food sales and other services offered by the cafeteria shall be deposited in the cafeteria fund as provided by law. (Education Code 38090, 38093)

CSBA NOTE: Education Code 38101 permits a district, with approval from CDE, to utilize cafeteria funds to pay for the purchase of a mobile food facility. However, if the district uses federal reimbursements from any of the federal child nutrition programs for such purchase, the mobile food facility shall only be used to support the administration of those federal programs. Mobile food facilities used for any purposes other than to support the administration of federal child nutrition programs shall not be purchased with cafeteria funds.

The cafeteria fund shall be used only for those expenditures authorized by the Governing Board as necessary for the operation of school cafeterias in accordance with Education Code 38100-38103, 2 CFR Part 200 Appendix VII, and the California School Accounting Manual.

CSBA NOTE: The following paragraph is optional. By law, cafeteria funds may be used for the operation and improvement of school food services. For example, pursuant to Education Code 49550.5, districts may use cafeteria funds to supplement the cost of providing universal breakfast provided they submit the required certification to CDE.

The district may use cafeteria funds to supplement the provision of a nutritionally adequate breakfast and/or lunch to district students when permitted by law.

Any charges to, or transfers from, a food service program shall be dated and accompanied by a written explanation of the purpose of and basis for the expenditure. (Education Code 38101)

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. 2 CFR Part 200 Appendix VII and USDA's guidance, "SP 60-2016," and CDE's website, "[Frequently Asked Questions about Indirect Costs: Guidance for State Agencies and School Food Authorities](#)," provide information regarding allowable indirect costs that may be charged to the nonprofit school food service account. Indirect costs are those that are incurred for the benefit of multiple programs or objectives and typically support administrative overhead functions (e.g., accounting, payroll, purchasing, utilities, janitorial services). Each program or objective that benefits from the indirect cost bears a commensurate portion of the cost. Costs may be charged to the nonprofit food service account only if properly documented.

Indirect costs charged to the food service program shall be based on either the district's prior year indirect cost rate as approved by CDE or the statewide average approved indirect cost rate for the second prior fiscal year, whichever is less. (Education Code 38101)

CSBA NOTE: Pursuant to 7 CFR 210.14 and 220.7, net cash resources (i.e., all monies that have accrued to the nonprofit school food service at any given time, less cash payable) should not

exceed three months' average expenditures- or such other amount as may be approved by CDE. If there is a surplus, then according to USDA's guidance, "Indirect Costs: Guidance for State Agencies and School Food Authorities," the district must lower the price of paid lunches, improve food quality, or make other improvements to school meal operations. CDE's Nutrition Services Division Management Bulletin ~~NSD-SNP-07-2013~~ provides 04-2022 states that in an effort to provide flexibility to districts affected by various natural disasters and recovery from the COVID-19 pandemic, CDE may approve a district's has increased the excess net cash resources in an amount greater than three months' limitation to six months' average operating expenditures if the district has a spending plan for the excess funds in place with the Nutrition Services Division.

Net cash resources in the nonprofit school food service shall not exceed ~~three~~six months' average expenditures. (7 CFR 210.14, 220.7)

U.S. Department of Agriculture Foods

CSBA NOTE: The following optional section is for use by districts that participate in the National School Lunch Program and receive foods from USDA pursuant to 42 USC 1755 and 7 CFR 250.1-250.70. CDE is responsible for ordering and distributing USDA foods for use in California schools.

The district shall provide facilities for the storage and control of foods received through the U.S. Department of Agriculture (USDA) that protect against theft, spoilage, damage, or other loss. Such storage facilities shall maintain donated foods in sanitary conditions, at the proper temperature and humidity, and with adequate air circulation. The district shall comply with all federal, state, or local requirements related to food safety and health and procedures for responding to a food recall, as applicable, and shall obtain all required health inspections. (7 CFR 250.14)

The Superintendent or designee shall maintain inventories of USDA foods in accordance with 7 CFR 250.59 and CDE procedures, and shall ensure that foods are used before their expiration dates.

USDA donated foods shall be used in school lunches as far as practicable. USDA foods also may be used in other nonprofit food service activities, including, but not limited to, school breakfasts or other meals, a la carte foods sold to students, meals served to adults directly involved in the operation and administration of the food service and to other school staff, and training in nutrition, health, food service, or general home economics instruction for students, provided that any revenues from such activities accrue to the district's nonprofit food service account. (7 CFR 250.59)

Contracts with Outside Services

CSBA NOTE: The following optional section is for use by districts that contract for food service management services pursuant to Education Code 49554, 42 USC 1758, or 7 CFR 210.16 or consulting services pursuant to Education Code 45103.5, and should be modified to reflect the type(s) of contracts the district maintains; see the accompanying Board policy.

Pursuant to CDE's Nutrition Services Division Management Bulletin SNP-05-2023, a district that participates in the School Nutrition Programs must obtain prior CDE approval for all food service management company Request for Proposals, Invitation for Bids, proposed contracts, contracts, and contract amendments. Districts currently using, or planning to use, the services of a food service management company must conduct a competitive procurement process. CDE suggests districts submit their bid solicitation documents in January, or at least 120 days prior to the anticipated contract execution date, whichever comes first. See AR 3311 – Bids for additional information on bidding requirements.

The term of any contract for food service management or consulting services shall not exceed one year. Any renewal of the contract or further requests for proposals to provide such services shall be considered on a year-to-year basis. (Education Code 45103.5; 7 CFR 210.16)

Any contract for management of the food service operation shall be approved by CDE and comply with the conditions in Education Code 49554 and 7 CFR 210.16 as applicable. The district shall retain control of the quality, extent, and general nature of its food services. (Education Code 49554; 42 USC 1758; 7 CFR 210.16)

Any contract for consulting services shall not result in the supervision of food service classified staff by the management consultant, nor shall it result in the elimination of any food service classified staff or position or have any adverse effect on the wages, benefits, or other terms and conditions of employment of classified food service staff or positions. All persons providing consulting services shall be subject to applicable employment conditions related to health and safety as listed in Education Code 45103.5. (Education Code 45103.5)

Policy Reference UPDATE Service

Copyright 2023 by **California School Boards Association**, West Sacramento, California 95691
All rights reserved.

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
5 CCR 15550-15565	School lunch and breakfast programs
<u>12 CCR 18928-18998.4</u>	<u>Short-lived climate pollutants</u>
Ed. Code 38080-38086	School meals
Ed. Code 38090-38095	Cafeterias; funds and accounts
Ed. Code 38100-38103	Cafeterias; allocation of charges
Ed. Code 42646	Alternate payroll procedure
Ed. Code 45103.5	Contracts for management consulting services; restrictions
Ed. Code 49490-49494	School breakfast and lunch programs
Ed. Code 49500-49505	School meals
Ed. Code 49550-49564.5	Meals for needy students
Ed. Code 49554	Contract for services
Ed. Code 49580-49581	Food recovery program
F&A Code 58595	Preference for California-grown agricultural products
<u>F&A Code 58596.1-58596.5</u>	<u>Buy American Food Act; purchase of nondomestic agricultural food products</u>
H&S Code 113700-114437	California Retail Food Code; sanitation and safety requirements

Pub. Cont. Code 2000-2002

Pub. Cont. Code 20111

Pub. Cont. Code 3410

Federal

2 CFR 200

2 CFR 200.318-200.326

2 CFR 200.400-200.475

2 CFR 200.56

42 USC 1751-1769j

42 USC 1771-1793

42 USC 1773

~~7 CFR 210.1-210.31~~

7 CFR 210.1-210.33

~~7 CFR 220.1-220.21~~

~~7 CFR 220.1-220.22~~

7 CFR 245.8

7 CFR 250.1-250.70

Management Resources

CA Department of Education Publication

California Department of Education
Publication

California Department of Education
Publication

California Department of Education
Publication

California Department of Education
Publication

California Department of Education
Publication

Responsive bidders

Contracts over \$50,000; contracts for construction; award to
lowest responsible bidder

U.S. produce and processed foods

Description

Appendix VII Indirect cost proposals

Procurement standards

Cost principles

Indirect costs; definition

School Lunch Program

Child Nutrition Act

School Breakfast Program

~~National School Lunch Program~~

National School Lunch Program

~~National School Breakfast Program~~

~~National School Breakfast Program~~

Nondiscrimination practices for students eligible for free and
reduced price meal and free milk

USDA foods

Description

California School Accounting Manual
(<https://www.cde.ca.gov/fg/ac/sa/>)

Pricing of Adult Meals in the National School Lunch and
School Breakfast Programs, NSD Management Bulletin, SNP-
04-2021, August 2021
(<https://www.cde.ca.gov/ls/nu/sn/mbsnp042021.asp>)

Procuring and Monitoring of Food Service Management
Contracts, NSD Management Bulletin, SNP-13-2015, January
2015 (<https://www.cde.ca.gov/ls/nu/sn/mbsnp132015.asp>)

Cafeteria Funds--~~—~~Allowable Uses, NSD Management
Bulletin, ~~NSD~~-SNP-05-2020, February 2020
(<https://www.cde.ca.gov/ls/nu/sn/mbsnp052020.asp>)

Excess Net Cash Resources – Revised to Increase Limitation,
NSD Management Bulletin, SNP-04-2022, May 2022
(<https://www.cde.ca.gov/ls/nu/sn/mbsnp042022.asp>)

Unpaid Meal Charges: Local Meal Charge Policies,
Clarification on Collection of Delinquent Meal Payments, and
Excess Student Account Balances, NSD Management Bulletin,

	SNP-04-2023, July 2023 (https://www.cde.ca.gov/ls/nu/sn/mbsnp042023.asp)
California Department of Education Publication	Food Service Management Company Contract Preapproval, NSD Management Bulletin, SNP-05-2023, March 2023 (https://www.cde.ca.gov/ls/nu/sn/mbsnp052523.asp)
California Department of Education Social Services Publication	Food Distribution Program Administrative Manual (https://www.cdss.ca.gov/cacfp/resources/cacfp-administrative-manual)
California Department of Education Publication	Storage and Inventory Management of U.S. Department of Agriculture Foods, NSD Management Bulletin, FDP-01-2018, January 2018 (https://www.cde.ca.gov/ls/nu/fd/mbfdp012018.asp)
U.S. Department of Agriculture Publication	Procuring Local Foods for Child Nutrition Programs, January 2022 (https://www.fns.usda.gov/f2s/procuring-local-foods)
U.S. Department of Agriculture Publication	Indirect Costs: Guidance for State Agencies and School Food Authorities, SP 60-2016, September 2016 (https://www.fns.usda.gov/cn/indirect-cost-guidance)
U.S. Department of Agriculture Publication	Buy American and the Agriculture Improvement Act of 2018, SP-32-2019, August 2019 (https://www.fns.usda.gov/cn/buy-american-and-agriculture-improvement-act)
U.S. Department of Agriculture Publication	Compliance with and Enforcement of the Buy American Provision in the National School Lunch Program, SP-38-2017, June 2017 (https://www.fns.usda.gov/nslp/compliance-enforcement-buy-american)
U.S. Department of Agriculture Publication	Discretionary Elimination of Reduced Price Charges in the School Meal Programs, SP 17-2014, January 2014 (https://www.fns.usda.gov/cn/discretionary-elimination-reduced-price-charges-school-meal-programs)
U.S. Department of Agriculture Publication	Unpaid Meal Charges: Local Meal Charge Policies, SP-46-2016, July 2016 (https://www.fns.usda.gov/cn/unpaid-meal-charges-local-meal-charge-policies)
U.S. Dept of Agriculture Publication	School Meals – FAQs (https://www.fns.usda.gov/cn/school-meals-faqs)
Website	CSBA District and County Office of Education Legal Services
Website	U.S. Department of Agriculture, Food and Nutrition Service
Website	California Department of Education, Nutrition Services Division
Website	California Department of Education, Accounting (https://www.cde.ca.gov/fg/ac/)
Website	CalRecycle, Resources for Local Education Agencies: K-12 Public Schools and School Districts (https://calrecycle.ca.gov/organics/slcp/schools/)

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
3100	Budget
3100	Budget
3110	Transfer Of Funds
3230	Federal Grant Funds
3230	Federal Grant Funds
3260	Fees And Charges
3260	Fees And Charges
3300	Expenditures And Purchases
3311	Bids
3311	Bids
3312	Contracts
3314.2	Revolving Funds
3400	Management Of District Assets/Accounts
3400	Management Of District Assets/Accounts
3460	Financial Reports And Accountability
3460	Financial Reports And Accountability
3510	Green School Operations
3511	Energy And Water Management
3511	Energy And Water Management
3512	Equipment
3512-E(1)	Equipment
3515.6	Criminal Background Checks For Contractors
3550	Food Service/Child Nutrition Program

3550	Food Service/Child Nutrition Program
3552	Summer Meal Program
3552	Summer Meal Program
3553	Free And Reduced Price Meals
3553	Free And Reduced Price Meals
3554	Other Food Sales
3554	Other Food Sales
3555	Nutrition Program Compliance
3555-E(1)	Nutrition Program Compliance
3580	District Records
3580	District Records
4112.4	Health Examinations
4212	Appointment And Conditions Of Employment
4212.4	Health Examinations
4231	Staff Development
4312.4	Health Examinations
4331	Staff Development
5030	Student Wellness
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications

Policy 4151: Employee Compensation

Status: DRAFT

Original Adopted Date: 02/01/1997 | **Last Revised Date:** 05/09/01/20202023 | **Last Reviewed Date:** 05/09/01/20202023

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 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 opportunity to respond to the amendments.

The Board shall adopt separate salary schedules for certificated, classified, and supervisory and administrative personnel. These schedules shall comply with law and 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.

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 Board may also choose to pay certificated employees, or one or more individual employees, in 10, 11, or 12 equal payments over the year. 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 ~~or not~~ the employees are engaged in teaching during the month. Education Code 45165 addresses salary payments for classified employees who are employed 9-11 months per year.

Additionally, 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.

The Board shall determine the frequency and schedule of salary 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. (~~Education Code 45038, 45039, 45048, 45165~~ 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 ~~interrupts~~ 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 ~~web site~~ 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, 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: [see BP/AR 4300 - Administrative and Supervisory Personnel](#). However, Education Code 45130 requires 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 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 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.

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 541.0-541.710, 553.27, 553.32)

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 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 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 overpayment, the district shall initiate legal action and obtain a court order or binding arbitration decision. 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 recover the overpayment. (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, 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

Copyright 2023 by **California School Boards Association**, West Sacramento, California 95691
All rights reserved.

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

8 CCR 11040	Wages and hours; definitions of administrative, executive, and professional employees
Ed. Code 44042.5	Wage overpayment
Ed. Code 45022-45061.5	Salaries
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	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
Federal	Description
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	Exemptions from minimum wage and overtime requirements
Management Resources	Description
Court Decision	Flores v. City of San Gabriel; (9th Cir., June 2, 2016, No. 14-56421) 824 F.3d 890
Office of Management and Budget Publication	Administrative Relief for Recipients & and Applicants of Fed. Fin. Assist. Federal Financial Assistance Directly Impacted by COVID-19 Due due to Loss of Operations , Memo M-20-17, March 19, 2020

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

Cross References

Code	Description
0470	COVID-19 Mitigation Plan
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

Regulation 4217.3: Layoff/Rehire

Status: DRAFT

Original Adopted Date: 11/01/2003 | Last Revised Date: 12/09/01/2021/2023 | Last Reviewed Date: 12/09/01/2021/2023

CSBA NOTE: The following optional regulation is subject to collective bargaining, and may be deleted by those districts whose agreements fully cover the provisions specified below.

Education Code 45114, 45117, 45298, and 45308 establish the procedures by which the Governing Board may lay off and reemploy classified employees.

Because of the complexity of related Education Code provisions and the interaction with collective bargaining agreements, it is strongly recommended that the district consult with [CSBA's District and County Office of Education Legal Services or district](#) legal counsel before instituting layoff proceedings.

Classified employees shall be subject to layoff for lack of work or lack of funds. (Education Code 45114, 45308)

A classified employee shall not be laid off if a short-term employee is retained to render a service that the classified employee is qualified to render. (Education Code 45117)

Order of Layoff Within a Classification/Determination of Seniority

Within each class, the order of layoff shall be determined by length of service. (Education Code 45114, 45308)

CSBA NOTE: For any district whose average daily attendance (ADA) is under 400,000, Education Code 45308, [as amended by SB 913 \(Ch. 920, Statutes of 2022\)](#), defines "length of service" as employees' hours in paid status (Option 1 below). However, such a district may instead choose to enter into an agreement with the exclusive representative of classified employees to determine "length of service" based on an employee's date of hire (Option 2 below).

For any district with an ADA of 400,000 or higher, Education Code 45308 requires length of service to be based on the date of hire; such districts should select Option 2 below.

"Date of hire" is not defined in the law and could refer to the employee's first date of hire in the district or the employee's date of hire in the classification or higher classification. Districts selecting Option 2 below may revise the applicable paragraph to reflect the definition determined by the district or by agreement with the exclusive representative of classified employees, as applicable.

OPTION 1: (For districts with average daily attendance (ADA) under 400,000 that do not have an agreement with the exclusive representative of classified employees to determine length of service as employee's date of hire)

~~"Length of service" means all hours in paid status, whether during the school year, a holiday, recess, or during any period that school is in session or closed. However, length of service shall not include hours compensated solely on an overtime basis, as provided in for Education Code 45128, and shall not include hours for any service performed prior to entering into probationary or permanent status except for service in a restricted position pursuant to Education Code 45105. (Education Code 45308)~~

~~The employee who has been employed the shortest time in the class, plus higher classes, shall be laid off first. (Education Code 45308)~~

~~For an employee who is a member of the Military Reserve or the National Guard, length of service credit shall be granted for military leave of absence, including voluntary or involuntary active duty during a period of national emergency or war. (Education Code 45297, 45308)~~

~~Length of service credit may be granted for time spent on unpaid illness or maternity leave, unpaid family care leave, or unpaid industrial accident leave. Length of service credit shall not be granted for other types of unpaid leaves. (Education Code 45308)~~

OPTION 1 ENDS HERE

OPTION 2: (For districts with ADA under 400250,000 that have an agreement with the exclusive representative of classified employees to determine length of service as employee's date of hire, and for districts with ADA over 400250,000)

Length of service shall be determined by the date of hire. The employee who has been employed the shortest time in the class, plus higher classes, by the district shall be laid off first. (Education Code 45308)

END OF OPTION 2 ENDS HERE

CSBA NOTE: The following paragraph applies to both Options 1 and 2. Pursuant to Education Code 45105 and 45259, persons employed in "restricted positions" are classified employees. However, they do not acquire permanent status or seniority credits unless they satisfy the conditions specified below.

For an employee in a "restricted position" under Education Code 45105 or 45259, the original date of employment in the restricted position shall be used to determine the length of service, provided the employee has completed six months of satisfactory service and has successfully passed the qualifying examination required for service in the class. (Education Code 45105)

Notice of Layoff and Hearing Rights

CSBA NOTE: Education Code 45117 applies to both districts that have adopted the merit system and those that have not. Education Code 45117, as amended by AB 438 (Ch. 665, Statutes of 2021), specifies notice requirements and hearing rights the district must provide to permanent classified employees, as defined, who are subject to layoff due to lack of work or lack of funds, including that notice be given no later than March 15. If a permanent classified employee is not given the required notice and a right to a hearing in accordance with law, the employee is deemed reemployed for the next school year.

Pursuant to Education Code 45117, as amended by AB 438, a "permanent employee" is defined as an employee who was permanent at the time the notice or right to a hearing was required and an employee who became permanent after the date of the required notice.

Whenever a permanent classified employee is to be laid off for lack of work or lack of funds, the Superintendent or designee shall, no later than March 15 and before the employee is given formal notice by the Governing Board, give to the employee written notice of the recommendation, the reasons that the employee's services will not be required for the ensuing year, any displacement rights, reemployment rights, and the employee's right to a hearing. The district shall adhere to the notice, hearing, and layoff procedures in Education Code 45117, Government Code 11503 and 11505, and other applicable provisions of law. (Education Code 45117)

An employee who is so notified may request a hearing to determine if there is cause for not reemploying the employee for the ensuing year. The request shall be in writing and shall be delivered to the person who sent notice to the employee, on or before March 15 but not less than seven days after the date the notice is served on the employee. Failure of an employee to request a hearing on or before the date specified shall constitute a waiver of the employee's right to a hearing. (Education Code 45117)

The Superintendent or designee shall serve an employee who timely requests a hearing with the District Statement of Reduction in Force documents. The employee has five calendar days from service of the District Statement of Reduction in Force documents to timely file a notice of participation with the district. The parties are entitled to discovery, if requested within 15 days of service of the District Statement of Reduction in Force documents. (Education Code 45117)

CSBA NOTE: Education Code 45117, as amended by AB 438, allows permanent classified employees given notice of a layoff to request a hearing before an administrative law judge. Education Code 45117, as amended by AB 185 (Ch. 571, Statutes of 2022), authorizes such employee to be represented at the hearing by an attorney or by a nonattorney representative of the employee organization designated as the exclusive representative of the district's classified employees. On or before May 7, the administrative judge is required to submit the proposed decision, containing a determination as to the sufficiency of the cause and a recommendation as to disposition regarding the layoff, to the Board for consideration and to the affected employee(s).

If a hearing is requested by a permanent classified employee, the proceeding shall be conducted and a decision made by an administrative law judge in accordance with Government Code 11500-11529. At the hearing, the employee may be represented by an attorney or by a nonattorney representative of the employee organization designated as the exclusive representative for classified employees. The Board shall make a final decision regarding the sufficiency of the cause and disposition of the layoff upon receipt of the administrative law judge's proposed decision. None of the findings, recommendations, or determinations in the proposed decision prepared by the administrative law judge shall be binding on the Board. (Education Code 45117)

Following the Board's decision, the Superintendent or designee shall give final notice of termination to the affected employee(s) before May 15 unless a continuance was granted after a request for hearing was made, in which case such date may be extended by the number of days of the continuance. (Education Code 45117)

CSBA NOTE: Pursuant to Education Code 45117, ~~as amended by AB 438~~, the district may reduce classified staff due to lack of work or lack of funds when the Board determines, during the time between five days after the enactment of the Budget Act and August 15, that the district's total local control funding formula apportionment per unit of ADA for the fiscal year of the Budget Act has not increased by at least two percent.

If during the time between five days after the enactment of an annual Budget Act and August 15 of the fiscal year to which the Budget Act applies, the Board determines that the district's local control funding formula apportionment per unit of ADA for that fiscal year has not increased by at least two percent, and that it is therefore necessary to decrease the number of classified employees due to lack of work or lack of funds, the Board may issue a District Statement of Reduction in Force to those employees in accordance with a schedule of notice and hearing adopted by the Board, and layoff proceedings shall be carried out as required by law. (Education Code 45117)

When classified positions are eliminated as a result of the expiration of a specifically funded program, the district shall give written notice to the affected employee(s) not less than 60 days prior to the effective date of the layoff informing the employee(s) of the layoff date, any displacement rights, and employment rights. (Education Code 45117)

The district is not required to provide a layoff notice to any person hired as a short-term employee for a period not exceeding 60 days whose service may not be extended or renewed. (Education Code 45117)

Additionally, the district may release probationary classified employees without notice or hearing for reasons other than lack of work or lack of funds. (Education Code 45117)

Reemployment

CSBA NOTE: The following optional section specifies the rights of employees who are laid off or who take voluntary demotion or reduction in assigned time in lieu of layoff. Pursuant to Education Code 45308, laid-off classified employees have reemployment rights which are enforced in order of seniority rather than reverse order of layoff. In *Tucker v. Grossmont Union High School District*, a California appellate court ruled that a laid-off employee's reemployment right entitled the employee to preference over any new applicant to available positions for which the employee is qualified, including positions in different classes from which the employee was laid off.

Classified employees laid off because of lack of work or lack of funds shall be eligible for reemployment for a period of 39 months and shall be reemployed in preference to new applicants. Reemployment shall be in order of seniority. Persons so laid off also have the right to apply and establish their qualification for vacant promotional positions within the district during the 39-month period. (Education Code 45114, 45298, 45308)

CSBA NOTE: Pursuant to *San Mateo City School District v. Public Employment Relations Board*, districts may adopt procedures which implement Education Code 45113 and 45114 as long as such procedures do not replace or set aside mandatory Education Code provisions. These procedures may be adopted pursuant to Board policy and/or collective bargaining agreement.

The following optional paragraph should be deleted by districts with a collective bargaining agreement that contains reemployment procedures, unless the district also has unrepresented classified employees.

When a vacancy occurs, the district shall give the employee with the most seniority an opportunity to accept or reject the position, by first calling the employee at the employee's last known telephone number to notify the employee of the vacancy and then sending written notice by certified and standard mail to the employee's last known address. The employee shall advise the district of the decision by any means no later than 10 calendar days from the date the notice was sent. If the employee accepts, the employee shall report to work no later than two calendar weeks from the vacancy notification date or on a later date specified by the district.

CSBA NOTE: The following paragraph is optional and may be modified to reflect district practice.

In order to be reemployed, the employee must be capable of performing the essential duties of the job with or without reasonable accommodations. When an otherwise eligible employee is unable to perform the essential duties of the job, the employee shall be kept on the reemployment list until another opportunity becomes available or the period of reemployment eligibility expires, whichever occurs first.

CSBA NOTE: An argument can be made that, absent a collective bargaining provision to the contrary, once a district has offered a laid-off classified employee a position pursuant to the employee's reemployment rights under Education Code 45298 and that employee has refused the position, the district has discharged its duty to that employee. Whether such action conflicts with an employee's statutory right to reemployment is unclear.

The following two optional paragraphs should be used only with the approval of [CSBA's District and County Office of Education Legal Services](#) or the district's legal counsel; the number of refusals that will trigger the removal of the employee's name from the district's reemployment list should be modified accordingly.

Upon rejecting two offers of reemployment, the employee's name shall be removed from the reemployment list and the employee will forfeit all reemployment rights to which the employee would otherwise be entitled.

When an employee is notified of a vacancy and fails to respond or report to work within time limits specified by district procedures, the employee's name shall be removed from the reemployment list and all reemployment rights to which the employee would otherwise be entitled shall be forfeited.

If an employee is reemployed in a new position and fails to complete the probationary period in the new position, the employee shall be returned to the reemployment list for the remainder of the 39-month period. The remaining time period shall be calculated as the time remaining in the 39-month period as of the date of reemployment. (Education Code 45114, 45298)

Reinstatement of Benefits

CSBA NOTE: The following optional section should be deleted by districts that do not reinstate laid-off employee benefits upon reemployment and those whose collective bargaining agreements address the issue.

When a laid-off employee is reemployed, all accumulated sick leave credit shall be restored.

A laid-off permanent employee shall be reemployed with all rights and benefits accorded at the time of layoff.

A laid-off probationary employee shall be reemployed as a probationary employee, and the previous time served toward the completion of the required probationary period shall be counted. The employee shall also be reemployed with all rights and benefits accorded to a probationary employee at the time of layoff.

A laid-off employee, when reemployed, shall be placed on the salary step held at the time of layoff. An employee who was bumped into a lower class shall, when reinstated to the previous class, be placed on the salary step to which the employee would have progressed had the employee remained there. An adjusted anniversary date shall be established for step increment purposes so as to reflect the actual amount of time served in the district.

Voluntary Demotion or Reduction of Hours

Classified employees who take voluntary demotion or voluntary reduction in assigned time in lieu of layoff, or in order to remain in their present position rather than be reclassified or reassigned, shall be granted the same rights as employees who are laid off. In addition, such employees shall retain eligibility to be considered for reemployment in their previously held class or position with increased assigned time, for an additional period of time up to 24 months as determined by the Board on a class-by-class basis, provided that the same test of fitness under which they qualified for appointment to that class shall still apply. (Education Code 45114, 45298)

Employees who take voluntary demotion or voluntary reduction in assigned time in lieu of layoff shall have the option of returning to a position in their former class or to positions with increased assigned time as vacancies become available and without limitation of time. If there is a valid reemployment list, they shall be ranked on that list in accordance with their proper seniority. (Education Code 45114, 45298)

Policy Reference UPDATE Service

Copyright 2023 by **California School Boards Association**, West Sacramento, California 95691
All rights reserved.

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 45101	Definitions; disciplinary action and cause
Ed. Code 45103	Classified service in districts not incorporating the merit system
Ed. Code 45105	Positions under various acts not requiring certification qualifications
Ed. Code 45113	Notification of charges; classified employees
Ed. Code 45114	Layoff and reemployment procedures; definitions
Ed. Code 45115	Layoff; reinstatement from service retirement

Ed. Code 45117	Notice of layoff; classified employees
Ed. Code 45286	Limited term employees
Ed. Code 45297	Right to take equivalent examination while employee in military service
Ed. Code 45298	Reemployment of persons laid off; voluntary demotions or reductions in time
Ed. Code 45308	Order of layoff and reemployment; length of service
Ed. Code 45309	Reinstatement of permanent noncertified employees after resignation
Gov. Code 11500-11529	Administrative adjudication; formal hearings
Federal	Description
38 USC 4301-4335	Employment and reemployment rights of members of the uniformed services
Management Resources	Description
Court Decision	San Mateo City School District v. Public Employment Relations Board (1983) 33 Cal.3d 850
Court Decision	Tucker v. Grossmont Union High School District (2008) 168 Cal.App.4th 640
Website	CSBA District and County Office of Education Legal Services
Website	California School Employees Association

Cross References

Code	Description
1240	Volunteer Assistance
1240	Volunteer Assistance
4032	Reasonable Accommodation
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4121	Temporary/Substitute Personnel
4121	Temporary/Substitute Personnel
4161.11	Industrial Accident/Illness Leave
4161.5	Military Leave
4161.8	Family Care And Medical Leave

4200	Classified Personnel
4200	Classified Personnel
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4261.1	Personal Illness/Injury Leave
4261.11	Industrial Accident/Illness Leave
4261.5	Military Leave
4261.8	Family Care And Medical Leave
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4361.11	Industrial Accident/Illness Leave
4361.5	Military Leave
4361.8	Family Care And Medical Leave

Policy 4251: Employee Compensation

Status: DRAFT

Original Adopted Date: 02/01/1997 | **Last Revised Date:** 05/09/01/20202023 | **Last Reviewed Date:** 05/09/01/20202023

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 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 opportunity to respond to the amendments.

The Board shall adopt separate salary schedules for certificated, classified, and supervisory and administrative personnel. These schedules shall comply with law and 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.

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 Board may also choose to pay certificated employees, or one or more individual employees, in 10, 11, or 12 equal payments over the year. 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 ~~or not~~ the employees are engaged in teaching during the month. Education Code 45165 addresses salary payments for classified employees who are employed 9-11 months per year.

Additionally, 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.

The Board shall determine the frequency and schedule of salary 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. (~~Education Code 45038, 45039, 45048, 45165~~ 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 ~~interrupts~~ 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 ~~web site~~ 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, 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: [see BP/AR 4300 - Administrative and Supervisory Personnel](#). However, Education Code 45130 requires 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 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 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.

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 541.0-541.710, 553.27, 553.32)

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 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 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 overpayment, the district shall initiate legal action and obtain a court order or binding arbitration decision. 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 recover the overpayment. (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, 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

Copyright 2023 by **California School Boards Association**, West Sacramento, California 95691
All rights reserved.

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

8 CCR 11040	Wages and hours; definitions of administrative, executive, and professional employees
Ed. Code 44042.5	Wage overpayment
Ed. Code 45022-45061.5	Salaries
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	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
Federal	Description
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	Exemptions from minimum wage and overtime requirements
Management Resources	Description
Court Decision	Flores v. City of San Gabriel; (9th Cir., June 2, 2016, No. 14-56421) 824 F.3d 890
Office of Management and Budget Publication	Administrative Relief for Recipients & and Applicants of Fed. Fin. Assist. Federal Financial Assistance Directly Impacted by COVID-19 Due due to Loss of Operations , Memo M-20-17, March 19, 2020

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

Cross References

Code	Description
0470	COVID-19 Mitigation Plan
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

Policy 4351: Employee Compensation

Status: DRAFT

Original Adopted Date: 02/01/1997 | **Last Revised Date:** 05/09/01/20202023 | **Last Reviewed Date:** 05/09/01/20202023

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 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 opportunity to respond to the amendments.

The Board shall adopt separate salary schedules for certificated, classified, and supervisory and administrative personnel. These schedules shall comply with law and 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.

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 Board may also choose to pay certificated employees, or one or more individual employees, in 10, 11, or 12 equal payments over the year. 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 ~~or not~~ the employees are engaged in teaching during the month. Education Code 45165 addresses salary payments for classified employees who are employed 9-11 months per year.

Additionally, 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.

The Board shall determine the frequency and schedule of salary 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. (~~Education Code 45038, 45039, 45048, 45165~~ 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 ~~interrupts~~ 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 ~~web site~~ 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, 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: [see BP/AR 4300 - Administrative and Supervisory Personnel](#). However, Education Code 45130 requires 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 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 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.

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 541.0-541.710, 553.27, 553.32)

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 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 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 overpayment, the district shall initiate legal action and obtain a court order or binding arbitration decision. 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 recover the overpayment. (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, 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

Copyright 2023 by **California School Boards Association**, West Sacramento, California 95691
All rights reserved.

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

8 CCR 11040

Ed. Code 44042.5

Ed. Code 45022-45061.5

Ed. Code 45023

Ed. Code 45028

Ed. Code 45127-45133.5

Ed. Code 45160-45169

Ed. Code 45268

Ed. Code 45500

Gov. Code 3540-3549

Gov. Code 3543.2

Gov. Code 3543.7

Lab. Code 226

Lab. Code 232

Federal

26 CFR 1.409A-1

26 USC 409A

29 CFR 516.4

29 CFR 516.5-516.6

29 CFR 541.0-541.710

29 CFR 553.1-553.51

29 USC 201-219

29 USC 203

29 USC 207

29 USC 213

Management Resources

Court Decision

Office of Management and Budget
Publication

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

Wage overpayment

Salaries

Availability of salary schedule

Salary schedule and exceptions

Classified employees; work week; overtime provisions

Salaries for classified employees

Salary schedule for classified service in merit system districts

Classified School Employee Summer Assistance Program

Meeting and negotiating

Scope of representation

Duty to meet and negotiate in good faith

Employee access to payroll records

Disclosure of wages

Description

Definitions and covered plans

Deferred compensation plans

Notice of minimum wage and overtime provisions

Records

Exemptions for executive, administrative, and professional employees

Fair Labor Standards Act; applicability to public agencies

Fair Labor Standards Act

Definitions

Fair Labor Standards Act

Exemptions from minimum wage and overtime requirements

Description

Flores v. City of San Gabriel; (9th Cir., June 2, 2016; No. 14-56421) 824 F.3d 890

Administrative Relief for Recipients ~~and~~ Applicants of Fed. Fin. Assist. Federal Financial Assistance Directly Impacted by COVID-19 ~~Due~~due to Loss of Operations, Memo M-20-17, March 19, 2020

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

Cross References

Code	Description
0470	COVID-19 Mitigation Plan
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

Policy 5131.9: Academic Honesty

Status: DRAFT

Original Adopted Date: 06/01/1987 | **Last Revised Date:** 07/09/01/20002023 | **Last Reviewed Date:** 07/09/01/20002023

CSBA NOTE: The Following policy is optional and may be revised to reflect district practice.

The Governing Board believes that academic honesty and personal integrity are fundamental components of a student's education and character development. The Board expects that students will not cheat, lie, plagiarize, or commit other acts of academic dishonesty.

Students, parents/guardians, staff, and administrators shall be responsible for creating and maintaining a positive school climate that encourages honesty. Students found to have committed an act of academic dishonesty shall be subject to district and school-site discipline rules.

The Superintendent or designee may establish a committee comprised of students, parents/guardians, staff, administrators, and members of the public to develop standards of academic honesty, measures of preventing dishonesty, and specific consequences for acts of dishonesty. Any recommendations for discipline shall be incorporated into the school's site level discipline rules.

Prohibited and Permitted Technology Use

CSBA NOTE: The following section addresses student use of technology, such as artificial intelligence (AI), as it relates to academic honesty, and may be modified to reflect district practice. The U.S. Department of Education Office of Educational Technology's, "Artificial Intelligence and the Future of Teaching and Learning: Insights and Recommendations," provides information related to the opportunities for using AI to improve education, the challenges in doing so, and recommendations to guide further policy development. Districts are encouraged to continue to monitor the development of new technologies, including AI, and, as needed, consult with CSBA's District and County Office of Education Legal Services or district legal counsel. For more information on student use of technology, see BP 6163.4 – Student Use of Technology.

As the district's standards for academic achievement are designed to challenge all students to reach their full potential in acquiring the knowledge and skills needed for success in postsecondary education, employment, and responsible citizenship, any use of technology that prevents or inhibits a student from achieving these standards is prohibited. Prohibited uses include, but are not limited to, using technology primarily or solely for the completion of coursework as a student's original work and generating answers to mathematical, scientific, or analytical problems.

Permitted uses of technology include, but are not limited to, conducting research, correcting grammar and spelling, and learning from educational applications such as tutoring systems and language learning applications.

Additionally, consistent with the limitations expressed in this policy and with teacher consent, students may also use technology to assist with assessments, homework, and/or makeup work or other uses approved by the teacher.

CSBA NOTE: A student who has been identified as a student with a disability may require assistive technology devices and services, including the use of AI. Pursuant to Education Code 56341.1, a student's Individualized Education Program team must consider whether a student with a disability needs assistive technology devices or services, defined in 20 USC 1401 as any item, piece of equipment, or product system that is used to increase, maintain, or improve functional capabilities of a student with a disability. For more information regarding assistive technology for a student with a disability, see AR 6159 – Individualized Education Program.

However, a student with a disability shall be permitted to use technology for any purpose identified in the student's individualized education program as a tool to support the student's learning. If an employee suspects that a student has used technology in violation of this policy, the student shall be given the opportunity to demonstrate that the use of technology was in accordance with this policy.

Any information acquired from an employee's use of technology in determining whether a student has committed an act of academic dishonesty shall be shared with the student, and the student's parent/guardian as appropriate.

The Superintendent or designee may provide training to staff regarding the use of technology to improve education, including the detection of plagiarism and sensitivity to potential discrimination from algorithmic bias.

Policy Reference UPDATE Service

Copyright 2023 by **California School Boards Association**, West Sacramento, California 95691
All rights reserved.

Policy Reference Disclaimer:

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

State

Ed. Code 35291-35291.5

[Ed. Code 56341.1](#)

Federal

[20 USC 1401](#)

Management Resources

Website

[Website](#)

[U.S. Department of Education, Office of Educational Technology Publication](#)

[Metropolitan Educational Research Consortium Publication](#)

Description

Rules

[Assistive technology devices for a student with a disability](#)

Description

[Assistive technology device; definition](#)

Description

CSBA District and County Office of Education Legal Services

[Metropolitan Educational Research Consortium \(https://merc.soe.vcu.edu/\)](#)

[Artificial Intelligence and the Future of Teaching and Learning: Insights and Recommendations, May 2023 \(https://www2.ed.gov/documents/ai-report/ai-report.pdf\)](#)

[Balancing the Benefits and Risks of AI Large Language Models in K12 Public Schools, 2023 \(https://scholarscompass.vcu.edu/cgi/viewcontent.cgi?article=1133&context=merc_pubs\)](#)

Cross References

Code	Description
5131	Conduct
5131.8	Mobile Communication Devices
5137	Positive School Climate
5144	Discipline
5144	Discipline
<u>6000</u>	<u>Concepts And Roles</u>
<u>6141</u>	<u>Curriculum Development and Evaluation</u>
<u>6159</u>	<u>Individualized Education Program</u>
6162.54	Test Integrity/Test Preparation
6162.6	Use Of Copyrighted Materials
6162.6	Use Of Copyrighted Materials
<u>6163.4</u>	<u>Student Use of Technology</u>

Policy 6154: Homework/Makeup Work

Status: DRAFT

Original Adopted Date: 02/01/1997 | **Last Revised Date:** 12/09/01/2019/2023 | **Last Reviewed Date:** 12/09/01/2019/2023

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

The Governing Board recognizes that meaningful homework assignments can be a valuable extension of student learning time, provide enrichment, and assist students in developing good study habits. Homework and/or makeup work shall be assigned when necessary to support classroom lessons, enable students to complete unfinished assignments, or review and apply academic content for better understanding.

CSBA NOTE: The following paragraph addresses student use of technology, including artificial intelligence (AI), in relation to homework and makeup work, and may be modified to reflect district practice. The U.S. Department of Education Office of Educational Technology's, "Artificial Intelligence and the Future of Teaching and Learning: Insights and Recommendations," provides information related to the opportunities for using AI to improve education, the challenges in doing so, and recommendations to guide further policy development. For more information regarding prohibited and permitted student use of technology, see BP 5131.9 – Academic Honesty and BP 6163.4 – Student Use of Technology.

Students may use technology to assist with homework and/or makeup work in conducting research, correcting grammar and spelling, and learning from educational applications such as tutoring systems and language learning applications, as specified in Board Policy 5131.9 – Academic Honesty and Board Policy 6163.4 – Student Use of Technology.

The Superintendent or designee shall collaborate with school administrators and teachers to develop and regularly review guidelines for the assignment of homework and the related responsibilities of students, staff, and parents/guardians.

CSBA NOTE: The following optional paragraph may be revised to specify the average number of minutes of homework that may be expected per day at each grade level, or the district may adopt an administrative regulation that contains such guidelines.

Homework assignments shall be reasonable in length and appropriate to the grade level and course. The Board expects that the number, frequency, and degree of difficulty of homework assignments will increase with the grade level and the maturity of students. Teachers shall assign homework only as necessary to fulfill academic goals and reinforce current instruction.

As needed, teachers may receive training in designing relevant homework assignments that reinforce classroom learning objectives and inspire students' interests.

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

Although on-time completion of homework is important to maintain academic progress, the Board recognizes that students learn at different rates. Students shall receive credit for work that is

completed late in order to encourage their continued learning.

Age-appropriate instruction may be given to help students allocate their time wisely, meet their deadlines, learn to work independently, and develop good personal study habits.

At the beginning of the school year, teachers shall communicate homework expectations to students and their parents/guardians. Homework guidelines shall also be included in student and/or parent/guardian handbooks. These communications shall include the manner in which homework relates to achievement of academic standards and course content, the impact of homework assignments on students' grades, any school resources and programs that are available to provide homework support, and ways in which parents/guardians may appropriately assist their children.

Although it is the student's responsibility to undertake assignments independently, parents/guardians may serve as a resource and are encouraged to ensure that their child's homework assignments are completed. ~~When a student repeatedly fails to complete homework, the teacher shall notify the student's parents/guardians as soon as possible so that corrective action can be taken prior to the release of any final grades or report cards.~~ Students may also work with other students and use approved outside resources as directed by the teacher.

CSBA NOTE: The following paragraph should be revised to reflect district practice. Pursuant to Education Code 8482.3, ~~before-school and after-school~~ programs operated under the After School Education and Safety Program (Education Code 8482-8484.65) ~~and/or~~, the federal 21st Century Community Learning Center program (Education Code 8484.7-8484.9; 20 USC 7171-7176), and/or the Expanded Learning Opportunities Program (Education Code 46120) are required to include an educational and literacy component in which tutoring or homework assistance is provided in language arts, mathematics, history-social science, computer training, and/or science. If the district offers a before-school or after-school program under the 21st Century High School After School Safety and Enrichment for Teens program for grades 9-12 (Education Code 8420-8428; 20 USC 7171-7176), the program must include an academic assistance program, which may include homework assistance. See AR 5148.2 - Before/After School Programs. In addition, some districts offer a supervised study hall elective which high school students can take instead of other electives.

To further support students' homework efforts, the Superintendent or designee may establish and maintain electronic forums, provide access to school library media centers and technological resources, and/or provide before-school and after-school programs where students can receive homework assistance from teachers, volunteers, and/or student tutors. The Board encourages the Superintendent or designee to design class and transportation schedules that will enable students to make use of homework support services.

Teachers shall review all completed homework to assess the student's understanding of academic content and shall provide timely feedback to the student.

If a student repeatedly fails to complete homework, the teacher shall notify the student's parents/guardians as soon as possible so that corrective action can be taken prior to the release of any final grades or report cards.

Makeup Work

CSBA NOTE: Pursuant to Education Code 48205, students who miss ~~school work~~ schoolwork because of an excused absence must be given full credit for makeup work satisfactorily completed within a reasonable period of time. State law does not require districts to give full credit for makeup work following an unexcused absence. However, CSBA's governance brief, "Research-Supported Strategies to Improve the Accuracy and Fairness of Grades," recommends that student absence be dealt with separately from determining students' academic understanding and progress. Thus, the following paragraph provides for full credit to be awarded for satisfactory completion of makeup work regardless of the reason for the absence, an approach which is consistent with BP/AR 5121 - Grades/Evaluation for Student Achievement. Also see BP/AR 5113.1 - Chronic Absence and Truancy for strategies to address excessive excused and/or unexcused absences. The district may revise the following paragraph to reflect district practice, provided that it ensures compliance with Education Code 48205.

Students who are absent from school shall be given the opportunity to complete all assignments and tests that can be reasonably provided. As determined by the teacher, the assignments and tests shall be equivalent to, but not necessarily identical to, the assignments and tests missed during the absence. Students shall receive full credit for work satisfactorily completed within a reasonable period of time.

The Superintendent or designee shall notify parents/guardians that no student may have a grade reduced or lose academic credit for any excused absence when missed assignments and tests are satisfactorily completed within a reasonable period of time. Such notification shall include the full text of Education Code 48205. (Education Code 48980)

Suspended Students

CSBA NOTE: Education Code 48913.5, as added by AB 982 (Ch. 779, Statutes of 2019), requires that when a parent/guardian of a student who has been suspended for two or more school days requests homework that the student would otherwise have been assigned, the student's teacher shall provide such homework.

When a parent/guardian of a student who has been suspended for two or more school days requests homework that the student would otherwise have been assigned, the student's teacher shall provide such homework. If a homework assignment is requested and is turned in to the teacher by the student either upon the student's return from suspension or within the timeframe originally prescribed by the teacher, whichever is later, and is not graded before the end of the academic term, the homework assignment shall not be included in the calculation of the student's overall grade in the class. (Education Code 48913.5)

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

Policy Reference UPDATE Service

Copyright 2023 by California School Boards Association, West Sacramento, California 95691
All rights reserved.

Policy Reference Disclaimer:

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

State

[Ed. Code 46120](#)

Ed. Code 48205

Ed. Code 48913

Ed. Code 48913.5

Ed. Code 48980

[Ed. Code 56341.1](#)

Ed. Code 8420-8428

Ed. Code 8482-8484.65

Ed. Code 8484.7-8484.9

Federal

[20 USC 1401](#)

20 USC 7171-7176

Management Resources

CSBA Publication

[U.S. Department of Education, Office of Educational Technology Publication](#)

Website

Website

Website

[Website](#)

Description

[Expanded Learning Opportunities Program](#)

Absence from school for jury duty or precinct board service

Completion of work missed by suspended student

Suspended students; homework assignments

Parent/Guardian notifications

[Assistive technology devices for a student with a disability](#)

21st Century High School After School Safety and Enrichment for Teens

After School Education and Safety Program

21st Century Community Learning Centers

Description

[Assistive technology device; definition](#)

21st Century Community Learning Centers

Description

Research-Supported Strategies to Improve the Accuracy and Fairness of Grades, Governance Brief, July 2016

<https://www.csba.org/-/media/CSBA/Files/GovernanceResources/GovernanceBriefs/20161507-GradingGB.ashx?la=en&rev=4e25a7ce86c742198068af40c27324b5>

[Artificial Intelligence and the Future of Teaching and Learning: Insights and Recommendations, May 2023](#)
<https://www2.ed.gov/documents/ai-report/ai-report.pdf>

CSBA District and County Office of Education Legal Services

California State Parent Teacher Association

CSBA

[Metropolitan Educational Research Consortium](#)
<https://merc.soe.vcu.edu/>

Cross References**Code**

0470

1240

1240

Description

COVID-19 Mitigation Plan

Volunteer Assistance

Volunteer Assistance

1700	Relations Between Private Industry And The Schools
3541	Transportation Routes And Services
4131	Staff Development
5020	Parent Rights And Responsibilities
5020	Parent Rights And Responsibilities
5113	Absences And Excuses
5113	Absences And Excuses
5121	Grades/Evaluation Of Student Achievement
5121	Grades/Evaluation Of Student Achievement
<u>5131.9</u>	<u>Academic Honesty</u>
5144.1	Suspension And Expulsion/Due Process
5144.1	Suspension And Expulsion/Due Process
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5148	Child Care And Development
5148	Child Care And Development
5148.2	Before/After School Programs
5148.2	Before/After School Programs
6011	Academic Standards
6020	Parent Involvement
6020	Parent Involvement
6112	School Day
6112	School Day
6141.2	Recognition Of Religious Beliefs And Customs
6141.2	Recognition Of Religious Beliefs And Customs
6142.4	Service Learning/Community Service Classes
<u>6159</u>	<u>Individualized Education Program</u>
6163.1	Library Media Centers
<u>6163.4</u>	<u>Student Use of Technology</u>
6176	Weekend/Saturday Classes
6177	Summer Learning Programs

Policy 6162.5: Student Assessment

Status: DRAFT

Original Adopted Date: 07/01/2010 | **Last Revised Date:** 03/09/01/20182023 | **Last Reviewed Date:** 03/09/01/20182023

CSBA NOTE: The following optional policy may be revised to reflect district practice. For information about required state assessments administered as part of the California Assessment of Student Performance and Progress (CAASPP), see BP/AR 6162.51 - State Academic Achievement Tests.

The Governing Board recognizes that student assessments are an important instructional and accountability tool. To obtain the most accurate evaluation of student performance, the district shall use a variety of measures, including district, state, and/or national assessments.

[NEW CSBA NOTE: The following paragraph reflects that prohibited and permitted student use of technology, including artificial intelligence (AI), in relation to assessments, should be as specified in BP 5131.9 – Academic Honesty and BP 6163.4 – Student Use of Technology, and may be modified to reflect district practice. The U.S. Department of Education Office of Educational Technology’s, “Artificial Intelligence and the Future of Teaching and Learning: Insights and Recommendations,” provides information related to the opportunities for using AI to improve education, the challenges in doing so, and recommendations to guide further policy development.]

Any student use of technology to complete assessments shall be as specified in Board Policy 5131.9 – Academic Honesty and Board Policy 6163.4 – Student Use of Technology.

CSBA NOTE: The following paragraph addresses potential uses of student assessment data. Pursuant to Education Code 52060, applicable statewide student assessments must be used as one of the measures of progress toward the district's annual goals for student achievement included in its local control and accountability plan; see AR 0460 - Local Control and Accountability Plan. In addition, pursuant to Education Code 44662, evaluations of certificated staff must include an assessment of students' progress toward meeting district standards of expected student achievement at each grade level in each area of study and, if applicable, toward state standards as measured by state criterion-referenced assessments (i.e., assessments that test students' mastery of the content). However, Education Code 44662 prohibits the use of publishers' norms established by standardized tests (i.e., assessments that compare students' performance to a representative sample of students) for the purpose of evaluating and assessing certificated staff performance. The use of student assessment results in staff evaluations may also be addressed in collective bargaining agreements or employment contracts. See BP/AR 4115 - Evaluation/Supervision and BP 4315 - Evaluation/Supervision.

Assessment data shall be used to help determine individual students' progress, mastery of academic standards, appropriate placement in district programs, and/or eligibility for graduation. In addition, summary data on student assessment results shall be used by the district to identify and review student achievement goals in the district's local control and accountability plan, evaluate district educational programs in order to identify needed improvements, and, as appropriate, evaluate staff performance.

In selecting or developing any district assessment, the Superintendent or designee shall examine evidence of its reliability, its validity for the intended purpose and for various student populations, and the extent to which it aligns with the material that is being taught.

The Superintendent or designee shall ensure that assessments are administered in accordance with law and test publisher's directions, and that test administration procedures are fair and equitable for all students.

CSBA NOTE: Education Code 52052 requires that schools and districts demonstrate comparable improvement in academic achievement by all "numerically significant" student subgroups, including, as amended by AB 114 (Ch. 48, Statutes of 2023), ethnic subgroups, socioeconomically disadvantaged students, English learners, long term English learners, students with disabilities, foster youth, and ~~homeless~~ students experiencing homelessness. A "numerically significant" subgroup is one that consists of at least 30 students, or 15 foster youth ~~or homeless~~, students experiencing homelessness, or long-term English learners, each of whom has a valid test score. To evaluate the extent to which the district fulfills this responsibility, it will be important to examine disaggregated student assessment results as provided below.

Pursuant to Education Code 49558, the Governing Board may adopt policy allowing the use of individual applications or records from the free and reduced-price meal program to identify students for the purpose of disaggregating student achievement data. See BP/AR 3553 - Free and Reduced Price Meals for optional language providing such authorization.

As appropriate, assessment results shall be disaggregated by student subgroup, classroom, grade level, and/or school site to allow for critical analysis of student needs.

The Superintendent or designee shall provide professional development as needed to assist administrators and teachers in interpreting and using assessment data to improve student performance and the instructional program.

When districtwide and school-level results of student assessments are published by the state, the Superintendent or designee may provide supplementary information to assist parents/guardians and the community in understanding test results.

Interim and Formative Assessments

CSBA NOTE: At their discretion, districts may choose to use the Smarter Balanced interim and formative assessments, which are part of the CAASPP. Pursuant to Education Code 60642.6, as amended by AB 1035 (Ch. 752, Statutes of 2017), these tests may be used, in combination with other sources of information, to gain timely feedback about student progress in an effort to continually adjust instruction to improve learning. Education Code 60642.7; as added by AB 1035, specifies that results of such assessments shall not be used for any high-stakes purpose.

State interim and formative assessments may be used in combination with other sources of information to gain timely feedback about student progress in an effort to continually adjust instruction to improve learning; and for communicating with students' parents/guardians and identifying professional development goals. Results from interim and formative assessments shall not be used for any high-stakes purpose, including, but not limited to, teacher or other school staff evaluation, accountability, student grade promotion or retention, graduation, course or class placement, identification for gifted or talented education, reclassification of English learners, or

identification as an individual with exceptional needs. (Education Code 60642.6, 60642.7)

The Superintendent or designee shall ensure that teachers who administer interim and formative assessments have access to all functions and information designed for teacher use related to such assessments and student performance on the assessments. (Education Code 60642.6)

Individual Record of Accomplishment

CSBA NOTE: The following section is for use by districts that maintain high schools.

The Superintendent or designee shall ensure that each student, by the end of grade 12, has an individual record of accomplishment that includes the following: (Education Code 60607)

1. The results of the state achievement tests required and administered as part of the California Assessment of Student Performance and Progress, or any predecessor assessments, pursuant to Education Code 60640-60649
2. The results of any end-of-course examinations taken
3. The results of any vocational education certification examinations taken

No individual record of accomplishment shall be released to any person, other than the student's parent/guardian or a teacher, counselor, or administrator directly involved with the student, without the written consent of the student's parent/guardian, or the student if ~~he/she~~the student is an adult or emancipated minor. The student or ~~his/her~~the student's parent/guardian may authorize the release of the record of accomplishment to a postsecondary educational institution for the purposes of credit, placement, or admission. Furthermore, the results of an individual student on the CAASPP may be released to a postsecondary educational institution for the purpose of credit, placement, or admission. (Education Code 60607)

Policy Reference UPDATE Service

Copyright 2023 by **California School Boards Association**, West Sacramento, California 95691
All rights reserved.

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 850-~~864~~876

Ed. Code 10600-10610

Ed. Code 313

Ed. Code 44660-44665

Description

California Assessment of Student Performance and Progress

California Education Information System

Assessment of English language development

Evaluation and assessment of performance of certificated employees

Ed. Code 49558	Free and reduced-price meals; use of individual applications and records
Ed. Code 51041	Evaluation of the educational program
Ed. Code 51450-51455	Golden State Seal Merit Diploma
Ed. Code 52052	Accountability; numerically significant student subgroups
Ed. Code 52060-52077	Local control and accountability plan
Ed. Code 56341.1	Assistive technology devices for a student with a disability
Ed. Code 60600- 60648.5 60649	Assessment of academic achievement
Ed. Code 60640- 60648.5 60649	California Assessment of Student Performance and Progress
Ed. Code 60800	Physical performance test
Ed. Code 60900	California Longitudinal Pupil Achievement Data System
Ed. Code 60910	California State Preschool Program Longitudinal Pupil Achievement Data System

Federal

~~17 USC 102~~

[20 USC 1401](#)

20 USC 9622

Management Resources

[U.S. Department of Education, Office of Educational Technology Publication](#)

Website

Website

Website

Website

Website

[Website](#)

Description

~~Definitions~~

[Assistive technology device; definition](#)

National Assessment of Educational Progress

Description

[Artificial Intelligence and the Future of Teaching and Learning: Insights and Recommendations, May 2023](#)
(<https://www2.ed.gov/documents/ai-report/ai-report.pdf>)

CSBA District and County Office of Education Legal Services

Smarter Balanced Assessment Consortium

California Department of Education, Testing and Accountability

CSBA

U.S. Department of Education

[Metropolitan Educational Research Consortium](#)
<https://merc.soe.vcu.edu/>

Cross References

Code

0410

0415

Description

Nondiscrimination In District Programs And Activities

Equity

0420	School Plans/Site Councils
0420	School Plans/Site Councils
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
0500	Accountability
0510	School Accountability Report Card
1340	Access To District Records
1340	Access To District Records
2140	Evaluation Of The Superintendent
4115	Evaluation/Supervision
4115	Evaluation/Supervision
4131	Staff Development
4315	Evaluation/Supervision
4331	Staff Development
5121	Grades/Evaluation Of Student Achievement
5121	Grades/Evaluation Of Student Achievement
5123	Promotion/Acceleration/Retention
5123	Promotion/Acceleration/Retention
5125	Student Records
5125	Student Records
<u>5131.9</u>	<u>Academic Honesty</u>
6000	Concepts And Roles
6011	Academic Standards
6020	Parent Involvement
6020	Parent Involvement
6120	Response To Instruction And Intervention
6141	Curriculum Development And Evaluation
6141	Curriculum Development And Evaluation
6142.6	Visual And Performing Arts Education
6142.7	Physical Education And Activity
6142.7	Physical Education And Activity

6142.91	Reading/Language Arts Instruction
6142.92	Mathematics Instruction
6146.1	High School Graduation Requirements
6146.3	Reciprocity Of Academic Credit
6146.3	Reciprocity Of Academic Credit
6146.5	Elementary/Middle School Graduation Requirements
6151	Class Size
6152	Class Assignment
6152.1	Placement In Mathematics Courses
6152.1	Placement In Mathematics Courses
6155	Challenging Courses By Examination
6155	Challenging Courses By Examination
6158	Independent Study
6158	Independent Study
<u>6159</u>	<u>Individualized Education Program</u>
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
6162.51	State Academic Achievement Tests
6162.51	State Academic Achievement Tests
6162.54	Test Integrity/Test Preparation
<u>6163.4</u>	<u>Student Use of Technology</u>
6164.4	Identification And Evaluation Of Individuals For Special Education
6164.4	Identification And Evaluation Of Individuals For Special Education
6164.5	Student Success Teams
6164.5	Student Success Teams
6170.1	Transitional Kindergarten
6171	Title I Programs
6171	Title I Programs

6172	Gifted And Talented Student Program
6172	Gifted And Talented Student Program
6172.1	Concurrent Enrollment In College Classes
6172.1	Concurrent Enrollment In College Classes
6173.4	Title VI Indian Education Program
6174	Education For English Learners
6174	Education For English Learners
6178	Career Technical Education
6178	Career Technical Education
6178.2	Regional Occupational Center/Program
6181	Alternative Schools/Programs Of Choice
6181	Alternative Schools/Programs Of Choice
6184	Continuation Education
6184	Continuation Education
6190	Evaluation Of The Instructional Program
9000	Role Of The Board
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session

Regulation 7140: Architectural And Engineering Services

Status: DRAFT

Original Adopted Date: 02/01/1996 | **Last Revised Date:** ~~10/09/01/2019~~2023 | **Last Reviewed Date:** ~~10/09/01/2019~~2023

CSBA NOTE: When applying for state facilities funding, the district will be required to certify that any professional design services used for the project were selected using a qualification-based selection process. The Office of Public School Construction, in its [Construction's, "School Facility Program Handbook,"](#) advises districts to consult with legal counsel to ensure that its process for selecting architects or structural engineers is a qualification-based selection process and complies with all other legal requirements, including the Public Contract Code and requirements for disabled veterans business enterprises.

Contractors for any [private](#) architectural, landscape architectural, engineering, environmental, land surveying or construction project management services shall be selected, at fair and reasonable prices, on the basis of demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required. (Government Code 4526)

CSBA NOTE: Government Code 4526 requires that the district's selection process include at least ~~items~~[Items](#) #1-3 below; however, the law does not prescribe the exact procedures that must be followed. Generally, elements of a "competitive process" include advertising and notice of the need for services, objective evaluation and selection criteria, and an appeals process for use by those not selected. Districts may wish to develop procedures consistent with these and other requirements in consultation with [CSBA's District and County Office of Education Legal Services or district](#) legal counsel.

The Superintendent or designee shall ensure that the selection process for projects receiving state funding: (Government Code 4526)

1. Assures maximum participation by small business firms as defined pursuant to Government Code 14837
2. Prohibits practices which might result in unlawful activity such as rebates, kickbacks, or other unlawful consideration
3. Prohibits district employees from participating in the selection process when they have a relationship with a person or business entity seeking a contract which would subject the employee to the prohibition of Government Code 87100

CSBA NOTE: Pursuant to Government Code 4527, the following items are optional and may be revised to reflect district practice.

The selection process may also include: (Government Code 4527)

1. Evaluation of current statements of qualifications and performance data on file with the district and evaluation of statements that may be submitted by other firms regarding the proposed project

2. Discussion with at least three firms regarding anticipated concepts and the relative utility of alternative approaches for furnishing the required services
3. Selection, in order of preference, of at least three firms deemed to be the most highly qualified to provide the required services in accordance with established district criteria

CSBA NOTE: The following paragraph is optional and may be revised to reflect district practice. Government Code 4528 authorizes, but does not require, the district to implement the following procedures.

The district shall negotiate a contract with the best qualified firm at compensation determined by the district to be fair and reasonable. If the district is unable to negotiate a contract with the most qualified firm, the district shall negotiate a contract with the second most qualified firm and, if unsuccessful, with the third most qualified firm. If the district is unable to negotiate a satisfactory contract with any of the selected firms, the district shall select additional firms in order of their competence and qualification and continue negotiations until an agreement is reached. (Government Code 4528)

The above procedures shall not apply if the Superintendent or designee determines that the services needed are more of a technical nature and involve little professional judgment and that requiring bids would be in the public interest. (Government Code 4529)

Contracts shall specify that all plans, including, but not limited to, record drawings, specifications, and estimates prepared by the architect or structural engineer shall become the property of the district: for the purpose of repair, maintenance, renovation, modernization, or other purposes, but only as they relate to the project for which the architect or structural engineer was retained. The contract shall also specify terms and conditions for reuse within the district of any plans prepared by the architect or structural engineer. (Education Code 17316)

CSBA NOTE: Education Code 17250.20 authorizes the district, until January 1, 2025, to utilize the design-build method of construction delivery for projects in excess of \$1,000,000. Additionally, pursuant to Education Code 17250.60-017250.69, 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. See AR 3311 – Bids and AR 3311.3 - Design-Build Contracts for more information regarding design-build.

A design-build contract may be awarded to a single entity for both design and construction of any school facility if the contract is in excess of \$1,000,000, or an alternative design-build contract may be awarded if the contract is in accordance with AR excess of \$5,000,000, as specified in Administrative Regulation 3311.3 - Design-Build Contracts. (Education Code 17250.20), 17250.62)

Policy Reference UPDATE Service

Copyright 2023 by California School Boards Association, West Sacramento, California 95691
All rights reserved.

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

24 CCR 101	California Building Standards Code
5 CCR 14001	Minimum standards for school facilities
5 CCR 14030-14036	Standards, planning, and approval of school facilities
Bus. Code 5500-5502	Architecture
Bus. Code 5550-5558	Architects; licensure
Bus. Code 6700-6706.3	Engineers Professional Engineers Act
Bus. Code 6750- 6766 6767	Engineers; licensure
CA Constitution Article 22	Architectural and engineering services
Ed. Code 17070.10-17079.30	Leroy F. Greene School Facilities Act
Ed. Code 17070.50	Conditions for apportionment
Ed. Code 17250.10-17250.55	Design-build contracts
Ed. Code 17250.60-17250.69	Alternative design-build contracts
Ed. Code 17251-17256	CDE powers concerning buildings and building sites
Ed. Code 17260-17268	Plans and specifications for school facilities
Ed. Code 17280- 17316 17317	Building approvals
Ed. Code 17302	Persons qualified to prepare plans, specifications and estimates and supervise construction
Ed. Code 17316	Contract provision re school district property
Ed. Code 17371	Limitation on liability of governing board
Gov. Code 14837	Definition of small business
Gov. Code 4525-4529.5	Contracts with private architects, engineering, land surveying, and construction project management firms
Gov. Code 87100	Public officials; financial interest
Pub. Cont. Code 20111 20110-20118.44	School district contracts
Management Resources	Description
California Department of Education Publication	Plan Submission Requirements for Modernization Projects, Form SFPD 4.08 https://www.cde.ca.gov/ls/fa/sf/documents/rev408jul10.doc
California Department of Education Publication	Plan Submission Requirements for New Construction, Form SFPD 4.07 https://www.cde.ca.gov/ls/fa/sf/documents/jan2015407.doc

Office of Public School Construction Publication	School Facility Program Handbook, January 2019 https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Handbooks-Guides-and-Brochures
Website	CSBA District and County Office of Education Legal Services
Website	Department of General Services, Division of the State Architect
Website	American Institute of Architects California Council
Website	Department of General Services, Office of Public School Construction
Website	California Department of Education, School Facilities

Cross References

Code	Description
1240	Volunteer Assistance
1240	Volunteer Assistance
3311	Bids
3311	Bids
3311.3	Design-Build Contracts
3312	Contracts
3515.6	Criminal Background Checks For Contractors
7000	Concepts And Roles
7110	Facilities Master Plan
7150	Site Selection And Development
7150	Site Selection And Development
9270	Conflict Of Interest
9270-E(1)	Conflict Of Interest

Bylaw 9124: Attorney

Status: DRAFT

Original Adopted Date: 06/01/1991 | Last Revised Date: 07/09/01/20082023 | Last Reviewed Date: 07/09/01/20082023

CSBA NOTE: Education Code 35041.5, 35204, and 35205 authorize the Governing Board to enter into a contract to hire an attorney as a district employee or independent contractor or to contract with a private firm to provide legal services for purposes deemed appropriate by the Board. According to the Rules of Professional Conduct of the State Bar of California, [\(Rule 1.13\)](#), when an attorney is hired by an organization such as a school district, the attorney's client is the district as a whole, and not an individual Board member or employee. However, at certain times an attorney may owe a duty of defense to a Board member or employee pursuant to the Tort Claims Act (Government Code 814-895.8). See [For more information regarding the Tort Claims Act, see BP/AR 3320 - Claims and Actions Against the District](#), and [for more information regarding protection against liability for Board members, see BB 9260 - Legal Protection](#).

The California Council

[Districts may subscribe to CSBA's District and County Office of School Attorneys](#), which provides professional opportunities for school attorneys, is a component of CSBA. CSBA has also established the Education Legal Alliance to initiate and support litigation in cases of statewide significance. [Services to school districts receive legal advice, services, and resources.](#)

The Governing Board recognizes the complex legal environment in which districts operate and desires, [the need to provide legal representation for the district, and the importance of](#) reliable, [cost-effective](#), high-quality legal advice at reasonable rates. [and services.](#)

In order to meet the district's legal needs, the Board may contract with county counsel, attorneys in private practice, or appoint legal counsel [and fix and order paid legal counsel's compensation](#) as a district [an](#) employee or [as an](#) independent contractor. [\(Education Code 35041.5\)](#)

[The Board may enter into independent contractor services agreements with county counsel, law firms, attorneys in private practice, and other public or private legal services entities. \(Education Code 35204, 35205; Government Code 26520, 26529\)](#)

The Board also supports pursuing collaborative legal efforts with other agencies and districts as [well as other government agencies as](#) appropriate.

Duties of Legal Counsel

The district's legal counsel may: (Education Code 35041.5)

1. Render legal advice to the Board and the Superintendent or designee
2. Serve the Board and the Superintendent or designee in the preparation and conduct of district litigation and administrative proceedings

3. Render advice on school bond and tax increase measures and prepare the necessary forms for the voting of these measures
4. Perform other administrative duties as assigned by the Board and Superintendent or designee

Retaining Legal Counsel

CSBA NOTE: Government Code 53060 exempts contracts for legal services from the bidding requirements of the Public Contract Code; for more information regarding bidding requirements, see AR 3311 - Bids. However, when entering into a new contract for legal services, it is recommended that the Board Boards may use a Request for Proposal (RFP) procedure in order to solicit a range of proposals for services. The following optional section is for use by districts that contract with outside firms to provide legal services and should be modified to reflect district practice.

When the district is seeking legal advice or representation, the Superintendent or designee shall identify prospective attorney(s), firm(s), and/or legal services entity(ies).

The district may, but is not required to, initiate a Request for Proposals (RFP) to advertise and solicit proposals for legal services. In evaluating the proposals, prospective attorney(s), firm(s), and/or entity(ies), the Board and Superintendent shall may consider the firm's or attorney's, firm's, and/or entity's background, experience, and relevant legal reputation in education law; experience advising or and representing school districts in California; fees; and experience of attorneys at the firm who will provide legal services.

Any attorney representing the district shall be admitted to practice law in California. (Education Code 35041.5)

The Board and Superintendent shall ~~annually~~ periodically evaluate the performance of the firm(s) and/or attorneys providing legal services in such areas as attorney(s); the efficiency and adequacy of advice; the results obtained for the district; the reasonableness of fees; and the responsiveness to and interactions with the Board, administration, and community. ~~Upon a successful~~

The Board may use such evaluation; ~~the Board may(s) to determine whether to~~ renew the any current agreement ~~with(s) for legal counsel without initiating an RFP.~~ services.

The Board may also contract for ~~temporary~~, specialized legal services ~~without initiating an RFP, as appropriate~~, when a majority of the Board determines that the unique demands of a particular issue or emergency situation ~~so requires~~ require such representation.

Contacting Legal Counsel

CSBA NOTE: The following section should be modified to reflect district practice.

~~At his/her discretion, the~~ The Board president, or Superintendent or designee, may, at their discretion, confer with district legal counsel subject to any limits or parameters established by the Board. In addition, the Board president, or Superintendent or ~~Board president~~ designee, may contact district legal counsel to provide the Board with legal information or advice when so directed by a majority of the Board.

Individual Board members other than the Board president may not seek advice from district legal counsel on matters of district business unless so authorized by the Superintendent, the Board president, or a majority of the Board.

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 35041	Administrative adviser
Ed. Code 35041.5	Legal counsel
Ed. Code 35161	Board delegation of any powers or duties
Ed. Code 35200-35214	Liabilities
Ed. Code 35204	Contract with attorney in private practice
Ed. Code 35205	Contract for legal services
Gov. Code 26520	Legal services to school districts
Gov. Code 26529	District Attorney
Gov. Code 53060	Special services and advice
Gov. Code 814-895.8	Liability of public entities and public employees
Gov. Code 995-996.6	Defense of public employees
Management Resources	Description
CSBA Publication	The Brown Act: School Boards and Open Meeting Laws, rev. 2019
National School Boards Association Publication	Selecting and Working with a School Attorney: A Guide for School Boards, 1997
State Bar of California Publication	California Rules of Professional Conduct
Website	CSBA District and County Office of Education Legal Services
Website	State Bar of California
Website	California Council of School Attorneys
Website	National School Boards Association
Website	CSBA

Cross References

Code	Description
1160	Political Processes
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
3311.2	Lease-Leaseback Contracts
3312	Contracts
3400	Management Of District Assets/Accounts
3400	Management Of District Assets/Accounts
4312.1	Contracts
9000	Role Of The Board
9200	Limits Of Board Member Authority
9260	Legal Protection
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session

Policy 0410: Nondiscrimination In District Programs And Activities

Status: DRAFT

Original Adopted Date: 02/01/2014 | **Last Revised Date:** 05/10/01/20182023 | **Last Reviewed Date:** 05/10/01/20182023

CSBA NOTE: Education Code 234.1 mandates districts to adopt policy and regulations as well as a process to ensure that district programs and activities are free from unlawful discrimination. Education Code 234.1 requires that the district's nondiscrimination policy include a statement that the policy applies to all acts related to a school activity or school attendance and, as amended by AB 1078 (Ch. 229, Statutes of 2023), to all acts of the Governing Board and the Superintendent in enacting policies and procedures that govern the district. Education Code 234.1, as amended by AB 1078, contains similar language regarding the County Board of Education and the County Superintendent of Schools.

In accordance with various provisions of state and federal law, discrimination in education programs and activities is unlawful when it is based on certain actual or perceived characteristics of an individual. Education Code 220, as amended by AB 699 (Ch. 493, Statutes of 2017), prohibits discrimination based on race or ethnicity, nationality, immigration status, sex, sexual orientation, gender, gender identity, gender expression, religion, disability, or any other characteristic contained in the definition of hate crimes in Penal Code 422.55. Education Code 260 prohibits discrimination based on age. Government Code 11135 prohibits discrimination based on all many of the foregoing characteristics and on age, disability, and an individual's genetic information and medical condition. Title VI of the Civil Rights Act of 1964 (42 USC 2000d-2000d-7) prohibits discrimination on the basis of race, color, and national origin. Title IX (20 USC 1681-1688) prohibits discrimination on the basis of sex; gender, gender identity, pregnancy, and parental status. The Americans with Disabilities Act (ADA) (42 USC 12101-12213) and Section 504 of the Rehabilitation Act of 1973 (29 USC 794) prohibit discrimination on the basis of disability. For policy language protecting students against discrimination and harassment, see BP/AR 5145.3 - Nondiscrimination/Harassment and BP/AR 5145.7 - Sexual Harassment.

Education Code 260 and 5 CCR 4900-4965 require the ~~Governing~~ Board to monitor district compliance with these state and federal laws. The federal laws are enforced by the Office for Civil Rights (OCR) of the U.S. Department of Education, and the California Department of Education (CDE) may investigate complaints regarding discrimination pursuant to 5 CCR 4600-4670.

OCR's August 2023 Dear Colleague Letter, "Race and School Programming," states that a district may not separate students based on race, but may include group discussions or activities that focus on race as part of the curriculum, courses, or programs so long as access or participation is not permitted or limited based on race. OCR's guidance also provides that a school-sponsored program with emphasis on race, such as a student club, that is open to all students, typically would not violate Title VI solely because of its race-related theme.

Additionally, OCR's May 2023 Dear Colleague Letter, "Resource on Confronting Racial Discrimination in Student Discipline," published in conjunction with the U.S. Department of Justice (DOJ), states that a district's responsibility not to discriminate against students applies to any of its programs or activities, whether directly or through contractual or other arrangements.

Similarly, Government Code 12940 provides protections for employees, job applicants, unpaid interns, and volunteers against unlawful discrimination and harassment: on the basis of actual or

perceived race, color, ancestry, national origin, age, religious creed, marital status, pregnancy, physical or mental disability, medical condition, genetic information, veteran or military status, sex, sexual orientation, gender, gender identity, or gender expression, and, as amended by SB 523 (Ch. 630, Statutes of 2022), includes reproductive health decisionmaking. For policy language addressing these protections against discrimination as they relate to volunteers, see BP 1240 -- Volunteer Assistance, and in relation to employees, unpaid interns, and job applicants, see BP 4030 -- Nondiscrimination in Employment.

~~The Governing~~ This policy shall apply to all acts related to a school activity or school attendance and to all acts of the Governing Board and the Superintendent in enacting policies and procedures that govern the district.

The Board is committed to providing equal opportunity for all individuals in district programs and activities. District programs, activities, and practices shall be free from unlawful discrimination, including discrimination against an individual or group based on race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, ethnicity, age, religion, marital status, pregnancy, parental status, reproductive health decisionmaking, physical or mental disability, medical condition, sex, sexual orientation, gender, gender identity, gender expression, veteran or military status, or genetic information; a perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

CSBA NOTE: Education Code 234.7, as added by AB 699 (Ch. 493, Statutes of 2017), mandates that districts adopt policy consistent with the California Attorney General's General's model policy contained in the Office of the Attorney General's General's publication, "Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's California's K-12 Schools in Responding to Immigration Issues." That model policy includes statements regarding the equitable provision of services and a prohibition against the use of school resources or data for creating a registry based on specific characteristics. In addition, Government Code 8310.3, as added by SB 31 (Ch. 826, Statutes of 2017), prohibits districts from disclosing information about immigration status or religion to federal government authorities for use in the compilation of a registry for immigration enforcement or otherwise assisting in the creation of such a registry. For more information regarding this mandate and appropriate responses to citizenship and immigration concerns, see BP/AR 5145.13 – Response to Immigration Enforcement.

All individuals shall be treated equitably in the receipt of district and school services. Personally identifiable information collected in the implementation of any district program, including, but not limited to, student and family information for the free and reduced-price lunch program, transportation, or any other educational program, shall be used only for the purposes of the program, except when the Superintendent or designee authorizes its use for another purpose in accordance with law. Resources and data collected by the district shall not be used, directly or by others, to compile a list, registry, or database of individuals based on race, gender, sexual orientation, religion, ethnicity, national origin, or immigration status or any other category identified above.

CSBA NOTE: Education Code 243, as added by AB 1078, clarifies when it is unlawful discrimination for the 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 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 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.

Education Code 242, as added by AB 1078, requires CDE to develop, by July 1, 2025, guidance and public educational materials to ensure that all Californians can access information about educational laws and policies that safeguard the right to an accurate and inclusive curriculum.

District programs and activities shall be free of any discriminatory use, selection, or rejection of textbooks, instructional materials, library books, or similar educational resources.

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 shall not be rejected or prohibited by the Board or district on the basis that it includes a study of the role and contributions of any individual or group consistent with the requirements of Education Code 51204.5 and 60040, unless such study would violate Education Code 51501 or 60044. (Education Code 243)

CSBA NOTE: Education Code 221.2-221.3 (the California Racial Mascot Act) declare the use of racially derogatory or discriminatory school or athletic team names, mascots, or nicknames to be contrary to an equal education and specifically prohibit public schools from using the term "Redskins" as a school or athletic team name, mascot, or nickname. The following paragraph expands this prohibition to include any racially derogatory or discriminatory athletic team name, mascot, or nickname and may be revised to reflect district practice.

District programs and activities shall be free of any racially derogatory or discriminatory school or athletic team names, mascots, or nicknames.

CSBA NOTE: Pursuant to Education Code 221.5, a district is required to permit a student to participate in sex-segregated school programs and activities, including athletic teams and competitions, and to use facilities consistent with the student's gender identity, regardless of his/her the student's gender as listed on his/her the student's educational records. See BP/AR 5145.3 - Nondiscrimination/Harassment.

For further information, see CSBA's Updated, "Legal Guidance: Protecting on Rights of Transgender and Gender Nonconforming Students Against Sex Discrimination in Schools," and CSBA's Recently Asked Questions, "Parental and Student Rights in Relation to Transgender and Gender Nonconforming Students."

The Superintendent or designee shall annually review district programs and activities to ensure the removal of any derogatory or discriminatory name, image, practice, or other barrier that may unlawfully prevent an individual or group in any of the protected categories stated above from accessing district programs and activities. He/she The Superintendent or designee shall take prompt, reasonable actions to remove any identified barrier. The Superintendent or designee shall report his/her the findings and recommendations to the Board after each review.

All allegations of unlawful discrimination in district programs and activities shall be investigated and resolved in accordance with the procedures specified in AR 1312.3 - Uniform Complaint Procedures.

CSBA NOTE: Complaints alleging discrimination based on a violation of Education Code 243, as added by AB 1078, 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 resource in a school library, as described above, may be brought under the district's uniform complaint procedures (UCP) 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.

All allegations of unlawful discrimination in district programs and activities shall be brought, investigated, and resolved in accordance with Board Policy 1312.3 – Uniform Complaint Procedures.

CSBA NOTE: Many nondiscrimination laws and regulations contain a notification requirement. For example, pursuant to 34 CFR 104.8 and 106.9~~8~~, a district that receives federal aid is required to take "continuing steps" to notify students, parents/guardians, employees, employee organizations, and applicants for admission and employment that it does not discriminate on the basis of disability or sex in its educational programs or activities. In addition, Education Code 221.61 requires districts to post specified information relating to Title IX on their ~~web sites~~websites. To ensure consistent implementation of the laws, the same notification requirement should be adopted for all the protected categories as provided in the following paragraph.

Pursuant to 34 CFR 104.8 and 34 CFR 106.9~~8~~, the Superintendent or designee shall notify students, parents/guardians, employees, employee organizations, applicants for admission and employment, and sources of referral for applicants about the district's policy on nondiscrimination and related complaint procedures. Such notification shall be included in the annual parental notification distributed pursuant to Education Code 48980 and, as applicable, in announcements, bulletins, catalogs, handbooks, application forms, or other materials distributed by the district. The notification shall also be posted on the district's ~~web site~~website and social media and in district schools and offices, including staff lounges, student government meeting rooms, and other prominent locations as appropriate.

CSBA NOTE: Education Code 234.7, as added by AB 699 (Ch. 493, Statutes of 2017), requires the following notification. Information about the educational rights of all students is contained in the appendix of 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, the annual parental notification shall inform parents/guardians of their children's right to a free public education regardless of immigration status or religious beliefs, including information on educational rights issued by the California Attorney General. Alternatively, such information may be provided through any other cost-effective means determined by the Superintendent or designee. (Education Code 234.7)

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

The district's nondiscrimination policy and related informational materials shall be published in a format that parents/guardians can understand. In addition, when 15 percent or more of a school's students speak a single primary language other than English, those materials shall be translated into that other language. (Education Code 48985; 20 USC 6312)

Access for Individuals with Disabilities

CSBA NOTE: Pursuant to the ADA and its implementing regulations, 28 CFR 35.150 and 35.151, district facilities must be accessible to and usable by individuals with disabilities. Compliance methods may include equipment redesign, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, and alteration of existing facilities and construction of new facilities. In achieving compliance, a district need not make structural changes to existing facilities if other methods are effective and the district can demonstrate that the structural change would result in a fundamental alteration in the nature of the activity or an undue financial or administrative burden. However, pursuant to 28 CFR 35.151, all newly constructed facilities must comply with the 2010 ADA Standards for Accessible Designs issued by the U.S. Department of Justice.[DOJ](#).

In addition, pursuant to 28 CFR 35.136, a district must permit an individual with a disability to be accompanied by a service animal on district premises when, without the animal's assistance, the individual with a disability will not be able to access or participate in a district program or activity. For language addressing this mandate, see AR 6163.2 - Animals at School. Districts with questions about compliance with the ADA should consult with [CSBA's District and County Office of Education Legal Services](#) or district legal counsel as appropriate.

District programs and facilities, viewed in their entirety, shall be in compliance with the Americans with Disabilities Act (ADA) and any implementing standards and/or regulations. When structural changes to existing district facilities are needed to provide individuals with disabilities access to programs, services, activities, or facilities, the Superintendent or designee shall develop a transition plan that sets forth the steps for completing the changes.

CSBA NOTE: Pursuant to 28 CFR 35.130 and 35.160, the ADA requires districts to provide services and aids to ensure that a disabled individual is not excluded from participation or denied a benefit, service, or program on the basis of a disability. However, if the district can show that providing such aids and services would fundamentally alter the nature of the function, program, or meeting or would be an undue burden, then the district need not provide them.

[The requirement to provide services and aids extends to qualified individuals with speech, hearing, or vision disabilities who participate in Medi-Cal, and, in accordance with the Department of Health Care Services Policy and Procedure Letters No. 21-017R and No. 23-004, districts are required to have a plan to meet these alternative format requirements; see AR 5141.6 – School Health Services.](#)

In addition, Government Code 54953.2 requires that all Board meetings meet the protections of the ADA and implementing regulations (28 CFR 35.160 and 36.303). ~~In effect, the~~ [The](#) district must ensure that such meetings are accessible to persons with disabilities and that, upon the request of any person with a disability, disability-related accommodations, such as auxiliary aids and services, are made available. [Additionally, Government Code 54953, as amended by AB 2449 \(Ch. 285, Statutes of 2022\), requires boards to maintain and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the ADA, and to resolve any doubt in favor of accessibility. See BB 9320 - Meetings and Notices and BB 9322 - Agenda/Meeting Materials.](#)

OCR has interpreted the ADA and Section 504 of the Rehabilitation Act of 1973 to include the requirement that district ~~web sites~~ [websites](#) be accessible to individuals with disabilities. See ~~the~~ OCR's June 2010 and May 2011 Dear Colleague Letters and BP 1113 - District and School ~~Web Sites~~ [Websites](#).

The Superintendent or designee shall ensure that the district provides appropriate auxiliary aids and services when necessary to afford individuals with disabilities equal opportunity to participate in or

enjoy the benefits of a service, program, or activity. These aids and services may include, but are not limited to, qualified interpreters or readers, assistive listening devices, assistive technologies or other modifications to increase accessibility to district and school ~~web sites~~[websites](#), notetakers, written materials, taped text, and Braille or large-print materials. Individuals with disabilities shall notify the Superintendent or ~~principal~~[designee](#) if they have a disability that requires special assistance or services. Reasonable notification should be given prior to a school-sponsored function, program, or meeting.

CSBA NOTE: Pursuant to 28 CFR 35.107, a district that has 50 or more employees is required to designate at least one employee to coordinate the district's efforts to comply with the ADA. The designated employee could be the same individual or position responsible for the district's compliance with state and federal laws and regulations governing educational programs as identified in the district's ~~uniform complaint~~[UCP](#) procedures. The following paragraph, which identifies the person or position identified in the AR 1312.3 - Uniform Complaint Procedures as the responsible employee, may be modified if the district chooses to designate another person or position.

The individual identified in ~~AR~~[Administrative Regulation](#) 1312.3 - Uniform Complaint Procedures as the employee responsible for coordinating the district's response to complaints and for complying with state federal civil rights laws is hereby designated as the district's ADA coordinator. ~~He/she~~[The compliance officer](#) shall receive and address requests for accommodation submitted by individuals with disabilities, and shall investigate and resolve complaints regarding their access to district programs, services, activities, or facilities.

Director of Human Resources

Gridley Unified School District

429 Magnolia Street

Gridley, CA

(530) 846-4721

Policy Reference UPDATE Service

Copyright 2023 by **California School Boards Association**, West Sacramento, California 95691

All rights reserved.

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
5 CCR 4600-4670	Uniform complaint procedures
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
Ed. Code 200-262.4	Prohibition of discrimination
Ed. Code 48980	Parent/Guardian notifications
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 51007	Legislative intent; state policy

Ed. Code 51204.5

Ed. Code 51501

Ed. Code 60010

Ed. Code 60040-60052

Gov. Code 11000

Gov. Code 11135

Gov. Code 12900-12996

Gov. Code 54953

Gov. Code 54953.2

Gov. Code 8310.3

Pen. Code 422.55

Pen. Code 422.6

Federal

20 USC 1400-1482

20 USC 1681-1688

20 USC 2301-2414

20 USC 6311

20 USC 6312

28 CFR 35.101-35.190

28 CFR 36.303

29 USC 794

34 CFR 100.1-100.13

34 CFR 104.1-104.39

34 CFR 106.1-106.6182

~~34 CFR 106.9~~

42 USC 12101-12213

42 USC 2000d-2000d-7

42 USC 2000e-2000e-17

Management Resources

CA Civil Rights Department
Publication

Social sciences instruction; contributions of specified groups

Nondiscriminatory subject matter

Instructional materials; definition

Requirements for instructional materials

Definitions

Prohibition of discrimination

Fair Employment and Housing Act

Meetings; Americans with Disabilities Act accessibility

Brown Act compliance with Americans with Disabilities Act

California Religious Freedom Act

Definition of hate crime

Crimes; harassment

Description

Individuals with Disabilities Education Act

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

Strengthening Career and Technical Education for the 21st Century Act

State plan

Local educational agency plan

Americans with Disabilities Act

Nondiscrimination on the basis of disability, public accommodations, auxiliary aids, and services

Rehabilitation Act of 1973; Section 504

Nondiscrimination in federal programs; effectuating Title VI

Section 504 of the Rehabilitation Act of 1973

Discrimination on the basis of sex; effectuating Title IX

~~Severability~~

Americans with Disabilities Act

Title VI, Civil Rights Act of 1964

Title VII, Civil Rights Act of 1964, as amended

Description

California Law Prohibits Workplace Discrimination and Harassment
https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2023/01/Workplace-Discrimination-Poster_ENG.pdf

<u>CA Department of Health Care Policy and Procedures Letter No. 23-004, February 2023</u> <u>Services Publication</u>	
<u>CA Department of Health Care Policy and Procedures Letter No. 21-017R, December 2021</u> <u>Services Publication</u>	
CA Office of the Attorney General Publication	Promoting a Safe and Secure Learning Environment for All: <u>Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, April 2018</u> (https://oag.ca.gov/sites/all/files/agweb/pdfs/bcj/school-guidance-model-k12.pdf)
CSBA Publication	Updated Legal Guidance: <u>Protecting on Rights of Transgender and Gender Nonconforming Students Against Sex Discrimination, March 2017</u> <u>in Schools, October 2022</u> (https://www.csba.org/-/media/CSBA/Files/Advocacy/LegalAdvocacy/Legal-Guidance-Transgender-Legal-10-2022.ashx?la=en&rev=a3fb600ee6d640598c038dfceaef871c)
<u>CSBA Publication</u>	<u>Parental and Student Rights in Relation to Transgender and Gender Nonconforming Students, Recently Asked Questions, August 2023</u>
<u>U.S. Department of Justice Publication, Civil Rights Division Publication</u>	<u>Guidance on Web Accessibility and the ADA, March 2022</u>
U.S. Department of Justice, <u>Civil Rights Division</u> Publication	Accessibility of State and Local Government Websites to People with Disabilities, June 2003 <u>February 2020</u> (https://www.ada.gov/resources/accessibility-govt-websites/)
U.S. Department of Justice, <u>Civil Rights Division</u> Publication	2010 ADA Standards for Accessible Design, September 2010 (https://www.ada.gov/law-and-reg/design-standards/2010-stds/)
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter, May 26, 2011 : <u>Race and School Programming, August 2023</u> (https://www2.ed.gov/about/offices/list/ocr/letters/colleague-20230824.pdf)
U.S. DOE, Office for Civil Rights Publication	<u>Dear Colleague Letter: Frequently Asked Questions About the June 29, 2010, Dear Colleague Letter, May 26, 2011</u> (https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201105-pse.pdf)
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: <u>Electronic Book Readers, June 29, 2010</u> (https://www2.ed.gov/about/offices/list/ocr/letters/colleague-20100629.pdf)
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: <u>Title IX Coordinators, April 2015</u> <u>Supporting Transgender Youth in School, June 2021</u> (https://www2.ed.gov/about/offices/list/ocr/docs/ed-factsheet-transgender-202106.pdf)
U.S. DOE, Office for Civil Rights <u>and U.S. DOJ, Civil Rights Division</u> Publication	<u>Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016</u> <u>Dear Colleague Letter: Resource on Confronting Racial Discrimination in Student Discipline, May 2023</u> (https://www2.ed.gov/about/offices/list/ocr/docs/tvi-student-discipline-resource-202305.pdf)
U.S. DOE, Office for Civil	Nondiscrimination in Employment Practices in Education, August 1991

Rights Publication	https://www2.ed.gov/about/offices/list/ocr/docs/hq53e8.html
U.S. DOE, Office for Civil Rights Publication	Notice of Non-Discrimination, Fact Sheet, August 2010
Website	CSBA District and County Office of Education Legal Services
Website	World Wide Web Consortium, Web Accessibility Initiative
Website	Pacific ADA Center
Website	U.S. Department of Justice, Civil Rights Division, Disability Rights Section
Website	California Office of the Attorney General
Website	California Safe Schools Coalition
Website	CSBA
Website	California Department of Education
Website	California Civil Rights Department
Website	California Department of Health Care Services https://www.dhcs.ca.gov/
Website	U.S. Equal Employment Opportunity Commission
Website	U.S. Department of Education, Office for Civil Rights
World Wide Web Consortium Publication	Web Content Accessibility Guidelines, December 2008

Cross References

Code	Description
0100	Philosophy
0415	Equity
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0470	COVID-19 Mitigation Plan
1100	Communication With The Public
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
1230	School-Connected Organizations
1230	School-Connected Organizations

1240	Volunteer Assistance
1240	Volunteer Assistance
1260	Educational Foundation
<u>1312.2</u>	<u>Complaints Concerning Instructional Materials</u>
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
<u>1312.4</u>	<u>Williams Uniform Complaint Procedures</u>
1325	Advertising And Promotion
1330	Use Of School Facilities
1330	Use Of School Facilities
<u>1330-E(1)</u>	<u>Use Of School Facilities</u>
3260	Fees And Charges
3260	Fees And Charges
3270	Sale And Disposal Of Books, Equipment And Supplies
3270	Sale And Disposal Of Books, Equipment And Supplies
3311	Bids
3311	Bids
3515.3	District Police/Security Department
3515.3	District Police/Security Department
3515.31	School Resource Officers
3530	Risk Management/Insurance
3530	Risk Management/Insurance
3540	Transportation
3541.2	Transportation For Students With Disabilities
3551	Food Service Operations/Cafeteria Fund
3551	Food Service Operations/Cafeteria Fund
3552	Summer Meal Program
3552	Summer Meal Program
3553	Free And Reduced Price Meals
3553	Free And Reduced Price Meals
3555	Nutrition Program Compliance

3555-E(1)	Nutrition Program Compliance
3600	Consultants
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4032	Reasonable Accommodation
4033	Lactation Accommodation
4040	Employee Use Of Technology
4040-E(1)	Employee Use Of Technology
4111	Recruitment And Selection
4111.2	Legal Status Requirement
4111.2	Legal Status Requirement
4119.11	Sexual Harassment
4119.11	Sexual Harassment
4119.21	Professional Standards
4119.21-E(1)	Professional Standards
4119.22	Dress And Grooming
4131	Staff Development
4144	Complaints
4144	Complaints
4161.8	Family Care And Medical Leave
4211	Recruitment And Selection
4211.2	Legal Status Requirement
4211.2	Legal Status Requirement
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4219.11	Sexual Harassment
4219.11	Sexual Harassment
4219.21	Professional Standards
4219.21-E(1)	Professional Standards
4219.22	Dress And Grooming
4244	Complaints
4244	Complaints
4261.8	Family Care And Medical Leave

4311	Recruitment And Selection
4311.2	Legal Status Requirement
4311.2	Legal Status Requirement
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4319.11	Sexual Harassment
4319.11	Sexual Harassment
4319.21	Professional Standards
4319.21-E(1)	Professional Standards
4319.22	Dress And Grooming
4331	Staff Development
4344	Complaints
4344	Complaints
4361.8	Family Care And Medical Leave
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy
5126	Awards For Achievement
5126	Awards For Achievement
5131.2	Bullying
5131.2	Bullying
5141.22	Infectious Diseases
5141.22	Infectious Diseases
<u>5141.6</u>	<u>School Health Services</u>
5145.12	Search And Seizure
5145.12	Search And Seizure
5145.13	Response To Immigration Enforcement
5145.13	Response To Immigration Enforcement
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5145.7	Sexual Harassment
5145.7	Sexual Harassment

5145.71	Title IX Sexual Harassment Complaint Procedures
5145.71-E(1)	Title IX Sexual Harassment Complaint Procedures
5145.9	Hate-Motivated Behavior
5146	Married/Pregnant/Parenting Students
5148	Child Care And Development
5148	Child Care And Development
5148.2	Before/After School Programs
5148.2	Before/After School Programs
6000	Concepts And Roles
6020	Parent Involvement
6020	Parent Involvement
6141	Curriculum Development And Evaluation
6141	Curriculum Development And Evaluation
6141.2	Recognition Of Religious Beliefs And Customs
6141.2	Recognition Of Religious Beliefs And Customs
6141.4	International Baccalaureate Program
6141.5	Advanced Placement
6142.1	Sexual Health And HIV/AIDS Prevention Instruction
6142.1	Sexual Health And HIV/AIDS Prevention Instruction
6142.3	Civic Education
6142.5	Environmental Education
6142.7	Physical Education And Activity
6142.7	Physical Education And Activity
<u>6143</u>	<u>Courses Of Study</u>
6144	<u>Controversial Issues</u>
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
6145.2	Athletic Competition
6145.2	Athletic Competition
6152.1	Placement In Mathematics Courses
6152.1	Placement In Mathematics Courses
6158	Independent Study
6158	Independent 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
<u>6161.11</u>	<u>Supplementary Instructional Materials</u>
6162.5	Student Assessment
<u>6163.1</u>	<u>Library Media Centers</u>
6163.2	Animals At School
6163.2	Animals At School
6164.2	Guidance/Counseling Services
6164.4	Identification And Evaluation Of Individuals For Special Education
6164.4	Identification And Evaluation Of Individuals For Special Education
6164.6	Identification And Education Under Section 504
6164.6	Identification And Education Under Section 504
6172	Gifted And Talented Student Program
6172	Gifted And Talented Student Program
6173	Education For Homeless Children
6173	Education For Homeless Children
6173-E(1)	Education For Homeless Children
6173-E(2)	Education For Homeless Children
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
6173.4	Education for American Indian Students
6175	Migrant Education Program
6175	Migrant Education Program
6178	Career Technical Education
6178	Career Technical Education
6181	Alternative Schools/Programs Of Choice
6181	Alternative Schools/Programs Of Choice
6184	Continuation Education
6184	Continuation Education
6200	Adult Education
6200	Adult Education

7110	Facilities Master Plan
7111	Evaluating Existing Buildings
7310	Naming Of Facility
9150	Student Board Members
9220	Governing Board Elections
9320	Meetings And Notices
9322	Agenda/Meeting Materials

Policy 1312.2: Complaints Concerning Instructional Materials

Status: DRAFT

Original Adopted Date: 09/01/1988 | **Last Revised Date:** 03/10/01/2006/2023 | **Last Reviewed Date:** 03/10/01/2006/2023

CSBA NOTE: The following optional policy and the 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 California Department of Education (CDE) is required to develop, by July 1, 2025, guidance and public educational materials to ensure that all Californians can access information about educational laws and policies that safeguard the right to an accurate and inclusive curriculum.

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 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.

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 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 enrolled in a district school. (Education Code 35160)

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

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

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

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, 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 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, guidance regarding how to review instructional materials to ensure that they represent diverse perspectives and are culturally relevant.

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 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. While Education Code 243 is 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.

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.

~~When any~~Any challenged instructional material that is reviewed by the district, it shall not be subject to further reconsideration for 12 months, unless ~~the Superintendent determines that reconsideration is warranted~~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 ~~pursuant to the district's~~as specified in Administrative Regulation 1312.4 – Williams uniform complaint procedure at AR 1312.4Uniform Complaint Procedures.

Policy Reference UPDATE Service

Copyright 2023 by California School Boards Association, West Sacramento, California 95691
All rights reserved.

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 4600-4670

Ed. Code 18111

Ed. Code 220

Ed. Code 242

Ed. Code 243

Ed. Code 1240

Ed. Code 35010

Ed. Code 35160

Ed. Code 35186

Ed. Code 44805

Description

Uniform complaint procedures

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

Prohibition of discrimination

Access to information about educational laws and policies regarding right to accurate and inclusive curriculum

Unlawful discrimination related to the use or prohibited use of textbooks and instructional materials

County superintendent of schools; duties

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

Ed. Code 44805	Enforcement of course of studies; use of textbooks, rules and regulations
<u>Ed. Code 48907</u>	<u>Exercise of free expression; time, place and manner rules and regulations</u>
<u>Ed. Code 48950</u>	<u>Speech and other communication</u>
<u>Ed. Code 51204.5</u>	<u>Social sciences instruction; contributions of specified groups</u>
Ed. Code 51501	Subject matter reflecting on race, color, etc. <u>Nondiscriminatory subject matter</u>
<u>Ed. Code 51511</u>	<u>Religious matters properly included in courses of study</u>
<u>Ed. Code 51933</u>	<u>Sexual health education and HIV prevention materials</u>
Ed. Code 60000-60005	Instructional materials; legislative intent
Ed. Code 60040- 60048 <u>60052</u>	Instructional requirements and materials <u>Requirements for instructional materials</u>
Ed. Code 60119	Public hearing on sufficiency of materials <u>Public hearing on sufficiency of textbooks and instructional materials</u>
Ed. Code 60200- 60206 <u>60213</u>	Elementary school materials
Ed. Code 60226	Requirements for publishers and manufacturers
Ed. Code 60400-60411	High school textbooks <u>and instructional materials</u>
Ed. Code 60510-60511	Donation or sale of obsolete instructional materials
Management Resources	Description
<u>California Department of Education Publication</u>	Selection of Instructional Materials; CIL: 90/91-02 <u>FAQ</u>
California Department of Education Publication	Standards for Evaluation of <u>Evaluating</u> Instructional Materials with Respect to <u>for</u> Social Content, 1986 <u>2013</u> edition; revised 2001
Website	CSBA District and County Office of Education Legal Services
Website	California Department of Education, Curriculum and Instruction <u>Resources</u>
Website	CSBA
<u>Website</u>	<u>Department of Justice (https://oag.ca.gov/)</u>
<u>Website</u>	<u>U.S. Department of Education, Office for Civil Rights (https://www2.ed.gov/about/offices/list/ocr/index.html)</u>

Cross References

Code	Description
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
<u>5145.3</u>	<u>Nondiscrimination/Harassment</u>
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
<u>6143</u>	<u>Courses Of Study</u>
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: DRAFT

Original Adopted Date: 12/01/1990 | **Last Revised Date:** 03/10/01/2006/2023 | **Last Reviewed Date:** 03/10/01/2006/2023

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 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 a specific process that districts must use to resolve 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 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.

Step 1: Informal Complaint

If a staff member, district resident, or parent/guardian of a student enrolled in a district school has a complaint regarding the content or use of any specific instructional material, ~~he/she~~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, ~~he/she~~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. ~~Complainants~~In order for the district to reply appropriately, complainants shall sign all complaints and provide identifying information ~~so that the district is able to make a proper reply.~~ Anonymous complaints will not be accepted.

Upon receiving a complaint, the principal shall ~~acknowledge~~provide the complainant with a written acknowledgement of its receipt and ~~answer~~respond to any procedural questions regarding ~~procedure.~~ the complainant may have. The principal ~~then~~ shall then notify the Superintendent or designee ~~and, the teacher(s) involved of the complaint), 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. ~~However, upon request of the parent/guardian who has filed the complaint, his/her child may be excused from using challenged materials until a resolution has been reached. The teacher shall assign the student an alternate material of equal merit.~~

Step 3: Superintendent Determination Review Committee

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

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

Step 4: Review Committee

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

The Superintendent or designee may provide training to the review committee ~~shall~~ to ensure that the review committee is informed regarding its responsibilities, the criteria ~~specified in~~ to follow when reviewing instructional materials, and applicable laws, Board policy and shall determine the extent to which the challenged material supports the curriculum, the educational appropriateness of the material, and its suitability for the age level of the student. ~~(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 5: Appeal to the Governing Board

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

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 Board. The Board's decision shall be final.

Policy Reference UPDATE Service

Copyright 2023 by California School Boards Association, West Sacramento, California 95691
All rights reserved.

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 4600-4670

Description

Uniform complaint procedures

Ed. Code 18111	Exclusion of books by Governing board <u>that are sectarian, partisan, or denominational character</u>
<u>Ed. Code 220</u>	<u>Prohibition of discrimination</u>
<u>Ed. Code 242</u>	<u>Access to information about educational laws and policies regarding right to accurate and inclusive curriculum</u>
<u>Ed. Code 243</u>	<u>Unlawful discrimination related to the use or prohibited use of textbooks and instructional materials</u>
<u>Ed. Code 1240</u>	<u>County superintendent of schools; duties</u>
Ed. Code 35010	Control of district; prescription and enforcement of rules
<u>Ed. Code 35160</u>	<u>Powers and duties of school boards</u>
Ed. Code 35186	Williams uniform complaint procedures
<u>Ed. Code 44805</u>	<u>Teacher enforcement of course of studies; use of textbooks, rules and regulations</u>
Ed. Code 44805	Enforcement of course of studies; use of textbooks, rules and regulations
<u>Ed. Code 48907</u>	<u>Exercise of free expression; time, place and manner rules and regulations</u>
<u>Ed. Code 48950</u>	<u>Speech and other communication</u>
<u>Ed. Code 51204.5</u>	<u>Social sciences instruction; contributions of specified groups</u>
Ed. Code 51501	Subject matter reflecting on race, color, etc. <u>Nondiscriminatory subject matter</u>
<u>Ed. Code 51511</u>	<u>Religious matters properly included in courses of study</u>
<u>Ed. Code 51933</u>	<u>Sexual health education and HIV prevention materials</u>
Ed. Code 60000-60005	Instructional materials; legislative intent
Ed. Code 60040- 60048 <u>60052</u>	Instructional requirements and materials <u>Requirements for instructional materials</u>
Ed. Code 60119	Public hearing on sufficiency of materials <u>Public hearing on sufficiency of textbooks and instructional materials</u>
Ed. Code 60200- 60206 <u>60213</u>	Elementary school materials
Ed. Code 60226	Requirements for publishers and manufacturers
Ed. Code 60400-60411	High school textbooks <u>and instructional materials</u>
Ed. Code 60510-60511	Donation or sale of obsolete instructional materials
Management Resources	Description
<u>California Department of Education Publication</u>	Selection of Instructional Materials; CIL: 90/91-02 <u>FAQ</u>
California Department of Education Publication	Standards for Evaluation of <u>Evaluating</u> Instructional Materials with Respect to <u>for</u> Social Content, 1986 <u>2013</u> edition; revised 2001

Website	CSBA District and County Office of Education Legal Services
Website	California Department of Education, Curriculum and Instruction Resources
Website	CSBA
Website	Department of Justice (https://oag.ca.gov/)
Website	U.S. Department of Education, Office for Civil Rights (https://www2.ed.gov/about/offices/list/ocr/index.html)

Cross References

Code	Description
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
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
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

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

Status: DRAFT

Original Adopted Date: 12/01/1990 | **Last Revised Date:** 03/10/01/2006/2023 | **Last Reviewed Date:** 03/10/01/2006/2023

**REQUEST FOR RECONSIDERATION OF EXISTING
INSTRUCTIONAL MATERIALS**

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

Group represented (if any): _____

Phone: _____

E-mail address, if any: _____

Address: _____

Instructional Material Being Challenged:

Title: _____

Author: _____

Publisher: _____

Date of Edition: _____

Name of school/classroom instructional material was
used: _____

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

Did you _____

2. 2. Was the instructional material of concern read/view heard/viewed in isolation or was the entire selection?

3. For read/heard/viewed? If the entire selection was not read/heard/viewed, what age group would you recommend this material?

4. If not, what is your estimate regarding the percentage did you of the amount read/view, or what parts?
heard/viewed?

5. 3. What do you feel might be the result is your concern regarding the consequence if a student reads/hears/views this the instructional material?
In your assessment, is the instructional material appropriate for the age of the students being taught?

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

Do not assign it to my child

Withdraw it from all students

Reconsider it

Signature of complainant

For District Use:

Request received by: _____

Date: _____

Title: _____

Action taken: _____

Date: _____

Date: _____

Policy Reference UPDATE Service

Copyright 2023 by California School Boards Association, West Sacramento, California 95691

All rights reserved.

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 4600-4670

Ed. Code 18111

Ed. Code 220

Ed. Code 242

Ed. Code 243

Ed. Code 1240

Ed. Code 35010

Ed. Code 35160

Ed. Code 35186

Ed. Code 44805

Description

Uniform complaint procedures

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

Prohibition of discrimination

Access to information about educational laws and policies regarding right to accurate and inclusive curriculum

Unlawful discrimination related to the use or prohibited use of textbooks and instructional materials

County superintendent of schools; duties

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

Ed. Code 44805	Enforcement of course of studies; use of textbooks, rules and regulations
<u>Ed. Code 48907</u>	<u>Exercise of free expression; time, place and manner rules and regulations</u>
<u>Ed. Code 48950</u>	<u>Speech and other communication</u>
<u>Ed. Code 51204.5</u>	<u>Social sciences instruction; contributions of specified groups</u>
Ed. Code 51501	Subject matter reflecting on race, color, etc. <u>Nondiscriminatory subject matter</u>
<u>Ed. Code 51511</u>	<u>Religious matters properly included in courses of study</u>
<u>Ed. Code 51933</u>	<u>Sexual health education and HIV prevention materials</u>
Ed. Code 60000-60005	Instructional materials; legislative intent
Ed. Code 60040- 60048 <u>60052</u>	Instructional requirements and materials <u>Requirements for instructional materials</u>
Ed. Code 60119	Public hearing on sufficiency of materials <u>Public hearing on sufficiency of textbooks and instructional materials</u>
Ed. Code 60200- 60206 <u>60213</u>	Elementary school materials
Ed. Code 60226	Requirements for publishers and manufacturers
Ed. Code 60400-60411	High school textbooks <u>and instructional materials</u>
Ed. Code 60510-60511	Donation or sale of obsolete instructional materials
Management Resources	Description
<u>California Department of Education Publication</u>	Selection of Instructional Materials; CIL: 90/91-02 <u>FAQ</u>
California Department of Education Publication	Standards for Evaluation of <u>Evaluating</u> Instructional Materials with Respect to <u>for</u> Social Content, 1986 <u>2013</u> edition; revised 2001
Website	CSBA District and County Office of Education Legal Services
Website	California Department of Education, Curriculum and Instruction <u>Resources</u>
Website	CSBA
<u>Website</u>	<u>Department of Justice (https://oag.ca.gov/)</u>
<u>Website</u>	<u>U.S. Department of Education, Office for Civil Rights (https://www2.ed.gov/about/offices/list/ocr/index.html)</u>

Cross References

Code	Description
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
<u>5145.3</u>	<u>Nondiscrimination/Harassment</u>
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
<u>6143</u>	<u>Courses Of Study</u>
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 1312.3: Uniform Complaint Procedures

Status: DRAFT

Original Adopted Date: 05/01/2017 | Last Revised Date: 12~~10~~/01/2021~~2023~~ | Last Reviewed Date: 12~~10~~/01/2021~~2023~~

CSBA NOTE: To address prohibited discrimination and violations of state and federal laws governing educational programs, 5 CCR 4621 **mandates** districts to adopt uniform complaint procedures (UCP) consistent with the state's complaint procedures specified in 5 CCR 4600-4670. Additionally, Education Code 52075 **mandates** districts to adopt policies and procedures implementing the use of UCP to investigate and resolve complaints alleging noncompliance with requirements related to the local control and accountability plan, and Education Code 8212, as ~~renumbered by AB 131 (Ch. 116, Statutes of 2021)~~ **mandates** districts to adopt policies and procedures for resolving complaints regarding specified health and safety issues in license-exempt California State Preschool Programs (CSPP). Furthermore, a number of federal civil rights statutes and their implementing regulations mandate districts to adopt policies and procedures for the prompt and equitable resolution of complaints of unlawful discrimination (such as discriminatory harassment, intimidation, or bullying). For example, districts are **mandated** pursuant to 28 CFR 35.107 to adopt policy and procedures to address discrimination on the basis of disability, while districts that receive federal financial assistance are **mandated** pursuant to 34 CFR 106.8 and 34 CFR 110.25 to adopt policies and procedures to address discrimination on the basis of sex and age. The following policy contains a list of programs and activities subject to these procedures pursuant to state law; see the section "Complaints Subject to UCP", below.

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

The U.S. Department of Education's Office for Civil Rights (OCR) enforces federal anti-discrimination laws, including Title II of the Americans with Disabilities Act (42 USC 12101-12213), Title VI of the Civil Rights Act of 1964 (42 USC 2000d-~~2000e-17~~2000d-7), Title IX of the Education Amendments Act of 1972 (20 USC 1681-1688), Section 504 of the Rehabilitation Act of 1973 (29 USC 794), and the Age Discrimination Act of 1975 (42 USC 6101-6107). Whether a complaint of sexual harassment is addressed through the UCP or the federal Title IX complaint procedures adopted pursuant to 34 CFR 106.44-106.45, as ~~added by 85 Fed. Reg. 30026~~, is dependent on whether the alleged conduct meets the more stringent federal definition or the state definition of sexual harassment. See the section "Non-UCP Complaints" below, the accompanying administrative regulation, BP/AR 5145.7 - Sexual Harassment, and AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.

The following policy and accompanying administrative regulation reflect all components required by law, 5 CCR 4600-4670, as ~~amended by Register 2020, No. 21~~, and the ~~2021-22~~2023-24 FPM instrument. Additional details provided herein may help districts during a compliance check by CDE or in the event that a CDE or OCR investigation occurs.

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

Complaints Subject to UCP

CSBA NOTE: The FPM process includes a review of a district's policies and procedures to determine whether all district programs and activities that are subject to the UCP, as listed in the FPM instrument, are addressed. ~~Items #1-23~~ The 2023-24 FPM instrument does not include school safety plans, as was provided for in the 2022-23 instrument. Items #1-22 list all programs and activities identified in the FPM instrument. According to CDE, the district's policy must list all such programs and activities and, at the district's discretion, may add a paragraph below the list stating the UCP programs and activities that are implemented in the district.

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

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

1. Accommodations for pregnant and parenting students (Education Code 46015)
2. Adult education programs (Education Code 8500-8538, 52334.7, 52500-52617)
3. After School Education and Safety programs (Education Code 8482-8484.65)
4. Agricultural career technical education (Education Code 52460-52462)
5. Career technical and technical education and career technical and technical training programs (Education Code 52300-52462)
6. Child care and development programs (Education Code 8200-8488)
7. Compensatory education (Education Code 54400)
8. Consolidated categorical aid programs (Education Code 33315; 34 CFR 299.10-299.12)
9. Course periods without educational content (Education Code 51228.1-51228.3)
10. Discrimination, harassment, intimidation, or bullying in district programs and activities, including in those programs or activities funded directly by or that receive or benefit from any state financial assistance, based on a person's actual or perceived characteristics of race or ethnicity, color, ancestry, nationality, national origin, immigration status, ethnic group

identification, age, religion, marital status, pregnancy, parental status, physical or mental disability, medical condition, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or any other characteristic identified in Education Code 200 or 220, Government Code 11135, or Penal Code 422.55, or based on the person's association with a person or group with one or more of these actual or perceived characteristics (5 CCR 4610)

CSBA NOTE: Education Code 243, as added by AB 1078 (Ch. 229, Statutes of 2023), 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 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 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, may be brought under the district's UCP 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. For more information regarding complaints concerning instructional materials, see BP/AR 1312.2 – Complaints Concerning Instructional Materials and AR 1312.4 – Williams Uniform Complaint Procedures.

Education Code 242, as added by AB 1078, requires CDE to develop, by July 1, 2025, guidance and public educational materials to ensure that all Californians can access information about educational laws and policies that safeguard the right to an accurate and inclusive curriculum.

Discrimination includes, but is not limited to, the Board's refusal to approve the use or 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 includes a study of the role and contributions of any individual or group consistent with the requirements of Education Code 51204.5 and 60040, unless such study would violate Education Code 51501 or 60044. A complaint alleging such unlawful discrimination may, in addition to or in lieu of being filed with the district, be directly filed with the Superintendent of Public Instruction (SPI). (Education Code 243)

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

12. Every Student Succeeds Act (Education Code 52059.5; 20 USC 6301 et seq.)

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

14. Migrant education (Education Code 54440-54445)

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

16. Student fees (Education Code 49010-49013)

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

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

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

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

~~21.~~ 20. School site councils as required for the consolidated application for specified federal and/or state categorical funding (Education Code 65000)

~~22.~~ 21. State preschool programs (Education Code 8207-8225)

CSBA NOTE: Pursuant to Education Code 8212, as renumbered by AB 131, and CDE's ~~2021-22~~ 2023-24 FPM instrument, the district must use the UCP, with modifications as necessary, to resolve complaints alleging deficiencies related to health and safety issues in license-exempt CSPPs.

Pursuant to 5 CCR 4610, such complaints must be addressed through the procedures described in 5 CCR 4690-4694, as added by Register 2020, No. ~~21.~~ See the section "Health and Safety Complaints in License-Exempt Preschool Programs" in the accompanying administrative regulations.

~~23.~~ 22. State preschool health and safety issues in license-exempt programs (Education Code 8212)

CSBA NOTE: 5 CCR 4621 mandates that district policy ensure that complainants are protected from retaliation as specified in item #~~24~~ 23 below.

~~24.~~ 23. Any complaint alleging retaliation against a complainant or other participant in the complaint process or anyone who has acted to uncover or report a violation subject to this policy

~~25.~~ 24. Any other state or federal educational program the Superintendent of Public Instruction SPI or designee deems appropriate

CSBA NOTE: 5 CCR 4631 authorizes the district to utilize alternative dispute resolution (ADR) methods, including mediation, to resolve complaints before initiating a formal investigation. However, the district should ensure that any ADR it uses, particularly "in-person ADR," is appropriate for the particular situation. For example, in some instances (e.g., sexual assault), face-to-face mediation should not be used, even if all parties voluntarily agree, given the risk that a student might feel pressured to "voluntarily" agree to it. Districts may not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student; see AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.

The following optional paragraph provides for a neutral mediator and should be revised to reflect district practice.

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

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

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

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

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

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

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

Non-UCP Complaints

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

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

2. Any complaint alleging health and safety violations by a child development program shall, for licensed facilities, be referred to Department of Social Services. (5 CCR 4611)
3. Any complaint alleging that a student, while in an education program or activity in which the district exercises substantial control over the context and respondent, was subjected to sexual harassment as defined in 34 CFR 106.30 shall be addressed through the federal Title IX complaint procedures adopted pursuant to 34 CFR 106.44-106.45, as specified in [ARAdministrative Regulation](#) 5145.71 - Title IX Sexual Harassment Complaint Procedures.

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

4. Any complaint alleging employment discrimination or harassment shall be investigated and resolved by the district in accordance with the procedures specified in [ARAdministrative Regulation](#) 4030 - Nondiscrimination in Employment, including the right to file the complaint with the California [Civil Rights](#) Department of Fair Employment and Housing.

CSBA NOTE: 5 CCR 4610, as amended by Register 2020, No. 21, limits the applicability of the UCP for complaints regarding special education and child nutrition, as provided in Items #5-7 below.

5. Any complaint alleging a violation of a state or federal law or regulation related to special education, a settlement agreement related to the provision of a free appropriate public education (FAPE), failure or refusal to implement a due process hearing order to which the district is subject, or a physical safety concern that interferes with the district's provision of FAPE shall be submitted to the California Department of Education (CDE) in accordance with [ARAdministrative Regulation](#) 6159.1 - Procedural Safeguards and Complaints for Special Education. (5 CCR 3200-3205)
6. Any complaint alleging noncompliance of the district's food service program with laws regarding meal counting and claiming, reimbursable meals, eligibility of children or adults, or use of cafeteria funds and allowable expenses shall be filed with or referred to CDE in accordance with [BPBoard Policy](#) 3555 - Nutrition Program Compliance. (5 CCR 15580-15584)
7. Any allegation of discrimination based on race, color, national origin, sex, age, or disability in the district's food service program shall be filed with or referred to the U.S. Department of Agriculture in accordance with [BPBoard Policy](#) 3555 - Nutrition Program Compliance. (5 CCR 15582)

CSBA NOTE: Education Code 35186 requires the district to use UCP, with modifications, to investigate and resolve complaints related to the issues stated in the following paragraph (i.e., "Williams complaints"). Because Education Code 35186 sets forth different timelines for investigation and resolution of these kinds of complaints than the timelines specified in law for

other uniform complaints, CDE has created a separate uniform complaint process for the Williams complaints. See AR 1312.4 - Williams Uniform Complaint Procedures for the separate procedure.

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

Policy Reference UPDATE Service

Copyright 2023 by **California School Boards Association**, West Sacramento, California 95691
All rights reserved.

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
2 CCR 11023	Harassment and discrimination prevention and correction
5 CCR 15580-15584	Child nutrition programs complaint procedures
5 CCR 3200-3205	Special education compliance complaints
5 CCR 4600-4670	Uniform complaint procedures
5 CCR 4600-4687	Uniform complaint procedures and Williams complaints
5 CCR 4690-4694	Complaints regarding health and safety issues in license-exempt preschool programs
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
Ed. Code 18100-18203	School libraries
Ed. Code 200-262.4	Prohibition of discrimination
Ed. Code 32280-32289.5	School safety plans
Ed. Code 35186	Williams uniform complaint procedures
Ed. Code 46015	Parental leave for students
Ed. Code 48645.7	Juvenile court schools
Ed. Code 48853-48853.5	Foster youth
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 49010-49013	Student fees
Ed. Code 49060-49079	Student records
Ed. Code 49069.5	Records of foster youth
Ed. Code 49490-49590	Child nutrition programs

Ed. Code 49701	Provisions of the Interstate Compact on Educational Opportunities for Military Children
<u>Ed. Code 51204.5</u>	<u>Social sciences instruction; contributions of specified groups</u>
Ed. Code 51210	Course of study for grades 1-6
Ed. Code 51222	Physical education
Ed. Code 51223	Physical education; elementary schools
Ed. Code 51225.1-51225.2	Foster youth, homeless children, former juvenile court school students; course credits; graduation requirements
Ed. Code 51226-51226.1	Career technical education
Ed. Code 51228.1-51228.3	Course periods without educational content
<u>Ed. Code 51501</u>	<u>Nondiscriminatory subject matter</u>
Ed. Code 52059.5	Statewide system of support
Ed. Code 52060-52077	Local control and accountability plan
Ed. Code 52075	Complaint for lack of compliance with local control and accountability plan requirements
Ed. Code 52300-52462	Career technical education
Ed. Code 52500-52617	Adult schools
Ed. Code 54400-54425	Compensatory education programs
Ed. Code 54440-54445	Migrant education
Ed. Code 54460-54529	Compensatory education programs
Ed. Code 59000-59300	Special schools and centers
<u>Ed. Code 60010</u>	<u>Instructional materials; definition</u>
<u>Ed. Code 60040-60052</u>	<u>Requirements for instructional materials</u>
Ed. Code 64000-64001	Consolidated application process; school plan for student achievement
Ed. Code 65000-65001	School site councils
Ed. Code 8200-8488	Child care and development programs
Ed. Code 8500-8538	Adult basic education
Gov. Code 11135	Prohibition of discrimination
Gov. Code 12900-12996	Fair Employment and Housing Act
H&S Code 1596.792	California Child Day Care Act; general provisions and definitions
H&S Code 1596.7925	California Child Day Care Act; health and safety regulations
Pen. Code 422.55	Definition of hate crime
Pen. Code 422.6	Crimes; harassment

Federal	Description
20 USC 1221	Application of laws
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
20 USC 6301-6576	Title I Improving the Academic Achievement of the Disadvantaged
20 USC 6801-7014	Title III language instruction for limited English proficient and immigrant students
28 CFR 35.107	Nondiscrimination on basis of disability; complaints
29 USC 794	Rehabilitation Act of 1973; Section 504
34 CFR 100.3	Prohibition of discrimination on basis of race, color or national origin
34 CFR 104.7	Section 504; Designation of responsible employee and adoption of grievances procedures
34 CFR 106.1-106.82	Nondiscrimination on the basis of sex in education programs
34 CFR 106.30	Discrimination on the basis of sex in education programs and activities; definitions
34 CFR 106.44	Recipient's response to sexual harassment
34 CFR 106.45	Grievance process for formal complaints of sexual harassment
34 CFR 106.8	Designation of coordinator; dissemination of policy, and adoption of grievance procedures
34 CFR 110.25	Notification of nondiscrimination on the basis of age
34 CFR 99.1-99.67	Family Educational Rights and Privacy
42 USC 11431-11435	McKinney-Vento Homeless Assistance Act
42 USC 12101-12213	Americans with Disabilities Act
42 USC 2000d-2000e-17 <u>2000d-7</u>	Title VI and Title VII Civil Rights Act of 1964, as amended
42 USC 2000h-2-2000h-6	Title IX of the Civil Rights Act of 1964
42 USC 6101-6107	Age Discrimination Act of 1975
Management Resources	Description
California Department of Education Publication	Uniform Complaint Procedure 2021-22 Program Instrument
California Department of Education Publication	Sample UCP Board Policies and Procedures
U.S. DOE, Office for Civil Rights Publication	Part 1: Questions and Answers Regarding the Department's Title IX Regulations, January 2021
U.S. DOE, Office for Civil Rights Publication	Questions and Answers on the Title IX Regulations on Sexual Harassment, July 2021

U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Responding to Bullying of Students with Disabilities, October 2014
U.S. DOJ Publication	Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 2007
Website	CSBA District and County Office of Education Legal Services
Website	Student Privacy Policy Office
Website	U.S. Department of Agriculture
Website	California Department of Social Services
Website	U.S. Department of Justice
Website	California Department of Education
Website	CSBA
Website	U.S. Department of Education, Office for Civil Rights
Website	California Civil Rights Department

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
0420	School Plans/Site Councils
0420	School Plans/Site Councils
0420.41	Charter School Oversight
0420.41-E(1)	Charter School Oversight
0430	Comprehensive Local Plan For Special Education
0430	Comprehensive Local Plan For Special Education
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
0470	COVID-19 Mitigation Plan
1100	Communication With The Public
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1114	District-Sponsored Social Media

1114	District-Sponsored Social Media
1220	Citizen Advisory Committees
1220	Citizen Advisory Committees
1250	Visitors/Outsiders
1250	Visitors/Outsiders
1312.1	Complaints Concerning District Employees
1312.1	Complaints Concerning District Employees
1312.2	Complaints Concerning Instructional Materials
1312.2	Complaints Concerning Instructional Materials
1312.2-E(1)	Complaints Concerning Instructional Materials
1312.4	Williams Uniform Complaint Procedures
1312.4-E(1)	Williams Uniform Complaint Procedures
1312.4-E(2)	Williams Uniform Complaint Procedures
1313	Civility
1340	Access To District Records
1340	Access To District Records
3260	Fees And Charges
3260	Fees And Charges
3555	Nutrition Program Compliance
3555-E(1)	Nutrition Program Compliance
3580	District Records
3580	District Records
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4112.23	Special Education Staff
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.1	Civil And Legal Rights
4119.11	Sexual Harassment
4119.11	Sexual Harassment
4119.23	Unauthorized Release Of Confidential/Privileged Information

4131	Staff Development
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.1	Civil And Legal Rights
4219.11	Sexual Harassment
4219.11	Sexual Harassment
4219.23	Unauthorized Release Of Confidential/Privileged Information
4231	Staff Development
4244	Complaints
4244	Complaints
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4319.1	Civil And Legal Rights
4319.11	Sexual Harassment
4319.11	Sexual Harassment
4319.23	Unauthorized Release Of Confidential/Privileged Information
4331	Staff Development
4344	Complaints
4344	Complaints
5116.1	Intradistrict Open Enrollment
5116.1	Intradistrict Open Enrollment
5117	Interdistrict Attendance
5117	Interdistrict Attendance
5125	Student Records
5125	Student Records
5131.62	Tobacco
5131.62	Tobacco
5137	Positive School Climate
5141.22	Infectious Diseases
5141.22	Infectious Diseases
5141.4	Child Abuse Prevention And Reporting

5141.4	Child Abuse Prevention And Reporting
5144	Discipline
5144	Discipline
5144.1	Suspension And Expulsion/Due Process
5144.1	Suspension And Expulsion/Due Process
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5145.7	Sexual Harassment
5145.7	Sexual Harassment
5145.71	Title IX Sexual Harassment Complaint Procedures
5145.71-E(1)	Title IX Sexual Harassment Complaint Procedures
5145.9	Hate-Motivated Behavior
5146	Married/Pregnant/Parenting Students
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
6142.1	Sexual Health And HIV/AIDS Prevention Instruction
6142.1	Sexual Health And HIV/AIDS Prevention Instruction
6142.7	Physical Education And Activity
6142.7	Physical Education And Activity
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
6145.2	Athletic Competition
6145.2	Athletic Competition
6146.1	High School Graduation Requirements
6152	Class Assignment
6159	Individualized Education Program
6159	Individualized Education Program

6159.1	Procedural Safeguards And Complaints For Special Education
6159.1	Procedural Safeguards And Complaints For Special Education
6159.2	Nonpublic, Nonsectarian School And Agency Services For Special Education
6159.2	Nonpublic, Nonsectarian School And Agency Services For Special Education
6159.3	Appointment Of Surrogate Parent For Special Education Students
6159.3	Appointment Of Surrogate Parent For Special Education Students
<u>6161.1</u>	<u>Selection and Evaluation of Instructional Materials</u>
6164.2	Guidance/Counseling Services
6164.4	Identification And Evaluation Of Individuals For Special Education
6164.4	Identification And Evaluation Of Individuals For Special Education
6164.5	Student Success Teams
6164.5	Student Success Teams
6171	Title I Programs
6171	Title I Programs
6173	Education For Homeless Children
6173	Education For Homeless Children
6173-E(1)	Education For Homeless Children
6173-E(2)	Education For Homeless Children
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
6173.2	Education Of Children Of Military Families
6173.2	Education Of Children Of Military Families
6173.3	Education For Juvenile Court School Students
6175	Migrant Education Program
6175	Migrant Education Program
6178	Career Technical Education
6178	Career Technical Education
6178.1	Work-Based Learning
6178.1	Work-Based Learning

6178.2	Regional Occupational Center/Program
6200	Adult Education
6200	Adult Education
9000	Role Of The Board
9011	Disclosure Of Confidential/Privileged Information
9012	Board Member Electronic Communications
9124	Attorney
9200	Limits Of Board Member Authority
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session
9322	Agenda/Meeting Materials

Regulation 1312.3: Uniform Complaint Procedures

Status: DRAFT

Original Adopted Date: 05/01/2017 | Last Revised Date: 12/10/01/2021/2023 | Last Reviewed Date: 12/10/01/2021/2023

CSBA NOTE: 5 CCR 4621 **mandates** that the district's uniform complaint procedures (UCP) be consistent with the procedures of 5 CCR 4600-4670. Additionally, Education Code 52075 **mandates** districts to adopt policies and procedures implementing the use of UCP to investigate and resolve complaints alleging noncompliance with requirements related to the local control and accountability plan (LCAP), and Education Code 8212, as renumbered by AB 131 (Ch. 116, Statutes of 2021) **mandates** districts to adopt policies and procedures for resolving complaints regarding specified health and safety issues in license-exempt California State Preschool Programs (CSPP). Furthermore, a number of federal civil rights statutes and their implementing regulations **mandate** districts to adopt policies and procedures for the prompt and equitable resolution of complaints of unlawful discrimination, harassment, intimidation, or bullying. For example, all districts are **mandated** pursuant to 28 CFR 35.107 to adopt policy and procedures to address discrimination on the basis of disability, while districts that receive federal financial assistance are **mandated** pursuant to 34 CFR 106.8 and 34 CFR 110.25 to adopt policies and procedures to address discrimination on the basis of sex and age. Some of the factors considered by the U.S. Department of Education's Office for Civil Rights (OCR) when determining whether a district's procedures are "prompt and equitable" are addressed throughout the following administrative regulation.

Education Code 243, as added by AB 1078 (Ch. 229, Statutes of 2023), clarifies when it is unlawful discrimination for the Governing Board to (1) refuse to approve the use any textbook, instructional material, supplemental instructional material, or other curriculum for classroom instruction, or any book or 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 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, may be brought under the district's UCP 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. For more information regarding complaints concerning instructional materials, see BP/AR 1312.2 – Complaints Concerning Instructional Materials and AR 1312.4 – Williams Uniform Complaint Procedures.

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

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

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

Compliance Officers

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

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

The district designates the individual(s), position(s), or unit(s) identified below as responsible for receiving, coordinating, and investigating complaints and for complying with state and federal civil rights laws. The individual(s), position(s), or unit(s) also serve as the compliance officer(s) specified in AR Administrative Regulation 5145.3 - Nondiscrimination/Harassment responsible for handling complaints regarding unlawful discrimination, harassment, intimidation, or bullying and in AR Administrative Regulation 5145.7 - Sexual Harassment for handling complaints regarding sexual harassment.

Superintendent

District Office, Gridley Unified School District

429 Magnolia Street, Gridley, CA 95948

(530) 846-4721

ucpcoordinator@gusd.org

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

The compliance officer who receives a complaint may assign another compliance officer to investigate and resolve the complaint. The compliance officer shall promptly notify the complainant and respondent if another compliance officer is assigned to the complaint.

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

CSBA NOTE: 5 CCR 4621 **mandates** that the district's policy requires employees responsible for compliance and/or for investigating and resolving complaints to be knowledgeable about the laws and programs at issue in the complaints they are assigned. Compliance officers must also have training or experience in handling discrimination complaints, including appropriate investigative techniques and understanding of the applicable legal standards.

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

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

Notifications

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

CSBA NOTE: During the FPM process, CDE staff will check to ensure that the district's policy contains a statement ensuring annual dissemination of notice of the district's UCP to the persons specified below.

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

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

A sample of the annual notice is available through CDE's ~~web site~~ [website](#). It is the district's responsibility to update the notice as necessary to reflect new law.

The notice shall include:

1. A statement that the district is primarily responsible for compliance with federal and state laws and regulations, including those related to prohibition of unlawful discrimination, harassment, intimidation, or bullying against any protected group, and a list of all programs and activities that are subject to UCP as identified in the section "Complaints Subject to UCP" in the accompanying Board policy
2. The title of the position responsible for processing complaints, the identity of the person(s) currently occupying that position if known, and a statement that such persons will be knowledgeable about the laws and programs that they are assigned to investigate
3. A statement that a UCP complaint, except a complaint alleging unlawful discrimination, harassment, intimidation, or bullying, must be filed no later than one year from the date the alleged violation occurred
4. A statement that a UCP complaint alleging unlawful discrimination, harassment, intimidation, or bullying must be filed no later than six months from the date of the alleged conduct or the date the complainant first obtained knowledge of the facts of the alleged conduct
5. A statement that a student enrolled in a public school shall not be required to pay a fee for participation in an educational activity that constitutes an integral fundamental part of the district's educational program, including curricular and extracurricular activities
6. A statement that a complaint regarding student fees or the local control and accountability plan (LCAP) may be filed anonymously if the complainant provides evidence or information leading to evidence to support the complaint
7. A statement that the district will post a standardized notice of the educational and graduation requirements of foster youth, ~~homeless~~ students [experiencing homelessness](#), children of military families, ~~and~~ former juvenile court school students now enrolled in the district, [students who are migratory, and students participating in a newcomer program](#) as specified in Education Code 48645.7, 48853, 48853.5, 49069.5, 51225.1, and 51225.2, and the complaint process
8. A statement that complaints will be investigated in accordance with the district's UCP and a written decision will be sent to the complainant within 60 days from the receipt of the complaint, unless this time period is extended by written agreement of the complainant
9. A statement that, for programs within the scope of the UCP as specified in the accompanying Board policy, the complainant has a right to appeal the district's investigation report to the California Department of Education (CDE) by filing a written appeal, including a copy of the original complaint and the district's decision, within 30 calendar days of receiving the district's decision
10. A statement advising the complainant of any civil law remedies, including, but not limited to, injunctions, restraining orders, or other remedies or orders that may be available under state or federal laws prohibiting discrimination, harassment, intimidation, or bullying, if applicable
11. A statement that copies of the district's UCP are available free of charge

CSBA NOTE: The following paragraph may be modified to reflect district practice. Pursuant to Education Code 221.61, a district and district school are required to post information related to Title IX on their ~~web sites~~websites, including specified information about complaint procedures under Title IX. See AR 5145.3 - Nondiscrimination/Harassment. A school or district that does not maintain a ~~web site~~website may comply by posting the information on the ~~web site~~website of its district or county office of education (COE), however a school, district, or COE is not required to establish a ~~web site~~website if it does not maintain one. A comprehensive list of rights based on the provisions of the federal regulations implementing Title IX can be found in Education Code 221.8

The annual notification, complete contact information of the compliance officer(s), and information related to Title IX as required pursuant to Education Code 221.6 shall be posted on the district and district school ~~web sites~~websites and may be provided through district-supported social media, if available.

CSBA NOTE: Both federal and state laws contain requirements for translation of certain information and documents. Title VI of the Civil Rights Act of 1964 requires districts to ensure meaningful access to their programs and activities by persons with limited English proficiency. OCR has interpreted this to require that, whenever information is provided to parents/guardians, districts must notify limited-English-proficient (LEP) parents/guardians in a language other than English in order to be adequate. OCR enforces this requirement consistent with the Department of Justice's "2007 Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons." Under the Guidance, a recipient of federal funds has an obligation to provide language assistance to LEP individuals based on the balancing of four factors: (1) the number or proportion of LEP individuals likely to encounter the program, (2) the frequency with which LEP individuals come in contact with the program, (3) the nature and importance of the services provided by the program, and (4) the resources available to the recipient. State law is more specific than federal law: Education Code 48985 requires translation of certain information and documents if 15 percent or more of students enrolled in the school speak a single primary language other than English.

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

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

Filing of Complaints

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

The complaint shall be presented to the compliance officer who shall maintain a log of complaints received, providing each with a code number and a date stamp. If a site administrator not designated as a compliance officer receives a complaint, the site administrator shall notify the compliance officer.

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

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

1. A complaint alleging district violation of applicable state or federal law or regulations governing the programs specified in the accompanying Board policy may be filed by any individual, public agency, or organization. (5 CCR 4600)

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

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

CSBA NOTE: Pursuant to 5 CCR 4630, complaints related to the LCAP must be filed within a year of the date that the County Superintendent of Schools, the reviewing authority for districts, approves the district's LCAP.

3. A UCP complaint, except for a UCP complaint alleging unlawful discrimination, harassment, intimidation, or bullying, shall be filed no later than one year from the date the alleged violation occurred. For complaints related to the LCAP, the date of the alleged violation is the date when the County Superintendent of Schools approves the LCAP that was adopted by the Governing Board. (5 CCR 4630)
4. A complaint alleging unlawful discrimination, harassment, intimidation, or bullying may be filed only by a person who alleges having personally suffered unlawful discrimination, a person who believes that any specific class of individuals has been subjected to unlawful discrimination, or a duly authorized representative who alleges that an individual student has been subjected to discrimination, harassment, intimidation, or bullying. (5 CCR 4630)
5. A complaint alleging unlawful discrimination, harassment, intimidation, or bullying shall be initiated no later than six months from the date that the alleged unlawful discrimination occurred, or six months from the date that the complainant first obtained knowledge of the facts of the alleged unlawful discrimination. The time for filing may be extended for up to 90 days by the Superintendent or designee for good cause upon written request by the complainant setting forth the reasons for the extension. (5 CCR 4630)
6. When a complaint alleging unlawful discrimination, harassment, intimidation, or bullying is filed anonymously, the compliance officer shall pursue an investigation or other response as appropriate, depending on the specificity and reliability of the information provided and the seriousness of the allegation.

CSBA NOTE: Districts should consult [CSBA's District and County Office of Education Legal Services or district](#) legal counsel before honoring a confidentiality request to withhold the victim's name from the alleged perpetrator, especially in the case of alleged sexual assault, as this may affect the district's ability to conduct a thorough investigation or provide supportive measures to the victim. In OCR's ["Part 1: Questions and Answers Regarding the Department's Title IX Regulations,"](#) it is stated that, "Title IX regulations balance a complainant's desire for confidentiality (in terms of, for instance, the complainant's identity not being disclosed to the respondent) with a school's discretion to pursue an investigation where factual circumstances warrant an investigation even though the complainant does not desire to file a formal complaint or participate in a grievance process."

These guiding principles would also apply to harassment on the basis of race, gender, disability, or other protected characteristic.

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

Mediation

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

Districts may not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student; see AR 5145.71 - Title IX Sexual Harassment Complaint Procedures.

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

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

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

The use of mediation shall not extend the district's timelines for investigating and resolving the complaint unless the complainant agrees in writing to such an extension of time. If mediation is successful and the complaint is withdrawn, then the district shall take only the actions agreed upon through the mediation. If mediation is unsuccessful, the district shall then continue with subsequent steps specified in this administrative regulation.

Investigation of Complaint

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

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

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

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

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

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

CSBA NOTE: 5 CCR 4631 allows the district to dismiss a complaint when the complainant refuses to provide the investigator with relevant documents or otherwise obstructs the investigation. 5 CCR 4631 also provides that, if the district refuses to provide the investigator with access to records or other documents, the investigator may issue a finding in favor of the complainant. During the FPM process, CDE staff will check to ensure that both of these statements regarding the provision of access to information are included in the district's policy or procedures, as specified below.

A complainant's refusal to provide the district's investigator with documents or other evidence related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or any other obstruction of the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegation. Refusal by the district to provide the investigator with access to records and/or information related to the allegations in the complaint, failure or refusal to cooperate in the investigation, or any other obstruction of the investigation may result in a finding based on evidence collected that a violation has occurred and in the imposition of a remedy in favor

of the complainant. (5 CCR 4631)

Timeline for Investigation Report

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

Pursuant to 5 CCR 4631, only a complainant has the right to receive the investigation report and to file a complaint with the Board if dissatisfied with the compliance officer's decision. However, under certain circumstances, some of the same rights should be extended to a respondent in order to make the process equitable. For example, since the respondent to a complaint alleging unlawful discrimination, harassment, intimidation, or bullying is usually an individual, the respondent should be notified when the complainant has agreed to an extension of timelines. Options 1 and 2 reflect these recommendations and may be modified to reflect district practice. When questions arise as to what rights to provide to a respondent, the district should consult [CSBA's District and County Office of Education Legal Services or district](#) legal counsel accordingly.

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

OPTION 1: (Districts that do not allow complainants to appeal to the Board)

Unless extended by written agreement with the complainant, the compliance officer shall prepare and send to the complainant a written investigation report, as described in the section "Investigation Report" below, within 60 calendar days of the district's receipt of the complaint. (5 CCR 4631)

For any complaint alleging unlawful discrimination, harassment, intimidation, ~~and~~or bullying, the respondent shall be informed of any extension of the timeline agreed to by the complainant.

~~OPTION 2: (Districts that allow complainants to appeal to the Board)~~

~~CSBA NOTE: The remainder of this section is for use by districts that select Option 2.~~

~~Unless extended by written agreement with the complainant, the investigation report shall be sent to the complainant within 60 calendar days of the district's receipt of the complaint.~~

~~Within 30 calendar days of receiving the complaint, the compliance officer shall prepare and send to the complainant a written report, as described in the section "Investigation Report" below. If the complainant is dissatisfied with the compliance officer's decision, the complainant may, within five business days, file the complaint in writing with the Board.~~

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

~~If the Board hears the complaint, the compliance officer shall send the Board's decision to the~~

~~complainant within 60 calendar days of the district's initial receipt of the complaint or within the time period that has been specified in a written agreement with the complainant. (5 CCR 4631)~~

~~For any complaint alleging unlawful discrimination, harassment, intimidation, and/or bullying, the respondent shall be informed of any extension of the timeline agreed to by the complainant, and, in the same manner as the complainant, may file a complaint with the Board if dissatisfied with the decision.~~

END OF OPTION 2

Investigation Report

CSBA NOTE: 5 CCR 4631 specifies components that are required to be part of the district's investigation report. Inclusion of these items will help protect the district's position in case of an appeal to CDE, a complaint submitted to OCR, or if litigation is filed.

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

1. The findings of fact based on the evidence gathered
2. A conclusion providing a clear determination for each allegation as to whether the district is in compliance with the relevant law
3. Corrective action(s) whenever the district finds merit in the complaint, including, when required by law, a remedy to all affected students and parents/guardians and, for a student fees complaint, a remedy that complies with Education Code 49013 and 5 CCR 4600
4. Notice of the complainant's right to appeal the district's investigation report to CDE, except when the district has used the UCP to address a complaint not specified in 5 CCR 4610
5. Procedures to be followed for initiating an appeal to CDE

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

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

Given the potential liability from improperly disclosing such information, districts are advised to consult with [CSBA's District and County Office of Education Legal Services or district](#) legal counsel when presented with a situation where a victim of unlawful discrimination requests information about sanctions imposed upon the respondent.

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

CSBA NOTE: Education Code 48985 requires that reports sent to parents/guardians be written in their primary language when 15 percent or more of a school's enrolled students speak a single primary language other than English. During the FPM process, CDE staff will check to ensure that UCP complaint procedures pertaining to CSPP health and safety issues include a statement that the district response and the investigation report must, whenever Education Code 48985 is applicable, be written in English and the primary language in which the complaint was filed; see the section "Health and Safety Complaints in License-Exempt Preschool Programs" below. The following paragraph extends this provision to all types of complaints to ensure compliance with Education Code 48985. In addition, based on Title VI of the Civil Rights Act of 1964, OCR requires districts to ensure meaningful access to all relevant UCP information for parents/guardians with limited English proficiency.

If the complaint involves a limited-English-proficient (LEP) student or parent/guardian, then the district's response, if requested by the complainant, and the investigation report shall be written in English and the primary language in which the complaint was filed.

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

For complaints alleging unlawful discrimination, harassment, intimidation, ~~and~~or bullying based on state law, the investigation report shall also include a notice to the complainant that:

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

Corrective Actions

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

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

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

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

For complaints of retaliation or unlawful discrimination, harassment, intimidation, or bullying involving a student as the respondent, appropriate corrective actions that may be provided to the student include, but are not limited to, the following:

1. Transfer from a class or school as permitted by law
2. Parent/guardian conference
3. Education regarding the impact of the conduct on others
4. Positive behavior support
5. Referral to a student success team
6. Denial of participation in extracurricular or cocurricular activities or other privileges as permitted by law
7. Disciplinary action, such as suspension or expulsion, as permitted by law

When an employee is found to have committed retaliation or unlawful discrimination, harassment, intimidation, or bullying, the district shall take appropriate disciplinary action, up to and including dismissal, in accordance with applicable law and collective bargaining agreement.

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

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

Code 51222 and 51223, course periods without educational content pursuant to Education Code 51228.3, and the LCAP requirements pursuant to Education Code 52075. Districts that do not maintain elementary schools should delete the reference to physical education below.

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

However, if a complaint alleging noncompliance with the law regarding student fees, deposits, and other charges, physical education instructional minutes, courses without educational content, or any requirement related to the LCAP is found to have merit, the district shall provide a remedy to all affected students and parents/guardians subject to procedures established by regulation of the State Board of Education. (Education Code 49013, 51222, 51223, 51228.3, 52075)

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

Appeals to the California Department of Education

Any complainant who is dissatisfied with the district's investigation report on a complaint regarding any specified federal or state educational program subject to UCP may file an appeal in writing with CDE within 30 calendar days of receiving the district's investigation report. (5 CCR 4632)

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

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

CSBA NOTE: 5 CCR 4633 requires the district to submit the following documents to CDE within 10 days after the district has been notified that an appeal has been filed. The district's failure to provide a timely and complete response may result in CDE ruling on the appeal without considering information from the district.

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

1. A copy of the original complaint
2. A copy of the district's investigation report

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

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

CSBA NOTE: Pursuant to 5 CCR 4633, CDE is required to issue a written decision regarding the appeal within 60 days of CDE's receipt of the appeal, unless extended by written agreement with the appellant or documentation by CDE of exceptional circumstances. Pursuant to 5 CCR 4635, if CDE's decision was issued based on evidence in the investigation file CDE received from the district or evidence uncovered after further investigation of the allegations that were the basis of the appeal, either party may request reconsideration by the Superintendent of Public Instruction SPI or designee within 30 days of the appeal decision.

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

~~Health and Safety Complaints in License Exempt Preschool Programs~~

~~CSBA NOTE: The following section is for use by districts that operate any license exempt CSPP program. Education Code 8212, as renumbered by AB 131 (Ch. 116, Statutes of 2021), mandates districts to adopt policies and procedures for resolving complaints regarding specified health and safety issues in a license exempt CSPP program. Pursuant to Education Code 8212, the district must use the UCP, with modifications as necessary, to resolve such complaints. Pursuant to 5 CCR 4610, such complaints must be addressed through the procedures described in 5 CCR 4690-4694.~~

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

~~Any complaint regarding health or safety issues in a license exempt California State Preschool Program (CSPP) shall be addressed through the procedures described in 5 CCR 4690-4694.~~

~~In order to identify appropriate subjects of CSPP health and safety issues pursuant to Health and Safety Code 1596.7925, a notice shall be posted in each license exempt CSPP classroom in the district notifying parents/guardians, students, and teachers of the health and safety requirements of Title 5 regulations that apply to CSPP programs pursuant to Health and Safety Code 1596.7925 and the location at which to obtain a form to file any complaint alleging noncompliance with those requirements. For this purpose, the Superintendent or designee may download and post a notice~~

~~available from the CDE web site website. (Education Code 8212; 5 CCR 4691)~~

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

~~Any complaint regarding specified health or safety issues in a license-exempt CSPP program shall be filed with the preschool program administrator or designee, and may be filed anonymously. The complaint form shall specify the location for filing the complaint, contain a space to indicate whether the complainant desires a response to the complaint, and allow a complainant to add as much text as desired to explain the complaint. (Education Code 8212; 5 CCR 4690)~~

~~If it is determined that the complaint is beyond the authority of the preschool program administrator, the matter shall be forwarded to the Superintendent or designee in a timely manner, not to exceed 10 working days, for resolution. The preschool administrator or the Superintendent or designee shall make all reasonable efforts to investigate any complaint within their authority. (Education Code 8212; 5 CCR 4692)~~

~~Investigation of a complaint regarding health or safety issues in a license-exempt CSPP program shall begin within 10 days of receipt of the complaint. (Education Code 8212; 5 CCR 4692)~~

~~The preschool administrator or designee shall remedy a valid complaint within a reasonable time period not to exceed 30 working days from the date the complaint was received. If the complainant has indicated on the complaint form a desire to receive a response to the complaint, the preschool administrator or Superintendent's designee shall, within 45 working days of the initial filing of the complaint, report the resolution of the complaint to the complainant and CDE's assigned field consultant. If the preschool administrator makes this report, the information shall be reported at the same time to the Superintendent or designee. (Education Code 8212; 5 CCR 4692)~~

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

If a complaint regarding health or safety issues in a license-exempt CSPP program involves an LEP student or parent/guardian, then the district's response, if requested by the complainant, and the investigation report shall be written in English and the primary language in which the complaint was filed.

If a complainant is not satisfied with the resolution of a complaint, the complainant has the right to describe the complaint to the Board at a regularly scheduled hearing and, within 30 days of the date of the written report, may file a written appeal of the district's decision to the Superintendent of Public Instruction in accordance with 5 CCR 4632. (Education Code 8212; 5 CCR 4693, 4694)

All complaints and responses are public records. (5 CCR 4690)

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

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
2 CCR 11023	Harassment and discrimination prevention and correction
5 CCR 15580-15584	Child nutrition programs complaint procedures
5 CCR 3200-3205	Special education compliance complaints
5 CCR 4600-4670	Uniform complaint procedures
5 CCR 4600-4687	Uniform complaint procedures and Williams complaints
5 CCR 4690-4694	Complaints regarding health and safety issues in license-exempt preschool programs
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
Ed. Code 18100-18203	School libraries
Ed. Code 200-262.4	Prohibition of discrimination
Ed. Code 32280-32289.5	School safety plans
Ed. Code 35186	Williams uniform complaint procedures
Ed. Code 46015	Parental leave for students
Ed. Code 48645.7	Juvenile court schools
Ed. Code 48853-48853.5	Foster youth
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 49010-49013	Student fees
Ed. Code 49060-49079	Student records
Ed. Code 49069.5	Records of foster youth
Ed. Code 49490-49590	Child nutrition programs
Ed. Code 49701	Provisions of the Interstate Compact on Educational Opportunities for Military Children
<u>Ed. Code 51204.5</u>	<u>Social sciences instruction; contributions of specified groups</u>
Ed. Code 51210	Course of study for grades 1-6
Ed. Code 51222	Physical education
Ed. Code 51223	Physical education; elementary schools

Ed. Code 51225.1-51225.2	Foster youth, homeless children, former juvenile court school students; course credits; graduation requirements
Ed. Code 51226-51226.1	Career technical education
Ed. Code 51228.1-51228.3	Course periods without educational content
Ed. Code 51501	Nondiscriminatory subject matter
Ed. Code 52059.5	Statewide system of support
Ed. Code 52060-52077	Local control and accountability plan
Ed. Code 52075	Complaint for lack of compliance with local control and accountability plan requirements
Ed. Code 52300-52462	Career technical education
Ed. Code 52500-52617	Adult schools
Ed. Code 54400-54425	Compensatory education programs
Ed. Code 54440-54445	Migrant education
Ed. Code 54460-54529	Compensatory education programs
Ed. Code 59000-59300	Special schools and centers
Ed. Code 60010	Instructional materials; definition
Ed. Code 60040-60052	Requirements for instructional materials
Ed. Code 64000-64001	Consolidated application process; school plan for student achievement
Ed. Code 65000-65001	School site councils
Ed. Code 8200-8488	Child care and development programs
Ed. Code 8500-8538	Adult basic education
Gov. Code 11135	Prohibition of discrimination
Gov. Code 12900-12996	Fair Employment and Housing Act
H&S Code 1596.792	California Child Day Care Act; general provisions and definitions
H&S Code 1596.7925	California Child Day Care Act; health and safety regulations
Pen. Code 422.55	Definition of hate crime
Pen. Code 422.6	Crimes; harassment
Federal	Description
20 USC 1221	Application of laws
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex

20 USC 6301-6576	Title I Improving the Academic Achievement of the Disadvantaged
20 USC 6801-7014	Title III language instruction for limited English proficient and immigrant students
28 CFR 35.107	Nondiscrimination on basis of disability; complaints
29 USC 794	Rehabilitation Act of 1973; Section 504
34 CFR 100.3	Prohibition of discrimination on basis of race, color or national origin
34 CFR 104.7	Section 504; Designation of responsible employee and adoption of grievances procedures
34 CFR 106.1-106.82	Nondiscrimination on the basis of sex in education programs
34 CFR 106.30	Discrimination on the basis of sex in education programs and activities; definitions
34 CFR 106.44	Recipient's response to sexual harassment
34 CFR 106.45	Grievance process for formal complaints of sexual harassment
34 CFR 106.8	Designation of coordinator; dissemination of policy, and adoption of grievance procedures
34 CFR 110.25	Notification of nondiscrimination on the basis of age
34 CFR 99.1-99.67	Family Educational Rights and Privacy
42 USC 11431-11435	McKinney-Vento Homeless Assistance Act
42 USC 12101-12213	Americans with Disabilities Act
42 USC 2000d-2000e-17 <u>2000d-7</u>	Title VI and Title VII Civil Rights Act of 1964, as amended
42 USC 2000h-2-2000h-6	Title IX of the Civil Rights Act of 1964
42 USC 6101-6107	Age Discrimination Act of 1975
Management Resources	Description
California Department of Education Publication	Uniform Complaint Procedure 2021-22 Program Instrument
California Department of Education Publication	Sample UCP Board Policies and Procedures
U.S. DOE, Office for Civil Rights Publication	Part 1: Questions and Answers Regarding the Department's Title IX Regulations, January 2021
U.S. DOE, Office for Civil Rights Publication	Questions and Answers on the Title IX Regulations on Sexual Harassment, July 2021
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter: Responding to Bullying of Students with Disabilities, October 2014
U.S. DOJ Publication	Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 2007

Website	CSBA District and County Office of Education Legal Services
Website	Student Privacy Policy Office
Website	U.S. Department of Agriculture
Website	California Department of Social Services
Website	U.S. Department of Justice
Website	California Department of Education
Website	CSBA
Website	U.S. Department of Education, Office for Civil Rights
Website	California Civil Rights Department

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
0420	School Plans/Site Councils
0420	School Plans/Site Councils
0420.41	Charter School Oversight
0420.41-E(1)	Charter School Oversight
0430	Comprehensive Local Plan For Special Education
0430	Comprehensive Local Plan For Special Education
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
0470	COVID-19 Mitigation Plan
1100	Communication With The Public
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
1220	Citizen Advisory Committees
1220	Citizen Advisory Committees
1250	Visitors/Outsiders

1250	Visitors/Outsiders
1312.1	Complaints Concerning District Employees
1312.1	Complaints Concerning District Employees
1312.2	Complaints Concerning Instructional Materials
1312.2	Complaints Concerning Instructional Materials
1312.2-E(1)	Complaints Concerning Instructional Materials
1312.4	Williams Uniform Complaint Procedures
1312.4-E(1)	Williams Uniform Complaint Procedures
1312.4-E(2)	Williams Uniform Complaint Procedures
1313	Civility
1340	Access To District Records
1340	Access To District Records
3260	Fees And Charges
3260	Fees And Charges
3555	Nutrition Program Compliance
3555-E(1)	Nutrition Program Compliance
3580	District Records
3580	District Records
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4112.23	Special Education Staff
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.1	Civil And Legal Rights
4119.11	Sexual Harassment
4119.11	Sexual Harassment
4119.23	Unauthorized Release Of Confidential/Privileged Information
4131	Staff Development
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4218	Dismissal/Suspension/Disciplinary Action

4218	Dismissal/Suspension/Disciplinary Action
4219.1	Civil And Legal Rights
4219.11	Sexual Harassment
4219.11	Sexual Harassment
4219.23	Unauthorized Release Of Confidential/Privileged Information
4231	Staff Development
4244	Complaints
4244	Complaints
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4319.1	Civil And Legal Rights
4319.11	Sexual Harassment
4319.11	Sexual Harassment
4319.23	Unauthorized Release Of Confidential/Privileged Information
4331	Staff Development
4344	Complaints
4344	Complaints
5116.1	Intradistrict Open Enrollment
5116.1	Intradistrict Open Enrollment
5117	Interdistrict Attendance
5117	Interdistrict Attendance
5125	Student Records
5125	Student Records
5131.62	Tobacco
5131.62	Tobacco
5137	Positive School Climate
5141.22	Infectious Diseases
5141.22	Infectious Diseases
5141.4	Child Abuse Prevention And Reporting
5141.4	Child Abuse Prevention And Reporting
5144	Discipline
5144	Discipline
5144.1	Suspension And Expulsion/Due Process

5144.1	Suspension And Expulsion/Due Process
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5145.7	Sexual Harassment
5145.7	Sexual Harassment
5145.71	Title IX Sexual Harassment Complaint Procedures
5145.71-E(1)	Title IX Sexual Harassment Complaint Procedures
5145.9	Hate-Motivated Behavior
5146	Married/Pregnant/Parenting Students
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
6142.1	Sexual Health And HIV/AIDS Prevention Instruction
6142.1	Sexual Health And HIV/AIDS Prevention Instruction
6142.7	Physical Education And Activity
6142.7	Physical Education And Activity
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
6145.2	Athletic Competition
6145.2	Athletic Competition
6146.1	High School Graduation Requirements
6152	Class Assignment
6159	Individualized Education Program
6159	Individualized Education Program
6159.1	Procedural Safeguards And Complaints For Special Education
6159.1	Procedural Safeguards And Complaints For Special Education
6159.2	Nonpublic, Nonsectarian School And Agency Services For Special Education

6159.2	Nonpublic, Nonsectarian School And Agency Services For Special Education
6159.3	Appointment Of Surrogate Parent For Special Education Students
6159.3	Appointment Of Surrogate Parent For Special Education Students
<u>6161.1</u>	<u>Selection and Evaluation of Instructional Materials</u>
6164.2	Guidance/Counseling Services
6164.4	Identification And Evaluation Of Individuals For Special Education
6164.4	Identification And Evaluation Of Individuals For Special Education
6164.5	Student Success Teams
6164.5	Student Success Teams
6171	Title I Programs
6171	Title I Programs
6173	Education For Homeless Children
6173	Education For Homeless Children
6173-E(1)	Education For Homeless Children
6173-E(2)	Education For Homeless Children
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
6173.2	Education Of Children Of Military Families
6173.2	Education Of Children Of Military Families
6173.3	Education For Juvenile Court School Students
6175	Migrant Education Program
6175	Migrant Education Program
6178	Career Technical Education
6178	Career Technical Education
6178.1	Work-Based Learning
6178.1	Work-Based Learning
6178.2	Regional Occupational Center/Program
6200	Adult Education
6200	Adult Education
9000	Role Of The Board

9011	Disclosure Of Confidential/Privileged Information
9012	Board Member Electronic Communications
9124	Attorney
9200	Limits Of Board Member Authority
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session
9322	Agenda/Meeting Materials

Regulation 1312.4: Williams Uniform Complaint Procedures

Status: DRAFT

Original Adopted Date: 11/01/2010 | Last Revised Date: 06/10/01/20222023 | Last Reviewed Date: 06/10/01/20222023

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

It is recommended that districts use these procedures only for complaints specified in law and this administrative regulation. See BP/AR 1312.3 - Uniform Complaint Procedures for a discussion of the types of complaints subject to the uniform complaint procedures established pursuant to 5 CCR 4600-4670, and for license-exempt preschool programs pursuant to 5 CCR 4690-4694. For procedures related to complaints about employees, see BP/AR 1312.1 - Complaints Concerning District Employees. For complaints concerning the district's adoption and selection of specific instructional materials, see BP/AR 1312.2 - Complaints Concerning Instructional Materials. For complaints regarding the district's nutrition program, see BP 3555 - Nutrition Program Compliance.

Types of Complaints

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

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

Pursuant to Education Code 60119, boards are required to hold a public hearing annually regarding the sufficiency of instructional materials. If, at the public hearing, the Governing Board makes a determination of "insufficient materials", Education Code 1240, as amended by AB 1078, requires the Board to take certain actions and specifies potential consequences for not remedying the deficiency as required by law; see BP 6161.1 – Selection and Evaluation of Instructional Materials.

1. 1. Complaints regarding the insufficiency of textbooks and instructional materials, including any complaint alleging that: (Education Code 35186; 5 CCR 4681)
 - a. a. A student, including an English learner, does not have standards-aligned textbooks or instructional materials or state- or district-adopted textbooks or other required instructional materials to use in class.
 - b. b. A student does not have access to textbooks or instructional materials to use at home or after school. This does not require two sets of textbooks or instructional materials for each student.

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

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

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

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

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

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

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

Pursuant to Education Code 35292.6, as added by AB 367 (Ch. 664, Statutes of 2021), ~~before the start of the 2022-23 school year,~~ a school that serves any of grades 6-12 is required to stock the school's restrooms with menstrual products for use in connection with the menstrual cycle free of charge. See AR 3517 - Facilities Inspection.

Although Education Code 35292.6 does not require a complaint process, it is recommended that the Williams uniform complaint procedures be used to address any allegation of noncompliance with Education Code 35292.6 in order to ensure consistency in the procedures that districts use to address allegations of noncompliance with all restroom maintenance requirements. However, pursuant to 5 CCR 4610, any such district-permitted complaint may not be appealed to CDE.

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

Forms and Notices

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

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

The Superintendent or designee shall ensure that the district's complaint form specifies the location for filing a complaint and contains a space to indicate whether the complainant desires a response to the complaint. A complainant may add as much text to explain the complaint as desired. (Education Code 35186; 5 CCR 4680)

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

Filing of Complaint

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

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

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

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

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

If the Superintendent or designee becomes aware that a complaint alleging insufficient textbooks or instructional materials that has been filed directly with the SPI but not with the district, the

Superintendent or designee may initiate an investigation in accordance with this administrative regulation, as described below, if there is sufficient evidence to do so.

Investigation and Response

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

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

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

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

When Education Code 48985 is applicable and the complainant has requested a response, the response shall be written in English and in the primary language in which the complaint was filed. (Education Code 35186)

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

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

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

Reports

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

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

Policy Reference UPDATE Service

Copyright 2023 by California School Boards Association, West Sacramento, California 95691
All rights reserved.

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 4600-4670

5 CCR 4600-4687

[5 CCR 4690-4694](#)

Ed. Code 1240

Ed. Code 17592.72

[Ed. Code 200-262.4](#)

Ed. Code 234.1

Ed. Code 33126

Ed. Code 35186

Ed. Code 35292.5-35292.6

[Ed. Code 48907](#)

[Ed. Code 48950](#)

Ed. Code 48985

[Ed. Code 51501](#)

[Ed. Code 60010](#)

[Ed. Code 60040-60052](#)

Ed. Code 60119

[Ed. Code 60150](#)

Federal

20 USC 6314

Management Resources

Website

Website

[Website](#)

[Website](#)

Description

Uniform complaint procedures

Uniform complaint procedures and Williams complaints

[Health and safety complaints in license-exempt preschool programs](#)

County superintendent of schools; duties

Urgent or emergency repairs; School Facility Emergency Repair Account

[Prohibition of discrimination](#)

Student protections relating to discrimination, harassment, intimidation, and bullying

School accountability report card

Williams uniform complaint procedures

Restrooms; maintenance and cleanliness

[Exercise of free expression; time, place and manner rules and regulations](#)

[Speech and other communication](#)

Notices to parents in language other than English

[Nondiscriminatory subject matter](#)

[Instructional materials; definition](#)

[Requirements for instructional materials](#)

Hearing on sufficiency of instructional materials

[Penalty for insufficiency of textbooks and instructional materials](#)

Description

Title I schoolwide program

Description

CSBA District and County Office of Education Legal Services

State Allocation Board, Office of Public School Construction

[California Department of Education](#)
(<https://www.cde.ca.gov/>)

[California County Superintendents Educational Services Association](#) (<https://ccsesa.org/>)

Website	Department of Justice (https://oag.ca.gov/)
Website	U.S. Department of Education, Office for Civil Rights (https://www2.ed.gov/about/offices/list/ocr/index.html)
Website	California Department of Education, Williams Case
Website	California County Superintendents
Website	CSBA

Cross References

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

4112.2	Certification
4112.22	Staff Teaching English Learners
4113	Assignment
4113	Assignment
4144	Complaints
4144	Complaints
4244	Complaints
4244	Complaints
4344	Complaints
4344	Complaints
<u>5145.3</u>	<u>Nondiscrimination/Harassment</u>
<u>6143</u>	<u>Courses Of Study</u>
6142.92	Mathematics Instruction
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
<u>6161.11</u>	<u>Supplementary Instructional Materials</u>
6161.2	Damaged Or Lost Instructional Materials
<u>6163.1</u>	<u>Library Media Centers</u>
9000	Role Of The Board
9012	Board Member Electronic Communications
9200	Limits Of Board Member Authority
9322	Agenda/Meeting Materials

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

Status: DRAFT

Original Adopted Date: 11/01/2007 | **Last Revised Date:** 03/10/01/2019/2023 | **Last Reviewed Date:** 03/10/01/2019/2023

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

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

Parents/Guardians, Students, and Teachers:

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

1. There should be sufficient textbooks and instructional materials. That means each student, including an English learner, must have a textbook or instructional materials, or both, to use in class and to take home.

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

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

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

3. There should be no teacher vacancies or misassignments. There should be a teacher assigned to each class and not a series of substitutes or other temporary teachers. The teacher should have the proper credential to teach the class, including the certification required to teach English learners, if present.

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

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

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

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

Policy Reference UPDATE Service

Copyright 2023 by California School Boards Association, West Sacramento, California 95691

All rights reserved.

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 4600-4670

5 CCR 4600-4687

[5 CCR 4690-4694](#)

Ed. Code 1240

Ed. Code 17592.72

[Ed. Code 200-262.4](#)

Ed. Code 234.1

Ed. Code 33126

Ed. Code 35186

Ed. Code 35292.5-35292.6

[Ed. Code 48907](#)

[Ed. Code 48950](#)

Ed. Code 48985

[Ed. Code 51501](#)

Description

Uniform complaint procedures

Uniform complaint procedures and Williams complaints

[Health and safety complaints in license-exempt preschool programs](#)

County superintendent of schools; duties

Urgent or emergency repairs; School Facility Emergency Repair Account

[Prohibition of discrimination](#)

Student protections relating to discrimination, harassment, intimidation, and bullying

School accountability report card

Williams uniform complaint procedures

Restrooms; maintenance and cleanliness

[Exercise of free expression; time, place and manner rules and regulations](#)

[Speech and other communication](#)

Notices to parents in language other than English

[Nondiscriminatory subject matter](#)

[Ed. Code 60010](#)

[Ed. Code 60040-60052](#)

Ed. Code 60119

[Ed. Code 60150](#)

Federal

20 USC 6314

Management Resources

Website

Website

[Website](#)

[Website](#)

Website

[Website](#)

~~Website~~

~~Website~~

Website

Cross References

Code

0410

0460

0460

1100

1250

1250

1312.2

1312.2

1312.2-E(1)

1312.3

1312.3

1312.3-E(1)

1312.3-E(2)

[Instructional materials; definition](#)

[Requirements for instructional materials](#)

Hearing on sufficiency of instructional materials

[Penalty for insufficiency of textbooks and instructional materials](#)

Description

Title I schoolwide program

Description

CSBA District and County Office of Education Legal Services

State Allocation Board, Office of Public School Construction

[California Department of Education](#)
(<https://www.cde.ca.gov/>)

[California County Superintendents Educational Services Association](#) (<https://ccsesa.org/>)

[Department of Justice](#) (<https://oag.ca.gov/>)

[U.S. Department of Education, Office for Civil Rights](#)
(<https://www2.ed.gov/about/offices/list/ocr/index.html>)

~~[California Department of Education, Williams Case](#)~~

~~[California County Superintendents](#)~~

CSBA

Description

Nondiscrimination In District Programs And Activities

Local Control And Accountability Plan

Local Control And Accountability Plan

Communication With The Public

Visitors/Outsiders

Visitors/Outsiders

Complaints Concerning Instructional Materials

Complaints Concerning Instructional Materials

Complaints Concerning Instructional Materials

Uniform Complaint Procedures

Uniform Complaint Procedures

Uniform Complaint Procedures

Uniform Complaint Procedures

1340	Access To District Records
1340	Access To District Records
3270	Sale And Disposal Of Books, Equipment And Supplies
3270	Sale And Disposal Of Books, Equipment And Supplies
3514	Environmental Safety
3514	Environmental Safety
3514.2	Integrated Pest Management
3517	Facilities Inspection
3517-E(1)	Facilities Inspection
3550	Food Service/Child Nutrition Program
3550	Food Service/Child Nutrition Program
4112.2	Certification
4112.2	Certification
4112.22	Staff Teaching English Learners
4113	Assignment
4113	Assignment
4144	Complaints
4144	Complaints
4244	Complaints
4244	Complaints
4344	Complaints
4344	Complaints
<u>5145.3</u>	<u>Nondiscrimination/Harassment</u>
<u>6143</u>	<u>Courses Of Study</u>
6142.92	Mathematics Instruction
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
<u>6161.11</u>	<u>Supplementary Instructional Materials</u>
6161.2	Damaged Or Lost Instructional Materials
<u>6163.1</u>	<u>Library Media Centers</u>
9000	Role Of The Board
9012	Board Member Electronic Communications

9200

Limits Of Board Member Authority

9322

Agenda/Meeting Materials

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

Status: DRAFT

Original Adopted Date: 11/01/2010 | **Last Revised Date:** 06/10/01/2022/2023 | **Last Reviewed Date:** 06/10/01/2022/2023

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

**K-12 COMPLAINT FORM:
WILLIAMS UNIFORM COMPLAINT PROCEDURES**

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

Response requested? ☐ Yes ☐ No

Contact information: (if response is requested)

Name:

Address:

Phone number: Day: Evening:

E-mail address, if any:

Date problem was observed:

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

School name/address:

Course title/grade level and teacher name:

Room number/name of room/location of facility:

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

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

1. Textbooks and instructional materials: (Education Code 35186; 5 CCR 4681)
 - A student, including an English learner, does not have standards-aligned textbooks or instructional materials or state- or district-adopted textbooks or other required

instructional materials to use in class.

- A student does not have access to textbooks or instructional materials to use at home or after school. This does not require two sets of textbooks or instructional materials for each student.
- Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.
- A student was provided photocopied sheets from only a portion of a textbook or instructional materials to address a shortage of textbooks or instructional materials.

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

- A semester begins and a teacher vacancy exists. A *teacher vacancy* is a position to which a single designated certificated employee has not been assigned at the beginning of the school year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester. ([5 CCR 4600](#))

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

- A teacher who lacks credentials or training to teach English learners is assigned to teach a class with one or more ~~than 20 percent~~ English learners in the class.
- A teacher is assigned to teach a class for which the teacher lacks subject matter competency.

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

- A condition exists that poses an emergency or urgent threat to the health or safety of students or staff including gas leaks; nonfunctioning heating, ventilation, fire sprinklers, or air-conditioning systems; electrical power failure; major sewer line stoppage; major pest or vermin infestation; broken windows or exterior doors or gates that will not lock and that pose a security risk; abatement of hazardous materials previously undiscovered that pose an immediate threat to students or staff; structural damage creating a hazardous or uninhabitable condition; and any other condition deemed appropriate by the district.
- A school restroom has not been cleaned or maintained regularly, is not fully operational, or has not been stocked at all times with toilet paper, soap, ~~or~~and paper towels or functional hand dryers.

CSBA NOTE: The following optional item is for districts that choose to use the Williams uniform complaint procedures to address complaints alleging noncompliance with requirements to stock restrooms at certain schools with menstrual products pursuant to Education Code 35292.6; see the accompanying administrative regulation.

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

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

- The school has not kept all restrooms open during school hours when students are not in classes and has not kept a sufficient number of restrooms open during school hours when students are in classes. This does not apply when temporary closing of the restroom is necessary for a documented student safety concern, an immediate threat to student safety, or to ~~make repairs~~repair the facility.

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

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

Please file this complaint at the following location:

McKinley Primary School Principal, 1045 Sycamore Street, Gridley, CA 95948
 Wilson Elementary School Principal, 409 Magnolia Street, Gridley, CA 95948
 Sycamore Middle School Principal, 1125 Sycamore Street, Gridley, CA 95948
 Gridley High School Principal, 300 E Spruce Street, Gridley, CA 95948
 Esperanza High School Principal, 581 Jackson Street, Gridley, CA 95948

CSBA NOTE: Pursuant to Education Code 35186, as amended by AB 1078 (Ch. 229, Statutes of 2023), complaints related to instructional materials alleging that more than one student does not have sufficient textbooks or instructional materials as the result of an act by the Governing Board, or the Board's failure to remedy the deficiency, may be filed with the Superintendent of Public Instruction (SPI) directly, and the SPI may directly intervene without waiting for an investigation by the district; see the accompanying administrative regulation for more information. The following paragraph may be used by districts to inform complainants about the option to file complaints directly with the SPI.

Please be aware that you may file a complaint directly with the Superintendent of Public Instruction if you are alleging that more than one student does not have sufficient textbooks or instructional materials as the result of an act by the Governing Board, or the Board's failure to remedy the deficiency.

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

(Signature)

(Date)

Policy Reference UPDATE Service

Copyright 2023 by **California School Boards Association**, West Sacramento, California 95691

All rights reserved.

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 4600-4670

5 CCR 4600-4687

[5 CCR 4690-4694](#)

Ed. Code 1240

Ed. Code 17592.72

[Ed. Code 200-262.4](#)

Ed. Code 234.1

Ed. Code 33126

Ed. Code 35186

Ed. Code 35292.5-35292.6

[Ed. Code 48907](#)

[Ed. Code 48950](#)

Ed. Code 48985

[Ed. Code 51501](#)

[Ed. Code 60010](#)

[Ed. Code 60040-60052](#)

Ed. Code 60119

[Ed. Code 60150](#)

Description

Uniform complaint procedures

Uniform complaint procedures and Williams complaints

[Health and safety complaints in license-exempt preschool programs](#)

County superintendent of schools; duties

Urgent or emergency repairs; School Facility Emergency Repair Account

[Prohibition of discrimination](#)

Student protections relating to discrimination, harassment, intimidation, and bullying

School accountability report card

Williams uniform complaint procedures

Restrooms; maintenance and cleanliness

[Exercise of free expression; time, place and manner rules and regulations](#)

[Speech and other communication](#)

Notices to parents in language other than English

[Nondiscriminatory subject matter](#)

[Instructional materials; definition](#)

[Requirements for instructional materials](#)

Hearing on sufficiency of instructional materials

[Penalty for insufficiency of textbooks and instructional materials](#)

Federal	Description
20 USC 6314	Title I schoolwide program
Management Resources	Description
Website	CSBA District and County Office of Education Legal Services
Website	State Allocation Board, Office of Public School Construction
Website	California Department of Education (https://www.cde.ca.gov/)
Website	California County Superintendents Educational Services Association (https://ccsesa.org/)
Website	Department of Justice (https://oag.ca.gov/)
Website	U.S. Department of Education, Office for Civil Rights (https://www2.ed.gov/about/offices/list/ocr/index.html)
Website	California Department of Education, Williams Case
Website	California County Superintendents
Website	CSBA
Cross References	

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

3514	Environmental Safety
3514	Environmental Safety
3514.2	Integrated Pest Management
3517	Facilities Inspection
3517-E(1)	Facilities Inspection
3550	Food Service/Child Nutrition Program
3550	Food Service/Child Nutrition Program
4112.2	Certification
4112.2	Certification
4112.22	Staff Teaching English Learners
4113	Assignment
4113	Assignment
4144	Complaints
4144	Complaints
4244	Complaints
4244	Complaints
4344	Complaints
4344	Complaints
<u>5145.3</u>	<u>Nondiscrimination/Harassment</u>
<u>6143</u>	<u>Courses Of Study</u>
6142.92	Mathematics Instruction
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
<u>6161.11</u>	<u>Supplementary Instructional Materials</u>
6161.2	Damaged Or Lost Instructional Materials
<u>6163.1</u>	<u>Library Media Centers</u>
9000	Role Of The Board
9012	Board Member Electronic Communications
9200	Limits Of Board Member Authority
9322	Agenda/Meeting Materials

Policy 5145.3: Nondiscrimination/Harassment

Status: DRAFT

Original Adopted Date: 10/01/2014 | **Last Revised Date:** 05/10/01/2020/2023 | **Last Reviewed Date:** 05/10/01/2020/2023

CSBA NOTE: The following **mandated** policy reflects various provisions of state and federal law which prohibit discrimination against students in educational programs and activities based on certain actual or perceived characteristics of an individual; ~~including~~ Education Code 220, which prohibits discrimination based on disability, race, nationality, immigration status, ethnicity, gender, gender identity, gender expression, sexual orientation, religion, or any other characteristic contained in the definition of hate crimes in Penal Code 422.55; Government Code 11135, which prohibits discrimination based on ~~all~~ **most of** the foregoing characteristics and on sex, color, ancestry, age, medical condition, marital status, and an individual's genetic information; Title VI ~~of the Civil Rights Act of 1964~~ (42 USC 2000d-2000e-17), ~~which~~ **2000d-7** prohibits discrimination based on race, color, or national origin; Title IX (20 USC 1681-1688), which prohibits discrimination based on sex, gender, gender identity, pregnancy, and parental status; ~~the~~ **The** Age Discrimination Act of 1975 (42 USC 6101-6107), ~~which~~ prohibits discrimination based on age; ~~and Title II, The Americans with Disabilities Act (ADA)~~ (20 USC 12101-12213) and Section 504 (29 USC 794), ~~which~~ prohibit discrimination based on disability. Education Code 260 gives the Governing Board primary responsibility for ensuring that district programs and activities are free from discrimination based on age or any of the characteristics listed in Education Code 220. See also BP 0410 - Nondiscrimination in District Programs and Activities.

Moreover, this sample Board policy and the accompanying administrative regulation reflect the statutory right of a transgender student to participate in sex-segregated educational programs and use facilities consistent with one's gender identity as specified in Education Code 221.5, and best practices based on existing state and federal law. Districts with questions about the rights of transgender and gender-nonconforming students should consult [CSBA's District and County Office of Education Legal Services or district legal counsel](#) as appropriate. For more information on the rights of transgender students, see CSBA's ~~Updated~~ **“Legal Guidance: Protecting on Rights of Transgender and Gender Nonconforming Students Against Sex Discrimination in Schools.”**

Education Code 234.1 **mandates** that districts adopt policy **as well as a process for** prohibiting discrimination which applies to all acts related to school activity or school attendance occurring within a school or under the authority of the district, including discriminatory harassment, intimidation, and bullying, based on the foregoing characteristics. The California Department of Education (CDE), through its Federal Program Monitoring process, reviews districts' uniform complaint procedures (UCP) and other anti-discrimination policies and ~~practices~~ **processes** to ensure compliance with these requirements. In addition, the U.S. Department of Education's Office for Civil Rights (OCR) is responsible for the administrative enforcement of federal laws and regulations prohibiting discrimination on the basis of race, color, national origin, sex, disability, and age in programs and activities that receive federal financial assistance from the department, and requires the adoption of nondiscrimination policies and complaint procedures.

Education Code 234.1 requires that the district's nondiscrimination policy include a statement that the policy applies to all acts related to a school activity or school attendance and, as amended by AB 1078 (Ch. 229, Statute of 2023), all acts of the Board and the Superintendent in enacting policies and procedures that govern the district. Education Code 234.1, as amended by AB 1078,

contains similar language regarding the County Board of Education and the County Superintendent of Schools.

Education Code 243, as added by AB 1078, clarifies when it is unlawful discrimination for the 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 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 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.

OCR has clarified in several publications that conduct that occurs off campus may have an adverse effect on a student at school (i.e., create a "hostile environment" for the student). When that happens, the district has an obligation to investigate and to take steps to protect the student.

This policy shall apply to all acts constituting unlawful discrimination or harassment related to school activity or to school attendance occurring within a district school, and to acts which occur off campus or outside of school-related or school-sponsored activities but which may have an impact or create a hostile environment at school:

The , and to all acts of the Governing Board and the Superintendent in enacting policies and procedures that govern the district.

The Board desires to provide a welcoming, safe, and supportive school environment that allows all students equal access to and opportunities in the district's academic, extracurricular, and other educational support programs, services, and activities. The Board prohibits, at any district school or school activity, unlawful discrimination, including discriminatory harassment, intimidation, and bullying, targeted at any student by anyone, based on the student's actual or perceived race, color, ancestry, nationality, national origin, immigration status, ethnic group identification, ethnicity, age, religion, marital status, pregnancy, parental status, physical or mental disability, medical condition, sex, sexual orientation, gender, gender identity, gender expression, or genetic information, or association with a person or group with one or more of these actual or perceived characteristics.

CSBA NOTE: OCR's August 2023 Dear Colleague Letter, "Race and School Programming," states that a district may not separate students based on race, but may include group discussions or activities that focus on race as part of the curriculum, courses, or programs so long as access or participation is not permitted or limited based on race. OCR guidance also provides that a school-sponsored program with emphasis on race, such as a student club, that is open to all students, typically would not violate Title VI solely because of its race-related theme.

Unlawful discrimination, including discriminatory harassment, intimidation, or bullying, may result from physical, verbal, nonverbal, or written conduct based on any of the categories listed above. Unlawful discrimination also occurs when prohibited conduct is so severe, persistent, or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity; creates an intimidating, threatening, hostile, or offensive educational environment; has the effect of substantially or unreasonably interfering with a student's academic performance; or otherwise adversely affects a student's educational opportunities.

CSBA NOTE: In addition to the types of prohibited student conduct described above, unlawful discrimination includes different treatment of students with respect to the provision of

opportunities to participate in school programs or activities or the provision or receipt of educational benefits or services. See BP 0410 - Nondiscrimination in District Programs and Activities.

Unlawful discrimination also includes disparate treatment of students based on one of the categories above with respect to the provision of opportunities to participate in school programs or activities or the provision or receipt of educational benefits or services.

CSBA NOTE: Unlawful discrimination may occur when disciplining students. OCR's guidance, "Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973," "Resource on Confronting Racial Discrimination in Student Discipline," and "Creating Inclusive and Nondiscriminatory School Environments for LGBTQI+ Students," address discrimination in the use of discipline based on disability, race, and gender expression. For more information regarding student discipline, see BP/AR 5144 – Discipline, BP/AR 5144.1 – Suspension and Expulsion/Due Process, and AR 5144.2 – Suspension and Expulsion/Due Process (Students With Disabilities).

Because unlawful discrimination may occur when disciplining students, including suspension and expulsion, the Superintendent or designee shall ensure that staff enforce discipline rules fairly, consistently and in a non-discriminatory manner, as specified in Board Policy and Administrative Regulation 5144 – Discipline, Board Policy and Administrative Regulation 5144.1 – Suspension and Expulsion/Due Process, and Administrative Regulation 5144.2 – Suspension and Expulsion/Due Process (Students With Disabilities).

The Board also prohibits any form of retaliation against any individual who reports or participates in the reporting of unlawful discrimination, files or participates in the filing of a complaint, or investigates or participates in the investigation of a complaint or report alleging unlawful discrimination. Retaliation complaints shall be investigated and resolved in the same manner as a discrimination complaint.

CSBA NOTE: Pursuant to Education Code 234.1 and 34 CFR 106.98, a district is required to publicize its nondiscrimination policies to the school community. In addition, Education Code 234.6, as added by AB 34 (Ch. 282, Statutes of 2019), requires the district, starting in the 2020-21 school year, to make readily accessible on its web site ~~website~~ its nondiscrimination, sexual harassment, suicide prevention, and other specified policies and information related to specified state and federal laws and resources. For further information regarding specific posting requirements, see "Measures to Prevent Discrimination" in the accompanying administrative regulation.

The Superintendent or designee shall facilitate students' access to the educational program by publicizing the district's nondiscrimination policy and related complaint procedures to students, parents/guardians, and employees. In addition, the Superintendent or designee shall post the district's policies prohibiting discrimination, harassment, intimidation, and bullying and other required information on the district's ~~web site~~ website in a manner that is easily accessible to parents/guardians and students, in accordance with law and the accompanying administrative regulation. (Education Code 234.1, 234.6)

CSBA NOTE: In its October 2010 Dear Colleague Letter: Harassment and Bullying, OCR identifies training of the school community as one of the key measures for minimizing discriminatory and harassing behavior in school. See the accompanying administrative regulation for specific measures to prevent discrimination and facilitate students' access to the educational program. The following paragraph may be modified to reflect district practice.

The Superintendent or designee shall provide training and/or information on the scope and use of the policy and complaint procedures and take other measures designed to increase the school

community's understanding of the requirements of law related to discrimination. The Superintendent or designee shall regularly review the implementation of the district's nondiscrimination policies and practices and, as necessary, shall take action to remove any identified barrier to student access to or participation in the district's educational program. The Superintendent or designee shall report the findings and recommendations to the Board after each review.

Regardless of whether a complainant complies with the writing, timeline, and/or other formal filing requirements, all complaints alleging unlawful discrimination, including discriminatory harassment, intimidation, or bullying, shall be investigated and prompt action taken to stop the discrimination, prevent recurrence, and address any continuing effect on students.

CSBA NOTE: Policies related to discrimination must be consistent with the First Amendment right to free speech. Education Code 48950 prohibits a district from subjecting a high school student to disciplinary sanctions solely on the basis of speech or other communication that would be constitutionally protected if engaged in outside of campus. However, Education Code 48950 also specifies that the law does not prohibit discipline for harassment, threats, or intimidation unless constitutionally protected. Whether such speech might be entitled to constitutional protection would be determined on a case-by-case basis, with consideration for the specific words used and the circumstances involved. The district should consult [CSBA's District and County Office of Education Legal Services or district](#) legal counsel as necessary.

Students who engage in unlawful discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, in violation of law, Board policy, or administrative regulation shall be subject to appropriate consequence or discipline, which may include suspension or expulsion when the behavior is severe or pervasive as defined in Education Code 48900.4. Any employee who permits or engages in prohibited discrimination, including discriminatory harassment, intimidation, retaliation, or bullying, shall be subject to disciplinary action, up to and including dismissal.

[CSBA NOTE: Education Code 234.1 requires that districts adopt a process for receiving and investigating complaints of unlawful discrimination, including discriminatory harassment, intimidation, retaliation, and bullying that is consistent with the district's UCP specified in 5 CCR 4600-4670.](#)

[All allegations of unlawful discrimination in district programs and activities shall be brought, investigated, and resolved in accordance with Board Policy 1312.3 - Uniform Complaint Procedures.](#)

Record-Keeping

The Superintendent or designee shall maintain a record of all reported cases of unlawful discrimination, including discriminatory harassment, intimidation, or bullying, to enable the district to monitor, address, and prevent repetitive prohibited behavior in district schools.

Policy Reference UPDATE Service

Copyright 2023 by California School Boards Association, West Sacramento, California 95691

All rights reserved.

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

5 CCR 432	Student records
5 CCR 4600-4670	Uniform complaint procedures
5 CCR 4900-4965	Nondiscrimination in elementary and secondary educational programs receiving state or federal financial assistance
Civ. Code 1714.1	Liability of parent or guardian for act of willful misconduct by a minor
Ed. Code 200-262.4	Prohibition of discrimination
Ed. Code 48900.3	Suspension or expulsion for act of hate violence
Ed. Code 48900.4	Suspension or expulsion for harassment, threats, or intimidation
Ed. Code 48904	Liability of parent/guardian for willful student misconduct
Ed. Code 48907	Exercise of free expression; time, place and manner rules and regulations
Ed. Code 48950	Speech and other communication
Ed. Code 48985	Notices to parents in language other than English
Ed. Code 49020-49023	Athletic programs
Ed. Code 49060-49079	Student records
Ed. Code 51204.5	Social sciences instruction; contributions of specified groups
Ed. Code 51500	Prohibited instruction or activity
Ed. Code 51501	Prohibited means of instruction Nondiscriminatory subject matter
Ed. Code 60010	Instructional materials; definition
Ed. Code 60044 60040-60052	Prohibited Requirements for instructional materials
Gov. Code 11135	Prohibition of discrimination
Pen. Code 422.55	Definition of hate crime
Pen. Code 422.6	Crimes; harassment
Federal	Description
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
28 CFR 35.107	Nondiscrimination on basis of disability; complaints
29 USC 794	Rehabilitation Act of 1973; Section 504
34 CFR 100.3	Prohibition of discrimination on basis of race, color or national origin
34 CFR 104.7	Section 504; Designation of responsible employee and adoption of grievances procedures
34 CFR 104.8	Notice of Nondiscrimination on the Basis of Handicap

34 CFR 106.8	Designation of coordinator; dissemination of policy, and adoption of grievance procedures
<u>34 CFR 106.30</u>	<u>Discrimination on the basis of sex; definitions</u>
34 CFR 106.9 <u>44-106.45</u>	Severability <u>Grievance process for formal complaints of sexual harassment</u>
34 CFR 110.25	Prohibition of discrimination based on age
34 CFR 99.31	Disclosure of personally identifiable information
42 USC 12101-12213	Americans with Disabilities Act
42 USC 2000d-2000e-17	Title VI and Title VII Civil Rights Act of 1964, as amended
42 USC 2000h-2-2000h-6	Title IX of the Civil Rights Act of 1964
42 USC 6101-6107	Age Discrimination Act of 1975
Management Resources	Description
CA Office of the Attorney General Publication	Promoting <u>a Safe &and</u> Secure Learning Environment for All: Guidance <u>&and</u> Model Policies to Assist CA <u>California's</u> K-12 Schools in Responding to Immigration Issues, 4/ <u>April</u> 2018 (https://oag.ca.gov/sites/all/files/agweb/pdfs/bcj/school-guidance-model-k12.pdf)
Court Decision	Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567
Court Decision	Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130
CSBA Publication	Updated Legal Guidance: <u>Protecting on Rights of</u> Transgender and Gender Nonconforming Students Against Sex Discrimination, March 2017 <u>in School, October 2022</u> (https://www.csba.org/-/media/CSBA/Files/Advocacy/LegalAdvocacy/Legal-Guidance-Transgender-Legal-10-2022.ashx?la=en&rev=a3fb600ee6d640598c038dfceaef871c)
First Amendment Center Publication	Public Schools and Sexual Orientation: A First Amendment Framework for Finding Common Ground, 2006
<u>California Department of Education Publication</u>	<u>California Longitudinal Pupil Achievement Data System (CALPADS) Update FLASH #158: Guidance for Changing a Student's Gender in CALPADS, July 2019</u> (https://www.cde.ca.gov/ds/sp/cl/calpadsupdf/flash158.asp)
U.S Dept of Ed DOE , Office for Civil Rights Publication	Resolution Agreement Between the Arcadia USD, US Dept of Ed, OCR, & the US DOJ, CRD, (2013) OCR 09-12-1020, DOJ 169-12C-70 (https://www.justice.gov/sites/default/files/crt/legacy/2013/07/26/arcadiaagree.pdf)
U.S. Dept. of Health & Human Services Publication	Guidance to Fed Fin. Assist. <u>Federal Financial Assistance</u> Recipients Re: <u>Regarding</u> Title VI Prohibition Against

	<p>Nat'l<u>National</u> Origin Discrimination AffectAffecting Limited English Proficient Persons, Aug. 2013<u>August 2003</u> (https://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/guidance-federal-financial-assistance-recipients-title-vi/index.html) </p>
<p><u>U.S. DOE, Office for Civil Rights Publication</u></p>	<p><u>Questions and Answers on the Title IX Regulations on Sexual Harassment, June 2022</u> (https://www2.ed.gov/about/offices/list/ocr/docs/202107-ga-titleix.pdf) </p>
<p><u>U.S. DOE, Office for Civil Rights Publication</u></p>	<p><u>U.S. Department of Education Toolkit: Creating Inclusive and Nondiscriminatory School Environments for LGBTQI+ Students, June 2023</u> (https://www2.ed.gov/about/offices/list/ocr/docs/lgbtqi-student-resources-toolkit-062023.pdf) </p>
<p><u>U.S. DOE, Office for Civil Rights Publication</u></p>	<p><u>Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973, July 2022</u> (https://www2.ed.gov/about/offices/list/ocr/docs/504-discipline-guidance.pdf) </p>
<p>U.S. DOE, Office for Civil Rights <u>and U.S. DOJ, Civil Rights Division</u> Publication</p>	<p><u>Dear Colleague Letter: Harassment and Bullying, October 2010</u><u>Resource on Confronting Racial Discrimination in Student Discipline, May 2023</u> (https://www2.ed.gov/about/offices/list/ocr/docs/tvi-student-discipline-resource-202305.pdf) </p>
<p><u>U.S. DOE Publication</u></p>	<p><u>Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023</u> (https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html) </p>
<p>U.S. DOE, Office for Civil Rights Publication</p>	<p><u>Dear Colleague Letter: Title IX Coordinators, April 2015</u><u>Addressing Discrimination Against Jewish Students, May 2023</u> (https://www2.ed.gov/about/offices/list/ocr/docs/antisemitism-dcl.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=) </p>
<p><u>U.S. DOE, Office for Civil Rights Publication</u></p>	<p><u>Enforcement of Title IX of the Education Amendments of 1972 With Respect to Discrimination Based on Sexual Orientation and Gender Identity in Light of Bostock v. Clayton County, June 2021</u> (https://www2.ed.gov/about/offices/list/ocr/docs/202106-titleix-noi.pdf?_cldee=YmxhaWZtYW5AY3NiYS5vcmc%3d&recipientid=contact-a1fe1b1b458fe61180ef005056b02a09-2649c94bee724cf58c51a008ab8c6b92&esid=a7f7c74b-7cd3-eb11-8145-005056b02a09) </p>

[U.S. DOE, Office for Civil Rights Publication](#)

U.S. DOE, Office for Civil Rights Publication

U.S. DOE, Office for Civil Rights Publication

Website

Website

Website

Website

Website

Website

Website

[Dear Colleague Letter: Race and School Programming, August 2023](#)

<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-20230824.pdf>

Examples of Policies and Emerging Practices for Supporting Transgender Students, May 2016

~~Notice of Non-Discrimination, Fact Sheet, August 2010~~

CSBA District and County Office of Education Legal Services

First Amendment Center

California Office of the Attorney General

California Safe Schools Coalition

CSBA

California Department of Education

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

Cross References

Code

0410

0415

0450

0450

0470

1114

1114

1240

1240

1312.1

1312.1

[1312.2](#)

1312.3

1312.3

1312.3-E(1)

1312.3-E(2)

[1312.4](#)

Description

Nondiscrimination In District Programs And Activities

Equity

Comprehensive Safety Plan

Comprehensive Safety Plan

COVID-19 Mitigation Plan

District-Sponsored Social Media

District-Sponsored Social Media

Volunteer Assistance

Volunteer Assistance

Complaints Concerning District Employees

Complaints Concerning District Employees

[Complaints Concerning Instructional Materials](#)

Uniform Complaint Procedures

Uniform Complaint Procedures

Uniform Complaint Procedures

Uniform Complaint Procedures

[Williams Uniform Complaint Procedures](#)

1313	Civility
1340	Access To District Records
1340	Access To District Records
3515.4	Recovery For Property Loss Or Damage
3515.4	Recovery For Property Loss Or Damage
3530	Risk Management/Insurance
3530	Risk Management/Insurance
3553	Free And Reduced Price Meals
3553	Free And Reduced Price Meals
3580	District Records
3580	District Records
4112.6	Personnel Files
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
4119.23	Unauthorized Release Of Confidential/Privileged Information
4131	Staff Development
4212.6	Personnel Files
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
4219.23	Unauthorized Release Of Confidential/Privileged Information
4231	Staff Development
4312.6	Personnel Files
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4319.21	Professional Standards

4319.21-E(1)	Professional Standards
4319.23	Unauthorized Release Of Confidential/Privileged Information
4331	Staff Development
5000	Concepts And Roles
5030	Student Wellness
5111	Admission
5111	Admission
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy
5113.12	District School Attendance Review Board
5113.12	District School Attendance Review Board
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
5131	Conduct
5131.2	Bullying
5131.2	Bullying
5131.5	Vandalism And Graffiti
5132	Dress And Grooming
5132	Dress And Grooming
5137	Positive School Climate
5138	Conflict Resolution/Peer Mediation
5141.22	Infectious Diseases
5141.22	Infectious Diseases
5141.27	Food Allergies/Special Dietary Needs
5141.27	Food Allergies/Special Dietary Needs
5141.4	Child Abuse Prevention And Reporting
5141.4	Child Abuse Prevention And Reporting
5141.52	Suicide Prevention
5141.52	Suicide Prevention

5144	Discipline
5144	Discipline
5144.1	Suspension And Expulsion/Due Process
5144.1	Suspension And Expulsion/Due Process
5144.2	Suspension And Expulsion/Due Process (Students With Disabilities)
5145.12	Search And Seizure
5145.12	Search And Seizure
5145.2	Freedom Of Speech/Expression
5145.2	Freedom Of Speech/Expression
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5145.7	Sexual Harassment
5145.7	Sexual Harassment
5145.71	Title IX Sexual Harassment Complaint Procedures
5145.71-E(1)	Title IX Sexual Harassment Complaint Procedures
5145.9	Hate-Motivated Behavior
5146	Married/Pregnant/Parenting Students
6142.1	Sexual Health And HIV/AIDS Prevention Instruction
6142.1	Sexual Health And HIV/AIDS Prevention Instruction
6142.8	Comprehensive Health Education
6142.8	Comprehensive Health Education
6143	Courses Of Study
6143	Courses Of Study
6144	Controversial Issues
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
6145.2	Athletic Competition
6145.2	Athletic Competition
6153	School-Sponsored Trips
6153	School-Sponsored Trips
6159.4	Behavioral Interventions For Special Education Students
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
<u>6161.11</u>	<u>Supplementary Instructional Materials</u>
<u>6163.1</u>	<u>Library Media Centers</u>
6163.4	Student Use Of Technology
6163.4-E(1)	Student Use Of Technology
6164.2	Guidance/Counseling Services
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
7110	Facilities Master Plan

Policy 6143: Courses Of Study

Status: DRAFT

Original Adopted Date: 03/01/2003 | Last Revised Date: 12/10/01/2021/2023 | Last Reviewed Date: 12/10/01/2021/2023

The Governing Board recognizes that a well-aligned sequence of courses fosters academic growth and provides for the best possible use of instructional time. The district's course of study shall provide students with opportunities to attain the skills, knowledge, and abilities they need to be successful academically, professionally, and personally.

CSBA NOTE: The following optional paragraph should be revised to reflect the grade levels offered by the district. For example, unified school districts need to be concerned about articulation of courses within the district and with postsecondary institutions, whereas elementary districts and high school districts will need to address articulation with each other.

The Superintendent or designee shall establish processes for ensuring the articulation of courses across grade levels within the district. As necessary, the Superintendent or designee shall work with representatives of appropriate area districts and postsecondary institutions to ensure articulation of courses with other institutions to which district students may matriculate. The sequence of courses shall be designed to ensure that each course provides adequate preparation for the next course in the sequence, only utilizes prerequisites that are essential to success in a given program or course, avoids significant duplication of content, and allows for reinforcement and progression in the subject matter.

CSBA NOTE: OCR's August 2023 Dear Colleague Letter, "Race and School Programming," states that a district may not separate students based on race, but may include group discussions or activities that focus on race as part of the curriculum, courses, or programs so long as access or participation is not permitted or limited based on race. OCR's guidance also provides that a school-sponsored program with emphasis on race, such as a student club, that is open to all students, typically would not violate Title VI solely because of its race-related theme.

The district shall not provide any course separately or require or refuse participation by any student on the basis of the student's actual or perceived sex, sexual orientation, gender, gender expression, gender identity, ethnic group identification, immigration status, race, ancestry, national origin, religion, color, mental or physical disability, age, medical condition, genetic information, marital status, or any other characteristic listed in Education Code 200 and 220, Government Code 11135, or Penal Code 422.55, or the student's association with a person or group with one or more of such actual or perceived characteristics. (Education Code 200, 220; Government Code 11135; Penal Code 422.55; 5 CCR 4940)

Elementary Grades

CSBA NOTE: The following section is for use by districts offering elementary grades and may be revised to reflect district practice. Education Code 51225.4 mandates elementary school districts to certify to the Superintendent of Public Instruction that they have adopted a policy to implement a course of instruction that sufficiently prepares students for the secondary courses required for graduation pursuant to Education Code 51225.3.

The Board shall adopt a course of study for elementary grades that sufficiently prepares students for the secondary course of study.

Secondary Grades

CSBA NOTE: Education Code 51228 requires districts to offer students in grades 7-12 a course of study that fulfills the requirements and prerequisites for admission to California public colleges. Education Code 51228 also requires districts to offer such students the opportunity to attain entry-level employment skills. Pursuant to Education Code 51228, districts that adopt a course of study that meets or exceeds the state model curriculum standards in career technical education will be deemed to have satisfied the requirement.

Education Code 66204 prohibits a public school from establishing any policy or practice that directs any student away from choosing programs that prepare a student academically for college, especially for cultural or linguistic reasons.

The following paragraph is for use by districts maintaining any of grades 7-12 and should be revised to reflect the grade levels offered by the district.

The district shall offer all otherwise qualified students in grades 7-12 a course of study that prepares them, upon graduation from high school, to meet the requirements and prerequisites for admission to California public colleges and universities and to attain entry-level employment skills in business or industry. The district's course of study may provide for a rigorous academic curriculum that integrates academic and career skills, includes applied learning across all disciplines, and prepares all students for high school graduation and career entry. (Education Code 51228)

CSBA NOTE: The remainder of this policy is for use by districts maintaining any of grades 9-12.

In addition, the course of study for students in grades 9-12 shall include instruction in skills and knowledge for adult life, career technical training, and a timely opportunity for all otherwise qualified students to enroll, within four years, in each course necessary to fulfill the requirements and prerequisites for admission to California public colleges and universities prior to graduation. (Education Code 51224, 51228)

CSBA NOTE: Among the criteria for admission to the University of California (UC) or California State University system is a requirement that high school students satisfactorily complete 15 yearlong/30 semesters of specified courses ("~~a-g~~A-G" courses). These include a growing number of career technical education courses that connect knowledge of academic content with practical or work-related applications.

In order to qualify as an "~~a-g~~A-G" course, the course must first be submitted to and approved by UC. Education Code 51229 requires that districts annually provide the list of certified courses to the parents/guardians of students in grades 9-12 ~~and their parents/guardians~~; see the accompanying administrative regulation and E 5145.6 - Parental Notifications.

The Superintendent or designee shall develop a process by which courses that meet California college admission criteria (referred to as "~~a-g~~A-G" course requirements) are submitted to the University of California for review and certification. The Superintendent or designee shall maintain an accurate list of all current high school courses that have been so certified, shall ensure that the list is provided annually to all students in grades 9-12 and their parents/guardians, and shall make updated lists readily available. (Education Code 51229, 66204)

Policy Reference UPDATE Service

Copyright 2023 by **California School Boards Association**, West Sacramento, California 95691
All rights reserved.

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
<u>5 CCR 10020</u>	<u>Automobile driver education</u>
5 CCR 10020 <u>10040</u> -10043	Automobile driver education and training
5 CCR 10060	Criteria for high school physical education programs
5 CCR 430-438	Individual student records
5 CCR 4940	Nondiscrimination; course access
Ed. Code 200	Equal rights and opportunities in state educational institutions
Ed. Code 220	Prohibition of discrimination
Ed. Code 234.1	Student protections relating to discrimination, harassment, intimidation, and bullying
<u>Ed. Code 234.7</u>	<u>Student protections relating to immigration and citizenship status</u>
Ed. Code <u>242</u>	<u>Access to information about educational laws and policies regarding right to accurate and inclusive curriculum</u>
Ed. Code 33319.3	Driver education; CDE materials on road rage
Ed. Code 33540	Standards for government and civics instruction
Ed. Code 48980	Parent/Guardian notifications
Ed. Code 49060-49079	Student records
Ed. Code 51202	Instruction in personal and public health and safety
Ed. Code 51203	Instruction on alcohol, narcotics, and dangerous drugs
Ed. Code 51204	Course of study designed for student's needs
Ed. Code 51204.5	History of California; contributions of men, women, and ethnic groups <u>History of California; contributions of specified groups</u>
Ed. Code 51210	Course of study for grades 1-6
Ed. Code 51220	Course of study for grades 7-12
<u>Ed. Code 51225.3</u>	<u>High School Graduation Requirements</u>
<u>Ed. Code 51226.7</u>	<u>Model Curriculum in Ethnic Studies</u>
Ed. Code 51241	Temporary two-year or permanent exemption from physical education
<u>Ed. Code 51501</u>	<u>Nondiscriminatory subject matter</u>
Ed. Code 51911-51921	Comprehensive health education
<u>Ed. Code 51925-51929</u>	<u>Mandatory mental health education and in-service training</u>

Ed. Code 51930-51939	California Healthy Youth Act
Ed. Code 51940	Curriculum for brain and spinal cord injury prevention
Ed. Code 60040-60052	Requirements for instructional materials
Ed. Code 66204	Certification of high school courses as meeting university admission criteria
Gov. Code 11135	Prohibition of discrimination
Gov. Code 7282-7282.5	Standards for responding to U.S. Immigration and Customs enforcement holds
Gov. Code 7283-7283.2	Standards for participation in U.S. Immigration and Customs enforcement programs
Gov. Code 7284-7284.12	Cooperation with immigration authorities
H&S Code 11032	Definition of dangerous drugs
Pen. Code 422.55	Definition of hate crime
Federal	Description
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
34 CFR 99.1-99.67	Family Educational Rights and Privacy
Management Resources	Description
U.S. Department of Education, Office for Civil Rights Publication	Dear Colleague Letter: Race and School Programming, August 2023 (https://www2.ed.gov/about/offices/list/ocr/letters/colleague-20230824.pdf)
Website	CSBA District and County Office of Education Legal Services
Website	Federal Student Aid
Website	American Red Cross, Hands-Only CPR Training (https://www.redcross.org/take-a-class/cpr/performing-cpr/hands-only-cpr)
Website	American Heart Association
Website	California Student Aid Commission
Website	University of California, A-G Course Submissions
Website	University of California, List of Approved A-G Courses
Website	California Career Resource Network
Website	California State University, Admission Requirements
Website	California Colleges.edu
Website	California Department of Education
Website	CSBA
Website	Department of Justice (https://oag.ca.gov/)

Website

Instructional Quality Commission
(<https://www.cde.ca.gov/be/cc/cd/>)

Website

U.S. Department of Education

Cross References

Code

0410

0415

0460

0460

1312.2

1312.4

1340

1340

3270

3270

3513.3

3513.3

5022

5022

5121

5121

5125

5125

5126

5126

5131.6

5131.6

5138

5141.4

5141.4

5145.13

5145.13

5145.3

Description

Nondiscrimination in District Programs and Activities
Equity

Local Control And Accountability Plan

Local Control And Accountability Plan

Complaints Concerning Instructional Materials

Williams Uniform Complaint Procedures

Access To District Records

Access To District Records

Sale And Disposal Of Books, Equipment And Supplies

Sale And Disposal Of Books, Equipment And Supplies

Tobacco-Free Schools

Tobacco-Free Schools

Student And Family Privacy Rights

Student And Family Privacy Rights

Grades/Evaluation Of Student Achievement

Grades/Evaluation Of Student Achievement

Student Records

Student Records

Awards For Achievement

Awards For Achievement

Alcohol And Other Drugs

Alcohol And Other Drugs

Conflict Resolution/Peer Mediation

Child Abuse Prevention And Reporting

Child Abuse Prevention And Reporting

Response To Immigration Enforcement

Response To Immigration Enforcement

Nondiscrimination/Harassment

5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5146	Married/Pregnant/Parenting Students
6000	Concepts And Roles
6011	Academic Standards
6141	Curriculum Development And Evaluation
6141	Curriculum Development And Evaluation
6141.2	Recognition Of Religious Beliefs And Customs
6141.2	Recognition Of Religious Beliefs And Customs
6141.4	International Baccalaureate Program
6141.5	Advanced Placement
6142.1	Sexual Health And HIV/AIDS Prevention Instruction
6142.1	Sexual Health And HIV/AIDS Prevention Instruction
6142.2	World Language Instruction
6142.2	World Language Instruction
6142.3	Civic Education
6142.4	Service Learning/Community Service Classes
6142.5	Environmental Education
6142.6	Visual And Performing Arts Education
6142.7	Physical Education And Activity
6142.7	Physical Education And Activity
6142.8	Comprehensive Health Education
6142.8	Comprehensive Health Education
6142.91	Reading/Language Arts Instruction
6142.92	Mathematics Instruction
6142.93	Science Instruction
6142.94	History-Social Science Instruction
6144	Controversial Issues
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
6145.8	Assemblies And Special Events
6146.1	High School Graduation Requirements

6146.11	Alternative Credits Toward Graduation
6146.11	Alternative Credits Toward Graduation
6146.3	Reciprocity Of Academic Credit
6146.3	Reciprocity Of Academic Credit
6146.5	Elementary/Middle School Graduation Requirements
6151	Class Size
6152.1	Placement In Mathematics Courses
6152.1	Placement In Mathematics Courses
6153	School-Sponsored Trips
6153	School-Sponsored Trips
6155	Challenging Courses By Examination
6155	Challenging Courses By Examination
6158	Independent Study
6158	Independent Study
6159	Individualized Education Program
6159	Individualized Education Program
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
<u>6161.11</u>	<u>Supplementary Instructional Materials</u>
<u>6163.1</u>	<u>Library Media Centers</u>
6164.2	Guidance/Counseling Services
6172.1	Concurrent Enrollment In College Classes
6172.1	Concurrent Enrollment In College Classes
6173	Education For Homeless Children
6173	Education For Homeless Children
6173-E(1)	Education For Homeless Children
6173-E(2)	Education For Homeless Children
6173.2	Education Of Children Of Military Families
6173.2	Education Of Children Of Military Families
6173.3	Education For Juvenile Court School Students
6177	Summer Learning Programs
6178	Career Technical Education

6178	Career Technical Education
6178.1	Work-Based Learning
6178.1	Work-Based Learning
6181	Alternative Schools/Programs Of Choice
6181	Alternative Schools/Programs Of Choice
6184	Continuation Education
6184	Continuation Education

Regulation 6143: Courses Of Study

Status: DRAFT

Original Adopted Date: 11/01/2014 | Last Revised Date: 12/10/01/2021/2023 | Last Reviewed Date: 12/10/01/2021/2023

CSBA NOTE: Education Code requirements for courses of study are generally classified into requirements for grades 1-6 and 7-12. Therefore, K-8 districts and high school districts need to collaborate with appropriate area districts to ensure that all required courses are offered sometime during grades 7-12.

The district should select the sections below ("Grades 1-6" and/or "Grades 7-12") that correspond with the grade levels offered.

For more information regarding 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.

Grades 1-6

CSBA NOTE: Items #1-7 below are areas of study required by law for grades 1-6. The Governing Board may add other studies to this list.

Courses of study for grades 1-6 shall include the following:

1. English: knowledge and appreciation of language and literature, and the skills of speaking, reading, listening, spelling, handwriting, and composition (Education Code 51210)
2. Mathematics: concepts, operational skills, and problem solving (Education Code 51210)
3. Social sciences: age-appropriate instruction drawing upon the disciplines of anthropology, economics, geography, history, political science, psychology, and sociology, including instruction in:
 - a. The history, resources, development, and government of California and the United States

CSBA NOTE: Education Code 51204.5 requires instruction in social sciences to include a study of the role and contributions of specified groups of people to the economic, political, and social development of California and the United States of America, which, as amended by AB 1078 (Ch. 229, Statutes of 2023), includes people of all genders (formerly "men and women"), Latino Americans (formerly "Mexican Americans"), LGBTQ+ Americans (formerly "lesbian, gay, bisexual, and transgender Americans"), and members of other ethnic, cultural, religious, and socioeconomic status groups (formerly "ethnic and cultural"). The complete list required by Education Code 51204.5, as amended by AB 1078, is reflected below.

Additionally, Education Code 60040, which requires the Board to only adopt instructional materials that in its determination accurately portray the cultural and

racial diversity of our society, was amended by AB 1078 to mirror the changes made to Education Code 51204.5, explained above.

Instruction shall include the early history of California and a study of the role and contributions of ~~men and women~~people of all genders, Native Americans, African Americans, ~~Mexican~~Latino Americans, Asian Americans, Pacific Islanders, European Americans, ~~lesbian, gay, bisexual, and transgender~~LGBTQ+ Americans, persons with disabilities, and members of other ethnic ~~and~~, cultural, religious, and socioeconomic status groups to the economic, political, and social development of California and the United States, with particular emphasis on portraying the role of these groups in contemporary society. (Education Code 51204.5, 60040)

- b. The development of the American economic system, including the role of the entrepreneur and labor
 - c. The relations of persons to their human and natural environments
 - d. Eastern and western cultures and civilizations
 - e. Contemporary issues
 - f. The wise use of natural resources
- 4. Science: biological and physical aspects, with emphasis on experimental inquiry and the place of humans in ecological systems (Education Code 51210)
 - 5. Visual and performing arts: instruction in dance, music, theatre, and visual arts aimed at developing aesthetic appreciation and creative expression (Education Code 51210)

CSBA NOTE: Education Code 51202 requires that certain health-related topics be addressed at "the appropriate elementary and secondary grade levels" during grades K-12. Districts may revise ITEM #6a-e below to indicate topics that will be addressed in grades K-6.

Education Code 51203 requires the Board to adopt regulations specifying the grade(s) and course(s) in which drug and alcohol education will be given. For language fulfilling this mandate, see AR 5131.6 - Alcohol and Other Drugs.

- 6. Health: principles and practices of individual, family, and community health, including instruction at the appropriate grade levels and subject areas in: (Education Code 51202, 51210)
 - a. Personal and public safety and accident prevention, including instruction in emergency first aid, hemorrhage control, treatment for poisoning, resuscitation techniques, and cardiopulmonary resuscitation (CPR) when appropriate equipment is available

- b. Fire prevention
- c. The protection and conservation of resources, including the necessity for the protection of the environment
- d. Venereal disease
- e. The effects of alcohol, narcotics, drugs, and tobacco upon the human body

CSBA NOTE: The following item is optional pursuant to Education Code 51202.

- f. Violence as a public health issue

CSBA NOTE: Education Code 51925 requires districts that offer a health education course to middle school students to include mental health instruction, as specified in Item #6g. Districts that offer a health education course to students in grade 6, and for which grade 6 is part of a middle school program, should include Item #6g. Districts that offer mental health instruction to any other elementary grade level(s) or for which grade 6 is not part of the middle school program, may delete or revise Item #6g, as appropriate.

Education Code 51929 requires the California Department of Education (CDE) to develop a plan to expand mental health instruction, and has created a webinar, "Student Mental Health Education Implementation: Why, What & How," available on its website.

- ~~g. Mental Health, that provides for reasonably designed instruction on the overarching themes and core principles of mental health, which includes: (Education Code 51925)~~
 - ~~i. Defining the signs and symptoms of common mental health challenges~~
 - ~~ii. Explaining evidence-based services and supports that effectively help individuals manage mental health challenges~~
 - ~~iii. Promoting mental health wellness and protective factors, including positive development, social and cultural connectedness and supportive relationships; resiliency, problem solving skills, coping skills, self-esteem, and a positive school and home environment in which students feel comfortable~~
 - ~~iv. Identifying warning signs of common mental health problems in order to promote awareness and early intervention so that students know to take action before a situation turns into a crisis, including how to obtain assistance from the district or the community for themselves or others and evidence-based and culturally responsive practices that are proven to help overcome mental health challenges~~
 - ~~v. Connecting the importance of mental health to overall health and academic success and to co-occurring conditions, such as chronic physical conditions, chemical dependence, and substance abuse~~

- vi. Conveying an awareness and appreciation about the prevalence of mental health challenges across all populations, races, ethnicities, and socioeconomic statuses, including the impact of race, ethnicity, and culture on the experience and treatment of mental health challenges
- vii. Understanding the stigma surrounding mental health challenges and what can be done to overcome stigma, increase awareness, and promote acceptance, including, to the extent possible, classroom presentations of narratives by trained peers and other individuals who have experienced mental health challenges and how they coped with their situations, including how they sought help and acceptance

Mental health instruction offered by the district shall: (Education Code 51926)

- 1. Be appropriate for use with students of all races, genders, sexual orientations, ethnic and cultural backgrounds, students with disabilities, and English learners
- 2. Be accessible to students with disabilities, including, but not limited to, providing a modified curriculum, materials, and instruction in alternative formats, and auxiliary aids
- 3. Not reflect or promote bias against any person on the basis of any category protected by Education Code 220
- 4. Be coordinated with any existing on-campus mental health providers including, but not limited to, providers with a pupil personnel services credential, who may be immediately called upon by students for assistance

Students receiving mental health instruction shall not be required to disclose their confidential health or mental health information at any time in the course of receiving the instruction. (Education Code 51927)

- 7. Physical education: with emphasis on physical activities conducive to health and vigor of body and mind ~~(Education Code 51210)~~

CSBA NOTE: Item #8 below is optional. Education Code 51210.5 authorizes age-appropriate instruction on violence awareness and prevention within any area of study listed in items #1-7 above. Pursuant to Education Code 51210.5, such instruction may include personal testimony in the form of oral or video histories that illustrate the economic and cultural effects of violence within a city, the state, and the country. See BP 6142.94 - History-Social Science Instruction.

- 8. Violence awareness and prevention

CSBA NOTE: Optional item #9 below is not required by state law but is a highly recommended component of school-to-career instruction.

- 9. Career awareness exploration

CSBA NOTE: Items #1-11 below are areas of study required by law for grades 7-12. The Board may add other studies to this list.

Courses of study for grades 7-12 shall include the following:

1. English: knowledge and appreciation of literature, language, and composition, and the skills of reading, listening, and speaking (Education Code 51220)
2. Social sciences: age-appropriate instruction drawing upon the disciplines of anthropology, economics, geography, history, political science, psychology, and sociology, with instruction in:
 - a. The history, resources, development, and government of California and the United States, including instruction in:

CSBA NOTE: Education Code 51204.5 requires instruction in social sciences to include a study of the role and contributions of specified groups of people to the economic, political, and social development of California and the United States of America, which, as amended by AB 1078, includes people of all genders (formerly "men and women"), Latino Americans (formerly "Mexican Americans"), LGBTQ+ Americans (formerly "lesbian, gay, bisexual, and transgender Americans"), and members of other ethnic, religious, cultural, and socioeconomic status groups (formerly "ethnic and cultural"). The complete list required by Education Code 51204.5, as amended by AB 1078, is reflected below.

Additionally, Education Code 60040, which requires the Board to only adopt instructional materials that in its determination accurately portray the cultural and racial diversity of our society, was amended by AB 1078 to mirror the changes made to Education Code 51204.5, explained above.

- i. The early history of California and a study of the role and contributions of ~~both men and women~~people of all genders, Native Americans, African Americans, ~~Mexican~~Latino Americans, Asian Americans, Pacific Islanders, European Americans, ~~lesbian, gay, bisexual, and transgender~~LGBTQ+ Americans, persons with disabilities, and members of other ethnic ~~and~~, cultural, religious, and socioeconomic status groups to the economic, political, and social development of California and the United States, with particular emphasis on portraying the role of these groups in contemporary society (Education Code 51204.5, 60040)

CSBA NOTE: Education Code 51221.3 and 51221.4 encourage, but do not require, instruction on the topics described in optional subitems #(2)-(4) below. These items may be modified or deleted to reflect district practice.

For districts that choose to offer such instruction, Education Code 51221.3 and 51221.4 encourage that a component be drawn from personal testimony, especially in the form of oral or video history. If oral histories are used, they must conform to the requirements of Education Code 51221.3 and 51221.4. See BP 6142.94 - History-Social Science Instruction.

- ii. World War II, including the role of Americans and Filipino Americans who served in the United States Army during that time

iii. The Vietnam War, including the "Secret War" in Laos and role of Southeast Asians in that war

iv. The Bracero program, in which there was a 1942 agreement between the United States and Mexico authorizing the temporary migration of laborers to the United States

b. The American legal system, the operation of the juvenile and adult criminal justice systems, and the rights and duties of citizens under the criminal and civil law and the state and federal constitutions

CSBA NOTE: The following optional paragraph is for use by districts that offer a teen court or peer court program.

This course may include participation in a teen court or peer court program. (Education Code 51220.2)

c. The development of the American economic system, including the role of the entrepreneur and labor

d. The relations of persons to their human and natural environments, including the wise use of natural resources (Education Code 51221)

e. Eastern and western cultures and civilizations

CSBA NOTE: Pursuant to Education Code 51220, instruction related to human rights issues, as provided in ~~item~~ **Item** #2f below, may include the study of the Armenian genocide. Education Code 51226.3 encourages the incorporation of oral testimony into instruction in human rights, the Holocaust, and genocide, including the Armenian, Cambodian, Darfur, and Rwandan genocides.

f. Human rights issues, with particular attention to the study of the inhumanity of genocide ¹, which may include, but is not limited to, the Armenian, Cambodian, Darfur, and Rwandan genocides², slavery, and the Holocaust

g. Contemporary issues

3. World language(s): understanding, speaking, reading, and writing, beginning not later than grade 7 (Education Code 51220)

4. Physical education: with emphasis on physical activities conducive to health and vigor of body and mind, as required by Education Code 51222 (Education Code 51220)

5. Science: physical and biological aspects; emphasis on basic concepts, theories, and processes of scientific investigation and on the place of humans in ecological systems;

appropriate applications of the interrelation and interdependence of the sciences (Education Code 51220)

6. Mathematics: mathematical understandings, operational skills, and problem-solving procedures; algebra (Education Code 51220, 51224.5)
7. Visual and performing arts: dance, music, theatre, and visual arts, with emphasis upon development of aesthetic appreciation and creative expression (Education Code 51220)
8. Applied arts: consumer education, family and consumer sciences education, industrial arts, general business education, or general agriculture (Education Code 51220)
9. Career technical/vocational-technical education: in the occupations and in the numbers appropriate to the personnel needs of the state and community served and relevant to the career desires and needs of students (Education Code 51220)

CSBA NOTE: Education Code 51934 requires that students be provided comprehensive sexual health and HIV prevention instruction at least once in middle school or junior high school and at least once in high school. See BP/AR 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction for required components of such instruction.

10. Comprehensive sexual health and HIV prevention (Education Code 51225.36, 51934)

CSBA NOTE: Education Code 51202 requires that certain health-related topics be addressed at "the appropriate elementary and secondary grade levels" during grades K-12. Districts may revise item #11 below to indicate topics that will be addressed in grades 7-12.

Education Code 51203 requires the Board to adopt regulations specifying the grade(s) and course(s) in which drug and alcohol education will be given. For language fulfilling this mandate, see AR 5131.6 - Alcohol and Other Drugs.

11. Personal and public safety, accident prevention and health, including instruction in: (Education Code 51202, 51203)

- a. Emergency first aid, hemorrhage control, treatment for poisoning, resuscitation techniques, and CPR when appropriate equipment is available

CSBA NOTE: The following paragraph is for use by districts that require a course in health education for high school graduation; see BP 6146.1 - High School Graduation Requirements. Pursuant to Education Code 51225.6, such districts are required to include instruction in performing compression-only cardiopulmonary resuscitation (CPR), as described below. Such instruction must be based on national evidence-based emergency cardiovascular care guidelines for the performance of compression-only CPR, such as those developed by the American Heart Association or the American Red Cross, and must include hands-on practice in compression-only CPR. ~~On its web site, the California Department of Education~~ On its website, CDE provides guidance on how to implement this requirement.

Education Code 51225.6 also encourages districts to provide students with general information on the use and importance of an automated external defibrillator.

Instruction shall be provided in compression-only CPR based on national guidelines and shall include hands-on practice. (Education Code 51225.6)

- b. Fire prevention
- c. The protection and conservation of resources, including the necessity for the protection of the environment
- d. Venereal disease
- e. The effects of alcohol, narcotics, drugs, and tobacco upon the human body

CSBA NOTE: The following two items are optional pursuant to Education Code 51202.

- f. Prenatal care for pregnant individuals
- g. Violence as a public health issue

CSBA NOTE: Education Code 51925 requires districts that offer a health education course to high school students to include mental health instruction, as specified in Item #11h. Districts that offer a health education course to high school students should include Item #11h, and may be deleted or revised by districts that do not offer such a course.

Education Code 51929 requires CDE to develop a plan to expand mental health instruction, and has created a webinar, "Student Mental Health Education Implementation: Why, What & How," available on its website.

- h. Mental Health, that provides for reasonably designed instruction on the overarching themes and core principles of mental health, which includes: (Education Code 51925)
 - i. Defining the signs and symptoms of common mental health challenges
 - ii. Explaining evidence-based services and supports that effectively help individuals manage mental health challenges
 - iii. Promoting mental health wellness and protective factors, including positive development, social and cultural connectedness and supportive relationships, resiliency, problem solving skills, coping skills, self-esteem, and a positive school and home environment in which students feel comfortable
 - iv. Identifying warning signs of common mental health problems in order to promote awareness and early intervention so that students know to take action before a situation turns into a crisis, including how to obtain assistance

from the district or the community for themselves or others and evidence-based and culturally responsive practices that are proven to help overcome mental health challenges

- v. Connecting the importance of mental health to overall health and academic success and to co-occurring conditions, such as chronic physical conditions, chemical dependence, and substance abuse
- vi. Conveying an awareness and appreciation about the prevalence of mental health challenges across all populations, races, ethnicities, and socioeconomic statuses, including the impact of race, ethnicity, and culture on the experience and treatment of mental health challenges
- vii. Understanding the stigma surrounding mental health challenges and what can be done to overcome stigma, increase awareness, and promote acceptance, including, to the extent possible, classroom presentations of narratives by trained peers and other individuals who have experienced mental health challenges and how they coped with their situations, including how they sought help and acceptance

Mental health instruction offered by the district shall: (Education Code 51926)

1. Be appropriate for use with students of all races, genders, sexual orientations, ethnic and cultural backgrounds, students with disabilities, and English learners
2. Be accessible to students with disabilities, including, but not limited to, providing a modified curriculum, materials, and instruction in alternative formats, and auxiliary aids
3. Not reflect or promote bias against any person on the basis of any category protected by Education Code 220
4. Be coordinated with any existing on-campus mental health providers including, but not limited to, providers with a pupil personnel services credential, who may be immediately called upon by students for assistance

Students receiving mental health instruction shall not be required to disclose their confidential health or mental health information at any time in the course of receiving the instruction. (Education Code 51927)

CSBA NOTE: Item #12 is optional. Education Code 51220.3 authorizes age-appropriate instruction on violence awareness and prevention within any area of study listed above for grades 7-12.

12. Violence awareness and prevention

CSBA NOTE: Pursuant to Education Code 51226.7, the State Board of Education (SBE) has adopted a model curriculum in ethnic studies upon which districts may offer an elective course in social sciences or English language arts in at least one year during grades 9-12.

Subject to funding in the annual Budget Act or other statute, Education Code 51225.3, as

amended by AB 101 (Ch. 661, Statutes of 2021), requires a one-semester course in ethnic studies for high school graduation beginning with students who graduate in the 2029-30 school year.

At its discretion, a district may require a full-year course. Districts that require a full-year course should revise Item #13 accordingly. A student who completes a course in ethnic studies will also accrue credit for coursework in the subject that the course is offered, including, if applicable, credit towards satisfying a course required for graduation.

Item #13 is currently optional, but, if funding is appropriated, districts will be required to offer a one-semester ethnic studies course, as specified, beginning in the 2025-26 school year.

13. Ethnic studies

Commencing in the 2025-26 school year, the district shall offer a one-semester course in ethnic studies as specified in Education Code 51225.3.

CSBA NOTE: Education Code 51220.5 requires the equivalent content of a one-semester course in parenting skills and education in grade 7 and/or 8, subject to funding which was not subsequently appropriated; thus the following paragraph is currently optional.

In addition, the course of study for grade 7 and/or 8 may include parenting skills and education, including, but not limited to, child growth and development, parental responsibilities, household budgeting, child abuse and neglect issues, personal hygiene, maintenance of healthy relationships, teen parenting issues, and self-esteem. (Education Code 51220.5)

CSBA NOTE: The following paragraph is for use by districts that maintain high schools.

High schools shall offer automobile driver education that includes instruction in: (Education Code 51220, 51220.1, 51220.4)

1. Vehicle Code provisions and other relevant state laws
2. Proper acceptance of personal responsibility in traffic
3. Appreciation of the causes, seriousness, and consequences of traffic accidents
4. Knowledge and attitudes necessary for the safe operation of motor vehicles
5. The safe operation of motorcycles
6. The dangers involved in consuming alcohol or drugs in connection with the operation of a motor vehicle
7. The rights and duties of a motorist as they pertain to pedestrians and the rights and duties of pedestrians as they pertain to traffic laws and traffic safety

Certification of College Preparatory Courses

CSBA NOTE: The following optional section is for use by districts that maintain grades 9-12 and may be revised to reflect district practice. Among the criteria for admission to the University of California (UC) or California State University (CSU) system is a requirement that students satisfactorily complete 15 yearlong/30 semesters of specified courses ("a-gA-G" courses). In order to qualify as an "a-gA-G" course, the course must first be submitted to and approved by UC. The district or school should develop course descriptions using the templates provided by UC and submit them through UC's online system.

Education Code 51225.37 encourages districts that offer world language courses specifically designed for native speakers to submit those courses to UC for certification and addition to the school's "a-gA-G" course list.

The following paragraph may be revised to reflect the position in the district or school(s) that is responsible for submitting and updating "a-gA-G" courses.

The Superintendent or designee shall identify district courses that may qualify for designation as "a-gA-G" college preparatory courses, including courses in history-social science, English, mathematics, laboratory science, languages other than English, visual and performing arts, career technical education, and college preparatory electives. The Superintendent or designee shall submit any necessary information regarding each identified course to the University of California (UC) for "a-gA-G" designation.

Notification and Information to Students in Grades 9-12

CSBA NOTE: The following section is for use by districts that maintain grades 9-12.

At the beginning of each school year, the Superintendent or designee shall provide written notice to parents/guardians of students in grades 9-12 that, to the extent possible, shall not exceed one page in length and that includes all of the following: (Education Code 51229)

1. A brief explanation of the course requirements for admission to UC and the California State University (CSU)

CSBA NOTE: The UC maintains a searchable web site [website](#) that lists certified "a-gA-G" courses for all regular California public high schools.

2. A list of the current UC and CSU web sites [websites](#) that help students and their families learn about college admission requirements and that list high school courses that have been certified by UC as satisfying the requirements for admission to UC and CSU
3. A brief description of what career technical education is, as defined by the California Department of Education (CDE)
4. The Internet address for the portion of the CDE web site [CDE's website](#) where students can learn more about career technical education
5. Information about how students may meet with school counselors to help them choose courses that will meet college admission requirements and/or enroll in career technical education courses

CSBA NOTE: Education Code 51225.8 requires districts to provide specified information on how to properly complete and submit the Free Application for Federal Student Aid (FAFSA) or the California Dream Act Application (CADAA), as appropriate, at least once before grade 12. At the district's discretion, the information provided may be disseminated through in-class instruction, an existing program, family information sessions, group or individual sessions with school counselors, or other appropriate means.

The Superintendent or designee shall provide information to students and parents/guardians regarding the completion and submission of the Free Application for Federal Student Aid (FAFSA) and/or the California Dream Act Application (CADAA) at least once before grade 12. (Education Code 51225.8)

Financial Aid Requirements for Students in Grade 12

CSBA NOTE: Pursuant to Education Code 51225.7, as added by AB 132 (Ch. 144, Statutes of 2021), starting in the 2022-23 school year, the district is required to confirm that each student in grade 12 completes and submits a FAFSA to the U.S. Department of Education and/or, if a student is exempt from paying nonresident tuition, a CADAA to the Student Aid Commission (CSAC), unless there is an exception as specified below.

To enable educators to ensure that each student has successfully completed and submitted a FAFSA or CADAA, Education Code 51225.7, as amended by SB 114 (Ch. 48, Statutes of 2023), requires CSAC to provide data to the California College Guidance Initiative to inform reports available through CaliforniaColleges.edu.

Pursuant to Education Code 51225.7, as added by AB 132, CSAC is required to, by July 1, 2022, adopt CSAC adopted regulations, available on its website, that include model opt-out forms and acceptable use policies for the purpose of providing guidance on the protection of student and parent/guardian data, which will be available on CSAC's web site.

Commencing in the 2022-23 school year, the The Superintendent or designee shall ensure that each student in grade 12 completes and submits a FAFSA to the U.S. Department of Education or, if a student is exempt from paying nonresident tuition, a CADAA to the Student Aid Commission (CSAC), unless either: (Education Code 51225.7)

1. The student's parent/guardian, emancipated minor, or student age 18 years or older submits an opt-out form to the district
2. If the district determines that a student is unable to complete a requirement of Education Code 51225.7, the district shall exempt the student or the student's parent/guardian from completing the FAFSA, CADAA, or opt-out form and shall complete and submit an opt-out form on the student's behalf

CSBA NOTE: Pursuant to Education Code 51225.7, as added by AB 132, the district shall ensure that each high school student in Grade 12, and if applicable, the student's parent/guardian, is directed to any support and assistance necessary to complete the FAFSA and/or CADAA, as described below.

The Superintendent or designee shall ensure that each high school student in grade 12, and if applicable, the student's parent/guardian, be directed to any support and assistance necessary to complete the FAFSA and/or CADAA that may be available through outreach programs, including, but not limited to, programs operated by CSAC, postsecondary immigration resource centers, college readiness organizations, community-based organizations, and/or legal resource organizations. (Education Code 51225.7)

Information shared by students and parents/guardians in completing and submitting the FAFSA and/or CADAA shall be handled in compliance with the federal Family Rights and Privacy Act and applicable state law, regardless of any person's immigration status or other personal information. (Education Code 51225.7)

Policy Reference UPDATE Service

Copyright 2023 by **California School Boards Association**, West Sacramento, California 95691
All rights reserved.

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
5 CCR 10020	Automobile driver education
5 CCR 10020 10040 -10043	Automobile driver education and training
5 CCR 10060	Criteria for high school physical education programs
5 CCR 430-438	Individual student records
5 CCR 4940	Nondiscrimination; course access
Ed. Code 200	Equal rights and opportunities in state educational institutions
Ed. Code 220	Prohibition of discrimination
Ed. Code 234.1	Student protections relating to discrimination, harassment, intimidation, and bullying
Ed. Code 234.7	Student protections relating to immigration and citizenship status
Ed. Code 242	Access to information about educational laws and policies regarding right to accurate and inclusive curriculum
Ed. Code 33319.3	Driver education; CDE materials on road rage
Ed. Code 33540	Standards for government and civics instruction
Ed. Code 48980	Parent/Guardian notifications
Ed. Code 49060-49079	Student records
Ed. Code 51202	Instruction in personal and public health and safety
Ed. Code 51203	Instruction on alcohol, narcotics, and dangerous drugs
Ed. Code 51204	Course of study designed for student's needs
Ed. Code 51204.5	History of California; contributions of men, women, and ethnic groups History of California; contributions of specified groups
Ed. Code 51210	Course of study for grades 1-6
Ed. Code 51220	Course of study for grades 7-12

[Ed. Code 51225.3](#)

[Ed. Code 51226.7](#)

Ed. Code 51241

[Ed. Code 51501](#)

Ed. Code 51911-51921

[Ed. Code 51925-51929](#)

Ed. Code 51930-51939

Ed. Code 51940

Ed. Code 60040-60052

Ed. Code 66204

Gov. Code 11135

Gov. Code 7282-7282.5

Gov. Code 7283-7283.2

Gov. Code 7284-7284.12

H&S Code 11032

Pen. Code 422.55

Federal

20 USC 1232g

34 CFR 99.1-99.67

Management Resources

[U.S. Department of Education, Office for Civil Rights Publication](#)

Website

Website

Website

[Website](#)

Website

Website

Website

[High School Graduation Requirements](#)

[Model Curriculum in Ethnic Studies](#)

Temporary two-year or permanent exemption from physical education

[Nondiscriminatory subject matter](#)

Comprehensive health education

[Mandatory mental health education and in-service training](#)

California Healthy Youth Act

Curriculum for brain and spinal cord injury prevention

Requirements for instructional materials

Certification of high school courses as meeting university admission criteria

Prohibition of discrimination

Standards for responding to U.S. Immigration and Customs enforcement holds

Standards for participation in U.S. Immigration and Customs enforcement programs

Cooperation with immigration authorities

Definition of dangerous drugs

Definition of hate crime

Description

Family Educational Rights and Privacy Act (FERPA) of 1974

Family Educational Rights and Privacy

Description

[Dear Colleague Letter: Race and School Programming, August 2023](#)

[\(https://www2.ed.gov/about/offices/list/ocr/letters/colleague-20230824.pdf\)](https://www2.ed.gov/about/offices/list/ocr/letters/colleague-20230824.pdf)

CSBA District and County Office of Education Legal Services

Federal Student Aid

[American Red Cross, Hands-Only CPR Training](#)
[\(https://www.redcross.org/take-a-class/cpr/performing-cpr/hands-only-cpr\)](https://www.redcross.org/take-a-class/cpr/performing-cpr/hands-only-cpr)

[American Heart Association](#)

California Student Aid Commission

University of California, A-G Course Submissions

University of California, List of Approved A-G Courses

Website	California Career Resource Network
Website	California State University, Admission Requirements
Website	California Colleges.edu
Website	California Department of Education
Website	CSBA
Website	Department of Justice (https://oag.ca.gov/)
Website	Instructional Quality Commission (https://www.cde.ca.gov/be/cc/cd/)
Website	U.S. Department of Education

Cross References

Code	Description
0410	Nondiscrimination in District Programs and Activities
0415	Equity
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
1312.2	Complaints Concerning Instructional Materials
1312.4	Williams Uniform Complaint Procedures
1340	Access To District Records
1340	Access To District Records
3270	Sale And Disposal Of Books, Equipment And Supplies
3270	Sale And Disposal Of Books, Equipment And Supplies
3513.3	Tobacco-Free Schools
3513.3	Tobacco-Free Schools
5022	Student And Family Privacy Rights
5022	Student And Family Privacy Rights
5121	Grades/Evaluation Of Student Achievement
5121	Grades/Evaluation Of Student Achievement
5125	Student Records
5125	Student Records
5126	Awards For Achievement
5126	Awards For Achievement
5131.6	Alcohol And Other Drugs
5131.6	Alcohol And Other Drugs

5138	Conflict Resolution/Peer Mediation
5141.4	Child Abuse Prevention And Reporting
5141.4	Child Abuse Prevention And Reporting
5145.13	Response To Immigration Enforcement
5145.13	Response To Immigration Enforcement
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5146	Married/Pregnant/Parenting Students
6000	Concepts And Roles
6011	Academic Standards
6141	Curriculum Development And Evaluation
6141	Curriculum Development And Evaluation
6141.2	Recognition Of Religious Beliefs And Customs
6141.2	Recognition Of Religious Beliefs And Customs
6141.4	International Baccalaureate Program
6141.5	Advanced Placement
6142.1	Sexual Health And HIV/AIDS Prevention Instruction
6142.1	Sexual Health And HIV/AIDS Prevention Instruction
6142.2	World Language Instruction
6142.2	World Language Instruction
6142.3	Civic Education
6142.4	Service Learning/Community Service Classes
6142.5	Environmental Education
6142.6	Visual And Performing Arts Education
6142.7	Physical Education And Activity
6142.7	Physical Education And Activity
6142.8	Comprehensive Health Education
6142.8	Comprehensive Health Education
6142.91	Reading/Language Arts Instruction
6142.92	Mathematics Instruction
6142.93	Science Instruction

6142.94	History-Social Science Instruction
6144	Controversial Issues
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
6145.8	Assemblies And Special Events
6146.1	High School Graduation Requirements
6146.11	Alternative Credits Toward Graduation
6146.11	Alternative Credits Toward Graduation
6146.3	Reciprocity Of Academic Credit
6146.3	Reciprocity Of Academic Credit
6146.5	Elementary/Middle School Graduation Requirements
6151	Class Size
6152.1	Placement In Mathematics Courses
6152.1	Placement In Mathematics Courses
6153	School-Sponsored Trips
6153	School-Sponsored Trips
6155	Challenging Courses By Examination
6155	Challenging Courses By Examination
6158	Independent Study
6158	Independent Study
6159	Individualized Education Program
6159	Individualized Education Program
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
<u>6161.11</u>	<u>Supplementary Instructional Materials</u>
<u>6163.1</u>	<u>Library Media Centers</u>
6164.2	Guidance/Counseling Services
6172.1	Concurrent Enrollment In College Classes
6172.1	Concurrent Enrollment In College Classes
6173	Education For Homeless Children
6173	Education For Homeless Children
6173-E(1)	Education For Homeless Children

6173-E(2)	Education For Homeless Children
6173.2	Education Of Children Of Military Families
6173.2	Education Of Children Of Military Families
6173.3	Education For Juvenile Court School Students
6177	Summer Learning Programs
6178	Career Technical Education
6178	Career Technical Education
6178.1	Work-Based Learning
6178.1	Work-Based Learning
6181	Alternative Schools/Programs Of Choice
6181	Alternative Schools/Programs Of Choice
6184	Continuation Education
6184	Continuation Education

Policy 6161.1: Selection And Evaluation Of Instructional Materials

Status: DRAFT

Original Adopted Date: 11/01/2011 | **Last Revised Date:** 10/01/2020~~2023~~ | **Last Reviewed Date:** 10/01/2020~~2023~~

CSBA NOTE: Pursuant to Education Code 60200 and 60400, the Governing Board is responsible for the adoption of textbooks and other instructional materials, as defined in Education Code 60010, for use in district schools. See the accompanying administrative regulation for required and optional criteria for the selection of instructional materials. See BP 6161.11 - Supplementary Instructional Materials and BP 6163.1 - Library Media Centers for selection processes regarding supplementary books and materials.

For more information, the California Department of Education's (CDE) website provides guidance on the removal of instruction or instructional materials. In addition, Education Code 60040.5, as added by AB 1078 (Ch. 229, Statutes of 2023), requires CDE to issue, by July 1, 2025, guidance regarding how to review instructional materials to ensure that they represent diverse perspectives and are culturally relevant. Additionally, Education Code 242, as added by AB 1078, requires CDE to develop, by July 1, 2025, guidance and public educational materials to ensure that all Californians can access information about educational laws and policies that safeguard the right to an accurate and inclusive curriculum.

The Governing Board desires that district instructional materials, as a whole, present a broad spectrum of knowledge and viewpoints, accurately reflect and value society's diversity, stimulate thought, the exploration of ideas and intellectual exchanges, and enhance instructors' ability to educate all students through the use of multiple teaching strategies and technologies. The Board shall adopt instructional materials based on a determination that such materials are an effective learning resource to help students achieve grade-level competency and that the materials meet criteria specified in law. Textbooks, technology-based materials, and other educational materials shall be aligned with academic content standards and the district's curriculum to ensure that they effectively support the district's adopted courses of study.

CSBA NOTE: The following paragraph is for use by districts that maintain any of grades K-8 and may be revised to reflect the grade levels offered by the district. Pursuant to Education Code 60200, the State Board of Education (SBE) is required to adopt basic instructional materials in specified subjects that districts may select for use in grades K-8. Education Code 60200 provides that ~~the~~ SBE may adopt materials in any of the specified subject areas at least once, but not more than twice, every eight years. Education Code 60210 authorizes the Board to select materials that have not been approved by SBE, provided they are aligned with state academic content standards or Common Core State Standards.

The Board shall select instructional materials for use in grades K-8 that have been approved by the State Board of Education (SBE) or that have, during the district's review process, been determined to be aligned with the state academic content standards adopted by SBE, which includes instructional materials for mathematics and English language arts that are aligned to Common Core State Standards. (Education Code 60200, 60210)

CSBA NOTE: The following paragraph is for use by districts that maintain high schools.

The Board shall adopt instructional materials for grades 9-12 upon determining that the materials meet the criteria specified in law and the accompanying administrative regulation. (Education Code 60400)

In selecting or adopting instructional materials, the Board shall consider the recommendation of the Superintendent or designee and/or an advisory committee established to review the materials.

Public Hearing on Sufficiency of Instructional Materials

The degree to which every student has sufficient access to standards-aligned instructional materials shall be included in the district's local control and accountability plan. (Education Code 52060)

Sufficiency of Instructional Materials and Public Hearing

CSBA NOTE: As a condition of receiving funds for instructional materials from any state source, Education Code 60119 requires the Board to annually hold a public hearing to determine whether each student in the district has sufficient standards-aligned textbooks or instructional materials in English/language arts (including English language development), mathematics, science, and history-social science that are consistent with the content and cycles of the curriculum framework adopted by SBE. As clarified in the California Department of Education's (CDE) CDE's "Instructional Materials FAQ," state funding sources for instructional materials include local control funding formula funds and Proposition 20 (2000) lottery funds. Pursuant to Education Code 60119, the Board must also make a written determination during the hearing as to the sufficiency of textbooks or instructional materials in world language and health courses, as well as the availability of science laboratory equipment in science laboratory courses.

Pursuant to Education Code 60010, as amended by SB 820 (Ch. 110, Statutes of 2020), "technology-based materials" include the electronic equipment required to make use of those materials, including, but not limited to, laptop computers and devices that provide Internet access. Thus, when districts provide technology-based materials to students, such equipment is subject to the determination of sufficiency pursuant to Education Code 60119.

Education Code 1240 requires the County Superintendent of Schools to review the textbooks and instructional materials of underperforming schools and, if the County Superintendent determines that a school does not have sufficient materials, to prepare a report outlining the noncompliance and give the district a chance to remedy the deficiency. If the deficiency is not remedied by the second month of the school year, the County Superintendent may request that CDE purchase textbooks or materials for the district, and the cost must be repaid by the district. CDE will issue a public statement at an SBE meeting indicating the district's failure to provide instructional materials.

The Board shall annually conduct one or more public hearings on the sufficiency of the district's instructional materials, including textbooks, technology-based materials, other educational materials, and tests. Technology-based materials include, but are not limited to, software programs, video disks, compact disks, optical disks, video and audio tapes, lesson plans, databases, and the electronic equipment required to make use of those materials by students and teachers as a learning resource. (Education Code 60010, 60119)

CSBA NOTE: Education Code 60119 specifies that the hearing must be held within eight weeks of the beginning of the school year. Pursuant to Education Code 60119, for a district that operates schools on a multitrack, year-round calendar, the timeline begins with the first day students attend school in any track that begins in August or September.

The hearing shall be held on or before the end of the eighth week from the first day students attend school for that year. (Education Code 60119)

The Board encourages participation by parents/guardians, teachers, interested community members, and bargaining unit leaders at the hearing. Ten days prior to the hearing, the Superintendent or designee shall post a notice in three public places within the district containing the time, place, and purpose of the hearing. The hearing shall not take place during or immediately following school hours. (Education Code 60119)

CSBA NOTE: Education Code 60119 requires the Board to adopt a resolution indicating whether ~~or not~~ each student in each school has sufficient standards-aligned textbooks or instructional materials for the subjects specified in ~~items~~ Items #1-6 below. See the accompanying Exhibit for a sample resolution.

At the hearing(s), the Board shall determine, through a resolution, whether each student in each school, including each English learner, has sufficient textbooks and/or other instructional materials that are aligned to the content standards adopted by SBE and consistent with the content and cycles of the curriculum framework adopted by SBE in each of the following subjects: (Education Code 60119)

1. Mathematics
2. Science
3. History-social science
4. English language arts, including the English language development component of an adopted program
5. World language
6. Health

CSBA NOTE: The following paragraph is for use by districts that maintain any of grades 9-12.

The Board shall also determine the availability of science laboratory equipment, as applicable to science laboratory courses offered in grades 9-12. (Education Code 60119)

In making these determinations, the Board shall consider whether each student has sufficient textbooks or other instructional materials to use in class and to take home. This does not require that each student have two sets of materials. However, materials shall not be considered sufficient if they are photocopied sheets from only a portion of a textbook or instructional materials copied to address a shortage. (Education Code 60119)

If materials are in a digital format, they shall be considered sufficient as long as each student, at a minimum, has and can access the same materials in the class and to take home as all other students in the same class or course in the district, and has the ability to use and access them at home. (Education Code 60119)

CSBA NOTE: Pursuant to Education Code 60119, if the Board ~~makes a determination~~ determines, by resolution, that there are insufficient textbooks or other instructional materials, the Board must take action to ensure that the materials are provided within two months of the beginning of the school year. Education Code 60119, as amended by AB 1078, requires the Board to submit a copy of the resolution to the County Superintendent no later than three business days. CDE's, "Instructional Materials FAQ," states that, if a district has submitted purchase orders to the publisher to purchase materials to remedy the insufficiency, these materials should be received and made available to students by the end of the second month of the school year. Thus, districts

are strongly encouraged to hold the public hearing as early in the school year as possible in order to provide sufficient time to correct any deficiencies.

Pursuant to Education Code 1240, the County Superintendent conducts annual reviews of certain schools to determine, among other things, whether there are insufficient textbooks or instructional materials. Upon making such a determination, the County Superintendent is required to provide the district the opportunity to remedy the deficiency and ensure that the deficiency is remedied no later than the second month of the school term. If the deficiency is not remedied, Education Code 1240 requires the County Superintendent to request CDE to purchase the textbooks or instructional materials, the cost of which must be repaid by the district. CDE will issue a public statement at an SBE meeting indicating the Superintendent's and Board's failure to provide instructional materials. Additionally, Education Code 1240, as amended by AB 1078, requires the County Superintendent to take the actions specified above when the County Superintendent determines that there are insufficient textbooks or instructional materials based on (1) the Board's resolution, (2) the district's quarterly complaints report provided to the County Superintendent in accordance with Education Code 35186, or (3) an audit exception found in accordance with Education Code 41020.

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

If the Board determines that there are insufficient textbooks or other instructional materials, the district Board shall, by resolution, provide information to classroom teachers and to the public setting forth, for each school in which an insufficiency exists, the percentage of students who lack sufficient standards-aligned textbooks or instructional materials in each subject area and the reasons that each student does not have sufficient textbooks and/or instructional materials. The Board shall submit a copy of the resolution to the County Superintendent of Schools no later than three business days after the hearing. The Board shall take any action to ensure that each student has sufficient materials within two months of the beginning of the school year in which the determination is made. (Education Code 60119) (Education Code 60119)

~~The degree to which every student has sufficient access to standards-aligned instructional materials shall be included in the district's local control and accountability plan. (Education Code 52060)~~

Complaints

Complaints concerning instructional materials shall be handled in accordance with BP/AR 1312.2 - Complaints Concerning Instructional Materials or AR 1312.4 - Williams Uniform Complaint Procedures, as applicable

In addition, if the County Superintendent, in accordance with Education Code 1240, makes the district aware of a school that does not have sufficient textbooks or instructional materials, the district shall take any action to ensure that each student has sufficient materials within two months of the beginning of the school year.

Prohibition Against Refusal to Approve or Prohibit the Use of Specified Instructional Materials

CSBA NOTE: Education Code 243, as added by AB 1078, clarifies when it is unlawful discrimination for the 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 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 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.

Education Code 242, as added by AB 1078, requires CDE to develop, by July 1, 2025, guidance and public educational materials to ensure that all Californians can access information about educational laws and policies that safeguard the right to an accurate and inclusive curriculum.

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 shall not be rejected or prohibited by the Board or district on the basis that it includes a study of the role and contributions of any individual or group consistent with the requirements of Education Code 51204.5 and 60040, unless such study would violate Education Code 51501 or 60044. (Education Code 243)

Complaints

CSBA NOTE: Complaints alleging discrimination based on a violation of Education Code 243, as added by AB 1078, 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 as described above, may be brought under the district's uniform complaint procedures or may be filed directly with the 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.

Complaints concerning instructional materials shall be handled in accordance with Board Policy 1312.2 - Complaints Concerning Instructional Materials, Board Policy 1312.3 – Uniform Complaint Procedures, or Administrative Regulation 1312.4 - Williams Uniform Complaint Procedures, as applicable.

Policy Reference UPDATE Service

Copyright 2023 by **California School Boards Association**, West Sacramento, California 95691
All rights reserved.

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 9505-9530

Ed. Code 1240

Ed. Code 18111

Description

Instructional materials

County superintendent of schools; duties

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

Ed. Code 220	Prohibition of discrimination
<u>Ed. Code 242</u>	<u>Access to information about educational laws and policies regarding right to accurate and inclusive curriculum</u>
<u>Ed. Code 243</u>	<u>Unlawful discrimination related to the use or prohibited use of textbooks and instructional materials</u>
Ed. Code 33050-33053	General waiver authority
Ed. Code 33126	School accountability report card
Ed. Code 35272	Education and athletic materials
Ed. Code 44805	Enforcement <u>Teacher enforcement</u> of course of studies; use of textbooks, rules and regulations
<u>Ed. Code 48907</u>	<u>Exercise of free expression; time, place and manner rules and regulations</u>
<u>Ed. Code 48950</u>	<u>Speech and other communication</u>
Ed. Code 49415	Maximum textbook weight <u>standards</u>
<u>Ed. Code 51204.5</u>	<u>Social sciences instruction; contributions of specified groups</u>
Ed. Code 51501	Nondiscriminatory subject matter
<u>Ed. Code 51511</u>	<u>Religious matters properly included in courses of study</u>
<u>Ed. Code 51933</u>	<u>Sexual health education and HIV prevention materials</u>
Ed. Code 52060-52077	Local control and accountability plan
Ed. Code 60000-60005	Instructional materials; legislative intent
Ed. Code 60010	Instructional materials; definition
Ed. Code 60040-60052	Requirements for instructional materials
Ed. Code 60060-60063.5	Requirements for publishers and manufacturers
Ed. Code 60070-60076	Prohibited acts (re <u>regarding</u> instructional materials)
Ed. Code 60110-60115	Instructional materials on alcohol and drug education
Ed. Code 60119	Sufficiency of textbooks and instructional materials; hearing and resolution
<u>Ed. Code 60150</u>	<u>Penalty for insufficiency of textbooks and instructional materials</u>
Ed. Code 60200- 60210 <u>60213</u>	Elementary school materials
Ed. Code 60226	Requirements for publishers and manufacturers
Ed. Code 60350-60352	Core reading program instructional materials
Ed. Code 60400-60411	Instructional materials; high schools
Ed. Code 60510-60511	Donation for <u>or</u> sale of obsolete instructional materials

Ed. Code 60605	State-adopted content and performance standards in core curricular areas
Ed. Code 60605.8	Common Core standards
Ed. Code 60605.86-60605.88	Supplemental instructional materials aligned with Common Core State Standards
H&S Code 11032	<u>Narcotics, restricted dangerous drugs, and marijuana; definitions</u>
Management Resources	Description
California Department of Education Publication	Instructional Materials FAQ
California Department of Education Publication	01-05 Guidelines for Piloting Textbooks and Instructional Materials, <u>Policy # 01-05</u> , rev. January 2015
California Department of Education Publication	Standards for Evaluating Instructional Materials for Social Content, 2013
Website	CSBA District and County Office of Education Legal Services
Website	Association of American Publishers
Website	California Academic Content Standards Commission, Common Core State Standards
Website	California Department of Education
Website	CSBA
<u>Website</u>	<u>Department of Justice (https://oag.ca.gov/)</u>
<u>Website</u>	<u>U.S. Department of Education, Office for Civil Rights (https://www2.ed.gov/about/offices/list/ocr/index.html)</u>

Cross References

Code	Description
0400	Comprehensive Plans
0410	Nondiscrimination In District Programs And Activities
0415	Equity
0440	District Technology Plan
0440	District Technology Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
1220	Citizen Advisory Committees
1220	Citizen Advisory Committees
1312.2	Complaints Concerning Instructional Materials
1312.2	Complaints Concerning Instructional Materials

1312.2-E(1)	Complaints Concerning Instructional Materials
<u>1312.3</u>	<u>Uniform Complaint Procedures</u>
1312.4	Williams Uniform Complaint Procedures
1312.4-E(1)	Williams Uniform Complaint Procedures
1312.4-E(2)	Williams Uniform Complaint Procedures
1325	Advertising And Promotion
1340	Access To District Records
1340	Access To District Records
1700	Relations Between Private Industry And The Schools
3220.1	Lottery Funds
3270	Sale And Disposal Of Books, Equipment And Supplies
3270	Sale And Disposal Of Books, Equipment And Supplies
3290	Gifts, Grants And Bequests
3311	Bids
3311	Bids
4136	Nonschool Employment
4143	Negotiations/Consultation
4236	Nonschool Employment
4243	Negotiations/Consultation
4331	Staff Development
4336	Nonschool Employment
5020	Parent Rights And Responsibilities
5020	Parent Rights And Responsibilities
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
6000	Concepts And Roles
6011	Academic Standards
6020	Parent Involvement
6020	Parent Involvement
6141	Curriculum Development And Evaluation
6141	Curriculum Development And Evaluation
6142.2	World Language Instruction
6142.2	World Language Instruction

6142.6	Visual And Performing Arts Education
6142.8	Comprehensive Health Education
6142.8	Comprehensive Health Education
6142.91	Reading/Language Arts Instruction
6142.92	Mathematics Instruction
6142.93	Science Instruction
6142.94	History-Social Science Instruction
6143	Courses Of Study
6143	Courses Of Study
6144	Controversial Issues
6146.1	High School Graduation Requirements
6161.11	Supplementary Instructional Materials
6161.2	Damaged Or Lost Instructional Materials
6162.5	Student Assessment
6162.6	Use Of Copyrighted Materials
6162.6	Use Of Copyrighted Materials
6163.1	Library Media Centers
6170.1	Transitional Kindergarten
6171	Title I Programs
6171	Title I Programs
6174	Education For English Learners
6174	Education For English Learners
6190	Evaluation Of The Instructional Program
9000	Role Of The Board
9270	Conflict Of Interest
9270-E(1)	Conflict Of Interest
9322	Agenda/Meeting Materials

Regulation 6161.1: Selection And Evaluation Of Instructional Materials

Status: DRAFT

Original Adopted Date: 11/01/2010 | Last Revised Date: 10/01/2020~~2023~~ | Last Reviewed Date: 10/01/2020~~2023~~

Review Process

CSBA NOTE: The following section may be revised to reflect district practice. Pursuant to Education Code 60002, the district must provide for "substantial" teacher involvement in the selection of instructional materials and must promote the involvement of parents/guardians and other members of the community in the selection of instructional materials. The Education Code does not define "substantial."

The district's review process for evaluating instructional materials shall involve teachers in a substantial manner and shall encourage the participation of parents/guardians and community members in accordance with Education Code 60002. The review process may also involve administrators, other staff who have subject-matter expertise, and students as appropriate. The Superintendent or designee shall seek input from stakeholders with diverse backgrounds and perspectives.

CSBA NOTE: The following paragraph is for use by districts that maintain any of grades K-8.

If the district is considering the use of instructional materials for grades K-8 that have not been adopted by the State Board of Education (SBE), the Superintendent or designee shall ensure that a majority of the participants in the district's review process are classroom teachers who are assigned to the subject area or grade level of the materials. (Education Code 60210)

CSBA NOTE: The following paragraph is optional. The use of review committees is recommended as a best practice, but is not required by law.

The Superintendent or designee may establish an advisory committee to conduct the review of instructional materials.

The Superintendent or designee shall present to the Governing Board recommendations for instructional materials and documentation that supports the recommendations.

All recommended instructional materials shall be available for public inspection at the district office.

CSBA NOTE: ~~The State Board of Education~~Education's (SBE) policy on ~~"Guidelines for Piloting Textbooks and Instructional Materials,"~~ provides a sample process for piloting instructional materials that addresses the selection of materials to pilot, a chronology of the process, and additional considerations, such as conflict of interest, contacts with publishers, and consideration of standards maps.

When possible, the district may pilot instructional materials in a representative sample of classrooms for a specified period of time during a school year, in order to determine the extent to which the materials support the district's curricular goals and academic standards, and accurately reflect and value society's diversity. Feedback from teachers piloting the materials shall be made available to the Board before the materials are adopted.

Criteria for Selection and Adoption of Instructional Materials

In recommending instructional materials for adoption by the Board, the Superintendent or designee shall ensure that the materials:

CSBA NOTE: The California Department of Education (CDE) provides guidance, available on its website, for the selection of instructional materials that are not adopted by SBE, which includes that districts develop an evaluation instrument that reflects local and state criteria and concerns.

1. 1. Are aligned to the content standards adopted by SBE and consistent with the content and cycles of the curriculum framework adopted by SBE

CSBA NOTE: The following paragraph is for use by districts that offer any of grades K-8. Pursuant to Education Code 60200, SBE is responsible for adopting at least five basic instructional materials for grades K-8 in specified core subjects and any other subject for which SBE determines that the adoption of instructional materials is necessary or desirable.

Education Code 60210 authorizes the Governing Board to select instructional materials for grades K-8 that have not been approved by SBE, provided they are aligned with state academic content standards.

2. _____ For grades K-8, only instructional materials on the list of materials adopted by SBE and/or other instructional materials that have not been adopted by SBE but are aligned with the state academic content standards or the Common Core State Standards may be recommended for selection. (Education Code 60200, 60210)

CSBA NOTE: The following optional paragraph is for use by districts offering any of grades 9-12 and may be revised to reflect district practice. The California Department of Education CDE provides standards map templates, available on its ~~web site~~ website, for reference in determining alignment of instructional materials for ~~grade~~ grades 9-12 core courses.

3. _____ For grades 9-12, instructional materials in history-social science, mathematics, English/language arts, and science shall be reviewed using a standards map in order to determine the extent to which the materials are aligned to state academic content standards.
4. 2. Do not reflect adversely upon persons because of any characteristic specified in law and ~~BP~~ Board Policy 0410 - Nondiscrimination in District Programs and Activities, nor contain any sectarian or denominational doctrine or propaganda contrary to law (Education Code 51501, 60044)
5. 3. To the satisfaction of the Board, are accurate, objective, current, and suited to the differing needs and comprehension of district students at their respective grade levels (Education Code 60045)
6. 4. With the exception of literature and tradebooks, use proper grammar and spelling (Education Code 60045)

CSBA NOTE: Education Code 60048 and 60200 require that the Board not adopt basic instructional materials that provide unnecessary exposure to a commercial brand name, product, or corporate or company logo, unless it makes specific findings that the use has an educational purpose or is incidental to the general nature of an illustration, as provided in ~~item #6~~ Item #5

below. SBE's publication, "Standards for Evaluating Instructional Materials for Social Content," details standards for the use of brand names and corporate logos in instructional materials.

7. 5. Do not expose students to a commercial brand name, product, or corporate or company logo unless the Board makes a specific finding that the use is appropriate based on one of the following: (Education Code 60048, 60200)
- a. a. The commercial brand name, product, or corporate or company logo is used in text for an educational purpose as defined in guidelines or frameworks adopted by SBE.
 - b. b. The appearance of a commercial brand name, product, or corporate or company logo in an illustration is incidental to the general nature of the illustration.

CSBA NOTE: Education Code 60040-60043 require that ~~specific~~certain subject matter be included in the district's instructional materials: , as specified below. Education Code 60040 requires that instructional materials include accurate portrayals, as amended by AB 1078 (Ch. 229, Statutes of 2023), expands the accurate portrayal of society's cultural and racial diversity of ~~society~~ as specified. Education Code 60041 requires (1) accurate portrayal of humanity's place in ecological systems to include the contributions of all genders (formerly "men and the need to protect the environment women"), Latino Americans (formerly "Mexican Americans"), LGBTQ+ Americans (formerly "lesbian, gay, bisexual, and (2) the effects of tobacco, alcohol, transgender Americans"), and members of other drug use on the human system. Education Code 60042 requires the Board to adopt materials as it deems necessary to encourage thrift, fire prevention ethnic, cultural, religious, and the humane treatment of animals socioeconomic status groups (formerly "ethnic and people. Education Code 60043 requires that the Board, when appropriate to the comprehension of students, adopt textbooks for social science, history, or civics classes that contain the Declaration of Independence cultural"). The complete list required by Education Code 60040, as amended by AB 1078, is reflected below.

Additionally, pursuant to Education Code 60040.5, as added by AB 1078, CDE is required to issue, by July 1, 2025, guidance regarding how to review instructional materials to ensure that they represent diverse perspectives and the Constitution of the United States. If desired, the district may expand item #6 below to list these specific requirements: are culturally relevant.

8. 6. Meet the requirements of Education Code 60040-60043 for specific subject content, including, but not limited, accurately portraying society's cultural and racial diversity to:
- a. Accurately portraying society's cultural and racial diversity, including:
 - i. The contributions of all genders in all types of roles, including professional, vocational, and executive roles
 - ii. The role and contributions of Native Americans, African Americans, Latino Americans, Asian Americans, Pacific Islanders, European Americans, LGBTQ+ Americans, persons with disabilities, and members of other ethnic, cultural, religious, and socioeconomic groups to the total development of California and the United States

- iii. The role and contributions of the entrepreneur and labor in the total development of California and the United States
- b. Accurately portraying humanities place in ecological systems and the necessity for the protection of the environment
- c. Accurately portraying the effects on the human system of the use of tobacco, alcohol, and narcotics, and restricted dangerous drugs as defined in Health and Safety Code 11032, and other dangerous substances
- d. Encouraging thrift, fire prevention, and the humane treatment of animals and people
- e. Requiring, when appropriate to the comprehension of students, that textbooks for social science, history, or civics classes contain the Declaration of Independence and the United States Constitution

CSBA NOTE: Items #7-14 below are optional and may be revised to reflect district practice. The district may choose to develop subject-specific criteria as well as general criteria.

- 9. 7. Support the district's adopted courses of study and curricular goals, including the district's local control and accountability plan
- 10. 8. Contribute to a comprehensive, balanced curriculum
- 11. 9. Demonstrate reliable quality of scholarship as evidenced by:
 - a. a. Accurate, up-to-date, and well-documented information
 - b. b. Objective presentation of diverse viewpoints
 - c. c. Clear, concise writing and appropriate vocabulary
 - d. d. Thorough treatment of subject matter
- 12. 10. Provide for a wide range of materials at all levels of difficulty, with appeal to students of varied interests, abilities, and developmental levels
- 13. 11. Stimulate discussion of contemporary issues, exploration of ideas, and intellectual exchanges, and improve students' thinking and decision-making skills
- 14. 12. As appropriate, have corresponding versions available in languages other than English
- 15. 13. Include high-quality teacher's guides

CSBA NOTE: 5 CCR 9517.2 sets the following maximum weight standards for each student textbook: three pounds for grades K-4, four pounds for grades 5-8, and five pounds for grades 9-12. 5 CCR 9517.2 requires publishers submitting textbooks to SBE that exceed those weight standards to provide lighter weight alternatives, such as split volumes or electronic editions, soft cover editions, or other alternate physical formats. For materials for grades 9-12, publishers must disclose the availability of lighter weight alternatives. Item #14 below includes textbook weight as one of the criteria for Board consideration.

16. 14. When available, include options for lighter weight materials, including materials in digital format, in order to help minimize any injury to students by the combined weight of instructional materials

In addition to meeting the above criteria as applicable, technology-based materials shall:

1. 1. Be both available and comparable to other, equivalent instructional materials (Education Code 60052)
2. 2. Be accessible to all students, including economically disadvantaged students, students with disabilities, and English learners
3. 3. Protect the privacy of student data

Conflict of Interest

CSBA NOTE: The following optional section is for use by districts that choose to require individuals who will participate in the review process to first complete a disclosure statement which provides an opportunity to disclose any conflict of interest or appearance of conflict of interest.

To ensure integrity in the evaluation and selection of instructional materials, individuals who are participating in the evaluation of instructional materials and are not otherwise designated in the district's conflict of interest code shall sign a disclosure statement indicating that they:

CSBA NOTE: Education Code 60061 ~~requires~~ provides criteria and/or limitations for publishers to ~~provide~~ follow when establishing the cost of the materials being furnished; see CDE's website for a price list of adopted instructional materials free of charge within California to the same extent that they provide free materials to other states or school districts; see Price List of Adopted Instructional Materials on CDE's web site. However, Additionally, Education Code 60071 forbids publishers from offering "valuable thing(s)" to school officials for the purpose of influencing the purchase of instructional materials. CDE's Instructional Materials FAQ clarifies that, in accordance with the definition of "technology-based materials" in Education Code 60010, districts may accept electronic equipment necessary to make use of technology-based materials provided that such equipment is used by students and teachers as a learning resource, not to replace computers or related equipment in an existing computer lab or to establish a new computer lab.

1. Will not accept any emolument, money, or other valuable thing or inducement to directly or indirectly introduce, recommend, vote for, or otherwise influence the adoption or purchase of any instructional material (Education Code 60072)

Sample copies of instructional materials are excepted from this prohibition: (Education Code 60075)

CSBA NOTE: Items # 2-4 below are optional and should be modified to reflect district practice.

2. Are not employed by nor receive compensation from the publisher or supplier of the instructional materials or any person, firm, organization, subsidiary, or controlling entity representing it
3. Do not have an interest as a contributor, author, editor, or consultant in any textbook or other instructional material submitted to the district

Policy Reference UPDATE Service

Copyright 2023 by **California School Boards Association**, West Sacramento, California 95691
All rights reserved.

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
5 CCR 9505-9530	Instructional materials
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 242	Access to information about educational laws and policies regarding right to accurate and inclusive curriculum
Ed. Code 243	Unlawful discrimination related to the use or prohibited use of textbooks and instructional materials
Ed. Code 33050-33053	General waiver authority
Ed. Code 33126	School accountability report card
Ed. Code 35272	Education and athletic materials
Ed. Code 44805	Enforcement 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 49415	Maximum textbook weight standards
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 52060-52077	Local control and accountability plan
Ed. Code 60000-60005	Instructional materials; legislative intent
Ed. Code 60010	Instructional materials; definition
Ed. Code 60040-60052	Requirements for instructional materials
Ed. Code 60060-60063.5	Requirements for publishers and manufacturers
Ed. Code 60070-60076	Prohibited acts (re regarding instructional materials)
Ed. Code 60110-60115	Instructional materials on alcohol and drug education
Ed. Code 60119	Sufficiency of textbooks and instructional materials; hearing and resolution
Ed. Code 60150	Penalty for insufficiency of textbooks and instructional materials
Ed. Code 60200- 60210 60213	Elementary school materials
Ed. Code 60226	Requirements for publishers and manufacturers
Ed. Code 60350-60352	Core reading program instructional materials
Ed. Code 60400-60411	Instructional materials; high schools
Ed. Code 60510-60511	Donation for or sale of obsolete instructional materials
Ed. Code 60605	State-adopted content and performance standards in core curricular areas
Ed. Code 60605.8	Common Core standards
Ed. Code 60605.86-60605.88	Supplemental instructional materials aligned with Common Core State Standards
H&S Code 11032	Narcotics, restricted dangerous drugs, and marijuana: definitions
Management Resources	Description
California Department of Education Publication	Instructional Materials FAQ
California Department of Education Publication	01-05 Guidelines for Piloting Textbooks and Instructional Materials, Policy # 01-05 , rev. January 2015
California Department of Education Publication	Standards for Evaluating Instructional Materials for Social Content, 2013
Website	CSBA District and County Office of Education Legal Services
Website	Association of American Publishers
Website	California Academic Content Standards Commission, Common Core State Standards
Website	California Department of Education

Website

CSBA

[Website](#)

[Department of Justice \(https://oag.ca.gov/\)](https://oag.ca.gov/)

[Website](#)

[U.S. Department of Education, Office for Civil Rights \(https://www2.ed.gov/about/offices/list/ocr/index.html\)](https://www2.ed.gov/about/offices/list/ocr/index.html)

Cross References

Code	Description
0400	Comprehensive Plans
0410	Nondiscrimination In District Programs And Activities
0415	Equity
0440	District Technology Plan
0440	District Technology Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
1220	Citizen Advisory Committees
1220	Citizen Advisory Committees
1312.2	Complaints Concerning Instructional Materials
1312.2	Complaints Concerning Instructional Materials
1312.2-E(1)	Complaints Concerning Instructional Materials
<u>1312.3</u>	<u>Uniform Complaint Procedures</u>
1312.4	Williams Uniform Complaint Procedures
1312.4-E(1)	Williams Uniform Complaint Procedures
1312.4-E(2)	Williams Uniform Complaint Procedures
1325	Advertising And Promotion
1340	Access To District Records
1340	Access To District Records
1700	Relations Between Private Industry And The Schools
3220.1	Lottery Funds
3270	Sale And Disposal Of Books, Equipment And Supplies
3270	Sale And Disposal Of Books, Equipment And Supplies
3290	Gifts, Grants And Bequests
3311	Bids
3311	Bids
4136	Nonschool Employment

4143	Negotiations/Consultation
4236	Nonschool Employment
4243	Negotiations/Consultation
4331	Staff Development
4336	Nonschool Employment
5020	Parent Rights And Responsibilities
5020	Parent Rights And Responsibilities
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
6000	Concepts And Roles
6011	Academic Standards
6020	Parent Involvement
6020	Parent Involvement
6141	Curriculum Development And Evaluation
6141	Curriculum Development And Evaluation
6142.2	World Language Instruction
6142.2	World Language Instruction
6142.6	Visual And Performing Arts Education
6142.8	Comprehensive Health Education
6142.8	Comprehensive Health Education
6142.91	Reading/Language Arts Instruction
6142.92	Mathematics Instruction
6142.93	Science Instruction
6142.94	History-Social Science Instruction
6143	Courses Of Study
6143	Courses Of Study
6144	Controversial Issues
6146.1	High School Graduation Requirements
6161.11	Supplementary Instructional Materials
6161.2	Damaged Or Lost Instructional Materials
6162.5	Student Assessment
6162.6	Use Of Copyrighted Materials
6162.6	Use Of Copyrighted Materials

6163.1	Library Media Centers
6170.1	Transitional Kindergarten
6171	Title I Programs
6171	Title I Programs
6174	Education For English Learners
6174	Education For English Learners
6190	Evaluation Of The Instructional Program
9000	Role Of The Board
9270	Conflict Of Interest
9270-E(1)	Conflict Of Interest
9322	Agenda/Meeting Materials

Exhibit 6161.1-E(1): Selection And Evaluation Of Instructional Materials

Status: DRAFT

Original Adopted Date: 11/01/2012 | **Last Revised Date:** 10/01/2020~~2023~~ | **Last Reviewed Date:** 10/01/2020~~2023~~

RESOLUTION ON SUFFICIENCY OF INSTRUCTIONAL MATERIALS

CSBA NOTE: Education Code 60119 requires that the Governing Board hold an annual public hearing regarding the sufficiency of textbooks or other instructional materials and determine, through a resolution, whether each student has sufficient materials; see the accompanying Board policy. "Sufficient textbooks or instructional materials," as defined in Education Code 60119, means that each student in the district, including each English learner, has a standards-aligned textbook or instructional materials, which may include technology-based materials, to use in class and to take home.

The following sample resolution is based on the 2008 sample resolution developed by the California Department of Education (CDE) but has been updated to reflect current law. -This resolution may be used to certify compliance with Education Code 60119.

Whereas, the Governing Board of the Gridley Unified School District, in order to comply accordance with the requirements of Education Code 60119, held a public hearing on October 18, 2023, at 6:30 pm, which is on or before the eighth week of school (between the first day that students attend school and the end of the eighth week from that day) and which did not take place during or immediately following school hours, and;

Whereas, the Board provided at least 10 days~~days~~ notice of the public hearing by posting it in at least three public places within the district stating the time, place, and purpose of the hearing, and;

Whereas, the Board encouraged participation by parents/guardians, teachers, members of the community, and bargaining unit leaders in the public hearing, and;

Whereas, information provided at the public hearing detailed the extent to which sufficient textbooks or other instructional materials were provided to all students, including English learners, in the Gridley Unified School District, and;

Whereas, the definition of "sufficient textbooks or instructional materials" means that each student, including each English learner, has a standards-aligned textbook textbooks and/or instructional materials to use in class and to take home, which may include materials in a digital format as long as each student, at a minimum, has and can access the same materials in the class and at home as other students in the same class or course in the district, but shall not include photocopied sheets from only a portion of a textbook or instructional materials copied to address a shortage, and;

Whereas, textbooks or instructional materials in core curriculum subjects should be aligned with state academic content standards and/or the Common Core State Standards adopted by the State Board of Education;

Finding of Sufficient Textbooks or Instructional Materials

CSBA NOTE: The following section ~~is~~ should be used to list the schools and subjects for use when the Board is making a finding that ~~which~~ the district has "provided "sufficient-" materials. According to CDE, Education Code 60119 requires documentation of sufficiency of textbooks or instructional materials to be presented at the public hearing. Survey forms are available on CDE's web site CDE's website which may be used as a self-study and county office validation tool for grades K-12.

~~Whereas,~~ Therefore, be it resolved, for the 2023-24 school year, the Gridley Unified School District, sufficient standards-aligned textbooks or other instructional materials that are consistent with the cycles and content of the curriculum frameworks were provided to each student, including each English learner, at the following schools in the following subjects:

CSBA NOTE: To provide complete information about the basis for the ~~Board's~~ Board's determination of sufficiency, the district may wish to include the names of the textbooks or instructional materials provided to students, as well as the applicable state adoption cycle.

- Mathematics: -(List adopted textbooks or instructional materials for this subject for each ~~grade level or~~ school as well as applicable state adoption cycle.)

- Science: -(List adopted textbooks or instructional materials for this subject for each ~~grade level or~~ school as well as applicable state adoption cycle.)

- History-social science: -(List adopted textbooks or instructional materials for this subject for each ~~grade level or~~ school as well as applicable state adoption cycle.)

- English language arts, including the English language development component of an adopted program: -(List adopted textbooks or instructional materials for this subject for each ~~grade level or~~ school as well as applicable state adoption cycle.)

- World language: -(List adopted textbooks or instructional materials for this subject for each ~~grade level or~~ school as well as applicable state adoption cycle.)

- Health: -(List adopted textbooks or instructional materials for this subject for each ~~grade level or~~ school as well as applicable state adoption cycle.)

CSBA NOTE: The following paragraph is for use by districts that maintain grades 9-12. The Board may provide a list of the science laboratory classes offered in grades 9-12 and details on the science laboratory equipment available for these classes.

Whereas, laboratory science equipment was available for science laboratory classes offered in grades 9-12, inclusive;

Therefore, it is resolved that for the (year) school year, the (name of school district) has provided each student with sufficient standards-aligned textbooks or other instructional materials that are consistent with the cycles and content of the curriculum frameworks.

Finding of Insufficient Textbooks or Instructional Materials in One or More Subjects

CSBA NOTE: The following section is for use when the Board is making a finding of "insufficient" materials. Education Code 60119 requires that the Board's resolution list, for each school for which an insufficiency exists, the percentage of students at each grade level who lack sufficient materials in each of the subject areas listed below.

CSBA NOTE: In addition to the section above, the following section should be used to list the schools and subjects for which the district has not provided "sufficient" materials, and should be deleted by districts when there is not a finding of insufficient materials in a particular year. Education Code 60119 requires that, for each school for which an insufficiency exists, the Board's resolution include the percentage of students at each grade level who lack sufficient materials in each of the subject areas listed below, and include the reason that each student does not have sufficient textbooks and/or instructional materials. For more information regarding the actions the Board is required to take upon a finding of "insufficient materials," and potential consequences for not remedying the deficiency as required by law, see the section "Sufficiency of Instructional Materials and Public Hearing" in the accompanying Board policy.

~~Whereas, information provided at the public hearing and to the Board at the public meeting detailed that insufficient standards-aligned textbooks or other instructional materials were provided to students in the following subjects and grade levels at district schools: (For each school, list the percentage of students who lack sufficient standards-aligned textbooks or instructional materials in mathematics, science, history-social science, English language arts, world language, and health.)~~

~~Whereas, sufficient textbooks or other instructional materials were not provided at each school listed above due to the following reasons: (For each school at which there is an insufficiency, list the reasons that each student does not have sufficient instructional materials in each subject and grade level listed above.)~~

Therefore, Be it is further resolved, that for the 2023-24 school year, the Gridley Unified School District has not provided each student with sufficient), insufficient standards-aligned textbooks or other instructional materials that are consistent with were provided to students at the cycles and content offollowing schools in the curriculum framework, and; following subjects:

- Mathematics: (For each school, list the percentage of students who lack sufficient standards-aligned textbooks or instructional materials and the reasons that each student does not have sufficient instructional materials.)

- Science: (For each school, list the percentage of students who lack sufficient standards-aligned textbooks or instructional materials and the reasons that each student does not have sufficient instructional materials.)

- History-social science: (For each school, list the percentage of students who lack sufficient standards-aligned textbooks or instructional materials and the reasons that each student does not have sufficient instructional materials.)

- English language arts, including the English language development component of an adopted program: (For each school, list the percentage of students who lack sufficient standards-aligned textbooks or instructional materials and the reasons that each student does not have sufficient instructional materials.)

- World language: (For each school, list the percentage of students who lack sufficient standards-aligned textbooks or instructional materials and the reasons that each student does not have sufficient instructional materials.)

- Health: (For each school, list the percentage of students who lack sufficient standards-aligned textbooks or instructional materials and the reasons that each student does not have sufficient instructional materials.)

Be it further resolved, that the following actions will be taken to ensure that all students have sufficient standards-aligned textbooks or other instructional materials in all subjects that are consistent with the cycles and content of the curriculum frameworks within two months of the beginning of the school year in which this determination is made. (List -actions -to- be taken to resolve insufficiency.)

Finding of Available Science Laboratory Equipment for Grades 9-12

CSBA NOTE: The following optional section is for use by districts that maintain grades 9-12. It should be used to list the science laboratory courses offered in grades 9-12 and whether science laboratory equipment is available for these courses.

Be it further resolved, laboratory science equipment was available or was not available for science laboratory courses offered in grades 9-12, inclusive, as indicated below:

- Available: (List all science laboratory courses offered in grades 9-12 for which science laboratory equipment was available.)

- Not Available: (List all science laboratory courses offered in grades 9-12 for which science laboratory equipment was not available.)

CSBA NOTE: Education Code 60119, as amended by AB 1078 (Ch. 229, Statutes of 2023), requires the Board, upon a determination of insufficient textbooks or instructional materials, to submit a copy of the resolution making such a determination to the County Superintendent of Schools within three business days after the public hearing regarding the sufficiency of textbooks or other instructional materials. This section should be included in the resolution for every district.

Be it further resolved, that the Superintendent or designee, on behalf of the Board, shall submit a copy of this resolution to the County Superintendent of Schools within three business days of the hearing.

PASSED AND ADOPTED THIS _____ day of _____, _____ at a meeting, by the following vote:

AYES: _____ NOES: _____ ABSENT: _____

Attest:

_____, Secretary

_____, President

Policy Reference UPDATE Service

Copyright 2023 by California School Boards Association, West Sacramento, California 95691

All rights reserved.

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 9505-9530

Ed. Code 1240

[Ed. Code 18111](#)

Ed. Code 220

[Ed. Code 242](#)

Description

Instructional materials

County superintendent of schools; duties

[Exclusion of books by Governing Board that are sectarian, partisan, or denominational character](#)

Prohibition of discrimination

[Access to information about educational laws and policies regarding right to accurate and inclusive curriculum](#)

<u>Ed. Code 243</u>	<u>Unlawful discrimination related to the use or prohibited use of textbooks and instructional materials</u>
Ed. Code 33050-33053	General waiver authority
Ed. Code 33126	School accountability report card
Ed. Code 35272	Education and athletic materials
Ed. Code 44805	Enforcement <u>Teacher enforcement</u> of course of studies; use of textbooks, rules and regulations
<u>Ed. Code 48907</u>	<u>Exercise of free expression; time, place and manner rules and regulations</u>
<u>Ed. Code 48950</u>	<u>Speech and other communication</u>
Ed. Code 49415	Maximum textbook weight <u>standards</u>
<u>Ed. Code 51204.5</u>	<u>Social sciences instruction; contributions of specified groups</u>
Ed. Code 51501	Nondiscriminatory subject matter
<u>Ed. Code 51511</u>	<u>Religious matters properly included in courses of study</u>
<u>Ed. Code 51933</u>	<u>Sexual health education and HIV prevention materials</u>
Ed. Code 52060-52077	Local control and accountability plan
Ed. Code 60000-60005	Instructional materials; legislative intent
Ed. Code 60010	Instructional materials; definition
Ed. Code 60040-60052	Requirements for instructional materials
Ed. Code 60060-60063.5	Requirements for publishers and manufacturers
Ed. Code 60070-60076	Prohibited acts (re <u>regarding</u> instructional materials)
Ed. Code 60110-60115	Instructional materials on alcohol and drug education
Ed. Code 60119	Sufficiency of textbooks and instructional materials; hearing and resolution
<u>Ed. Code 60150</u>	<u>Penalty for insufficiency of textbooks and instructional materials</u>
Ed. Code 60200- 60210 <u>60213</u>	Elementary school materials
Ed. Code 60226	Requirements for publishers and manufacturers
Ed. Code 60350-60352	Core reading program instructional materials
Ed. Code 60400-60411	Instructional materials; high schools
Ed. Code 60510-60511	Donation for <u>or</u> sale of obsolete instructional materials
Ed. Code 60605	State-adopted content and performance standards in core curricular areas
Ed. Code 60605.8	Common Core standards

Ed. Code ~~60605.86-60605.88~~

Supplemental instructional materials aligned with
Common Core State Standards

H&S Code 11032

Narcotics, restricted dangerous drugs, and marijuana;
definitions

Management Resources

California Department of Education
Publication

California Department of Education
Publication

California Department of Education
Publication

Website

Website

Website

Website

Website

Website

Website

Description

Instructional Materials FAQ

01-05 Guidelines for Piloting Textbooks and
Instructional Materials, Policy # 01-05, rev. January 2015

Standards for Evaluating Instructional Materials for Social
Content, 2013

CSBA District and County Office of Education Legal
Services

Association of American Publishers

California Academic Content Standards Commission,
Common Core State Standards

California Department of Education

CSBA

Department of Justice (<https://oag.ca.gov/>)

U.S. Department of Education, Office for Civil Rights
(<https://www2.ed.gov/about/offices/list/ocr/index.html>)

Cross References

Code

0400

0410

0415

0440

0440

0460

0460

1220

1220

1312.2

1312.2

1312.2-E(1)

1312.3

Description

Comprehensive Plans

Nondiscrimination In District Programs And Activities

Equity

District Technology Plan

District Technology Plan

Local Control And Accountability Plan

Local Control And Accountability Plan

Citizen Advisory Committees

Citizen Advisory Committees

Complaints Concerning Instructional Materials

Complaints Concerning Instructional Materials

Complaints Concerning Instructional Materials

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
1325	Advertising And Promotion
1340	Access To District Records
1340	Access To District Records
1700	Relations Between Private Industry And The Schools
3220.1	Lottery Funds
3270	Sale And Disposal Of Books, Equipment And Supplies
3270	Sale And Disposal Of Books, Equipment And Supplies
3290	Gifts, Grants And Bequests
3311	Bids
3311	Bids
4136	Nonschool Employment
4143	Negotiations/Consultation
4236	Nonschool Employment
4243	Negotiations/Consultation
4331	Staff Development
4336	Nonschool Employment
5020	Parent Rights And Responsibilities
5020	Parent Rights And Responsibilities
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
6000	Concepts And Roles
6011	Academic Standards
6020	Parent Involvement
6020	Parent Involvement
6141	Curriculum Development And Evaluation
6141	Curriculum Development And Evaluation
6142.2	World Language Instruction
6142.2	World Language Instruction
6142.6	Visual And Performing Arts Education
6142.8	Comprehensive Health Education

6142.8	Comprehensive Health Education
6142.91	Reading/Language Arts Instruction
6142.92	Mathematics Instruction
6142.93	Science Instruction
6142.94	History-Social Science Instruction
6143	Courses Of Study
6143	Courses Of Study
6144	Controversial Issues
6146.1	High School Graduation Requirements
6161.11	Supplementary Instructional Materials
6161.2	Damaged Or Lost Instructional Materials
6162.5	Student Assessment
6162.6	Use Of Copyrighted Materials
6162.6	Use Of Copyrighted Materials
6163.1	Library Media Centers
6170.1	Transitional Kindergarten
6171	Title I Programs
6171	Title I Programs
6174	Education For English Learners
6174	Education For English Learners
6190	Evaluation Of The Instructional Program
9000	Role Of The Board
9270	Conflict Of Interest
9270-E(1)	Conflict Of Interest
9322	Agenda/Meeting Materials

Policy 6163.1: Library Media Centers

Status: DRAFT

Original Adopted Date: 03/01/2011 | Last Revised Date: 04/10/01/20142023 | Last Reviewed Date: 04/10/01/20142023

CSBA NOTE: Education Code 18100 requires the Governing Board to provide library services for students and teachers by maintaining school libraries or contracting with another public agency. The following optional policy is intended for use by districts that maintain their own school libraries, but may be modified to meet the needs of districts that enter into an arrangement to receive services from either a county or city library pursuant to Education Code 18130 or 18134; also see BP 1330.1 - Joint Use Agreements.

The State Board of Education (SBE) has adopted model program standards for school libraries which describe staffing, resources, and infrastructure (1) school library standards for students that delineate what students should know and be able to do at each grade level (see section "Library Instruction," below), and (2) school library program standards that describe staffing, access, resources, and infrastructure, including technology, recommended for effective school library programs. The following policy may be modified to reflect state program standards that the district chooses to implement.

The Governing Board recognizes that school libraries support the educational program by providing access to a variety of informational and supplemental resources that can ~~help raise~~ inspire a love of reading, stimulate thought, the exploration of ideas and intellectual exchanges, and contribute to the academic achievement of all students. The Board desires that school libraries be stocked with up-to-date books, reference materials, and electronic resources that promote literacy, support academic standards, contain a broad spectrum of knowledge and viewpoints, accurately reflect and value society's diversity, and prepare students to become lifelong learners.

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

The Superintendent or designee may, in consultation with teacher librarians, classroom teachers, administrators, parents/guardians, and students as appropriate, develop and regularly update a plan for school libraries that describes the district's goals for school libraries and ~~how the~~ distribution of funds ~~will be distributed~~ to school sites to support libraries. As appropriate, the plan may also address staffing, facilities, selection and evaluation of materials, the development and maintenance of classroom libraries, prevention of loss or damage of library materials, prioritization of needs, and other related matters. The Superintendent or designee shall ensure that the library plan is aligned with the district's local control and accountability plan and other district and school plans.

Staffing

CSBA NOTE: The following optional section may be revised to reflect district practice. Pursuant to Education Code 18120, the Board may appoint one or more librarians to staff school libraries, provided they possess an appropriate credential issued by the Commission on Teacher Credentialing (CTC) as required by Education Code 44868 and 5 CCR 80053. This may include a teacher librarian services credential issued since January 1, 2008 or a library media teacher services credential issued prior to that date. In addition, 5 CCR 80024.6 establishes requirements for an emergency teacher librarian services permit that may be issued when there is an insufficient number of qualified certificated persons to fill available positions.

SBE model program standards recommend a ratio of one full-time teacher librarian per 785 students, plus assignment of a classified paraprofessional (e.g., library technician, library aide) at least 34 hours per week.

If the district does not employ any teacher librarians, it should modify this policy to reflect the position(s) that are assigned to fulfill the related duties.

To staff school libraries, the district may employ one or more teacher librarians who possess appropriate credentials issued by the Commission on Teacher Credentialing. (Education Code 18120, 44868; 5 CCR 80024.6, 80053)

CSBA NOTE: 5 CCR 80053 specifies the duties that any teacher librarian who possesses an appropriate credential or emergency permit from the CTC is authorized to perform. 5 CCR 80053.1 establishes a special class authorization which authorizes the holder to provide departmentalized instruction in information literacy, digital literacy, and digital citizenship. The district may revise ~~items~~ Items #1-8 below to reflect the duties of teacher librarians included in district job descriptions.

The Superintendent or designee may assign teacher librarians to perform the following duties in accordance with the authorizations of their credential: (5 CCR 80053, 80053.1)

1. Instruct students in accessing, evaluating, using, and integrating information and resources in the library program and/or provide departmentalized instruction in information literacy, digital literacy, and digital citizenship
2. Plan and coordinate school library programs with the district's instructional programs through collaboration with teachers
3. Select materials for school and district libraries
4. Develop and deliver staff development programs for school library services
5. Coordinate or supervise library programs at the school or district level
6. Plan and conduct a course of instruction for students who assist in the operation of school libraries
7. Supervise classified personnel assigned school library duties

8. Develop procedures for and management of the school and district libraries

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. Pursuant to Education Code 35021, the district may not use volunteer aides in lieu of classified employees whose positions were abolished.

The Board also may appoint classified paraprofessionals to serve as library aides or library technicians. Volunteers may assist with school library services in accordance with law, Board policy, and administrative regulation.

Hours of Operation

School libraries shall be open for use by students and teachers during the school day. (Education Code 18103)

CSBA NOTE: The following paragraph is optional.

With the approval of the Board, a school library may be open at other hours outside the school day, including evenings and Saturdays. Any library open to serve students during evening and Saturday hours shall be under the supervision of a certificated employee who consents to the assignment. (Education Code 18103)

Selection and Evaluation of School Library Materials

CSBA NOTE: The following optional section may be revised to reflect district practice. At its discretion, the Board may establish selection criteria that exclude all materials of a sectarian, partisan, or denominational character as authorized by Education Code 18111.

Library materials shall include print and electronic resources that align with the curriculum and are accessible to students with varying cognitive and/or language needs.

Library materials shall be selected and evaluated ~~and selected~~ through a process that invites recommendations from administrators, teachers, other staff, parents/guardians, and students as appropriate.

CSBA NOTE: Education Code 243, as added by AB 1078 (Ch. 229, Statutes of 2023), clarifies when it is unlawful discrimination for the Board to (1) refuse to approve the use of any book or other resource in a school library or (2) prohibit the use of any book or other resource in a school library. The Board may not refuse to approve the use of any book or other resource in a school library 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 the use of any book or other resource in a school library on the basis that the study of the role and contributions contain inclusive or diverse perspectives.

For more information, the California Department of Education's (CDE) website provides guidance on the removal of instruction or instructional materials. In addition, Education Code 60040.5, as added by AB 1078 (2023), requires CDE to issue, no later than July 1, 2025, guidance regarding

how to review instructional materials to ensure that they represent diverse perspectives and are culturally relevant. Additionally, Education Code 242, as added by AB 1078, requires CDE to develop, by July 1, 2025, guidance and public educational materials to ensure that all Californians can access information about educational laws and policies that safeguard the right to an accurate and inclusive curriculum.

The use of any book or other resource in a school library shall not be rejected or prohibited by the Board or district on the basis that it includes a study of the role and contributions of any individual or group consistent with the requirements of Education Code 51204.5 and 60040, unless such study would violate Education Code 51501 or 60044. (Education Code 243)

Library materials shall be continually evaluated in relation to evolving curricula, new formats of materials, new instructional methods, and the needs of students and teachers. Materials that contain outdated subject matter or are no longer appropriate shall be removed.

All gifts and donations of school library materials shall be subject to the same criteria as materials selected for purchase by the district.

Complaints regarding the appropriateness of library materials shall be addressed using the district's procedures for complaints regarding instructional materials.

Fees

CSBA NOTE: Complaints alleging discrimination based on a violation of Education Code 243, as added by AB 1078, related to the use or prohibited use of any book or other resource in a school library as described above, 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.

Complaints regarding the appropriateness of library materials shall be addressed in accordance with Board Policy 1312.2 – Complaints Concerning Instructional Materials and Board Policy 1312.3 – Uniform Complaint Procedures, as applicable.

Fees

Students shall be encouraged to return library materials in a timely manner, but no charge shall be assessed for the late return of materials.

CSBA NOTE: Pursuant to 5 CCR 16042, the district shall not charge students for the late return of library materials unless authorized to do so by the Board. The district should select the option below that reflects district practice. Option 2 may be modified to include the amount that will be charged.

OPTION 1: (No late fees)

Students shall be encouraged to return library materials in a timely manner, but no charge shall be assessed for the late return of materials.

OPTION 1 ENDS HERE

OPTION 2: ~~(Late fees charged)~~

~~To encourage students to return materials in a timely manner, a nominal fee shall be charged for the late return of materials.~~

OPTION 2 ENDS HERE

Library Instruction

CSBA NOTE: In September 2010, the SBE adopted model academic standards for library instruction which address what students should know and be able to do at each grade level or grade span in terms of information literacy skills. The introduction to the standards expresses the intent that the standards be taught collaboratively by the classroom teacher and the teacher librarian within the context of the curriculum. The following optional section reflects the four major categories addressed in the state standards and may be revised to reflect district practice.

The SBE has also developed a document identifying examples of where the library instruction standards are aligned with Common Core State Standards. ~~See the California Department of Education's (CDE) web site.~~ See CDE's website.

Teacher librarians and/or classroom teachers shall provide library instruction to ~~develop~~support the development of students' information literacy skills. Such instruction shall be aligned with the state academic standards for library instruction and shall prepare students to:

1. Access information by applying knowledge of the organization of libraries, print materials, digital media, and other sources
2. Evaluate and analyze information to determine appropriateness in addressing the scope of inquiry
3. Organize, synthesize, create, and communicate information
4. Integrate information literacy skills into all areas of learning and pursue information independently to become life-long learners

Teacher librarians also may provide support to teachers, administrators, and other staff by identifying instructional materials that will aid in the development of curriculum and instructional activities and by providing information about effective and ethical uses of school library services and equipment.

Program Evaluation

CSBA NOTE: The following optional section may be revised to reflect district practice. The district may use an assessment tool such as the CDE's ["Looking at the School Library: An Evaluation Tool"](#) or may develop its own program evaluation indicators or checklist.

The Superintendent or designee shall annually assess and report to the Board regarding the condition and use of school libraries. The assessment shall evaluate, at a minimum:

1. Access of students and staff to school libraries during school hours and, as appropriate, access outside the school day
2. The process and frequency by which students are allowed to check out library materials
3. Staffing levels, qualifications, and number of hours worked
4. The quality of the collection at each library, including, but not limited to, the total number of books in the collection, number of books per student, [types of materials \(fiction, non-fiction, newspapers, magazines, encyclopedias, materials in other languages, and reference materials\)](#), [alignment with curriculum, provision of a broad spectrum of knowledge and viewpoints](#), amount expended during the year for the purchase of new resources, and the number of resources discarded and added during the year
5. Any special programs offered at the school to encourage reading and/or library use
6. The adequacy of the facility space and equipment designated for the school library
7. The source(s) and adequacy of funding for school libraries
8. [Knowledge by principals, teachers, and library personnel of the process to follow when a library material\(s\) is challenged](#)

CSBA NOTE: Education Code 18122 requires districts to annually report to the CDE on the condition of their [district](#) school libraries. This survey is conducted online via the CDE's [web site](#) [website](#).

The district shall, on or before August 31 each year, report to the ~~CDE~~ [California Department of Education](#) on the condition of its school libraries for the preceding year ending June 30. (Education Code 18122)

Policy Reference UPDATE Service

Copyright 2023 by **California School Boards Association**, West Sacramento, California 95691
All rights reserved.

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 16040-16043

Description

School libraries

5 CCR 80023-80023.2	Emergency permits; general requirements
5 CCR 80024.6	Emergency teacher librarian services permit
5 CCR 80026-80026.6	Emergency permits; Declaration of Need
5 CCR 80053-80053.1	Teacher librarian services credential
Ed. Code 1703	Coordination of district library services by county superintendent
Ed. Code 1770-1775	Provision of library services by county superintendent
Ed. Code 18100-18203	School libraries
Ed. Code 18300-18571	Union high school district/unified school district libraries
Ed. Code 19335-19336	Reading Initiative Program; recommended books
Ed. Code 220	Prohibition of discrimination
Ed. Code 242	Access to information about educational laws and policies regarding right to accurate and inclusive curriculum
Ed. Code 35021	Volunteer aides
Ed. Code 44868-44869	Qualifications and employment of library media teachers
Ed. Code 45340-45349	Instructional aides
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 60040 - 60052	Requirements for instructional materials
Management Resources	Description
California Department of Education Publication	Examples of Model School Library Standards for California Public Schools Supporting Common Core State Standards (CCSS), for English Language Arts & Literacy in History/Social Studies, Science, and Technical Subjects , rev. February 2012
California Department of Education Publication	Looking at the School Library: An Evaluation Tool, 2003
California Department of Education Publication	Model School Library Standards for California Public Schools: K - 12, 2010 (includes standards for student instruction as well as program standards)

California Department of Education Publication	Recommended Literature: Kindergarten Through Grade Twelve
California School Library Association Publication	Standards and Guidelines for Strong School Libraries, 2004
Website	CSBA District and County Office of Education Legal Services
Website	American Association of School Libraries
Website	California Department of Education, Curriculum and Instruction Resources (https://www.cde.ca.gov/ci/cr/)
Website	California Department of Education, School Libraries
Website	California School Library Association
Website	Department of Justice (https://oag.ca.gov/)
Website	U.S. Department of Education, Office for Civil Rights (https://www2.ed.gov/about/offices/list/ocr/index.html)

Cross References

Code	Description
0200	Goals For The School District
0400	Comprehensive Plans
0410	Nondiscrimination in District Programs and Activities
0420	School Plans/Site Councils
0420	School Plans/Site Councils
0440	District Technology Plan
0440	District Technology Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
1240	Volunteer Assistance
1240	Volunteer Assistance
1260	Educational Foundation
1312.2	Complaints Concerning Instructional Materials
1312.2	Complaints Concerning Instructional Materials
1312.2-E(1)	Complaints Concerning Instructional Materials
1312.3	Uniform Complaint Procedures

1312.4

1330.1

1340

1340

3260

3260

3270

3270

3290

3311

3311

4112.2

4112.2

4113

4113

4131

4132

4222

4222

4231

4232

4331

4332

5125.2

5145.3

6011

6141

6141

6142.2

Williams Uniform Complaint Procedures

Joint Use Agreements

Access To District Records

Access To District Records

Fees And Charges

Fees And Charges

Sale And Disposal Of Books, Equipment And Supplies

Sale And Disposal Of Books, Equipment And Supplies

Gifts, Grants And Bequests

Bids

Bids

Certification

Certification

Assignment

Assignment

Staff Development

Publication Or Creation Of Materials

Teacher Aides/Paraprofessionals

Teacher Aides/Paraprofessionals

Staff Development

Publication Or Creation Of Materials

Staff Development

Publication Or Creation Of Materials

Withholding Grades, Diploma Or Transcripts

Nondiscrimination/Harassment

Academic Standards

Curriculum Development And Evaluation

Curriculum Development And Evaluation

World Language Instruction

6142.2	World Language Instruction
6142.6	Visual And Performing Arts Education
6142.91	Reading/Language Arts Instruction
6142.92	Mathematics Instruction
6142.94	History-Social Science Instruction
<u>6143</u>	<u>Courses Of Study</u>
6144	Controversial Issues
6154	Homework/Makeup Work
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
6162.6	Use Of Copyrighted Materials
6162.6	Use Of Copyrighted Materials
6163.4	Student Use Of Technology
6163.4-E(1)	Student Use Of Technology
7110	Facilities Master Plan

Policy 3452: Student Activity Funds

Status: DRAFT

Original Adopted Date: 09/01/1988 | **Last Revised Date:** 02/16/2022 | **Last Reviewed Date:** 10/27/2022

The Governing Board recognizes that student organizations can provide students with an opportunity to conduct worthwhile cocurricular activities while helping students learn about effective financial practices and develop leadership and management skills. To that end, the Board may approve the formation of associated student body organizations which are composed entirely of students, operate under the oversight of the principal or other district-employed advisor, and are subject to the control and regulation of the Board. Student organizations may raise and spend funds to support activities that promote the general welfare, morale, and educational experiences of the student body.

Fundraising

~~At the beginning of each school year,~~ Each principal or designee shall submit to the Superintendent or designee a list of the fundraising events that each student organization proposes to hold that academic year. The Superintendent or designee shall review the proposed events and determine whether the events contribute to the educational experience and do not conflict with or detract from the school's educational program. When reviewing proposed events, the Superintendent or designee shall consider the effects of the activities on student health and safety, evaluate the risk of liability to the district, and ensure that the proposed activities are in compliance with law, Board policy, and administrative regulation. All requests meeting this standard will be forwarded to the Board for approval at a regularly scheduled meeting. All fundraising events must be submitted on the approved district form at least 30 days prior to the planned event and Board approved no later than two weeks (14 days) prior to the planned event.

Fundraising events that involve the sale of food and/or beverages shall comply with applicable state and/or federal nutrition standards and BP/AR 3554 - Other Food Sales. If the fundraising event involves the sale of noncompliant food and/or beverages, it shall not take place from midnight until at least one-half hour after the end of the school day, or not be conducted on school premises.

Management and Reporting of Funds

Student body funds shall be managed in accordance with law, regulations, Board policies, and sound business procedures designed to encourage the largest possible educational return to students without sacrificing the security of funds.

The Superintendent or designee shall develop internal control procedures to safeguard the organization's assets, promote the success of fundraising ventures, provide reliable financial information, protect employees and volunteers from accusations of impropriety, and reduce the risk and promote the detection of fraud and abuse. These procedures shall detail the oversight of activities and funds including, but not limited to, the appropriate role and provision of training for staff and students, parameters for events on campus, appropriate and prohibited uses of funds, and accounting and record-keeping processes, including procedures for handling questionable expenditures.

The principal or designee shall be responsible for the proper conduct of all student organization financial activities. The budget adopted by the student body organization should serve as the financial plan for the school year and shall be submitted to the Superintendent or designee at the beginning of each school year. The Superintendent or designee shall monitor the budget and periodically review the organization's use of funds to ensure compliance with the district's internal control procedures.

Funds derived from the student body shall be expended according to procedures established by the student organization. All expenditures must be approved by a Board-designated employee or official, the certificated employee who is the designated student organization advisor, and a student organization representative. (Education Code 48933)

When student body funds are expended for equipment, supplies, or activities that support the district's athletic program, the Superintendent or designee shall ensure that the expenditures are aligned with the district's commitment to provide equitable opportunities for males and females.

Because of the district's administrative and/or direct financial involvement in the assets of the student organization, the student activity fund shall be reported within the district's fund in accordance with Governmental Accounting Standards Board Statement 84.

The Board shall provide an annual audit of student organization accounts by a certified public accountant or licensed public accountant. The cost of the audit shall be paid from district funds. (Education Code 41020)

Policy 1321: Solicitation Of Funds From And By Students

Status: DRAFT

Original Adopted Date: 09/01/1987 | **Last Revised Date:** 01/20/2021 | **Last Reviewed Date:** 01/20/2021

The Governing Board recognizes that student participation in fund-raising activities for the schools and nonprofit, nonpartisan charitable organizations can help develop a sense of social responsibility in students, enhance the relationship between the school and community, and contribute to the improvement of the school program.

Whether solicitations are made on behalf of the school or on behalf of a charitable organization, students shall not be barred from an event or activity because they did not participate in fund-raising. Potential donors, including parents/guardians and members of the community, should not be unduly pressured to contribute to the school system or charitable organizations. Staff is expected to emphasize the fact that donations are always voluntary.

The Superintendent or designee shall ensure that parents/guardians are informed of the purpose of fund-raisers.

Solicitations on Behalf of the School

With the prior written approval of the Superintendent or designee, official school-related organizations may organize fund-raising events involving students.

Solicitations on Behalf of Charities

When approved in advance by the Superintendent or designee, nonprofit, nonpartisan organizations that are properly chartered or licensed by state or federal law may solicit students on school grounds during school hours and within one hour before school has opened and one hour after school has closed. (Education Code 51520)

Service-learning and raising funds for charitable groups as described can have a profound effect on the school culture because it creates and promotes relationships between schools and communities. At the same time, the community itself becomes a learning environment. Service-learning also can create more collaborative relationships among teachers, administrators and other school personnel. When all members of the school community become participants they develop a personal and collective stake in making something positive happen beyond the walls of the school.

Such solicitation of funds can be conducted adhering to the following guidelines:

1. The efforts must be approved in accordance with district and Board policies.
2. The charitable organization must complete and submit the appropriate district form requesting the ability to raise funds in accordance with stated guidelines. All fundraising events must be submitted on the approved district form at least 30 days prior to the planned event and board approved no later than two weeks (14 days) prior to the planned event.
3. Funds collected will be recorded and reported by the faculty advisor. Cash pick up and drop off will be coordinated with the outside group on a weekly basis to avoid cash on site.
4. The school district will not solicit or accept checks, credit cards, or alternative forms of payment on behalf of a charity or third party group. Sites, with administrative approval, are permitted to hand out correspondence that gives community members the option to donate using these forms of payment directly to the outside group.
5. Fundraising for each individual organization for the purpose of service-learning is capped at 50% of funds collected not to exceed \$5,000.
6. Fundraising efforts on behalf of an outside organization or charity totaling \$5,000 in a given school year will not be conducted in successive years for the same entity. This policy is to ensure equitable access to service learning opportunities among local charitable organizations.
7. Not for profit organizations whose primary function is to raise funds that directly benefit students within the Gridley Unified School District through the distribution of services, programs, scholarships, and/or money will be exempted from the \$5,000 annual threshold.