

**PACIFIC GROVE UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION
REGULAR MEETING: MAY 9, 2024**

Mission Statement

Pacific Grove Unified School District, in partnership with the community and with a focus on equity, will challenge every student by providing a quality instructional program in a positive, safe, and stimulating environment. The District will meet the diverse needs of all students by ensuring exceptional learning opportunities to acquire and apply the knowledge and skills that develop the insight and character necessary for a productive and rewarding life.

DATE: May 9, 2024

TIME: 4:30 PM Retiree Recognition Ceremony & Reception
5:30 PM Closed Session
6:30 PM Open Session

LOCATION: IN PERSON
Pacific Grove Unified School District Office
435 Hillcrest Avenue
Pacific Grove, CA 93950

Trustees:

*Brian Swanson, President
Dr. Elliott Hazen, Clerk
Carolyn Swanson
Jennifer McNary
Laura Ottmar*

Administration:

*Superintendent Dr. Linda Adamson
Assistant Superintendent Joshua Jorn*

Student Representative(s):

*Dario DiMaggio
Dayci Dishny*

VIRTUAL ZOOM MEETING

<https://pgusd.zoom.us/j/89218889332?pwd=WUYyeW80bERGRTIwUnVmWThlRVdZdz09>

Meeting ID: 892 1888 9332

Passcode: 938899

One tap mobile +16699006833,,81793111121#,,, *717431# US (San Jose)

+16694449171,,81793111121#,,, *717431# US

Find your local number: <https://pgusd.zoom.us/u/kdsFvgImWk>

The Board of Education welcomes you to its meetings, which are regularly scheduled for the first and third Thursdays of the month. Regular Board Meetings shall be adjourned by 10:00 PM, unless extended to a specific time determined by a majority of the Board. This meeting may be extended no more than once and may be adjourned to a later date. Individuals who require accommodation, including but not limited to an American Sign Language interpreter, accessible seating or documentation in accessible formats, should contact the Superintendent at least two days before the meeting date.

Any writings or documents that are public records and are provided to a majority of the Governing Board regarding an open session item on this agenda will be made available for public inspection in the District Office located at 435 Hillcrest Avenue, Pacific Grove during normal business hours.

AGENDA AND ORDER OF BUSINESS

I. OPENING BUSINESS

A. Call to Order

B. Land Acknowledgement

Good evening. As we begin this meeting, it's important to pay respect to and acknowledge that we are on the traditional land of the **Ohlone, Costanoan & Esselen** people and additionally pay respect to elders both past and present.

C. Roll Call

D. Retiree Recognition Ceremony & Reception

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E. Adoption of Agenda

- Public Comment:
- Board Discussion:
- Move: _____ Second: _____ Vote: _____

II. CLOSED SESSION

A. Identify Closed Session Topics

The Board of Education will meet in Closed Session to consider matters appropriate for Closed Session in accordance with Education and Government Code.

1. Negotiations – Collective Bargaining Session planning and preparation with the PGTA for 2023-2024 [Government Code § 3549.1 (d)] Executive session between the public school employer and its designated representatives, Buck Roggeman and Dr. Linda Adamson, for the purpose of giving direction and updates.
2. Negotiations – Collective Bargaining Session planning and preparation with the CSEA for 2023-2024 [Government Code § 3549.1 (d)] Executive session between the public school employer and its designated representatives, Claudia Arellano and Dr. Linda Adamson, for the purpose of giving direction and updates.
3. Public Employee Discipline/Dismissal/Release/Leave/Complaint [Government Code § 54957]
4. Public Employee Appointment/Employment/Principal [Government Code § 54957]
5. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION [Government Code § 54956.9, subd. (d)(1)] – One Case – OAH Case No. 2024050519
6. Superintendent Evaluation

B. Public Comment on Closed Session Topics

C. Adjourn to Closed Session

III. RECONVENE IN OPEN SESSION

A. Report Action Taken in Closed Session:

1. Negotiations – Collective Bargaining Session planning and preparation with the PGTA for 2023-2024 [Government Code § 3549.1 (d)] Executive session between the public school employer and its designated representatives, Buck Roggeman and Dr. Linda Adamson, for the purpose of giving direction and updates.

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2. Negotiations – Collective Bargaining Session planning and preparation with the CSEA for 2023-2024 [Government Code § 3549.1 (d)] Executive session between the public school employer and its designated representatives, Claudia Arellano and Dr. Linda Adamson, for the purpose of giving direction and updates.
 3. Public Employee Discipline/Dismissal/Release/Leave/Complaint [Government Code § 54957 subdivision(b)]
 4. Public Employee Appointment/Employment/Principal [Government Code § 54957]
 5. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION [Government Code § 54956.9, subd. (d)(1)] – One Case – OAH Case No. 2024050519
 6. Superintendent Evaluation
- B. Pledge of Allegiance
- C. MCOE CA Distinguished Awards Presentation

IV. COMMUNICATIONS

- A. Written Communication
- B. Board Member Comments
- C. Superintendent Report

V. INDIVIDUALS DESIRING TO ADDRESS THE BOARD

Public comment on any item of interest to the public that is within the Board's jurisdiction will be heard. The Board will also take public comment on each specific action item prior to Board action on each item. Any individual wishing to comment on a specific item on the current agenda are kindly asked to wait until that item is being discussed. The Board will allow a reasonable amount of time for public comment on each agenda item not to exceed 3 minutes per speaker and no more than 20 minutes per agenda item, pursuant to Board Policy 9323. Speakers will be called sequentially until there is no speaker coming forward on the agenda item or the amount of time allocated for the agenda item has elapsed, whichever comes first. This meeting of the Board of Education is a business meeting of the Board, conducted in public. Please note that the Brown Act limits the Board's ability to respond to public comment. The Board may choose to direct items to the Administration for action or place an item on a future agenda.

- A. PGUSD Staff Comments (Non-Agenda Items)
- B. Community Members (Non-Agenda Items)

VI. CONSENT AGENDA

*Items listed under the Consent Agenda are considered to be routine and/or may have been discussed at a previous Board meeting. **There is no discussion of these items prior to the Board vote unless a member of the Board requests specific items be discussed and/or removed from the Consent Agenda.** Each item on the Consent Agenda approved by the Board of Trustees shall be deemed to have been considered in full and adopted as recommended.*

- A. Minutes of April 4, 2024 Board Meeting

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Recommendation: (Dr. Linda Adamson, Superintendent) The District Administration recommends that the Board review and approve the minutes as presented.

- B. Cash Receipts Report #16 **24**
 Recommendation: (Joshua Jorn, Assistant Superintendent) The District Administration recommends that the Board review and approve the Cash Receipts Report #16.
- C. Acceptance of Donations **26**
 Recommendation: (Joshua Jorn, Assistant Superintendent) The District Administration recommends that the Board review and approve the Acceptance of Donations.
- D. Out of County Overnight Activities **27**
 Recommendation: (Joshua Jorn, Assistant Superintendent) The District Administration recommends that the Board review and approve the Out of County or Overnight Activities.
- E. Warrant Schedule 666 **31**
 Recommendation: (Joshua Jorn, Assistant Superintendent) The District Administration recommends that the Board review and approve Warrant Schedule 666.
- F. Personnel Report **33**
 Recommendation: (Claudia Arellano, Director II of Human Resources) The District Administration recommends that the Board review and approve the Personnel Report.
- G. Memorandum of Understanding (MOU) – Monterey Peninsula Soccer League (MPSL) **36**
 The District Administrations recommends that the Board review and approve the 2024-25 Memorandum of Understanding (MOU) with Monterey Peninsula Soccer League (MPSL).
- H. Contract for Services with MTH Photo Booth **39**
 Recommendation: (Abbie Arbrun, Principal) The District Administration recommends that the Board review and approve the Contract for Services with MTH Photo Booth.
- I. Contract for Services with Kona Ice of Monterey and Salinas **45**
 Recommendation: (Abbie Arbrun, Principal) The District Administration recommends that the Board review and approve the Contract for Services with Kona Ice of Monterey and Salinas.
- J. Contract for Services with Monterey Bay Equestrian Center **51**
 Recommendation: (Abbie Arbrun, Principal) The District Administration recommends that the Board review and approve the Contract for Services with Monterey Bay Equestrian Center.
- K. Contract for Services with CHG Medical Staffing, Inc. (CompHealth Medical Staffing) **57**
 Recommendation: (Yolanda Cork-Anthony, Director of Student Services) The District Administration recommends that the Board review and approve the Contract for Services with CompHealth Medical Staffing to provide occupational therapy services, including assessments and attending IEP meetings as required by the individuals with Disabilities Education Act (IDEA).

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- Public Comment:
- Board Discussion:
- Move: _____ Second: _____ Vote: _____

VII. PUBLIC HEARING – (ACTION/DISCUSSION)

Public Hearing: The District’s Governing Board Will Hold a Public Hearing on the Proposed Adoption of a Developer Fee Justification Study for the District and an Increase in the Statutory School Facility Fee (“Level I Fee”) on New Residential and Commercial/Industrial Developments as Approved by the State Allocation Board on January 24, 2024. The Adoption of the Study and the Increase of the Level I Fee are Necessary to Fund the Construction of Needed School Facilities to Accommodate Students due to Development.

Open Public Hearing: _____ Close Public Hearing: _____

- A. Adoption of Resolution No. 1122 – Increase to Level I Levy of Developer Fees **63**
 Recommendation: (Joshua Jorn, Assistant Superintendent) The District Administration recommends that the Board review and adopt Resolution No. 1122 to Increase Developer Fees to meet the State Allocation Boards Level I Fee Schedule.

- Public Comment:
- Board Discussion:
- Move: _____ Second: _____ Vote: _____

VIII. ACTION/DISCUSSION

- B. Pacific Grove High School Textbooks – Adoption **72**
 Recommendation: (Buck Roggeman, Director of Curriculum and Special Projects) The District Administration recommends that the Board approve the adoption of three textbooks to be used by the Pacific Grove High School: *Hole’s Essentials of Human Anatomy and Physiology, High School 2nd Edition; National Geographic, American Government, Cengage Learning Inc. 2022; AP Government and Politics: American Government – Stories of a Nation, bfw publishers 2021.*

- Public Comment:
- Board Discussion:
- Move: _____ Second: _____ Vote: _____

- C. Adoption of Resolution No. 1125 – Making Findings and Ratifying the Filing of a Notice of Exemption from the California Environmental Quality Act (CEQA) Regarding an Energy Services Agreement **81**
 Recommendation: (Joshua Jorn, Assistant Superintendent) The District Administration recommends that the Board review and adopt Resolution No. 1125 Making Findings and

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Ratifying the Filing of a Notice of Exemption from the California Environmental Quality Act (CEQA) Regarding an Energy Services Agreement.

- Public Comment:
- Board Discussion:
- Move: _____ Second: _____ Vote: _____

D. Adoption of Resolution No. 1127 – Establish Fund 25 for Developer Fees **85**

Recommendation: (Joshua Jorn, Assistant Superintendent) The District Administration recommends that the Board review and adopt Resolution No. 1127 to Establish a Capital Facilities Fund 25 with County Treasury for the revenue generated through the collection of Developer Fees.

- Public Comment:
- Board Discussion:
- Move: _____ Second: _____ Vote: _____

E. Adoption of Resolution No. 1128 – Authorize to Sign CalSHAPE Grant Agreement **88**

Recommendation: (Joshua Jorn, Assistant Superintendent) The District Administration recommends that the Board review and adopt Resolution No. 1128 to allow the PGUSD Superintendent or designee to sign the CalSHAPE Grant Agreement.

- Public Comment:
- Board Discussion:
- Move: _____ Second: _____ Vote: _____

F. Adoption of Resolution No. 1129 – Classified School Employee Week **91**

Recommendation: (Claudia Arellano, Director II of Human Resources) The Administration recommends that the Board review and adopt Resolution No. 1129 proclaiming May 19-25, 2024 as “Classified School Employee Week.”

- Public Comment:
- Board Discussion:
- Move: _____ Second: _____ Vote: _____

G. Adoption of Resolution No. 1130 – “California Day of the Teacher” & “Teacher Appreciation Week” **93**

Recommendation: (Claudia Arellano, Director II of Human Resources) The Administration recommends that the Board review and adopt Resolution No. 1130 proclaiming the first week of May 6, 2024-May 10, 2024, as Teacher Appreciation Week and specifically Wednesday, May 8, 2024, as “California Day of the Teacher” (EC 37222.10).

- Public Comment:
- Board Discussion:
- Move: _____ Second: _____ Vote: _____

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H. Adoption of Resolution No. 1131 – Designating Authorized Agents to the Monterey & San Benito Property and Liability (JPA) **96**

Recommendation: (Joshua Jorn, Assistant Superintendent) The District Administration recommends that the Board review and adopt Resolution No. 1131 Designating Authorized Agents to represent our District in the Monterey & San Benito Property & Liability Joint Powers Authority (JPA).

- Public Comment:
- Board Discussion:
- Move: _____ Second: _____ Vote: _____

I. Contract with School Facility Consultants **98**

Recommendation: (Joshua Jorn, Assistant Superintendent) The District Administration recommends that the Board review and approve the Contract with School Facility Consultants (SCF).

- Public Comment:
- Board Discussion:
- Move: _____ Second: _____ Vote: _____

J. Approval of Commercial Energy (CE) Natural Gas Purchase Agreement **108**

Recommendation: (Joshua Jorn, Assistant Superintendent) The District Administration recommends that the Board review and approve the Commercial Energy (CE) Natural Gas Purchase Agreement for the 2024-25 school year.

- Public Comment:
- Board Discussion:
- Move: _____ Second: _____ Vote: _____

K. Contract for Services with Ausonio, Inc. – PGHS Roofing & Painting Project **121**

Recommendation: (Jon Anderson, Director of Maintenance, Operations, and Transportation) The District Administration recommends that the Board review and approve the Contract for Services with Ausonio, Inc.

- Public Comment:
- Board Discussion:
- Move: _____ Second: _____ Vote: _____

L. Contract for Services with Randazzo Enterprises, Inc. – PGHS Modular Removal **131**

Recommendation: (Jon Anderson, Director of Maintenance, Operations, and Transportation) The District Administration recommends that the Board review and approve the Contract for Services with Randazzo Enterprises, Inc.

- Public Comment:

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- Board Discussion:
- Move: _____ Second: _____ Vote: _____

- M. Contract for Services with Ausonio, Inc. – FGES Roofing & Painting Project **142**
 Recommendation: (Jon Anderson, Director of Maintenance, Operations, and Transportation) The District Administration recommends that the Board review and approve the Contract for Services with Ausonio, Inc.

- Public Comment:
- Board Discussion:
- Move: _____ Second: _____ Vote: _____

- N. Contract for Services with Hart Floor Co. – PGHS & PGMS Gym Floor Refinishing **152**
 Recommendation: (Jon Anderson, Director of Maintenance, Operations, and Transportation) The District Administration recommends that the Board review and approve the Contract for services with Hart Floor Co.

- Public Comment:
- Board Discussion:
- Move: _____ Second: _____ Vote: _____

- O. Proposed Board Calendar/Future Meetings **162**
 Recommendation: (Dr. Linda Adamson, Superintendent) The District Administration recommends that the Board review and possibly modify meeting dates on the attached calendar and determine, given information from the Administration, whether additional Board dates or modifications need to be established.

- Public Comment:
- Board Discussion:
- Move: _____ Second: _____ Vote: _____

IX. INFORMATION/DISCUSSION

- A. TK Registration Policy – AR 6170.1 **167**
 Recommendation: (Dr. Linda Adamson, Superintendent) The District Administration recommends the Board review TK Registration Administrative Regulation 6170.1 recently reviewed by the Board Policy Committee on January 24, 2024.

- Public Comment:
- Board Comment:
- Direction: _____

- B. Board Policy Updates **171**

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Recommendation: (Dr. Linda Adamson, Superintendent) The District Administration recommends the Board review the Board Policy, Administrative Regulation, and Board Bylaw updates recently reviewed by the Board Policy Committee on April 16, 2024.

- Public Comment:
- Board Comment:
- Direction: _____

C. 2024-25 Prequalified Vendors List **622**

Recommendation: (Joshua Jorn, Assistant Superintendent) The District Administration recommends that the Board review the PGUSD Prequalified Vendors List for the 2024-25 fiscal year.

- Public Comment:
- Board Comment:
- Direction: _____

D. PGUSD Threat & Risk Assessment – Update **625**

Recommendation: (Joshua Jorn, Assistant Superintendent) The District Administration recommends that the Board review and consider the updated information on the PGUSD Threat & Risk Assessment, initially presented during the April 18th Board Study Session.

- Public Comment:
- Board Comment:
- Direction: _____

E. Future Agenda Items

Recommendation: (Dr. Linda Adamson, Superintendent) The Administration recommends that the Board review the list of future agenda items and direct Administration to add items to the list and/or schedule items for a particular agenda.

- Public Comment:
- Board Comment:
- Direction: _____

X. **ADJOURNMENT**

Next regular Board Meeting: May 23, 2024

Next special Board Meeting: May 28, 2024

- Student Learning and Achievement
- Health and Safety of Students and Schools
- Credibility and Communication
- Fiscal Solvency, Accountability and Integrity

- Consent
- Action/Discussion
- Information/Discussion
- Public Hearing

SUBJECT: Minutes of April 4, 2024 Board Meeting

DATE: May 9, 2024

PERSON(S) RESPONSIBLE: Dr. Linda Adamson, Superintendent

RECOMMENDATION:

The District Administration recommends that the Board review and approve the minutes as presented.

BACKGROUND:

The District Administration records all Pacific Grove Unified School District Board Meetings.

INFORMATION:

All meetings of the governing board of any school district shall be open to the public and shall be conducted in accordance with Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code. All actions authorized or required by law of the governing board shall be taken at the meetings and shall be subject to the following requirements:

- (a) Minutes shall be taken at all of those meetings, recording all actions taken by the governing board. The minutes are public records and shall be available to the public.
- (b) An agenda shall be posted by the governing board, or its designee, in accordance with the requirements of Section 54954.2 of the Government Code. Any interested person may commence an action by mandamus or injunction pursuant to Section 54960.1 of the Government Code for the purpose of obtaining a judicial determination that any action taken by the governing board in violation of this subdivision or Section 35144 is null and void.

FISCAL IMPACT:

N/A

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 YouTube: https://www.youtube.com/watch?v=gvP_c4E9uWs

I. OPENING BUSINESS

A. Call to Order – 4:00 PM

B. Land Acknowledgement

Good evening; As we begin this meeting, it's important to pay respect to and acknowledge that we are on the traditional land of the **Ohlone, Costanoan & Esselen** people and additionally pay respect to elders both past and present.

C. Roll Call

Trustee(s) Present: President Brian Swanson (BS)
 Trustee Carolyn Swanson (CS)
 Trustee Jennifer McNary (JM)
 Trustee Laura Ottmar (LO)
 Clerk Dr. Elliott Hazen (EH)

Trustee(s) Virtual at Alternate Location: N/A

Trustee(s) Absent: N/A

Administration Present: Superintendent Dr. Linda Adamson (LA)
 Assistant Superintendent Joshua Jorn (JJ)

Board Recorder: Lucero Villegas

Student Representative: Dario DiMaggio/Dayci Dishny (SR)

D. Adoption of Agenda

- Public Comment: N/A
- Board Discussion:
 - JM – Requested the Public Hearing Item A Resolution & Citizens Oversight Committee Item B both pulled and postponed
 - CS – Motion to adopt the Adopt the Agenda; Postpone the two items
- Move: CS Second: JM Vote: Motion CARRIED by vote 5 – 0

II. INFORMATION/DISCUSSION

➤ YouTube 10:12-1:42:31

A. School Safety Threat and Risk Assessment Board Study Session

Recommendation: (Dr. Linda Adamson, Superintendent) The District Administration recommends that the Board discuss the District's long-term plan to develop safer and healthier school environments through a districtwide Site Safety and Security Threat Vulnerability Risk Assessment. Staff along with M.C. Kimball and Associates will also cover the final assessment and executive summaries which will include site and districtwide findings; Specifically, recommended policy adjustments, additional training requirements, and facilities infrastructure recommendations.

- *Principal Barbara Martinez introduced Study Session*

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- *M.C. Kimball and Associates Presentation*
- Public Comment:
 - Virtual Speaker – What is the plan for a non-violent intruder? What are we going to do right now? Staff trainings need to be monitored
- Board Comment:
 - LO – What is being done now in terms of safety protocols? LA answered that based on the reported information, priorities and adjustments will be implementing recommendations going forward (securing campuses); Safety Committees will be a key component to track adjustments and practices
 - LO – How are substitutes trained? LA stated she will work with HR and Safety Team to have practices in place – Principal Martinez added that substitutes are trained
- Direction: The Board requested a top five site recommendations implementation plan with cost estimates and priorities highlighted.

III. CLOSED SESSION

➤ YouTube 1:42:31-2:06:10

A. Identify Closed Session Topics

The Board of Education will meet in Closed Session to consider matters appropriate for Closed Session in accordance with Education and Government Code.

1. Negotiations – Collective Bargaining Session planning and preparation with the PGTA for 2023-2024 [Government Code § 3549.1 (d)] Executive session between the public school employer and its designated representatives, Buck Roggeman and Dr. Linda Adamson, for the purpose of giving direction and updates.
2. Negotiations – Collective Bargaining Session planning and preparation with the CSEA for 2023-2024 [Government Code § 3549.1 (d)] Executive session between the public school employer and its designated representatives, Claudia Arellano and Dr. Linda Adamson, for the purpose of giving direction and updates.
3. Public Employee Discipline/Dismissal/Release/Leave/Complaint [Government Code § 54957]
4. Superintendent 120 Day Report

B. Public Comment on Closed Session Topics

- a. PGHS Student – Presented a petition with 140 student signatures requesting Mr. Justus Grate to return to school site, plus spoke against the teachers' suspension
- b. Second PGHS Student – Expressed concerns for firing Mr. Grate

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- c. Third PGHS Student – Content missed in class has been detrimental to student learning; Questioned why there are no dividers between bathroom urinals
- d. Fourth PGHS Student – The absence of Mr. Grate has students struggling to prepare for upcoming AP exam(s) and future academics
- e. Fifth PGHS Student – Commended Mr. Grate’s passion for teaching
- f. Sixth PGHS Student – Mr. Grate is an accommodating and inspiring teacher, and has encountered older adults who also commend teacher
- g. Matthew Schulz – Offended that Board asked public to not applause after Public Comment(s); Asked why students with well-connected parents are being heard over rest of students
- h. Virtual Speaker – Two students who graduated from PGHS stated they enjoyed having Mr. Grate as a teacher and that people are too sensitive; All past students vouch for Mr. Grate and his teaching style
- i. Chief of Labor and Employee Relations for the Pacific District of VBA – The worth of the majority of the children in support of Mr. Grate are not less important than the few that were offended – What are we preparing students for if we cannot tolerate the most mild of jokes and discussions? Speaker moved from Marina to Pacific Grove specifically for the schools; If Mr. Grate is removed, it would be a travesty and a miscarriage of justice
- j. Seventh PGHS Student – Pointed out the amount of students that showed up to Board Meeting to support Mr. Grate
- k. In-Person Speaker – Spoke about teachers and educations standards; The matter with Mr. Grate is a Human Resource matter and presented examples against said teacher

C. Adjourn to Close Session

IV. RECONVENE IN OPEN SESSION

➤ YouTube 2:06:11-2:23:29

A. Report Action Taken in Closed Session:

1. Negotiations – Collective Bargaining Session planning and preparation with the PGTA for 2023-2024 [Government Code § 3549.1 (d)] Executive session between the public school employer and its designated representatives, Buck Roggeman and Dr. Linda Adamson, for the purpose of giving direction and updates.
 - *Information was received*
2. Negotiations – Collective Bargaining Session planning and preparation with the CSEA for 2023-2024 [Government Code § 3549.1 (d)] Executive session between the public school employer and its designated representatives, Claudia Arellano and Dr. Linda Adamson, for the purpose of giving direction and updates.

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YouTube: https://www.youtube.com/watch?v=gvP_c4E9uWs

- *Information was received*
- 3. Public Employee Discipline/Dismissal/Release/Leave/Complaint [Government Code § 54957 subdivision(b)]
 - *Information was received & direction was given*
- 4. Superintendent 120 Day Report
 - *The Board will return to Closed Session to receive information*

B. Pledge of Allegiance

C. Student Recognition Presentations

- a. Student Board Representatives
 - i. *Dayci Dishny & Dario DiMaggio*
- b. Student State Seal of Biliteracy
 - i. *Forty-two Students with high-level of proficiency in a second language*
- c. Photos & 5-Minute Break

V. **COMMUNICATIONS**

- YouTube 2:23:30-2:35:31

A. Written Communication

- BS:
 - Letter relating to High School Photography Program
 - Press Letter relating to ABM Solutions Contract
 - Letter from Council on American Islamic Relations relating to numerous items including celebration of Ramadan and continuing conflict in Gaza
 - Letter relating to a non-credible threat and requesting an update on work with M.C. Kimball and Associates
 - Numerous letters relating to District employee
 - Letter relating to site improvements, particularly classroom 39
 - Letter relating to TK Registration for 2024-25
 - Letter requesting an update on shade structures
 - Letter relating to locked exit at PG Adult School
 - Letter relating to non-working Zoom link for March 21 Board Meeting
 - E-mail about Breaker Bots
 - Several Letters relating to Public Comment on March 21 Board Meeting

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- Letter sharing numerous student awards received in the Scholastic Arts and Writing Awards
- CS:
 - Kudos to all people who contributed to FGE Field Trips
 - E-mail regarding TK Classroom Placement
 - E-mail about Small School District Advisory Team
 - E-mail about Cultural Proficiency Public Comments
 - E-mail with KUDOS for Cultural Proficiency Presentation
 - E-mail regarding Student Voices Event
 - E-mail for PG Pops Orchestra Concert
 - E-mail to be a Spelling Bee Judge
 - Invitation to California Endowment Retirement Event
- JM:
 - E-mail regarding upcoming Human Trafficking Symposium by MCOE
- SR (PGHS):
 - Sadie Hawkins Dance
 - Breaker Bots won Second Place in Tournament
 - Drama is hosting Mean Girls Play
 - Art Students received 2024 Youth Awards
 - WASC visited school site
 - Softball, baseball, tennis, swimming, track and lacrosse all have games
 - Celebrating Arab American Heritage Month in April

B. Board Member Comments

- EH:
 - Interviewee at PGHS Mock Exercise
- JM:
 - Attended PGMS Talent Show

Trustee Ottmar exited Board Meeting

C. Superintendent Report

- PGHS went thru WASC for accreditation process; CHS will be next
 - WASC highlighted that PGHS teaching staff stood out as notable strength
 - WASC noted real-world experiential learning and community partnerships
 - WASC pointed out foundation of equitable assessment and coursework
 - WASC will be presenting the official report and outcome in June
- Congratulations to the winners of the 2024 Scholastic Awards in Photography – 48 Awards
- Congratulations to the winners honored for artistic achievements at Youth Arts Awards of 2024 – 11 Awards

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- Superintendent part of FGE Spelling Bee with Trustee McNary, PGHS Music Vocal and Jazz Band Concert & PGHS Rotary Track Meet

VI. INDIVIDUALS DESIRING TO ADDRESS THE BOARD

- YouTube 2:35:32-2:39:29

Public comment on any item of interest to the public that is within the Board's jurisdiction will be heard. The Board will also take public comment on each specific action item prior to Board action on each item. Any individual wishing to comment on a specific item on the current agenda are kindly asked to wait until that item is being discussed. The Board will allow a reasonable amount of time for public comment on each agenda item not to exceed 3 minutes per speaker and no more than 20 minutes per agenda item, pursuant to Board Policy 9323. Speakers will be called sequentially until there is no speaker coming forward on the agenda item or the amount of time allocated for the agenda item has elapsed, whichever comes first. This meeting of the Board of Education is a business meeting of the Board, conducted in public. Please note that the Brown Act limits the Board's ability to respond to public comment. The Board may choose to direct items to the Administration for action or place an item on a future agenda.

A. PGUSD Staff Comments (Non-Agenda Items)

- Assistant Principal Haggquist: Added to WASC process – Successful because of the involvement and collaboration of entire school community

B. Community Members (Non-Agenda Items)

- Beth Shamas: Encouraged the Board to start the Board Meetings on time

VII. CONSENT AGENDA

- YouTube 2:39:30-2:43:12

*Items listed under the Consent Agenda are considered to be routine and/or may have been discussed at a previous Board meeting. **There is no discussion of these items prior to the Board vote unless a member of the Board requests specific items be discussed and/or removed from the Consent Agenda.** Each item on the Consent Agenda approved by the Board of Trustees shall be deemed to have been considered in full and adopted as recommended.*

- A. Minutes of March 4, 2024 Board Meeting **60**
Recommendation: (Dr. Linda Adamson, Superintendent) The District Administration recommends that the Board review and approve the minutes as presented.
- B. Minutes of March 7, 2024 Board Meeting **64**
Recommendation: (Dr. Linda Adamson, Superintendent) The District Administration recommends that the Board review and approve the minutes as presented.
- C. Cash Receipts Report #14 **75**
Recommendation: (Joshua Jorn, Assistant Superintendent) The District Administration recommends that the Board review and approve the Cash Receipts Report #14.
- D. Acceptance of Donations **77**
Recommendation: (Joshua Jorn, Assistant Superintendent) The District Administration recommends that the Board review and accept the Acceptance of Donations.

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- E. Out of County Overnight Activities 78
 Recommendation: (Joshua Jorn, Assistant Superintendent) The District Administration recommends that the Board review and approve the Out of County or Overnight Activities.
- F. Warrant Schedule 665 93
 Recommendation: (Joshua Jorn, Assistant Superintendent) The District Administration recommends that the Board review and approve Warrant Schedule 665.
- G. Personnel Report 95
 Recommendation: (Claudia Arellano, Director II of Human Resources) The District Administration recommends that the Board review and approve the Personnel Report.
- H. Electronic Equipment Surplus 98
 Recommendation: (Louis Algaze, Director of Technology Systems) The District Administration recommends that the Board review and approve the disposal of obsolete electronic equipment.
- I. Monterey County Behavioral Health (MCBH) – Memorandum of Understanding (MOU) Amendment #1 (A-16397) 105
 Recommendation: (Yolanda Cork-Anthony, Director of Student Services) The District Administration recommends that the Board review and approve the amended MOU between the County of Monterey on behalf of the Monterey County Health Department, Behavioral Health Bureau, and the Monterey County Special Education Local Plan Area (SELPA).
- J. Contract for Services with Peninsula Messenger Services 113
 Recommendation: (Joshua Jorn, Assistant Superintendent) The District Administration recommends that the Board review and approve the Contract for Services with Peninsula Messenger Service to provide delivery service.
- K. Contract for Services with Uretsky Investigation Security for 2023-2024 119
 Recommendation: (Joshua Jorn, Assistant Superintendent) The District Administration recommends that the Board review and approve the Contract for Services with Uretsky Investigation Security to provide residency investigation services for the 2024-25 fiscal year.
- L. Contract for Services with David Sonderegger 125
 Recommendation: (Joshua Jorn, Assistant Superintendent) The District Administration recommends that the Board review and approve the Contract for Services with David Sonderegger to provide E-rate filing services for the 2024-25 fiscal year.
- M. Contract for Services with DJ John Upshaw – Pacific Grove Middle School 131
 Recommendation: (Sean Roach, Pacific Grove Middle School Principal) The District Administration recommends that the Board review and approve the Contract for Services with Monterey DJ John Upshaw.
- N. Contract for Services with DJ John Upshaw – Pacific Grove High School 137

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Recommendation: (Lito Garcia, Pacific Grove High School Principal) The District Administration recommends that the Board review and approve the Contract for Services with Monterey DJ John Upshaw.

- O. Contract for Services with MY Museum Wheelie Mobile Contract **143**
 Recommendation: (Anna Darnell, Teacher) The District Administration recommends that the Board review and approve the Contract for Services with MY Museum to hire the Wheelie Mobile for Robert H. Down Elementary School.
- P. Contract for Services with Carmen Ferguson – Heartbank Deposits Photography **151**
 Recommendation: (Sean Roach, Pacific Grove Middle School Principal) The District Administration recommends that the Board review and approve the Contract for Services with Carmen Ferguson for the Promotion Dance.
- Q. Contract for Services with the Santa Cruz Beach Boardwalk **157**
 Recommendation: (Sean Roach, Pacific Grove Middle School Principal) The District Administration recommends that the Board review and approve the Contract for Services with the Santa Cruz Beach Boardwalk.
- R. Contract for Services with Paul Contos – PGMS Music Festival **163**
 Recommendation: (Sean Roach, Pacific Grove Middle School Principal) The District Administration recommends that the Board review and approve the Contract for Services with Paul Contos to work as an adjudicator at the Music Festival.
- S. Contract for Services with Robert Klevan – PGMS Music Festival **169**
 Recommendation: (Sean Roach, Pacific Grove Middle School Principal) The District Administration recommends that the Board review and approve the Contract for Services with Robert Klevan to work as an adjudicator at the Music Festival.
- T. Contract for Services for Don Beto’s Taco Truck – Ratification **175**
 Recommendation: (Lito Garcia, Pacific Grove High School Principal) The District Administration recommends that the Board ratify and approve the request for the Rotary Invitational Track Meet.
- U. AVID Spring College and Career Visit (Out of County Trip) – Ratification **181**
 Recommendation: (Joshua Jorn, Assistant Superintendent) The District Administration recommends that the Board ratify and approve the request of a visit for both Pacific Grove Middle School and Pacific Grove High School.
- Public Comment: N/A
 - Board Discussion:
 - CS – Requested to pull Item B
 - Move: CS Second: EH Vote: PASSED by vote 4 – 0 minus Consent Item B
Trustee Ottmar Absent

PACIFIC GROVE UNIFIED SCHOOL DISTRICT
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❖ **CONSENT: Item B**

- Board Discussion:
 - CS – Minutes of March 7th Board Meeting note stated promise made to have Cultural Proficiency Policies one-page draft by end of March – It is now beginning of April
 - LA – The draft is still a priority but is taken longer than expected – It won't be ready for the April 16th Policy Committee, but will be ready before next school year
- Public Comment: N/A
- Move: BS Second: JM Vote: Motion CARRIED by vote 4 – 0
Trustee Ottmar Absent

VIII. INFORMATION/DISCUSSION

➤ YouTube 2:43:13-3:24:03

- B. City of Pacific Grove – School Resource Officer (SRO) Update **184**
 Recommendation: (Dr. Linda Adamson, Superintendent) The District Administration recommends that the Board receive information regarding the School Resource Officer (SRO).

- Public Comment:
 - Assistant Principal Haggquist – Commended SRO Officer Andrea Hill – Outstanding relationships built with students and staff
 - Principal Martinez – Schools and the community are always a safer place with an SRO on-campus
 - Social Work College Student – Does not agree with implementation of DARE program – Does not agree with presence of an SRO on school sites
 - Mary Riedel (Interim Principal at RHD) – Officer Hill is an amazing SRO – Tremendous asset to staff and students
 - Buck Roggeman (Director of Curriculum and Special Projects) – Question on survey answered that 74% of students agreed that presence of SRO makes them feel safer; Officer Hill always springs into action when needed
 - Principal Arbrun – Commended SRO Hill for always being approachable and helpful to students and staff
 - Chief Cathy Madalone (Virtual Speaker) – Proud of Officer Hill – Appreciates partnership with PGUSD
 - Principal Roach (Virtual Speaker) – In eleven years working for District, Officer Hill has been the best SRO – safe, fun, and approachable
- Board Comment:
 - SR – Officer Hill is awesome and all students love her
 - CS – Officer Hill is passionate about community policing and is exceptional at her job; MOU with the City of PG should be more clear – District staff should reach out to community partners like NAACP/BLAAC to include them in the conversation; We need to develop systems for the future

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- JM – Officer Hill is a positive force on school site(s) – Strengthen MOU to bring back in May
- EH – Not fully sold on concept of SRO – Challenged District and City of PG to strengthen MOU
- BS – Officer Hill is a tremendous asset; Can the MOU be presented as a Study Session?
 - LA answered that the MOU language can be brought forward for May 2024 Board Meeting – Identify the role of an SRO before the next school year
- Direction: District to set clear guidelines for the DARE program and the language for the MOU with the City of PG for future of SRO

IX. PUBLIC HEARING – ITEM A (ACTION/DISCUSSION)

205

➤ YouTube 3:24:04-3:24:20

Public Hearing: The District’s Governing Board Will Hold a Public Hearing on the Proposed Adoption of a Developer Fee Justification Study for the District and an Increase in the Statutory School Facility Fee (“Level I Fee”) on New Residential and Commercial/Industrial Developments as Approved by the State Allocation Board on January 24, 2024. The Adoption of the Study and the Increase of the Level I Fee are Necessary to Fund the Construction of Needed School Facilities to Accommodate Students due to Development.

Open Public Hearing: N/A Close Public Hearing: N/A

A. Adoption of Resolution No. 1122 – Increase to Level I Levy of Developer Fees

Recommendation: (Joshua Jorn, Assistant Superintendent) The District Administration recommends that the Board review and adopt Resolution No. 1122 to Increase Developer Fees to meet the State Allocation Boards Level I Fee Schedule.

- Public Comment: N/A – Item moved to future Board Meeting
- Board Discussion: N/A – Item moved to future Board Meeting
- Move: N/A Second: N/A Vote: N/A

X. PUBLIC HEARING – ITEM B (INFORMATION/DISCUSSION)

213

➤ YouTube 3:24:21-3:39:22

Public Hearing: Pursuant to Education Code Section 60119 and 60422, the District’s Governing Board Will Hold a Public Hearing on the Proposed Adoption of the following three textbooks for the Pacific Grove High School: *Hole’s Essentials of Human Anatomy and Physiology, High School 2nd Edition*; *National Geographic, American Government*,

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Cengage Learning Inc. 2022; AP Government and Politics: American Government – Stories of a Nation, bfw publishers 2021.

Open Public Hearing: April 4, 2024 (8:41 PM) Close Public Hearing: April 4, 2024 (8:52 PM)

A. Pacific Grove High School Textbooks

Recommendation: (Buck Roggeman, Director of Curriculum and Special Projects) The District Administration recommends that the Board receive information regarding the three textbooks to be used by the Pacific Grove High School.

- Public Comment:
 - Ms. Leona (AP Teacher) – Thank you for considering recommended textbooks – Older textbooks were no longer politically correct; Complement to College Board Website; Added that Leadership Class is holding a Voter Registration Drive with Monterey County at end of month
- Board Discussion:
 - CS – Recommended that Board review Textbooks Policy

XI. ACTION/DISCUSSION

➤ YouTube 3:39:23-3:48:58

B. Measure D & A Citizens Oversight Committee

223

Recommendation: (Jon Anderson, Director of Maintenance, Operations, and Transportation) The District Administration recommends that the Board review and select new members for the Citizens Oversight Committee.

- Public Comment: N/A – Item moved to future Board Meeting
- Board Discussion: N/A – Item moved to future Board Meeting
- Move: N/A Second: N/A Vote: N/A

C. Adoption of Resolution No. 1123 – Order of Election for November 5, 2024

225

Recommendation: (Dr. Linda Adamson, Superintendent) The District Administration recommends that the Board review and adopt Resolution No. 1123 Ordering an Election, Requesting the County Elections Department to Conduct the Election, and Requesting Consolidation with the November 5, 2024 General Election.

- Public Comment: N/A
- Board Discussion:
 - CS – Box on form allows District to pay for Candidate’s Statement – Thank You
- Move: JM Second: EH Vote: Motion CARRIED by vote 4 – 0
Trustee Ottmar Absent

D. Adoption of Resolution No. 1124 – Asian American Pacific Islander Heritage Month

231

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REGULAR MEETING MINUTES: APRIL 4, 2024
YouTube: https://www.youtube.com/watch?v=gvP_c4E9uWs

Recommendation: (Dr. Linda Adamson, Superintendent) The District Administration recommends that the Board review and adopt Resolution No. 1124 Proclaiming May 2024 as Asian American Pacific Islander Heritage Month.

Resolution No. 1124 Presented by President Brian Swanson

- Public Comment: N/A
- Board Discussion:
- Move: BS Second: CS Vote: Motion CARRIED by vote 4 – 0
Trustee Ottmar Absent

E. Proposed Board Calendar/Future Meetings **234**

Recommendation: (Dr. Linda Adamson, Superintendent) The District Administration recommends that the Board review and possibly modify meeting dates on the attached calendar and determine, given information from the Administration, whether additional Board dates or modifications need to be established.

- Public Comment: N/A
- Board Discussion:
 - EH – Start Board Meeting at 5 PM – District staff to make correction on Board Calendar
- Move: EH Second: JM Vote: Motion CARRIED by vote 4 – 0
Trustee Ottmar Absent

XII. INFORMATION/DISCUSSION

➤ YouTube 3:48:59-3:53:23

D. Review of Legal Fees **239**

Recommendation: (Joshua Jorn, Assistant Superintendent) The District Administration recommends that the Board review legal fees expended from July 1, 2023 through February 29, 2024.

- Public Comment: N/A
- Board Comment:
 - CS – Clarified legal fees are from February of 2024 – JJ confirmed amount
 - EH – How does this balance compare to last year? JJ answered it will probably be in the excess of over \$150,000 compared to last school year
- Direction: N/A

E. Future Agenda Items

Recommendation: (Dr. Linda Adamson, Superintendent) The District Administration recommends that the Board review the list of future agenda items and direct Administration to add items to the list and/or schedule items for a particular agenda.

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- Public Comment: N/A
- Board Comment:
 - CS – M.C. Kimball will be presented in future meeting – LA proposed May 9th Board Meeting
- Direction: N/A

XIII. ADJOURNMENT – Return to Closed Session

Next special Board Meeting will be held on April 18, 2024

Next regular Board Meeting will be held on May 9, 2024

Adjourned – 10:51 PM

Approved and submitted:



Superintendent Dr. Linda Adamson
Secretary to the Board

- Student Learning and Achievement
- Health and Safety of Students and Schools
- Credibility and Communication
- Fiscal Solvency, Accountability and Integrity

- Consent
- Action/Discussion
- Information/Discussion
- Public Hearing

SUBJECT: Cash Receipts Report #16

DATE: May 9, 2024

PERSON(S) RESPONSIBLE: Joshua Jorn, Assistant Superintendent

RECOMMENDATION:

The District Administration recommends that the Board review and approve the Cash Receipts #16.

BACKGROUND:

The attached listing identifies Cash Receipts received by the District during the period of April 3, 2024 to April 28, 2024.

INFORMATION:

The receipt and deposit of the identified funds were conducted consistent with District policies and procedures within the appropriate revenue accounts.

PGUSD
2023-24 BOARD REPORT # 16 Cash Receipts

April 3, 2024 - April 28, 2024

Date	Num	Name	Account	Amount
Apr 3 - 28, 24				
04/03/2024	22335	PGHS	CTE Donations	1,200.00
04/03/2024	22336	PGHS	CTE Donations	3,120.00
04/04/2024	22337	RETIREE INSURANCE	RETIREE INSURANCE	306.00
04/05/2024	22338	ADULT EDUCATION	ADULT EDUCATION	49,431.31
04/05/2024	22339	ADULT EDUCATION	ADULT EDUCATION	1,255.00
04/05/2024	22340	ADULT EDUCATION	ADULT EDUCATION	64,296.74
04/15/2024	22341	RETIREE INSURANCE	RETIREE INSURANCE	4,828.22
04/15/2024	22342	STATE OF CALIFORNIA	MEDI-CAL	2,677.71
04/15/2024	22343	PGMS	DONATION	250.00
04/15/2024	22344	RETIREE INSURANCE	RETIREE INSURANCE	111.00
04/15/2024	22345	MONTEREY BAY CHARTER SCHOOL	RENT	21,790.79
04/15/2024	22346	MONTEREY BAY CHARTER SCHOOL	UTILITIES	6,637.91
04/15/2024	22347	MONTEREY BAY CHARTER SCHOOL	UTILITIES	3,162.30
04/15/2024	22348	STATE OF CALIFORNIA	CAFETERIA	91,271.71
04/16/2024	22349	ADULT EDUCATION	ADULT EDUCATION	565.00
04/16/2024	22350	ASE - After School Enrichment	MISC	-85.00
04/17/2024	22351	BASRP-FG	BASRP	393.00
04/17/2024	22352	BASRP-RD	BASRP	719.00
04/17/2024	22353	STATE OF CALIFORNIA	CAFETERIA	25,316.22
04/17/2024	22354	Robert Down Elementary	Birthday Books	40.00
04/17/2024	22355	Transportation	BUS PASS	10.00
04/18/2024	22356	PGHS	CTE Donations	100.00
04/18/2024	22357	RETIREE INSURANCE	RETIREE INSURANCE	127.00
04/19/2024	22358	MISC	REFUND	18,631.90
04/19/2024	22359	PGMS	FIELD TRIP	1,000.00
04/19/2024	22360	PGMS	FIELD TRIP	740.00
04/19/2024	22361	PGMS	FIELD TRIP	1,278.75
04/19/2024	22362	PGMS	FIELD TRIP	750.00
04/19/2024	22363	PGMS	FIELD TRIP	1,075.00
04/19/2024	22364	PGMS	FIELD TRIP	920.00
04/19/2024	22365	Transportation	BUS PASS	10.00
04/22/2024	22366	CAFETERIA	CAFETERIA	319.00
04/22/2024	22367	STATE OF CALIFORNIA	MEDI-CAL	2,519.90
04/22/2024	22368	PGMS	FIELD TRIP	625.00
04/22/2024	22369	BASRP-FG	BASRP	6,634.49
04/22/2024	22370	BASRP-RD	BASRP	8,661.12
04/23/2024	22371	Developer Fees	Developer Fees	5,745.60
04/23/2024	22372	Robert Down Elementary	Birthday Books	20.00
04/23/2024	22373	Robert Down Elementary PTA	DONATION	2,000.00
04/25/2024	22374	ADULT EDUCATION	ADULT EDUCATION	177.00
04/25/2024	22375	PGMS	FIELD TRIP	1,840.00
04/25/2024	22376	Robert Down Elementary	Brick Fundraiser	1,040.00
04/25/2024	22377	RETIREE INSURANCE	RETIREE INSURANCE	1,576.22
Apr 3 - 28, 24				333,087.89

- Student Learning and Achievement
 Health and Safety of Students and Schools
 Credibility and Communication
 Fiscal Solvency, Accountability and Integrity

- Consent
 Action/Discussion
 Information/Discussion
 Public Hearing

SUBJECT: Acceptance of Donations

DATE: May 9, 2024

PERSON(S) RESPONSIBLE: Joshua Jorn, Assistant Superintendent

RECOMMENDATION:

The District Administration recommends that the Board review and accept the donations referenced below.

INFORMATION:

During the past months the following donations were received:

Forest Grove Elementary School

None

Robert H. Down Elementary School

Robert Down PTA

\$2,000 (Art in Action)

Pacific Grove Middle School

CALRTA Monterey County Division 29

\$250 (Science Teacher L. McBride)

Pacific Grove High School

Norman Tuitavuki

\$50 (CTE-Art)

Angie Negrete

\$50 (CTE-Art)

Il Vecchio's Restaurant

(10) \$50 Gift cards (Student of the Month)

Amber Russell-Over the Moon Real Estate

\$8,000 (Spread your Wings Scholarship)

Pacific Grove Community High School

None

Pacific Grove Adult School /Lighthouse Preschool & Preschool Plus Co-op

Mary Prather

Sesame Street Puppets (Pre-School)

Pacific Grove Unified School District

None

- Student Learning and Achievement
- Health and Safety of Students and Schools
- Credibility and Communication
- Fiscal Solvency, Accountability and Integrity

- Consent
- Action/Discussion
- Information/Discussion
- Public Hearing

SUBJECT: Out of County or Overnight Activities

DATE: May 9, 2024

PERSON(S) RESPONSIBLE: Joshua Jorn, Assistant Superintendent

RECOMMENDATION:

The District Administration recommends that the Board review and approve the Out of County or Overnight requests.

BACKGROUND:

Board Policy 6153 requires prior approval of all school sponsored trips. Out of County/State or overnight trips require Board approval. Other trips may be approved by the Superintendent or designee.

INFORMATION:

The attached list identifies overnight/Out of County/State trip(s) being proposed by school sites at this time.

FISCAL IMPACT:

The request has an identified cost and associated source of funds. These activities expose the District to increased liability with a resulting potential for financial impact.

**PACIFIC GROVE UNIFIED SCHOOL DISTRICT
2023-24 OUT OF COUNTY OR OVERNIGHT ACTIVITIES**

<u>Date(s)</u>	<u>Destination</u>	<u>Student/ Class/ Activity</u>	<u>Transportation</u>	<u>Cost</u>	<u>Funding Source</u>
5/11/2024	Gilroy High School Gilroy, CA	PGHS Track Team CCS Final	School Bus	\$ 1,150.00	Athletics
5/24/2024	Santa Cruz Boardwalk Santa Cruz, CA	PGMS 8th Grade End of Year Class Field Trip	Charter Bus	\$ 7,695.00	Site Donations

PACIFIC GROVE UNIFIED SCHOOL DISTRICT PGHS REQUEST FOR OFF CAMPUS ACTIVITY

Board Approval is required for all out-of-county, out-of-state, or overnight activities. The request must be approved by the Board prior to the event, therefore the request must be submitted **AT LEAST FOUR (4) WEEKS PRIOR TO THE EVENT**. For ALL other activities, submit a request two weeks in advance of activity.

Date of Activity: 5/11/2024 Day of Activity: Saturday

Activity Name/ Location: CCS semi finals Address: 750 W. 10th Street

City: Gilroy County: Santa Clara

School: Pacific Grove High School Teacher/ Class or Club: PGHS track team Grade: 9-12

School Departure Time: 8 a.m. Pickup Time from Place of Activity: 5 p.m.

Name(s) of Employee(s) Accompanying Students: Ryan travaille, Tracy Travaille

Number of Adults: 3 Number of Students: 30
(Total Chaperones)

Description of Activity/ Educational Objective: CCS semi finals-need to qualify

List All Stops: Gilroy

I understand that per Board Policy 6153, I am responsible for sending and having returned prior to departure written permission from parents for this trip. cm (Teacher/Coach/Advisors Initials)

Means of Transportation: School Bus
(Board Regulation 3541.1 requirements will be complied with when using private autos: cm (Teacher/Coach/Advisors Initials))

Name(s) of Auto Drivers (subject to change): _____
 Form-OCA-1 Release of Driver Record Information is on file with the District _____
 Form-OCA-2 Personal Automobile Information is on file with the District _____
 Fingerprint clearance is on file with the District _____

Requested By: Chris Morgan Chris Morgan Date: 01/24/2024
Employee Signature (accompanying students) *(Printed Name)*

Administrative Approval/Principal: Lito M. Garcia Date: 04/04/2024

Substitute Required: No # of Days _____ Account Code (for sub): _____

Cost of Activity: \$ _____ + Cost of Transportation: \$1,150.00 + Cost of Substitute: \$ _____ = Total Cost (Est): \$1,150.00

Funds to be charged for all activity expenses: () Students () Club () PG Pride (x) Other Athletics

Account Code: 01-0000-0-1176-4200-5710-00-006-8000-0009

TRANSPORTATION DEPARTMENT/ DISTRICT OFFICE USE

Date Received: 04/24/2024 Transportation Available: Yes

Transportation Type: (x) School Bus () Charter

Approved by Transportation Supervisor: Jon Anderson Date: 04/03/2024

Approved by Assistant Superintendent: _____ Date: _____

Board Approval: _____ Date of Board Approval: _____

PACIFIC GROVE UNIFIED SCHOOL DISTRICT REQUEST FOR OFF CAMPUS ACTIVITY

Board Approval is required for all out-of-county, out-of-state, or overnight activities. The request must be approved by the Board prior to the event, therefore the request must be submitted **AT FOUR (4) WEEKS PRIOR TO THE EVENT**. For ALL other activities, submit a request two weeks in advance of activity.

Date of Activity: 5/24/2024 Day of Activity: Friday

Activity Name/ Location: Santa Cruz Beach Boardwalk Address: 400 Beach Street

City: Santa Cruz County: Santa Cruz

School: PG Middle School Teacher/ Class or Club: Jason Tovani Grade: 8th

School Departure Time: 9 a.m. Pickup Time from Place of Activity: 4 p.m.

Name(s) of Employee(s) Accompanying Students: Chip Dorey, Brandi Lopez, Lisa McBride, Mark Clark

Number of Adults: 14 Number of Students: 142
(Chaperones)

Description of Activity/ Educational Objective: End of the year celebration

List All Stops: na/

I understand that per Board Policy 6153, I am responsible for sending and having returned prior to departure written permission from parents for this trip. JT (Teacher/Coach/Advisors Initials)

Means of Transportation: Charter
(Board Regulation 3541.1 requirements will be complied with when using private autos: n/a (Teacher/Coach/Advisors Initials))

Name(s) of Auto Drivers (subject to change): _____
() Form-OCA-1 Release of Driver Record Information is on file with the District
() Form-OCA-2 Personal Automobile Information is on file with the District
() Fingerprint clearance is on file with the District

Requested By: Luciana Morgan Luciana Morgan Date: 03/04/2024
Employee Signature (accompanying students) *(Printed Name)*

Administrative Approval/Principal: Sean Roach Date: 04/04/2024

Substitute Required: No # of Days _____ Account Code (for sub): _____

Cost of Activity: \$ _____ + Cost of Transportation: \$ 7,695.00 + Cost of Substitute: \$ _____ = Total Cost (Est): \$ 7,695.00

Funds to be charged for all activity expenses: () Students () Club () PG Pride () Other _____

Account Code: 01-9005-0-1110-1000-5800-00-005-7280-0720

TRANSPORTATION DEPARTMENT/ DISTRICT OFFICE USE

Date Received: 03/04/2024 Transportation Available: Yes

Transportation Type: () School Bus (x) Charter

Approved by Transportation Supervisor: Jon Anderson Date: 04/04/2024

Approved by Assistant Superintendent: _____ Date: _____

Board Approval: _____ Date of Board Approval: _____

- | | |
|---|---|
| <input type="checkbox"/> Student Learning and Achievement | <input checked="" type="checkbox"/> Consent |
| <input type="checkbox"/> Health and Safety of Students and Schools | <input type="checkbox"/> Action/Discussion |
| <input type="checkbox"/> Credibility and Communication | <input type="checkbox"/> Information/Discussion |
| <input checked="" type="checkbox"/> Fiscal Solvency, Accountability and Integrity | <input type="checkbox"/> Public Hearing |

SUBJECT: Warrant Schedule 666

DATE: May 09, 2024

PERSON(S) RESPONSIBLE: Joshua Jorn, Assistant Superintendent for Business Services

RECOMMENDATION:

The District Administration recommends that the Board review and approve the Warrant schedule 666.

The attached listing of warrants identifies payments made by the District during the noted time period from March 01, 2024 through March 31, 2024.

INFORMATION:

Prior to the issuance of the warrants, District procedures have been followed to ensure the appropriateness of the item(s) purchased, the correctness of the amount to be paid, and the funds were available within the appropriate budget. All necessary site, department, and district authorizations have been obtained.

Please note a full copy of the warrants are available by request.

PACIFIC GROVE UNIFIED SCHOOL DISTRICT

666

March 2024

WARRANTS - PAYROLL

Certificated	Manual	03/05/24	\$	-
	Supp	03/08/24	\$	115,646.07
	Manual	03/15/24	\$	677.60
	Regular	03/29/24	\$	1,877,148.02
<u>Total Certificated</u>			<u>\$</u>	<u>1,993,471.69</u>
Classified	Manual	03/05/24	\$	-
	Supp	03/08/24	\$	60,855.77
	Manual	03/15/24	\$	6,654.34
	ETC	-		
	Regular	03/29/24	\$	808,972.19
<u>Total Classified</u>			<u>\$</u>	<u>876,482.30</u>
Other	Manual	03/05/24	\$	-
	Supp	03/08/24	\$	362.90
	Manual	03/15/24	\$	2,336.00
	Regular	03/29/24	\$	3,120.94
<u>Total Other</u>			<u>\$</u>	<u>5,819.84</u>
<u>TOTAL PAYROLL</u>			<u>\$</u>	<u>2,875,773.83</u>

WARRANTS - ACCOUNTS PAYABLE

Checks	V-Card Payment			
12822624-12822672	04600000623-04600000630	03/07/24	\$	215,381.10
12824050-12824083	04600000631-04600000634	03/14/24	\$	147,409.35
12825508-12825556	04600000635-04600000638	03/21/24	\$	225,923.06
12819125-12819163		03/28/24	\$	115,336.49
<u>TOTAL ACCOUNTS PAYABLE</u>			<u>\$</u>	<u>704,050.00</u>

- Student Learning and Achievement
- Health and Safety of Students and Schools
- Credibility and Communication
- Fiscal Solvency, Accountability and Integrity

- Consent
- Action/Discussion
- Information/Discussion
- Public Hearing

SUBJECT: Personnel Report

DATE: May 9, 2024

PERSON(S) RESPONSIBLE: Claudia Arellano, Director II, Human Resources

RECOMMENDATION:

The District Administration recommends the Board of Trustees approve the Personnel Report as presented.

BACKGROUND:

The Personnel Report outlines appointments, leaves, resignations, retirements and releases as it relates to employees' employment status with the District.

Recruitment and selection procedures include dissemination of vacancy announcements to local and surrounding public agencies, community colleges and institutions of higher education as well as posting on the District's website.

INFORMATION:

Persons listed in the Personnel Report are being recommended to the Board of Education for employment in the District. No individual is recommended to the Board of Education for employment prior to receipt of the criminal background summary.

FISCAL IMPACT:

N/A

PACIFIC GROVE UNIFIED SCHOOL DISTRICT
PERSONNEL REPORT – CERTIFICATED
May 9, 2024

APPOINTMENTS

Name	Position	FTE	Site	Status	Effective Dates
Altarmarino, Josh	Special Education Teacher	1.0	PGHS	Prob II	7/1/24
Cadigan, Michelle	Counselor	1.0	PGHS/CHS	Perm	7/1/24
Grillo, Dominique	Substitute Teacher	Various	District	On-Call	3/22/24
Herrera, Anayanzi	Substitute Teacher	Various	District	On-Call	2/9/24
Matz, Taylor	Substitute Teacher	Various	District	On-Call	1/25/24

PACIFIC GROVE UNIFIED SCHOOL DISTRICT
PERSONNEL REPORT – CLASSIFIED
May 9, 2024

APPOINTMENTS

Name	Position	FTE	Site	Status	Effective Dates
Olmos, Cristina	Payroll/Benefits Specialist	1.0	DO	Prob	4/22/24
Khatri Acharya, Sunita	CDC Instructional Assistant	Seasonal	ADE	Prob	4/1/24
Wrolstad, Katherine	Paraprofessional	.6875	RHD	Prob	4/1/24
Aguilar, Miriam	Substitute	Seasonal	District	On-Call	4/1/24
Voyne, Donilo	Substitute	Seasonal	District	On-Call	4/23/24
Arellano, Ana	Substitute	Seasonal	District	On-Call	5/1/24

RESIGNATIONS/RELEASES/RETIREMENTS

Name	Position	FTE	Site	Status	Effective Dates
Machado, Paulo	Grounds	1.0	MOT	Released	4/2/24
Rosenberg, Cori	Mental Health Therapist	1.0	RDE/FGE	Resigning	6/7/24
Corey, Mary	Occupational Therapist	0.8	DO	Resigning	5/31/2024
Haffner, Joel	Paraprofessional	1.0	RHD	Resigning	5/31/24
Cisneros, Irene	Paraprofessional	.875	PGHS	Resigning	5/31/24

LEAVES OF ABSENCE

Name	Position	FTE	Site	Leave Type	Effective Dates
Rodriguez, Alyssa	Payroll/Benefits	1.0	DO	FMLA	4/12/24 - 4/30/24

- Student Learning and Achievement
- Health and Safety of Students and Schools
- Credibility and Communication
- Fiscal Solvency, Accountability and Integrity

- Consent
- Action/Discussion
- Information/Discussion
- Public Hearing

SUBJECT: Memorandum of Understanding with Monterey Peninsula Soccer League (MPSL)

DATE: May 9, 2024

PERSON(S) RESPONSIBLE: Joshua Jorn, Assistant Superintendent

RECOMMENDATION:

The District Administration recommends the Board review and approve the 2024-25 Memorandum of Understanding (MOU) with Monterey Peninsula Soccer League (MPSL) and Pacific Grove Unified School District (PGUSD).

BACKGROUND:

The Monterey Peninsula Soccer League (MPSL) is a USSF affiliated adult amateur league founded in the early 1980's. Most games are played on Sundays at Pacific Grove High School Breaker Stadium.

INFORMATION:

This memorandum of understanding (MOU) serves as an amendment to the board-approved MOU from February 2024. Funds raised by the MPSL over 30 leagues are in part used to help develop the youth soccer programs of the Pacific Grove High School. The agreement between PGUSD and MPSL is a mutually beneficial agreement allowing the organization access to the PGHS soccer fields for its activities without having to pay facility rental fees, in exchange for continued donations and support to the PGHS soccer program. This MOU will commence July 1, 2024.

FISCAL IMPACT:

No net cost to the District.

**USER AGREEMENT BETWEEN PACIFIC GROVE UNIFIED SCHOOL DISTRICT AND
MONTEREY PENINSULA SOCCER LEAGUE (MPSL)**

This use agreement is entered into between the Pacific Grove Unified School District (“District”) and Monterey Peninsula Soccer League (“MPSL”) for the use of the outdoor athletic facilities located at Pacific Grove High School at 615 Sunset Ave, Pacific Grove, CA 93950.

A. Term: The Term of this use agreement shall be for the period July 1, 2024 through June 30, 2025, however; if it should become necessary in the District’s estimation that premises described in use agreement be used for the District purpose, this use agreement is subject to cancellation with a 60 day- notice by either party prior to the expiration of the use agreement if use agreement will not be renewed. Either party must give a 60-day notice to renew the use agreement. If renewed, the use agreement shall continue under the same conditions as before for an additional term of one year. Lost time accrued by the MPSL from PGUSD sports and programs will not be entitled to a monetary credit. The issuance of use agreement is further conditional upon MPSL’s obtaining any necessary state and/or local operating or use permits, filing and maintaining its 501(c)4status.

B. Utilities Services: Gas, electricity and water usage will not be assessed and will be waived as a condition of using the District’s facilities.

C. Waste: MPSL agrees that in using the above-described premises, MPSL will not commit any waste or suffer any waste to be committed upon the premises.

D. Fee: The amount of the use agreement is waived in exchange for the donations provided by the MPSL.

Note: If the MPSL annual donation falls below the use fees established in Group 3, of the Facility Use Fees Schedule, MPSL will pay their fee based on Group 3 use fee schedule.

E. Use: The premises described in this use agreement shall be used by MPSL exclusively for the following purpose and no other purpose without the prior written consent of the District: the purpose(s) for which this use agreement is intended are: Use of the PGHS Soccer Field, goals, corner flags, Restrooms, and other associated athletic facilities.

F. Nuisance: MPSL agrees that in using the above-described premises, not to commit any public or private nuisance or any other act or thing which might or would reasonably be construed to disturb the quiet enjoyment of nearby property.

G. Fingerprinting/Background Checks: If MPSL is in contact with students, they must comply with California Education Code Section 45125.1(g). Fingerprinting and background check fees are paid by the MPSL if required due to student interaction.

H. Trade Fixture: MPSL may not install on the premises any trade fixtures.

I. Repairs: All repairs and upgrades are at the expense of the District. At any time, the District can close the facilities down if it feels that conditions are not safe for MPSL to use. The District will provide one maintenance or custodial person one hour a day Monday through Friday. The District agrees to maintain, in good condition, the facilities.

J. Insurance: MPSL shall carry and maintain, during the entire term hereof, at its own cost and expense, the following types of insurance:

1. Comprehensive General Liability Insurance covering bodily injury and property damage in an amount no less than \$2,000,000 per occurrence, \$2,000,000 aggregate.
2. Comprehensive general liability insurance policy shall be endorsed with the language that "District, its officers and employees", is named as additional insured for all liability arising out of the operations in the performance of this use agreement.
3. The additional insured endorsement must be noted on a separate form which accompanies the Certificate of Insurance (COI).
4. The Certificate of General Liability shall list the "Certificate Holder" exactly as: "Pacific Grove Unified School District, 435 Hillcrest Avenue, Pacific Grove, CA 93950".

K. Hold Harmless: MPSL agrees to indemnify and hold harmless the District Board of Education, officers, official employees, and agents from and against any or all loss, liability, expense, claims, cost, suits, and damage of every kind, nature and description directly or indirectly arising from the performance of activities or any use of the subject facilities.

L. Parking: MPSL shall have access to the parking lots located at Pacific Grove High School during the time the MPSL is using the Breaker Stadium facilities.

PACIFIC GROVE UNIFIED SCHOOL DISTRICT

By: _____

Date: _____

Title: _____

MONTEREY PENINSULA SOCCER LEAGUE

By: _____

Date: _____

Title: _____

- Student Learning and Achievement
- Health and Safety of Students and Schools
- Credibility and Communication
- Fiscal Solvency, Accountability and Integrity

- Consent
- Action/Discussion
- Information/Discussion
- Public Hearing

SUBJECT: Contract for Services with MTH Photo Booth

DATE: May 9, 2024

PERSON(S) RESPONSIBLE: Abbie Arbrun, Forest Grove Principal

RECOMMENDATION:

The District Administration recommends the Board review and approve the contract for services with MTH Photo Booth

BACKGROUND:

MTH Photo Booth specializes in creating unique photo experiences for events with their photo booth rentals in the Monterey, San Benito, and Santa Cruz counties

INFORMATION:

MTH Photo Booth will provide a photo booth during our Falcon Fest on May 24, 2024 from 12:00pm-3:00pm.

FISCAL IMPACT:

\$500 funded by PTA donations

**PACIFIC GROVE UNIFIED SCHOOL DISTRICT
INDEPENDENT CONSULTANT AGREEMENT**

CONSULTANT MTH Photo Booth & DJ Service

SITE/DEPARTMENT Forest Grove Elementary School

SUBMITTED BY Carey O'Sullivan

FUNDING SOURCE PTA donations

AGREEMENT TOTAL AMOUNT \$500

The District employee providing the attached Independent Consultant Agreement to the person or entity who will be providing special services to the District should first do the following:

1. Provide only the Pacific Grove Unified School District's approved Independent Consultant Agreement. The Independent Consultant Agreement should be completed in lieu of signing any vendor contract for services.
2. Review the insurance requirements for the person or entity and revise the insurance provisions of the agreement accordingly.
3. Review the forms under Section 20 and determine which of those documents should be attached to the agreement.

This Independent Consultant Agreement for Special Services ("Agreement") is made between the Pacific Grove Unified School District ("District") and MTB DJ & Photo Service ("Consultant") (together, "Parties").

WHEREAS, the District is authorized by Section 53060 of the California Government Code to contract with and employ any persons for the furnishing of special services and advice in financial, economic, accounting, engineering, legal, transportation, administrative matters or other specialized services, if those persons are specially trained and experienced and competent to perform the special services required; and

WHEREAS, the District is in need of those services and/or advice; and

WHEREAS, the Consultant is specially trained and experienced and competent to perform the services required by the District, and those services are needed on a limited basis;

NOW, THEREFORE, the Parties agree as follows:

1. **Services and/Scope of work.** The Consultant shall furnish to the District the following services herein by this reference ("Services" or "Work"): Consultant shall serve as a photo booth operator. Consultant shall use their specialized experience and skills to organize, maintain to serve in this capacity. Services shall include but not be limited to: setting up and operating a photo booth for participants of Falcon Fest.
2. **Term.** Consultant shall commence providing services under this Agreement on May 24, 2024, 12:00pm, and will diligently perform as required and complete performance by May 24, 2024 3:00pm
3. **Compensation.** District agrees to pay \$500 to Consultant for Services satisfactorily rendered pursuant to this Agreement. This is not to exceed \$700 during the term of this Agreement. District shall pay Consultant according to the following terms and conditions:

- 3.1. Payment for the Services shall be made for all undisputed amounts in installment payments within thirty (30) days after the Consultant submits an invoice to the District for Services actually completed.
4. **Expenses.** District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing Services for District.
5. **Independent Consultant.** Consultant, in the performance of this Agreement, shall be and act as an Independent Consultant. Consultant understands and agrees that he/she shall not be considered an officer, employee, agent, partner, or joint venture of the District, and is not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, Social Security and income taxes with respect to Consultant. In the performance of the Services herein contemplated, Consultant is an independent Consultant or business entity, with the sole authority for controlling and directing the performance of the details of the Services, District being interested only in the results obtained.
6. **Performance of Services.**
- 6.1. **Standard of Care.** Consultant represents that Consultant has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of the District. Consultant's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of his/her profession for services to California school districts.
- 6.2. **District Approval.** The Services completed herein must meet the approval of the District and shall be subject to the District's general right of inspection and supervision to secure the satisfactory completion thereof.
- 6.3. **Licenses.** Consultant's represents that s/he possesses all required licenses to perform the Services provided in this Agreement.
7. **Termination.**
- 7.1. **Without Cause by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Consultant only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Consultant. Notice shall be deemed given when received by the Consultant or no later than three days after the day of mailing, whichever is sooner.
- 7.2. **Without Cause by Consultant.** Consultant may, upon thirty (30) days' notice, with or without reason, terminate this Agreement. Upon this termination, District shall only be obligated to compensate Consultant for services satisfactorily rendered to the date of termination. Written notice by Consultant shall be sufficient to stop further performance of services to District. Consultant acknowledges that this thirty (30) day notice period is acceptable so that the District can attempt to procure the Services from another source.
- 7.3. **With Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:
- 7.3.1. Material violation of this Agreement by the Consultant; or
- 7.3.2. Any act by Consultant exposing the District to liability to others for personal injury or property damage.
- Written notice by District shall contain the reasons for such intention to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure

the required services from another Consultant. If the expense, fees, and/or costs to the District exceeds the cost of providing the services pursuant to this Agreement, the Consultant shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

8. **Compliance.** Consultant shall, at all times while providing the Services, comply with all federal, state, local and District laws, statutes, codes, ordinances, rules, regulations, policies, and requirements, as well as all state executive orders and all public health orders regarding student health and safety, including but not limited to, policies and procedures related to social distancing, the use of personal protective equipment ("PPE") such as face coverings and gloves, and the sanitization of facilities to help prevent the spread of COVID-19 and other contagious diseases.
9. **District's Evaluation of Consultant.** The District may evaluate the Consultant's performance. In no event shall an evaluation of Consultant be considered a prerequisite to the District exercising its rights under paragraph 7 above.
10. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event shall District be liable to Consultant, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
11. **Indemnity.** Consultant shall defend, indemnify, and hold harmless District and its agents, representatives, officers, consultants, employees, Board of Trustees, members of the Board of Trustees (collectively, the "District Parties"), from and against any and all claims, demands, liabilities, damages, losses, suits and actions, and expenses (including, but not limited to attorney fees and costs including fees of consultants) of any kind, nature and description (collectively, the "Claims") directly or indirectly arising out of, connected with, or resulting from any act, error, omission, negligence, or willful misconduct of Consultant, its agents, subcontractors, employees, material or equipment suppliers, invitees, or licensees (collectively, the "Consultant Parties") in the performance of or failure to perform Consultant's or Consultant Parties' obligations under this Agreement, including, but not limited to Consultant's or Consultant Parties' use of District sites, performance of the Services, breach of any of the representations or warranties contained in this Agreement, or for injury to or death of persons or damage to property or delay or damage to the District or the District Parties. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to a party, person, or entity described in this paragraph. The indemnification provided for in this Section includes, without limitation to the foregoing, claims that may be made against District by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement, and any claims made against District alleging civil rights violations by Consultant or Consultant Parties under the California Fair Employment and Housing Act ("FEHA").
12. **Confidentiality.** The Consultant and all Consultant's agents, personnel, employee(s), and/or Sub-consultant(s) shall maintain the confidentiality of all information received in the course of performing the Services. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
13. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission, addressed as follows:

District

Pacific Grove Unified School District
 435 Hillcrest Avenue
 Pacific Grove, CA 93950
 ATTENTION: Joshua Jorn
 Assistant Superintendent/CBO

Consultant

Name: MTH Photo Booth & DJ Service
 Address: 81 Las Lomas Dr.
 City/State/Zip: Royal Oaks, CA 95076
 Business Phone: (831) 588-1792
 Email (Optional): martinthehitman@sbcglobal.net

Any notice personally given or sent by facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

14. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
15. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in Monterey County, California.
16. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
17. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
18. **Attorney Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.
19. **Counterparts.** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.
20. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.
21. **Non-Assignability.** Consultant may not, without the written permission of the District, use other consultants within Consultant's own firm, or outside experts to perform the services for the District.
22. **Fingerprinting.** When the Consultant is working directly with students, the Consultant shall not commence Services under this Agreement until the Consultant has submitted and the District has approved the following document:
 - DOJ Clearance Previously Received by District
 - Fingerprinting done by the organization independently (declare under perjury)- Consultant's Employee(s)
 - No direct contact or interaction with students

23. **W-9.** Consultant has provided a completed:

W-9 Form

24. **Type of Business Entity:**

- Corporation, State
- Individual
- Partnership
- Limited Liability Company
- Sole Proprietorship
- Limited Partnership
- Other: _____

**Federal Code of Regulations sections 6041 and 6209 require non-corporate recipients of \$600.00 or more to furnish their taxpayer identification number to the payer. The regulations also provide that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these regulations, the District requires your federal tax identification number or Social Security number, whichever is applicable.*

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

Pacific Grove Unified School District
Site representative or Assistant Superintendent
(Signed AFTER Board approval)

Consultant
(Can sign BEFORE Board's approval)

Signature: _____

Signature: _____

Name: [Manager]

Name: _____

Title: [Title]

Date: _____

Date: _____

Human Resources
(Signed AFTER Board approval)

Contracted work was not assigned using District's normal employment recruitment process.

Signature _____ Date _____

Director of Human Resources

- | | |
|--|---|
| <input type="checkbox"/> Student Learning and Achievement | <input checked="" type="checkbox"/> Consent |
| <input type="checkbox"/> Health and Safety of Students and Schools | <input type="checkbox"/> Action/Discussion |
| <input type="checkbox"/> Credibility and Communication | <input type="checkbox"/> Information/Discussion |
| <input type="checkbox"/> Fiscal Solvency, Accountability and Integrity | <input type="checkbox"/> Public Hearing |
-

SUBJECT: Contract for Services for Kona Ice of Monterey and Salinas

DATE: May 9, 2024

PERSON(S) RESPONSIBLE: Abbie Arbrun, Forest Grove Principal

RECOMMENDATION:

The District Administration recommends the Board review and approve to contract for services with Kona Ice of Monterey and Salinas

BACKGROUND:

Kona Ice of Monterey and Salinas offers shaved ice from a festively decorated truck at various events throughout the Monterey Bay area

INFORMATION:

Kona Ice of Monterey and Salinas will offer shaved ice from their truck at our Falcon Fest on May 24, 2024 from 12:00pm-3:00pm

FISCAL IMPACT:

\$1,000 funded by PTA donations

**PACIFIC GROVE UNIFIED SCHOOL DISTRICT
INDEPENDENT CONSULTANT AGREEMENT**

CONSULTANT Kona Ice of Monterey and Salinas

SITE/DEPARTMENT Forest Grove Elementary School

SUBMITTED BY Carey O'Sullivan

FUNDING SOURCE PTA donations

AGREEMENT TOTAL AMOUNT Not to exceed \$2,500

The District employee providing the attached Independent Consultant Agreement to the person or entity who will be providing special services to the District should first do the following:

1. Provide only the Pacific Grove Unified School District's approved Independent Consultant Agreement. The Independent Consultant Agreement should be completed in lieu of signing any vendor contract for services.
2. Review the insurance requirements for the person or entity and revise the insurance provisions of the agreement accordingly.
3. Review the forms under Section 20 and determine which of those documents should be attached to the agreement.

This Independent Consultant Agreement for Special Services ("Agreement") is made between the Pacific Grove Unified School District ("District") and Kona Ice of Monterey and Salinas ("Consultant") (together, "Parties").

WHEREAS, the District is authorized by Section 53060 of the California Government Code to contract with and employ any persons for the furnishing of special services and advice in financial, economic, accounting, engineering, legal, transportation, administrative matters or other specialized services, if those persons are specially trained and experienced and competent to perform the special services required; and

WHEREAS, the District is in need of those services and/or advice; and

WHEREAS, the Consultant is specially trained and experienced and competent to perform the services required by the District, and those services are needed on a limited basis;

NOW, THEREFORE, the Parties agree as follows:

1. **Services and/Scope of work.** The Consultant shall furnish to the District the following services herein by this reference ("Services" or "Work"): Consultant shall serve as a supplier of shaved ice treats. Consultant shall use their specialized experience and skills to organize, maintain to serve in this capacity. Services shall include but not be limited to: serving shaved ice treats to participants at various PTA events at Forest Grove Elementary at our Falcon Fest on May 24, 2024.
2. **Term.** Consultant shall commence providing services under this Agreement on May 24, 2024 at 9:00am, and will diligently perform as required and complete performance by May 24, 2024 at 3:00pm

3. **Compensation.** District agrees to pay up to \$2500 to Consultant for Services satisfactorily rendered pursuant to this Agreement. This is not to exceed \$2500 during the term of this Agreement. District shall pay Consultant according to the following terms and conditions:
 - 3.1. Payment for the Services shall be made for all undisputed amounts in installment payments within thirty (30) days after the Consultant submits an invoice to the District for Services actually completed.
4. **Expenses.** District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing Services for District.
5. **Independent Consultant.** Consultant, in the performance of this Agreement, shall be and act as an Independent Consultant. Consultant understands and agrees that he/she shall not be considered an officer, employee, agent, partner, or joint venture of the District, and is not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, Social Security and income taxes with respect to Consultant. In the performance of the Services herein contemplated, Consultant is an independent Consultant or business entity, with the sole authority for controlling and directing the performance of the details of the Services, District being interested only in the results obtained.
6. **Performance of Services.**
 - 6.1. **Standard of Care.** Consultant represents that Consultant has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of the District. Consultant's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of his/her profession for services to California school districts.
 - 6.2. **District Approval.** The Services completed herein must meet the approval of the District and shall be subject to the District's general right of inspection and supervision to secure the satisfactory completion thereof.
 - 6.3. **Licenses.** Consultant's represents that s/he possesses all required licenses to perform the Services provided in this Agreement.
7. **Termination.**
 - 7.1. **Without Cause by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Consultant only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Consultant. Notice shall be deemed given when received by the Consultant or no later than three days after the day of mailing, whichever is sooner.
 - 7.2. **Without Cause by Consultant.** Consultant may, upon thirty (30) days' notice, with or without reason, terminate this Agreement. Upon this termination, District shall only be obligated to compensate Consultant for services satisfactorily rendered to the date of termination. Written notice by Consultant shall be sufficient to stop further performance of services to District. Consultant acknowledges that this thirty (30) day notice period is acceptable so that the District can attempt to procure the Services from another source.
 - 7.3. **With Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:
 - 7.3.1. Material violation of this Agreement by the Consultant; or
 - 7.3.2. Any act by Consultant exposing the District to liability to others for personal injury or property damage.

Written notice by District shall contain the reasons for such intention to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the required services from another Consultant. If the expense, fees, and/or costs to the District exceeds the cost of providing the services pursuant to this Agreement, the Consultant shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

8. **Compliance.** Consultant shall, at all times while providing the Services, comply with all federal, state, local and District laws, statutes, codes, ordinances, rules, regulations, policies, and requirements, as well as all state executive orders and all public health orders regarding student health and safety, including but not limited to, policies and procedures related to social distancing, the use of personal protective equipment ("PPE") such as face coverings and gloves, and the sanitization of facilities to help prevent the spread of COVID-19 and other contagious diseases.
9. **District's Evaluation of Consultant.** The District may evaluate the Consultant's performance. In no event shall an evaluation of Consultant be considered a prerequisite to the District exercising its rights under paragraph 7 above.
10. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event shall District be liable to Consultant, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
11. **Indemnity.** Consultant shall defend, indemnify, and hold harmless District and its agents, representatives, officers, consultants, employees, Board of Trustees, members of the Board of Trustees (collectively, the "District Parties"), from and against any and all claims, demands, liabilities, damages, losses, suits and actions, and expenses (including, but not limited to attorney fees and costs including fees of consultants) of any kind, nature and description (collectively, the "Claims") directly or indirectly arising out of, connected with, or resulting from any act, error, omission, negligence, or willful misconduct of Consultant, its agents, subcontractors, employees, material or equipment suppliers, invitees, or licensees (collectively, the "Consultant Parties") in the performance of or failure to perform Consultant's or Consultant Parties' obligations under this Agreement, including, but not limited to Consultant's or Consultant Parties' use of District sites, performance of the Services, breach of any of the representations or warranties contained in this Agreement, or for injury to or death of persons or damage to property or delay or damage to the District or the District Parties. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to a party, person, or entity described in this paragraph. The indemnification provided for in this Section includes, without limitation to the foregoing, claims that may be made against District by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement, and any claims made against District alleging civil rights violations by Consultant or Consultant Parties under the California Fair Employment and Housing Act ("FEHA").
12. **Confidentiality.** The Consultant and all Consultant's agents, personnel, employee(s), and/or Sub-consultant(s) shall maintain the confidentiality of all information received in the course of performing the Services. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
13. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the

United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission, addressed as follows:

<u>District</u>	<u>Consultant</u>
Pacific Grove Unified School District	Name: Kona Ice of Monterey and Salinas
435 Hillcrest Avenue	Address: PO Box 1448
Pacific Grove, CA 93950	City/State/Zip: Castroville, CA 95012
ATTENTION: Joshua Jorn	Business Phone: (831) 757-7777
Assistant Superintendent/CBO	Email (Optional): MontereySalinas@kona-ice.com

Any notice personally given or sent by facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

14. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
15. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in Monterey County, California.
16. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
17. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
18. **Attorney Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.
19. **Counterparts.** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.
20. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.
21. **Non-Assignability.** Consultant may not, without the written permission of the District, use other consultants within Consultant's own firm, or outside experts to perform the services for the District.
22. **Fingerprinting.** When the Consultant is working directly with students, the Consultant shall not commence Services under this Agreement until the Consultant has submitted and the District has approved the following document:
 - DOJ Clearance Previously Received by District

- X Fingerprinting done by the organization independently (declare under perjury)-
Consultant's Employee(s)
- No direct contact or interaction with students

23. **W-9.** Consultant has provided a completed:
 W-9 Form

24. **Type of Business Entity:**

- Corporation, State
- Individual
- Partnership
- x Limited Liability Company
- Sole Proprietorship
- Limited Partnership
- Other: _____

**Federal Code of Regulations sections 6041 and 6209 require non-corporate recipients of \$600.00 or more to furnish their taxpayer identification number to the payer. The regulations also provide that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these regulations, the District requires your federal tax identification number or Social Security number, whichever is applicable.*

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

Pacific Grove Unified School District
 Site representative or Assistant Superintendent
(Signed AFTER Board approval)

Consultant
(Can sign BEFORE Board's approval)

Signature: _____

Signature: _____

Name: [Manager]

Name: _____

Title: [Title]

Date: _____

Date: _____

Human Resources
(Signed AFTER Board approval)

Contracted work was not assigned using District's normal employment recruitment process.

Signature _____ Date _____

Director of Human Resources

- | | |
|--|---|
| <input type="checkbox"/> Student Learning and Achievement | <input checked="" type="checkbox"/> Consent |
| <input type="checkbox"/> Health and Safety of Students and Schools | <input type="checkbox"/> Action/Discussion |
| <input type="checkbox"/> Credibility and Communication | <input type="checkbox"/> Information/Discussion |
| <input type="checkbox"/> Fiscal Solvency, Accountability and Integrity | <input type="checkbox"/> Public Hearing |

SUBJECT: Contract for Services with Monterey Bay Equestrian Center

DATE: May 9, 2024

PERSON(S) RESPONSIBLE: Abbie Arbrun, Principal Forest Grove Elementary

RECOMMENDATION:

The District Administration recommends the Board review and approve the contract for services with Monterey Bay Equestrian Center

BACKGROUND:

Monterey Bay Equestrian Center offers youth friendly mobile petting zoos to the Monterey Bay/Salinas Valley area.

INFORMATION:

Monterey Bay Equestrian Center will set up a fenced enclosure from 11:00am-3:00pm on May 24, 2024, at our Falcon Fest. Students will be able to enjoy supervised hands-on interaction with various youth friendly animals, such as bunnies, pigs, chickens, goats, and hamsters.

FISCAL IMPACT:

\$1,000 funded by PTA donations

**PACIFIC GROVE UNIFIED SCHOOL DISTRICT
INDEPENDENT CONSULTANT AGREEMENT**

CONSULTANT Monterey Bay Equestrian Center

SITE/DEPARTMENT Forest Grove Elementary School

SUBMITTED BY Carey O'Sullivan

FUNDING SOURCE PTA Donations

AGREEMENT TOTAL AMOUNT \$1,000

The District employee providing the attached Independent Consultant Agreement to the person or entity who will be providing special services to the District should first do the following:

1. Provide only the Pacific Grove Unified School District's approved Independent Consultant Agreement. The Independent Consultant Agreement should be completed in lieu of signing any vendor contract for services.
2. Review the insurance requirements for the person or entity and revise the insurance provisions of the agreement accordingly.
3. Review the forms under Section 20 and determine which of those documents should be attached to the agreement.

This Independent Consultant Agreement for Special Services ("Agreement") is made between the Pacific Grove Unified School District ("District") and Monterey Bay Equestrian Center ("Consultant") (together, "Parties").

WHEREAS, the District is authorized by Section 53060 of the California Government Code to contract with and employ any persons for the furnishing of special services and advice in financial, economic, accounting, engineering, legal, transportation, administrative matters or other specialized services, if those persons are specially trained and experienced and competent to perform the special services required; and

WHEREAS, the District is in need of those services and/or advice; and

WHEREAS, the Consultant is specially trained and experienced and competent to perform the services required by the District, and those services are needed on a limited basis;

NOW, THEREFORE, the Parties agree as follows:

1. **Services and/Scope of work.** The Consultant shall furnish to the District the following services herein by this reference ("Services" or "Work"): Consultant shall serve as a mobile petting zoo during Falcon Fest. Consultant shall use their specialized experience and skills to organize, maintain to serve in this capacity. Services shall include but not be limited to: Serving as a mobile petting zoo during Falcon Fest.
2. **Term.** Consultant shall commence providing services under this Agreement on May 24, 2024 at 11:00am, and will diligently perform as required and complete performance by May 24, 2024 at 3:00pm.

3. **Compensation.** District agrees to pay \$1,000 to Consultant for Services satisfactorily rendered pursuant to this Agreement. This is not to exceed \$1,000 during the term of this Agreement. District shall pay Consultant according to the following terms and conditions:
 - 3.1. Payment for the Services shall be made for all undisputed amounts in installment payments within thirty (30) days after the Consultant submits an invoice to the District for Services actually completed.
4. **Expenses.** District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing Services for District.
5. **Independent Consultant.** Consultant, in the performance of this Agreement, shall be and act as an Independent Consultant. Consultant understands and agrees that he/she shall not be considered an officer, employee, agent, partner, or joint venture of the District, and is not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, Social Security and income taxes with respect to Consultant. In the performance of the Services herein contemplated, Consultant is an independent Consultant or business entity, with the sole authority for controlling and directing the performance of the details of the Services, District being interested only in the results obtained.
6. **Performance of Services.**
 - 6.1. **Standard of Care.** Consultant represents that Consultant has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of the District. Consultant's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of his/her profession for services to California school districts.
 - 6.2. **District Approval.** The Services completed herein must meet the approval of the District and shall be subject to the District's general right of inspection and supervision to secure the satisfactory completion thereof.
 - 6.3. **Licenses.** Consultant's represents that s/he possesses all required licenses to perform the Services provided in this Agreement.
7. **Termination.**
 - 7.1. **Without Cause by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Consultant only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Consultant. Notice shall be deemed given when received by the Consultant or no later than three days after the day of mailing, whichever is sooner.
 - 7.2. **Without Cause by Consultant.** Consultant may, upon thirty (30) days' notice, with or without reason, terminate this Agreement. Upon this termination, District shall only be obligated to compensate Consultant for services satisfactorily rendered to the date of termination. Written notice by Consultant shall be sufficient to stop further performance of services to District. Consultant acknowledges that this thirty (30) day notice period is acceptable so that the District can attempt to procure the Services from another source.
 - 7.3. **With Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:
 - 7.3.1. Material violation of this Agreement by the Consultant; or
 - 7.3.2. Any act by Consultant exposing the District to liability to others for personal injury or property damage.

Written notice by District shall contain the reasons for such intention to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the required services from another Consultant. If the expense, fees, and/or costs to the District exceeds the cost of providing the services pursuant to this Agreement, the Consultant shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

8. **Compliance.** Consultant shall, at all times while providing the Services, comply with all federal, state, local and District laws, statutes, codes, ordinances, rules, regulations, policies, and requirements, as well as all state executive orders and all public health orders regarding student health and safety, including but not limited to, policies and procedures related to social distancing, the use of personal protective equipment ("PPE") such as face coverings and gloves, and the sanitization of facilities to help prevent the spread of COVID-19 and other contagious diseases.
9. **District's Evaluation of Consultant.** The District may evaluate the Consultant's performance. In no event shall an evaluation of Consultant be considered a prerequisite to the District exercising its rights under paragraph 7 above.
10. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event shall District be liable to Consultant, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
11. **Indemnity.** Consultant shall defend, indemnify, and hold harmless District and its agents, representatives, officers, consultants, employees, Board of Trustees, members of the Board of Trustees (collectively, the "District Parties"), from and against any and all claims, demands, liabilities, damages, losses, suits and actions, and expenses (including, but not limited to attorney fees and costs including fees of consultants) of any kind, nature and description (collectively, the "Claims") directly or indirectly arising out of, connected with, or resulting from any act, error, omission, negligence, or willful misconduct of Consultant, its agents, subcontractors, employees, material or equipment suppliers, invitees, or licensees (collectively, the "Consultant Parties") in the performance of or failure to perform Consultant's or Consultant Parties' obligations under this Agreement, including, but not limited to Consultant's or Consultant Parties' use of District sites, performance of the Services, breach of any of the representations or warranties contained in this Agreement, or for injury to or death of persons or damage to property or delay or damage to the District or the District Parties. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to a party, person, or entity described in this paragraph. The indemnification provided for in this Section includes, without limitation to the foregoing, claims that may be made against District by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement, and any claims made against District alleging civil rights violations by Consultant or Consultant Parties under the California Fair Employment and Housing Act ("FEHA").
12. **Confidentiality.** The Consultant and all Consultant's agents, personnel, employee(s), and/or Sub-consultant(s) shall maintain the confidentiality of all information received in the course of performing the Services. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
13. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the

United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission, addressed as follows:

District

Pacific Grove Unified School District
435 Hillcrest Avenue
Pacific Grove, CA 93950
ATTENTION: Joshua Jorn
Assistant Superintendent/CBO

Consultant

Name: Monterey Bay Equestrian Center
Address: 19805 Pesante Rd.
City/State/Zip: Salinas, CA 93907
Business Phone: (831) 663-5712
Email (Optional): michael@montereybayequestrian.com

Any notice personally given or sent by facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

14. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
15. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in Monterey County, California.
16. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
17. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
18. **Attorney Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.
19. **Counterparts.** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.
20. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.
21. **Non-Assignability.** Consultant may not, without the written permission of the District, use other consultants within Consultant's own firm, or outside experts to perform the services for the District.
22. **Fingerprinting.** When the Consultant is working directly with students, the Consultant shall not commence Services under this Agreement until the Consultant has submitted and the District has approved the following document:
 - DOJ Clearance Previously Received by District

- Fingerprinting done by the organization independently (declare under perjury)- Consultant's Employee(s)
- No direct contact or interaction with students

23. **W-9.** Consultant has provided a completed:
 W-9 Form

24. **Type of Business Entity:**

- Corporation, State
- Individual
- Partnership
- Limited Liability Company
- Sole Proprietorship
- Limited Partnership
- Other: _____

**Federal Code of Regulations sections 6041 and 6209 require non-corporate recipients of \$600.00 or more to furnish their taxpayer identification number to the payer. The regulations also provide that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these regulations, the District requires your federal tax identification number or Social Security number, whichever is applicable.*

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

Pacific Grove Unified School District
 Site representative or Assistant Superintendent
(Signed AFTER Board approval)

Consultant
(Can sign BEFORE Board's approval)

Signature: _____
 Name: [Manager]
 Title: [Title]
 Date: _____

Signature: _____
 Name: _____
 Date: _____

Human Resources
(Signed AFTER Board approval)

Contracted work was not assigned using District's normal employment recruitment process.
 Signature _____ Date _____
 Director of Human Resources

- | | |
|--|---|
| <input checked="" type="checkbox"/> Student Learning and Achievement | <input checked="" type="checkbox"/> Consent |
| <input type="checkbox"/> Health and Safety of Students and Schools | <input type="checkbox"/> Action/Discussion |
| <input type="checkbox"/> Credibility and Communication | <input type="checkbox"/> Information/Discussion |
| <input type="checkbox"/> Fiscal Solvency, Accountability and Integrity | <input type="checkbox"/> Public Hearing |

SUBJECT: Contract for Services with CHG Medical Staffing, Inc (doing business as CompHealth Medical Staffing)

DATE: May 9, 2024

PERSON(S) RESPONSIBLE: Yolanda Cork-Anthony, Director of Student Services

RECOMMENDATION:

The District Administration recommends that the Board review and approve the contract for services with CompHealth Medical Staffing to provide occupational therapy services, including assessments and attending IEP meetings as required by the Individuals with Disabilities Education Act (IDEA).

BACKGROUND:

One of our Occupational Therapists will be taking a leave of absence and the district will be in need of a licensed Occupational Therapist to fulfill the service needs and requirements for our students. The district recommends contracting with CompHealth Medical Staffing to conduct assessments, write reports, attend IEP meetings, and provide services to students during our employee's leave of absence.

INFORMATION:

CompHealth will provide a fully licensed registered occupational therapist to deliver in-person services during 2023-24 Extended School Year (ESY) and through the month of November for the 2024-25 school year. The work schedule for ESY will be 4.5 hrs/day for 20 days. The work schedule for the 2024-25 school year will be 7.5 hrs/day for 2 days each week through the month of November 2024.

FISCAL IMPACT:

\$ 9,000	ESY through June (4.5hrs/day x 20 days at \$100/hr)
\$57,000	24-25 School Year, August 2- November 26 (7.5hrs/day at \$100/hr)

Not previously budgeted.

**PACIFIC GROVE UNIFIED SCHOOL DISTRICT
INDEPENDENT CONSULTANT AGREEMENT**

CONSULTANT CHG Medical Staffing, Inc (dba CompHealth Medical Staffing)

SITE/DEPARTMENT Student Services

SUBMITTED BY Yolanda Cork-Anthony

FUNDING SOURCE Contracted Services- Special Education

AGREEMENT TOTAL AMOUNT up to \$66,000

The District employee providing the attached Independent Consultant Agreement to the person or entity who will be providing special services to the District should first do the following:

1. Provide only the Pacific Grove Unified School District's approved Independent Consultant Agreement. The Independent Consultant Agreement should be completed in lieu of signing any vendor contract for services.
2. Review the insurance requirements for the person or entity and revise the insurance provisions of the agreement accordingly.
3. Review the forms under Section 20 and determine which of those documents should be attached to the agreement.

This Independent Consultant Agreement for Special Services ("Agreement") is made between the Pacific Grove Unified School District ("District") and **CHG Medical Staffing, Inc (dba CompHealth Medical Staffing)** ("Consultant") (together, "Parties").

WHEREAS, the District is authorized by Section 53060 of the California Government Code to contract with and employ any persons for the furnishing of special services and advice in financial, economic, accounting, engineering, legal, transportation, administrative matters or other specialized services, if those persons are specially trained and experienced and competent to perform the special services required; and

WHEREAS, the District is in need of those services and/or advice; and

WHEREAS, the Consultant is specially trained and experienced and competent to perform the services required by the District, and those services are needed on a limited basis;

NOW, THEREFORE, the Parties agree as follows:

1. **Services and/Scope of work.** The Consultant shall furnish to the District the following services herein by this reference ("Services" or "Work"): Consultant shall serve as a **fully licensed registered occupational therapist to deliver in-person services during 2023-24 Extended School Year (ESY) and through the month of November for the 2024-25 school year. The work schedule for ESY will be 4.5 hrs/day (8:15am-12:45pm), through June. And the work schedule for the 2024-25 school year will be 7.5 hrs/day for 2 days each week through the month of November 2024.** Consultant shall use their specialized experience and skills to organize, maintain to serve in this capacity. Services shall include but not be limited to: **conduct IEP assessments, write reports, attend IEP meetings, provide services to students, maintain service logs and claims/billing.**
2. **Term.** Consultant shall commence providing services under this Agreement on **6/1/2024**, and will diligently perform as required and complete performance by **11/26/2024**.

3. **Compensation.** District agrees to pay up to \$65,550 to Consultant for Services satisfactorily rendered pursuant to this Agreement. This is not to exceed up to \$65,550 during the term of this Agreement. District shall pay Consultant according to the following terms and conditions:
 - 3.1. Payment for the Services shall be made for all undisputed amounts in installment payments within thirty (30) days after the Consultant submits an invoice to the District for Services actually completed.
4. **Expenses.** District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing Services for District.
5. **Independent Consultant.** Consultant, in the performance of this Agreement, shall be and act as an Independent Consultant. Consultant understands and agrees that he/she shall not be considered an officer, employee, agent, partner, or joint venture of the District, and is not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, Social Security and income taxes with respect to Consultant. In the performance of the Services herein contemplated, Consultant is an independent Consultant or business entity, with the sole authority for controlling and directing the performance of the details of the Services, District being interested only in the results obtained.
6. **Performance of Services.**
 - 6.1. **Standard of Care.** Consultant represents that Consultant has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of the District. Consultant's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of his/her profession for services to California school districts.
 - 6.2. **District Approval.** The Services completed herein must meet the approval of the District and shall be subject to the District's general right of inspection and supervision to secure the satisfactory completion thereof.
 - 6.3. **Licenses.** Consultant's represents that s/he possesses all required licenses to perform the Services provided in this Agreement.
7. **Termination.**
 - 7.1. **Without Cause by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Consultant only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Consultant. Notice shall be deemed given when received by the Consultant or no later than three days after the day of mailing, whichever is sooner.
 - 7.2. **Without Cause by Consultant.** Consultant may, upon thirty (30) days' notice, with or without reason, terminate this Agreement. Upon this termination, District shall only be obligated to compensate Consultant for services satisfactorily rendered to the date of termination. Written notice by Consultant shall be sufficient to stop further performance of services to District. Consultant acknowledges that this thirty (30) day notice period is acceptable so that the District can attempt to procure the Services from another source.
 - 7.3. **With Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:
 - 7.3.1. Material violation of this Agreement by the Consultant; or
 - 7.3.2. Any act by Consultant exposing the District to liability to others for personal injury or property damage.

Written notice by District shall contain the reasons for such intention to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the required services from another Consultant. If the expense, fees, and/or costs to the District exceeds the cost of providing the services pursuant to this Agreement, the Consultant shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

8. **Compliance.** Consultant shall, at all times while providing the Services, comply with all federal, state, local and District laws, statutes, codes, ordinances, rules, regulations, policies, and requirements, as well as all state executive orders and all public health orders regarding student health and safety, including but not limited to, policies and procedures related to social distancing, the use of personal protective equipment ("PPE") such as face coverings and gloves, and the sanitization of facilities to help prevent the spread of COVID-19 and other contagious diseases.
9. **District's Evaluation of Consultant.** The District may evaluate the Consultant's performance. In no event shall an evaluation of Consultant be considered a prerequisite to the District exercising its rights under paragraph 7 above.
10. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event shall District be liable to Consultant, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
11. **Indemnity.** Consultant shall defend, indemnify, and hold harmless District and its agents, representatives, officers, consultants, employees, Board of Trustees, members of the Board of Trustees (collectively, the "District Parties"), from and against any and all claims, demands, liabilities, damages, losses, suits and actions, and expenses (including, but not limited to attorney fees and costs including fees of consultants) of any kind, nature and description (collectively, the "Claims") directly or indirectly arising out of, connected with, or resulting from any act, error, omission, negligence, or willful misconduct of Consultant, its agents, subcontractors, employees, material or equipment suppliers, invitees, or licensees (collectively, the "Consultant Parties") in the performance of or failure to perform Consultant's or Consultant Parties' obligations under this Agreement, including, but not limited to Consultant's or Consultant Parties' use of District sites, performance of the Services, breach of any of the representations or warranties contained in this Agreement, or for injury to or death of persons or damage to property or delay or damage to the District or the District Parties. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to a party, person, or entity described in this paragraph. The indemnification provided for in this Section includes, without limitation to the foregoing, claims that may be made against District by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement, and any claims made against District alleging civil rights violations by Consultant or Consultant Parties under the California Fair Employment and Housing Act ("FEHA").
12. **Confidentiality.** The Consultant and all Consultant's agents, personnel, employee(s), and/or Sub-consultant(s) shall maintain the confidentiality of all information received in the course of performing the Services. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
13. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally

delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission, addressed as follows:

<u>District</u>	<u>Consultant</u>
Pacific Grove Unified School District CompHealth Medical Staffing)	Name: CHG Medical Staffing, Inc (dba
435 Hillcrest Avenue	Address: P.O. Box 972670
Pacific Grove, CA 93950	City/State/Zip: Dallas, TX 75397-2670
ATTENTION: Joshua Jorn	Business Phone: (616) 975-5015,
Assistant Superintendent/CBO	Email (Optional): Megan.Gillis@comphealth.com

Any notice personally given or sent by facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

14. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
15. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in Monterey County, California.
16. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
17. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
18. **Attorney Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.
19. **Counterparts.** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.
20. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.
21. **Non-Assignability.** Consultant may not, without the written permission of the District, use other consultants within Consultant's own firm, or outside experts to perform the services for the District.

22. **Fingerprinting.** When the Consultant is working directly with students, the Consultant shall not commence Services under this Agreement until the Consultant has submitted and the District has approved the following document:

- DOJ Clearance Previously Received by District
- Fingerprinting done by the organization independently (declare under perjury)- Consultant's Employee(s)
- No direct contact or interaction with students

23. **W-9.** Consultant has provided a completed:

- W-9 Form

24. **Type of Business Entity:**

- Corporation, State
- Individual
- Partnership
- Limited Liability Company
- Sole Proprietorship
- Limited Partnership
- Other: _____

**Federal Code of Regulations sections 6041 and 6209 require non-corporate recipients of \$600.00 or more to furnish their taxpayer identification number to the payer. The regulations also provide that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these regulations, the District requires your federal tax identification number or Social Security number, whichever is applicable.*

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

Pacific Grove Unified School District
Site representative or Assistant Superintendent
(Signed AFTER Board approval)

Consultant
(Can sign BEFORE Board's approval)

Signature: _____
Name: Yolanda Cork-Anthony
Title: Director of Student Services
Date: _____

Signature: _____
Name: Megan Gillis
Title: Senior Pediatric Client Rep.
Date: _____

Human Resources
(Signed AFTER Board approval)

Contracted work was not assigned using District's normal employment recruitment process.

Signature _____ Date _____
Director of Human Resources

- | | |
|---|---|
| <input type="checkbox"/> Student Learning and Achievement | <input type="checkbox"/> Consent |
| <input type="checkbox"/> Health and Safety of Students and Schools | <input checked="" type="checkbox"/> Action/Discussion |
| <input type="checkbox"/> Credibility and Communication | <input type="checkbox"/> Information/Discussion |
| <input checked="" type="checkbox"/> Fiscal Solvency, Accountability and Integrity | <input type="checkbox"/> Public Hearing |

SUBJECT: Adoption of Resolution No. 1122 Increase to Level I Levy of Developer Fees

DATE: May 9, 2024

PERSON RESPONSIBLE: Joshua Jorn, Assistant Superintendent Business Services

RECOMMENDATION:

The District Administration recommends that the Board adopt Resolution No. 1122 to increase developer fees to meet the State Allocation Boards Level I fee schedule.

BACKGROUND:

Developer fees are fees that are paid by property owners and developers to school districts to mitigate the impact of new developments which may result in the need for either additional or modernization of school facilities to house the students generated.

Fees are typically paid to the school district as a condition of a property developer or owner obtaining a building permit from the city or county for a construction project.

INFORMATION:

The District adopted the July 2023 Developer Fee Study to levy developer fees on September 7, 2023.

The State Allocation Board (SAB) under the Division of General Services is the elected body who adjusts the rates every two years.

PGUSD Board of Education adopted the 2022-23 Developer Fee Justification Study, and the data therein supports the increase to the SAB approved 2024 rate based on current enrollment, development in the area, and financial need.

The current rates adopted on January 24, 2024 by the SAB, are \$5.17 per square foot for residential construction and \$.84 per square foot for commercial/industrial construction.

FISCAL IMPACT:

Fund 25, Developer Fees Fund will be established for the collection of developer fees

In the Matter of Adopting Development
Fees on Residential and Commercial and)
Industrial Development to Fund the)
Construction or Reconstruction of School)
Facilities)

RESOLUTION
NO. 1122

WHEREAS, Education Code section 17620 et seq. and Government Code section 65995, authorize the governing board of any school district to levy a fee, charge, dedication, or other form of requirement (hereinafter “fee” or “fees”), in the maximum amounts specified therein, against residential, commercial and industrial development projects occurring within the boundaries of the district (hereinafter “development”), for the purpose of funding the construction or reconstruction of school facilities; and

WHEREAS, this Board has previously resolved to levy fees on development projects pursuant to this authority; and

WHEREAS, Government Code section 65995 provides that the maximum fees which may be levied on development projects shall be increased in 2000 and every two years thereafter according to the adjustment for inflation ... as determined by the State Allocation Board “SAB” and to become effective at its January meeting; and

WHEREAS, the SAB at its January 24, 2024 meeting, set the maximum fee to \$5.17 per square foot for residential development and to \$0.84 per square foot for commercial/industrial development; and

WHEREAS, the new Fees are an increase of what is currently being collected by Pacific Grove Unified School District; and

WHEREAS, in the judgment of this Board it is necessary and appropriate, and in the best interests of the District and its students, to levy fees for the purpose of funding the construction or reconstruction of school facilities necessary to serve the students generated by new development occurring within the District;

NOW, THEREFORE, BE IT RESOLVED, ORDERED AND FOUND by this Board as follows:

1. The foregoing recitals are true and correct.
2. This Board approved and adopted a 2022 Level 1 Developer Fee Impact Study which justified fees in excess of the maximum amount currently being collected. The increase in the maximum Level 1 fees approved by the State Allocation Board in January 2024 are still less than the amount justified by the 2022 Level 1 Developer Fee Impact Study. The assumptions and data used in the 2022 Study are still valid and are representative of the school district in 2024. Therefore, based upon the recommendations, and upon all other written and oral information presented to this Board concerning this matter, makes the following findings:

- A. The purpose of the fees is to finance the construction and reconstruction of school facilities in order to provide adequate school facilities for the students of the District who will be generated by new residential and commercial/industrial development taking place in the District;

- B. The construction or reconstruction of school facilities is necessary to create updated, adequate, appropriate classroom space and academic support facilities for the following reasons:

- (1) New residential and commercial and industrial development is projected to occur within the District within the next five years which will generate additional school-aged children;

- (2) Additional students projected from new development will impact and increase the need of the District to create updated, adequate, appropriate classroom space and academic support facilities.

- (3) Existing school facilities in the District are in need of, or will be in need of, reconstruction or modernization. New development will generate students who will attend District schools and be housed in existing facilities. These students cannot be housed without upgrading existing school facilities, ultimately making reconstruction or modernization of such facilities necessary;

(4) Both existing students and new students generated by future development occurring within the district will need to be housed and served in existing school facilities, as well as new and additional school facilities necessary to serve the projected student population.

(5) As commercial and industrial development occurs, new jobs are created. Many of the people hired for these jobs move into the community, thereby increasing the need for residential development which generates additional students adding to the impact on the school facilities of the District. The maximum fee that can be levied against residential development is insufficient to cover the full cost of the new or reconstructed school facilities needed by the district to house students generated from new residential development, and therefore justifies a separate fee against commercial and industrial development in the maximum amount allowed by law.

C. Without the addition of new school facilities and/or the reconstruction and modernization of existing facilities, the District will be unable to adequately house and serve additional students generated by new development which will impair or adversely impact the normal functioning of educational programs and services of the District;

D. The District has no, or limited revenue sources available for funding the construction or reconstruction of school facilities attributable to new development;

E. The fees adopted herein bear a reasonable relationship to the need for, and the estimated cost of, the construction or reconstruction of school facilities attributable to the type of new development on which the fees will be imposed;

F. The cost of providing for the construction and/or reconstruction of school facilities attributable to the type of new development occurring in the District will exceed the revenues reasonably anticipated from fees;

G. Existing students will benefit from the use of developer fees for new school facilities. Conversely, students generated from new development will occupy existing school facilities and will benefit from the use of fees to reconstruct or modernize those facilities. Therefore, it is appropriate to use developer fees for existing facilities to the extent of the estimated use of such facilities by students generated by new development.

3. Based on the foregoing, this Board hereby determines:
 - A. To levy a fee on any new or on other residential development, as described in Education Code § 17620(a), occurring within the District, in the maximum amount currently authorized by law of **\$5.17** per square foot of assessable space as such space is defined in Government Code § 65995(b)(1).
 - B. To levy a fee on categories of new commercial or industrial development, as described in Education Code § 17620(a), occurring within the boundaries of the District, in the maximum amount currently authorized by law of **\$0.84** per square foot of chargeable covered and enclosed space as such space is defined in Government Code § 65995(b)(2), except for Rental Self-Storage projects in which a fee of **\$0.04** per square foot is justified and Lodging projects in which a fee of **\$0.77** per square foot is justified.
4. The fee provisions of this Resolution are not exclusive, and this Board specifically reserves authority to undertake other or additional methods to finance school facilities in partial or complete substitution for, or in conjunction with, the fee provisions set forth therein, as authorized by law. This Board reserves the authority, in its discretion, to substitute the dedication of land or other form of requirement in lieu of fees to be levied pursuant to this Resolution.
5. The District intends to utilize fees for new construction of school facilities, reconstruction or modernization of existing facilities, purchase, lease or lease-purchase of portable or relocatable classrooms and related facilities as interim school facilities to house students pending the construction of permanent facilities, or the purchase, lease or lease-purchase of land for school facilities. This includes all associated costs to plan and execute school facilities projects including, but not limited to, architectural and engineering costs, testing and inspection costs, permits and plan checking, and other administrative costs related to the provision of school facilities. Construction, reconstruction or modernization of school facilities includes, but is not limited to, classrooms and equipment and furnishings for classrooms, and all other reasonable and customary auxiliary, accessory, adjunct, or other supportive facilities for classrooms such as restrooms, gymnasiums, administrative offices, cafeterias, libraries, multi-purpose rooms, maintenance and storage rooms, walkways, overhangs, parking lots, landscaping,

and all other similar facilities. Finally, fees may be used for studies and reports necessary to make the findings and determinations required by law for the collection of fees which may include the school facilities needs analysis described in Government Code section 65995.6, for reimbursement of administrative costs to collect fees, and for such other purposes consistent with the purpose and intent of this Resolution, or authorized by law, or deemed necessary or appropriate by this governing board.

6. The Superintendent, or designee, is authorized to certify compliance of a particular development project with the fee or other requirement levied by this Board, or to certify where appropriate that a project is fully or partially exempt from fees in appropriate circumstances. Any certification of compliance for a particular residential construction project is expressly conditioned upon the continued satisfaction by that project of the requirements for that certification and failure to meet those requirements in the future may result in the revocation of such certification and enforcement of the appropriate fee requirement for the project.

7. Pursuant to Education Code § 17621(c), this board determines that the fee levied on residential development is not subject to the restrictions set forth in subdivision (a) of Government Code § 66007 and, pursuant to Education Code § 17620(b), shall be collected at the time of issuance of the building or similar permit required for a particular development project.

8. Pursuant to Government Code section 66001(d), the Superintendent or the District's designee shall review the Fund established pursuant to this Resolution for the fifth fiscal year following the first deposit of fees in the Fund, and every five years thereafter, and with respect to any portion of a fee remaining unspent five or more years after deposit, the Superintendent or the District's designee shall report to this Board which shall either make the findings required by section 66001(d) for said unspent fees, or direct the refund of such fees in the manner provided in 66001(e) and (f).

9. The fees adopted herein are effective sixty (60) days after the approval of this Resolution.

10. The Superintendent or the District's designee is hereby authorized and directed to do the following:

A. As required by Government Code § 66006(a), the fees received by the District shall be deposited into a separate capital facilities fund (herein “Fund”) and shall not be commingled with other revenues and funds of the District. The fees, and any interest earned thereon, shall be expended only for the purpose of funding the construction or reconstruction of school facilities or such other purposes as are permitted by law and authorized by this Board.

B. If applicable, negotiate agreements with other school district(s) with common territorial boundaries ensuring that the total fees collected by each school district does not exceed the maximum fees allowed by law for residential and commercial and industrial development and providing for an equitable division of the fees with such other school district(s). As required by Education Code section § 17623(a), copies of such agreement(s) shall be transmitted to the State Allocation Board, and shall also be sent to any county or city planning agency which is calculating or collecting fees on behalf of the District.

C. Take such further action as is necessary or appropriate to carry out the purpose and intent of this Resolution.

I, Elliott Hazen, Secretary to the Board of Trustees of the Pacific Grove Unified School District, do hereby certify that the foregoing Resolution was proposed by Board member _____, seconded by Board member _____, and was duly passed and adopted, by vote of said Board, at an official and public meeting thereof held on _____, 2024, as follows:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dated:

Secretary, Board of Trustees

**NOTICE OF HEARING REGARDING PROPOSED ADOPTION OF A
DEVELOPER FEE STUDY AND THE INCREASE OF THE
STATUTORY SCHOOL FEE**

NOTICE IS HEREBY GIVEN that the Governing Board of the Pacific Grove Unified School District will hold a hearing and consider input from the public on the proposed adoption of a Developer Fee Justification Study for the District and an increase in the statutory school facility fee (“Level I Fee”) on new residential and commercial/industrial developments as approved by the State Allocation Board on January 24, 2024. The adoption of the Study and the increase of the Level I Fees are necessary to fund the construction of needed school facilities to accommodate students due to development.

Members of the public are invited to comment in writing, on or before *May 9, 2024*, or appear in person at the hearing at *6:30 p.m. on May 9, 2024*, at the following location:

*PGUSD
435 Hillcrest Ave
Pacific Grove CA, 93950*

Materials regarding the Study and the Level I Fee are on file and are available for public review at the District Office located at *435 Hillcrest Ave Pacific Grove CA, 93950 CA*.

Dated: April 18, 2024

- | | |
|--|---|
| <input checked="" type="checkbox"/> Student Learning and Achievement | <input type="checkbox"/> Consent |
| <input type="checkbox"/> Health and Safety of Students and Schools | <input checked="" type="checkbox"/> Action/Discussion |
| <input type="checkbox"/> Credibility and Communication | <input type="checkbox"/> Information/Discussion |
| <input type="checkbox"/> Fiscal Solvency, Accountability and Integrity | <input type="checkbox"/> Public Hearing |

SUBJECT: Adoption of three textbooks for Pacific Grove High School: 1) *Welsh Holes Essentials of Anatomy and Physiology, 2021 2e with Lab Manual*, 2) *National Geographic, American Government, Cengage Learning Inc. 2022*, 3) *AP Government and Politics: American Government – Stories of a Nation, BFW publishers, 2021*

DATE: May 9, 2024

PERSON(S) RESPONSIBLE: Buck Roggeman, Director of Curriculum and Special Projects

RECOMMENDATION:

The District Administration recommends the Board approve the adoption of three Pacific Grove High textbooks: 1) *Welsh Holes Essentials of Anatomy and Physiology, 2021 2e with Lab Manual*; 2) *National Geographic, American Government, Cengage Learning Inc. 2022*; 3) *AP Government and Politics: American Government – Stories of a Nation, BFW publishers, 2021*

BACKGROUND:

Each of these textbooks will replace outdated texts currently used in Anatomy and Physiology (*Essentials of Human Anatomy and Physiology, 2012*), Government (*Magruder’s American Government, 2011*), and Advanced Placement Government (*The American Pageant, 2013*). This adoption represents the latest step in renewing outdated texts at the high school.

INFORMATION:

All these textbooks followed an adoption process that included members of the Science and Social Sciences Department. What follows is a summary of the adoption process for these three textbooks.

Welsh Holes Essentials of Anatomy and Physiology

In addition to considering this textbook, the Science Department reviewed these anatomy texts:

- *Essentials of Human Anatomy and Physiology, Thirteenth Edition, Pearson (2022)* by E.N. Marieb and S.M. Keller. This is an updated version of the current textbook.
- *Understanding Anatomy & Physiology: A Visual, Auditory, Interactive Approach, Third Edition (2022)* by G.S. Thompson.

The department chose *Welsh Holes Essentials* for the following reasons:

- The textbook is more accessible to students in both overarching ideas and in the details of studying a complex course like Anatomy and Physiology.
- The curriculum has organized the systems of the body by chapter and then has placed each chapter in a unit with a theme that corresponds to a necessary body function or survival need (e.g. movement).
- The textbook is also [Next Generation Science Standards](#) (NGSS) aligned and incorporates opportunities for student-devised claim, evidence, and reasoning writing in response to various Case Studies throughout the book.

- The curriculum also incorporates Crosscutting Concepts (CCCs) from NGSS.
- The curriculum has more approachable text and vocabulary, clear, illustrative, and informative diagrams, and great chapter review questions that are at the high school level.

Students also have access to the SmartBook platform as a part of the online resources that integrate with Clever. SmartBook is an adaptive eBook. In addition to the textbook, a lab book is included in the purchase.

National Geographic, American Government, Cengage Learning Inc. 2022

In addition to considering this textbook, the Social Sciences department also considered:

- *Magruder’s American Government Interactive*, 2023, Shea, Savvas Learning Co.

The Social Sciences department decided to choose the *National Geographic American Government* textbook because of its greater accessibility to our students. The department’s findings are as follows:

- This textbook features a wide array of cultural perspectives and countries.
- There is a Spanish version of the text and extensive vocabulary and note taking support for English Learners and our general population.
- The textbook directly addresses the California Content Standards for Social Sciences.
- The book features spectacular visuals and more modern representations than the previous textbook.
- There is a good combination of modern and historical images and charts.

Access to the textbook’s online resources is included in this purchase. If this textbook is adopted, PGUSD’s Government and U.S. History textbooks will be aligned.

AP Government and Politics: American Government – Stories of a Nation, BFW publishers, 2021

The Social Sciences department considered the following textbooks for AP Government adoption:

- *American Democracy Now*, 6th edition, Harrison, Harris, & Deardorff; McGraw Hill Education
- *American Politics and Government Today*, AP edition, Bianco & Canon; Norton
- *American Government Institutions and Policies*, 16th edition, Wilson, DiIulio, et al; Cengage

The Social Sciences department decided on *Stories of a Nation* because its author understands the demands of AP Government, having taught the course for 20 years. This updated version of the textbook covers modern issues from multiple cultural perspectives and was the clear recommendation among AP Government teachers nationwide. Some characteristics of the textbook include:

- More recent movements, topics, and groups than our current textbook.
- Includes a vast range of perspectives and diverse points of view.
- Effective end of section summaries make the content accessible for a range of learners.
- Adjusts for realignment of the AP course (author has taught AP Government for 20 years).
- Great mix of photos, maps, and graphs.

- Publisher offers webinars with the authors. Our teacher attended a session on how to teach a free response question and found it excellent.

This AP textbook will update our curriculum and provide our students with a multicultural perspective that is lacking at times with our current textbook. Included in the purchase is the teacher's edition and digital teacher resources.

FISCAL IMPACT:

All funding for the textbooks will come from the Curriculum Department's textbook budget.

A six-year adoption of *Welsh Holes Essentials of Anatomy and Physiology* will cost \$21,500.

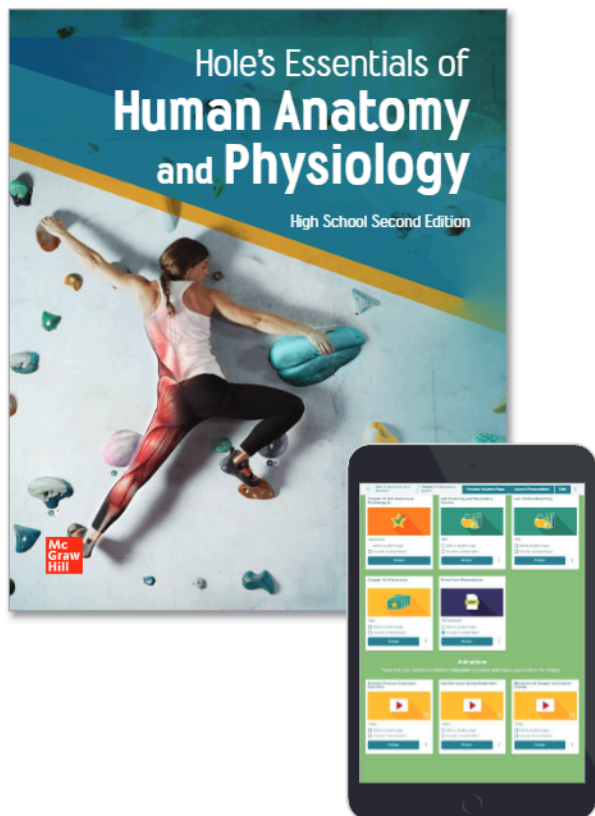
A six-year adoption of *National Geographic, American Government, Cengage Learning Inc. 2022* will cost \$15,000.

A six-year adoption of *AP Government and Politics: American Government – Stories of a Nation, BFW publishers, 2021* will cost \$21,400.

Hole's Essentials of Human Anatomy & Physiology

(2e) ©2021, Welsh

NEW EDITION



Best Selling A&P High School Program

Hole's Essentials of Anatomy & Physiology 2e introduces a new author, Dr. Charles Welsh, who brings over 30 years of classroom experience and a fresh perspective to this well-respected text. The new edition retains its high quality content and dynamic features plus delivers enhanced NGSS integration and ELL/ELA support. The high school friendly presentation masterfully blends text and imagery to engage students with approachable content as they learn to apply concepts to various fields of study making this an ideal selection for an introductory course.

- A new High School Teacher Manual, available in print and online, includes teaching strategies and pacing, group projects, classroom activities, and ELL and ELA support activities.
- Unit projects and thematic, chapter-level case studies bring relevance and real-world application to instruction.
- Expanded Chapter Reviews include new multiple-choice, short-answer, and critical thinking and clinical application questions.
- Lab Data Analysis, Case Study Wrap-up and a Chapter Project are designed to help students enhance their engagement with, and proficiency in, the science and engineering practices.
- Online Focus Activities provides interactive labeling and vocabulary activities to check student mastery of difficult structures, vocabulary, and concepts.
- Concept Overview Interactives offer ground-breaking interactive animations that encourage students to explore key physiological processes and difficult concepts.

Anatomy & Physiology REVEALED® (APR) is the ultimate dissection experience that visually enriches your lectures and labs with 3D Interactive Models, engaging animations, and real-life images. This interactive tool dynamically reinforces key concepts to help your student develop a deeper insight into the study of human anatomy and physiology.

The *High School Laboratory Manual* for Human Anatomy & Physiology by Terry R. Martin is a streamlined lab manual ideal for the high school classroom. It contains 34 hands-on laboratory activities to complement any anatomy and physiology course.



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Lab Manual

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6 year: 978-0-07-904098-5 | 1 year: 978-0-07-904085-5

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6 year: 978-0-07-682359-8 | 1 year: 978-0-07-682358-1

Teacher Edition Subscription with APR

6 year: 978-0-07-682364-2 | 1 year: 978-0-07-682363-5



National Geographic American Government

1st Edition, ©2022

National Geographic Learning

Student Edition: 9780357109038



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- Supreme Court Cases Handbook

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Unit 1: Foundations of the American System

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Unit 3: Civil Liberties and Civil Rights

Unit 4: The Legislative Branch

Unit 5: The Executive Branch

Unit 6: The Judicial Branch

Unit 7: The Politics of Democracy

Unit 8: Government in Action: Public Policy

Unit 9: State and Local Government



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NGL.Cengage.com/RepFinder

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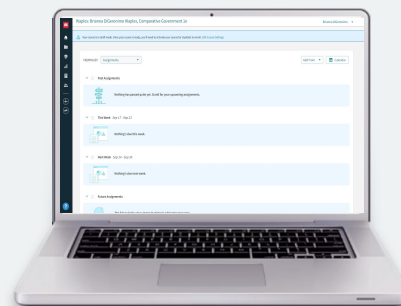
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- | | |
|---|---|
| <input type="checkbox"/> Student Learning and Achievement | <input type="checkbox"/> Consent |
| <input type="checkbox"/> Health and Safety of Students and Schools | <input checked="" type="checkbox"/> Action/Discussion |
| <input type="checkbox"/> Credibility and Communication | <input type="checkbox"/> Information/Discussion |
| <input checked="" type="checkbox"/> Fiscal Solvency, Accountability and Integrity | <input type="checkbox"/> Public Hearing |
-

SUBJECT: Adoption of Resolution No. 1125 Making Findings and Ratifying the Filing of a Notice of Exemption From the California Environmental Quality Act (CEQA) Regarding an Energy Services Agreement

DATE: May 9, 2024

PERSON RESPONSIBLE: Joshua Jorn, Assistant Superintendent Business Services

RECOMMENDATION:

The District Administration recommends that the Board adopt Resolution No. 1125 making findings and ratifying the filing of a Notice of Exemption from the California Environmental Quality Act (CEQA) regarding an Energy Services Agreement.

BACKGROUND:

The Energy Services Contract with ABM Solutions will entail certain energy saving improvements consisting of building automation system upgrades, HVAC upgrades, LED stadium lighting retrofits; LED lighting, building envelope modifications, electrical upgrades (main service panel) generator/resiliency upgrades, water conservation, and appliance upgrades.

The purpose is the installation of energy-saving improvements and infrastructure for the benefit of Pacific Grove Unified School District.

INFORMATION:

This Project is exempt pursuant to CEQA Guidelines Section 15301 because the Project involves the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing use; the Project is exempt pursuant to Section 15311 because the Project consists of the construction or placement of minor accessory structures to existing facilities; the Project is exempt pursuant to Section 15314 because the Project consists of minor additions to existing schools.

FISCAL IMPACT:

None

**BEFORE THE GOVERNING BOARD
OF THE PACIFIC GROVE UNIFIED SCHOOL DISTRICT
MONTEREY COUNTY, CALIFORNIA**

**RESOLUTION NO. 1125
RESOLUTION MAKING FINDINGS AND RATIFYING THE FILING OF A NOTICE
OF EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT
(CEQA) REGARDING AN ENERGY SERVICES AGREEMENT**

WHEREAS, it is the policy of the State of California and the intent of the State Legislature to promote all feasible means of energy conservation and all feasible uses of alternative energy supply sources; and

WHEREAS, the Pacific Grove Unified School District (“District”) desires to reduce the steadily rising costs of meeting the energy needs at its facilities; and

WHEREAS, on February 8, 2024, the District’s Governing Board adopted Resolution No. 1118, approving an Energy Services Agreement with ABM Building Solutions, LLC (“Contractor”) , pursuant to which the Contractor will design, construct, and install on District property certain energy saving improvements consisting of HVAC units, lighting retrofits, and other energy conservation measures which will result in greater energy efficiency and cost savings for the District sites on which such facilities are located on (“Project”); and

WHEREAS, the sites where such energy saving improvements will be located are:

1. Pacific Grove High School
2. Pacific Grove Community High School
3. Pacific Grove Adult School
4. Pacific Grove Middle School
5. Forest Grove Elementary School
6. Robert Down Elementary School
7. District Office; and

WHEREAS, the Board’s approval of the Project constitutes a project for purposes of the California Environmental Quality Act (“CEQA”); and

WHEREAS, the Guidelines for CEQA, California Code of Regulations Title 14, Chapter 13 (“State CEQA Guidelines”), exempt certain projects from further CEQA evaluation, including the following: (1) projects consisting of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public structures, facilities, mechanical equipment, or topographical features (“Class 1 Exemption”; Cal. Code Regs., tit. 14, § 15301); (2) projects consisting of the construction or placement of minor accessory structures to existing facilities (“Class 11 Exemption”; Cal. Code Regs., tit. 14, § 15311); and (3) projects consisting of minor additions to existing schools within existing school grounds where the addition does not

increase original student capacity by more than 25% or ten classrooms, whichever is less (“Class 14 Exemption”; Cal. Code Regs., tit. 14, § 15314); and

WHEREAS, the District Administration has determined that the Project is exempt from CEQA pursuant to the above-described exemptions because the Project involves the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing use (Class 1); the Project consists of the construction or placement of minor accessory structures to existing facilities (Class 11); and the Project consists of minor additions to existing schools which will not result in the increase of the capacity of any school by more than 25 percent or 10 classrooms, whichever is less (Class 14); and

WHEREAS, the Project does not involve any of the following and so is eligible for a categorical exemption as described above under State CEQA Guidelines section 15300.2:

- (a) the cumulative impact of successive projects of the same type in the same place, which over time are significant;
- (b) an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances;
- (c) a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway;
- (d) a hazardous waste site which is included on any list compiled pursuant to Section 65962.5 of the Government Code; and
- (e) a project which may cause a substantial adverse change in the significance of a historical resource.

and

WHEREAS, in accordance with the above determinations, the District Administration has filed a Notice of Exemption with the Monterey County Clerk and the State of California Office of Planning and Research (“State Clearinghouse”),

NOW, THEREFORE, based upon the above-referenced recitals, the Board hereby finds, determines and orders as follows:

1. The foregoing recitals are true and correct.
2. The Board hereby finds this Project to be exempt from the requirements of CEQA pursuant to the Class 1, Class 11, and Class 14 Exemptions, as described above.
3. The Board hereby approves and ratifies the filing of the Notice of Exemption with the Monterey County Clerk and the State of California Office of Planning and Research (“State Clearinghouse”).

The foregoing Resolution was adopted at a meeting of the Governing Board of the Pacific Grove Unified School District on May 9, 2024, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Brian Swanson
President, Board of Education
Pacific Grove Unified School District

CERTIFIED TO BE A TRUE
AND CORRECT COPY:

Elliot Hazen
Clerk, Board of Education
Pacific Grove Unified School District

- | | |
|---|---|
| <input type="checkbox"/> Student Learning and Achievement | <input type="checkbox"/> Consent |
| <input type="checkbox"/> Health and Safety of Students and Schools | <input checked="" type="checkbox"/> Action/Discussion |
| <input type="checkbox"/> Credibility and Communication | <input type="checkbox"/> Information/Discussion |
| <input checked="" type="checkbox"/> Fiscal Solvency, Accountability and Integrity | <input type="checkbox"/> Public Hearing |
-

SUBJECT: Adoption of Resolution No. 1127 to Establish Fund 25 for Developer Fees

DATE: May 9, 2024

PERSON RESPONSIBLE: Joshua Jorn, Assistant Superintendent Business Services

RECOMMENDATION:

The District Administration recommends that the Board adopt Resolution No. 1127 to establish a Capital Facilities Fund 25 with County Treasury for the revenue generated through the collection of developer fees.

BACKGROUND:

Education Code section 17620 authorizes school districts to levy a developer fee against any new construction within its boundaries for the purpose of funding the construction or reconstruction of school facilities. The District desires to establish a separate fund (“Fund 25 – Capital Facilities”), with the County Treasury to account for developer fees collected by the District.

INFORMATION:

Fund 25, Capital Facilities will be established with the County Treasury as a dedicated fund within the financial structure of the Pacific Grove Unified School District, separate from other funds, for the purpose of financing capital projects related to infrastructure, facilities, and other capital improvements.

FISCAL IMPACT:

None

**BOARD OF EDUCATION
PACIFIC GROVE UNIFIED SCHOOL DISTRICT**

RESOLUTION NO. 1127

**RESOLUTION AUTHORIZING THE GOVERNING BOARD TO
ESTABLISH FUND 25 – CAPITAL FACILITIES WITH COUNTY
TREASURY**

WHEREAS, the Pacific Grove Unified School District (the “District”) is a unified school district located within the County of Monterey (the “County”), State of California (the “State”), and is organized and operating pursuant to the Constitution and laws of the State; and

WHEREAS, the District recognizes the critical importance of maintaining and improving infrastructure and community facilities within the District; and

WHEREAS, it is in the best interest of the District to establish a dedicated fund with the Monterey County Treasurer-Tax Collector (“County Treasury”) to support capital projects aimed at enhancing infrastructure, constructing new facilities, and maintaining existing assets (“Capital Facilities”); and

WHEREAS, Education Code section 17620 authorizes school districts to levy a developer fee against any new construction within its boundaries for the purpose of funding the construction or reconstruction of school facilities; and

WHEREAS, the District desires to establish a separate fund (“Fund 25 – Capital Facilities”), with the County Treasury to account for developer fees collected by the District; and

WHEREAS, the establishment of Fund 25 – Capital Facilities will provide clarity and transparency regarding the allocation and utilization of developer fees.

Now, therefore, be it resolved by the Board of Trustees of the Pacific Grove Unified School District as follows:

1. **Establishment of Fund 25 - Capital Facilities:** Fund 25 - Capital Facilities is hereby established with the County Treasury as a dedicated fund within the financial structure of the Pacific Grove Unified School District, separate from other funds, for the purpose of financing capital projects related to infrastructure, facilities, and other capital improvements.
2. **Administration and Management:** The Superintendent of the Pacific Grove Unified School District or designee is hereby directed to establish appropriate accounting procedures and controls to ensure the proper administration and management of Fund 25 – Capital Facilities in accordance with applicable laws and regulations.
3. **Project Prioritization and Selection:** Criteria for prioritizing and selecting capital projects to be funded by Fund 25 - Capital Facilities shall be established taking into account community needs, project feasibility, and potential impact on educational outcomes. Stakeholder input shall be solicited to inform the decision-making process.

- 4. **Reporting and Accountability:** Regular reporting mechanisms shall be established to track the inflow and outflow of funds within Fund 25 - Capital Facilities and to provide transparency regarding the allocation and utilization of resources. Accountability measures shall be implemented to ensure the responsible stewardship of public funds.

Be it further resolved, that this Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED by the Board of Education of the Pacific Grove Unified School District the 9th day of May, 2024 the following vote:

Ayes: _____

Noes: _____

Absent: _____

Abstained: _____

Brian Swanson, President
Governing Board of the
Pacific Grove Unified School District

ATTEST:

Elliot Hazen, Clerk of the Governing Board

- | | |
|---|---|
| <input type="checkbox"/> Student Learning and Achievement | <input type="checkbox"/> Consent |
| <input type="checkbox"/> Health and Safety of Students and Schools | <input checked="" type="checkbox"/> Action/Discussion |
| <input type="checkbox"/> Credibility and Communication | <input type="checkbox"/> Information/Discussion |
| <input checked="" type="checkbox"/> Fiscal Solvency, Accountability and Integrity | <input type="checkbox"/> Public Hearing |
-

SUBJECT: Adoption of Resolution No. 1128 to authorize PGUSD to sign the CalSHAPE Grant Agreement

DATE: May 9, 2024

PERSON RESPONSIBLE: Joshua Jorn, Assistant Superintendent Business Services

RECOMMENDATION:

The District Administration recommends that the Board adopt Resolution No. 1128 to allow the Superintendent or designee to sign the CalSHAPE Grant Agreement.

BACKGROUND:

This grant agreement between the California Energy Commission (Energy Commission, or Commission) and the District is funded by the School Energy Efficiency Stimulus Program, established by Assembly Bill 841 (Ting, Chapter 372, Statutes of 2020), which in part provides grants to assess, maintain, adjust, repair, or upgrade heating, ventilation, and air conditioning systems. This grant program is referred to as the California Schools Healthy Air, Plumbing, and Efficiency (CalSHAPE) Ventilation Program.

INFORMATION:

The AB 841 HVAC Grant will provide:

1. A complete HVAC TAB (Test and Balance) Assessment of every HVAC unit throughout the district
2. Filter replacement for every unit with the optimal MERV filter rating for the unit, and Co2 monitors installed in areas without C02 monitors.

Attachments: CEC Grant Agreement, Board Resolution and Payee Data Record

FISCAL IMPACT:

CalSHAPE Grant Revenue in the amount of \$359,267.98 for 5 sites in PGE 1 funding category

**BOARD OF EDUCATION
PACIFIC GROVE UNIFIED SCHOOL DISTRICT**

RESOLUTION NO. 1128

**RESOLUTION AUTHORIZING THE GOVERNING BOARD TO
ADOPT CALIFORNIA SCHOOLS HEALTHY AIR, PLUMBING,
AND EFFICIENCY PROGRAM GRANT AGREEMENT**

WHEREAS, the Pacific Grove Unified School District (the “District”) is a unified school district located within the County of Monterey (the “County”), State of California (the “State”), and is organized and operating pursuant to the Constitution and laws of the State; and

WHEREAS, the California Energy Commission’s California Schools Healthy Air, Plumbing, and Efficiency (CalSHAPE) Program provides grants to local educational agencies (LEA), that includes school districts, charter schools, and regional occupational programs, to fund the assessment, maintenance, and repair of ventilation systems, installation of carbon dioxide monitors, and replacement of noncompliant plumbing fixtures and appliances;

NOW AND THEREFORE BE IT RESOLVED by the Board of Trustees of the Pacific Grove Unified School District Authorizes the Superintendent or designee to apply for a Pacific Grove Unified School District grant from the California Energy Commission to implement a CalSHAPE Program project.

BE IT ALSO RESOLVED, that in compliance with the California Environmental Quality Act (CEQA), projects that are funded by the grant are not considered a project because the ground is not being disturbed..

BE IT ALSO RESOLVED, that if recommended for funding by the California Energy Commission, the the Board of Trustees of the Pacific Grove Unified School District authorizes the Superintendent or designee to accept a grant up to \$359,267.98 for 5 sites in PGE 1 funding category, and accept all grant agreement terms and conditions.

Be it further resolved, that this Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED by the Board of Education of the Pacific Grove Unified School District the 9th day of May, 2024 the following vote:

Ayes: _____

Noes: _____

Absent: _____

Abstained: _____

Brian Swanson, President
Governing Board of the
Pacific Grove Unified School District

ATTEST:

Elliot Hazen, Clerk of the Governing Board

- | | |
|---|---|
| <input checked="" type="checkbox"/> Student Learning and Achievement | <input type="checkbox"/> Consent |
| <input checked="" type="checkbox"/> Health and Safety of Students and Schools | <input checked="" type="checkbox"/> Action/Discussion |
| <input checked="" type="checkbox"/> Credibility and Communication | <input type="checkbox"/> Information/Discussion |
| <input type="checkbox"/> Fiscal Solvency, Accountability and Integrity | <input type="checkbox"/> Public Hearing |

SUBJECT: Classified School Employee Week, May 19 - 25, 2024 - Resolution No. 1129

DATE: May 9, 2024

PERSON(S) RESPONSIBLE: Claudia Arellano, Director II, Human Resources

RECOMMENDATION:

The District Administration recommends the Board review and adopt Resolution No. 1129, proclaiming Classified School Employee Week, May 19 – 25, 2024.

BACKGROUND/ INFORMATION:

In 1986, California School Employees Association sponsored state legislation to create Classified School Employee Week. Since then, California public schools have taken one week each May to recognize the outstanding efforts and contributions of its classified school workers.

Classified employees perform a wide range of essential work, including food services, maintenance and operations, transportation, instructional assistance and paraeducator services, office and clerical work, security, library and media assistance, computer services and more. They provide daily care, transportation and instruction for California's students – guiding them from preschool through community college.

We therefore recognize classified school employees by Board Resolution, proclaiming Classified School Employee Week from May 19 – 25, to recognize the many contributions classified professionals make to the education community. This year's CSEA is celebrating the theme: "Empowering Generations."

FISCAL IMPACT:

None

**BEFORE THE GOVERNING BOARD OF
PACIFIC GROVE UNIFIED SCHOOL DISTRICT
COUNTY OF MONTEREY, CALIFORNIA**

RESOLUTION No. 1129 *Proclaiming*

“CLASSIFIED SCHOOL EMPLOYEE WEEK”

WHEREAS, the Legislature of the State of California has declared that May 19 – 25, 2024, shall be “CLASSIFIED SCHOOL EMPLOYEE WEEK.” a time to recognize the many contributions of classified school employees to public education; and

WHEREAS, the education of our youth is imperative to our society, to California, to our nation, our world; and

WHEREAS, our District’s classified school employees are skilled personnel who serve our students and play important roles in the establishment and promotion of a positive instructional environment; and

WHEREAS, our classified staff are dedicated individuals who perform outstanding work and have continued to offer exceptional support for our students, teachers, and administration;

WHEREAS, our classified employees deserve rightful recognition and public celebration for their caring, their deeds, and the incalculable contributions they have made to California’s public education system;

NOW, THEREFORE, BE IT RESOLVED , that the Pacific Grove Unified School District hereby recognizes and wishes to honor the contribution of the classified professionals to quality education in the state of California and declares the week of May 19 - 25, 2024, as Classified School Employee Week in the Pacific Grove Unified School District.

Approved, Passed, and Adopted at a regular board meeting of the Pacific Grove Unified School District held May 9, 2024 by the following vote:

AYES:

NAYS:

ABSTAIN:

ABSENT:

Attest,

Brian Swanson, Board President

Pacific Grove Unified School District

- | | |
|---|---|
| <input checked="" type="checkbox"/> Student Learning and Achievement | <input type="checkbox"/> Consent |
| <input checked="" type="checkbox"/> Health and Safety of Students and Schools | <input checked="" type="checkbox"/> Action/Discussion |
| <input checked="" type="checkbox"/> Credibility and Communication | <input type="checkbox"/> Information/Discussion |
| <input type="checkbox"/> Fiscal Solvency, Accountability and Integrity | <input type="checkbox"/> Public Hearing |

SUBJECT: “California Day of the Teacher” and “Teacher Appreciation Week”
Resolution No. 1130

DATE: May 9, 2024

PERSON(S) RESPONSIBLE: Claudia Arellano, Director II, Human Resources

RECOMMENDATION:

The Administration recommends the Board adopt **Resolution No. 1130** proclaiming May 6 - 10, as Teacher Appreciation Week and specifically Wednesday, May 8 as “California Day of the Teacher” (EC 37222.10)

BACKGROUND AND INFORMATION:

During the early 1970’s, the Association of Mexican-American Educators (AMAE) adopted the Mexican tradition of annually celebrating “El Dia del Maestro” (Day of the Teacher) festivities observed in Mexico and other Latin American countries, and began organizing related events throughout the state. In 1982, AMAE sponsored legislation (incorporated in Education Code Section 37222.10) to establish the Day of the Teacher.

Teachers play an important role in our society fulfilling the responsibility to educate all children. The State of California has declared the second Wednesday in May as “California Day of the Teacher.” Therefore, we recognize our teachers with a resolution proclaiming May 6, 2024 through May 10, 2024 as Teacher Appreciation Week whereby citizens confirm and support parent teacher partnerships and specifically May 8, 2024 as “California Day of the Teacher.”

FISCAL IMPACT:

None

**BEFORE THE GOVERNING BOARD OF
PACIFIC GROVE UNIFIED SCHOOL DISTRICT
COUNTY OF MONTEREY, CALIFORNIA**

RESOLUTION No. 1130 *Proclaiming*

**“CALIFORNIA DAY OF THE TEACHER” and
“TEACHER APPRECIATION WEEK”**

WHEREAS, teachers personify our society’s belief that universal public education is key to meeting the challenges of a changing world and the influence of a good teacher continues long after school days are only memories; and

WHEREAS, teachers demonstrate and share their love of learning in the classroom every day and fill many roles: as listeners, explorers, role models, motivators, and mentors; and, by doing so, are partners with parents and the community in inspiring students’ dreams and laying the foundation for them to be good citizens; and

WHEREAS, teachers strive to make every classroom an exciting environment where productive and useful learning can take place and each student is encouraged to grow and develop and where teachers reach out to foster the well-being of each student, regardless of ability, social or economic background, race, or ethnic origin or religion; and

WHEREAS, the Board does applaud the unique and highly specialized skills and dedication required to meet the varied needs of the young people served by the District’s instructional programs and recognize that the quality of all student’s educational experiences depends significantly and vitally upon the quality of their teachers who are entrusted with fulfilling the mission of education to prepare our students for the future; and

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of Pacific Grove Unified School District that **Resolution 1130** be adopted to observe May 6, 2024 through May 10, 2024 as Teacher Appreciation Week and specifically May 8, 2024 as the “CALIFORNIA DAY OF THE TEACHER” by taking time to remember and salute the teachers who mold and educate our children, impact and enrich our lives, and thereby, are critical to the constant transformation of our society.

Approved, Passed, and Adopted at a regular board meeting of the Pacific Grove Unified School District held May 9, 2024, by the following vote:

AYES:
NAYS:
ABSTAIN:
ABSENT:

Attest,

Brian Swanson, Board President

Pacific Grove Unified School District

- | | |
|---|---|
| <input type="checkbox"/> Student Learning and Achievement | <input type="checkbox"/> Consent |
| <input checked="" type="checkbox"/> Health and Safety of Students and Schools | <input checked="" type="checkbox"/> Action/Discussion |
| <input checked="" type="checkbox"/> Credibility and Communication | <input type="checkbox"/> Information/Discussion |
| <input checked="" type="checkbox"/> Fiscal Solvency, Accountability and Integrity | <input type="checkbox"/> Public Hearing |

SUBJECT: Adoption of Resolution No. 1131-Designating Authorized Agents to the Monterey & San Benito Property and Liability JPA

DATE: May 9, 2024

PERSON RESPONSIBLE: Joshua Jorn, Assistant Superintendent Business Services

RECOMMENDATION:

The District Administration recommends that the Board adopt Resolution No. 1131 designating authorized agents to represent our District in the Monterey & San Benito Property & Liability Joint Powers Authority (JPA).

BACKGROUND:

Pacific Grove Unified School District participates within a Joint Powers Authority (JPA) with other school Districts to provide Liability and Property Insurance.

INFORMATION:

The attached resolution will authorize Superintendent Linda Adamson as an alternate and Assistant Superintendent, Joshua Jorn as primary to be empowered to represent the best interests of the District in the JPA.

FISCAL IMPACT:

None

PACIFIC GROVE UNIFIED SCHOOL DISTRICT

RESOLUTION#1131

Approval of District Representative to Joint Powers Authority

WHEREAS, it is necessary for the effective administration of Pacific Grove Unified School District that the District have two representatives (one primary and one alternate) to the Board of Directors of those Joint Powers Authorities in which the District participates; and

WHEREAS, Pacific Grove Unified School District belongs to Joint Powers Authorities which administer respectively, Property & Liability Insurance.

NOW, THEREFORE BE IT RESOLVED that the Board of Trustees of Pacific Grove Unified School District do authorize the following individuals to represent the best interests of the District in the following Joint Powers Authority:

- Monterey & San Benito Property & Liability Joint Powers Authority:
 - Primary: Joshua Jorn
 - Alternate: Linda Adamson

ADOPTED this ___ day of _____, 2024, by the Board of Education of the Pacific Grove Unified School District by the following roll call vote:

AYES:

NOES:

ABSENT OR NOT VOTING:

President of the Governing Board of Pacific Grove Unified School District

Attested to:

Secretary of the Governing Board of Pacific Grove Unified School District

- | | |
|---|---|
| <input type="checkbox"/> Student Learning and Achievement | <input type="checkbox"/> Consent |
| <input checked="" type="checkbox"/> Health and Safety of Students and Schools | <input checked="" type="checkbox"/> Action/Discussion |
| <input checked="" type="checkbox"/> Credibility and Communication | <input type="checkbox"/> Information/Discussion |
| <input type="checkbox"/> Fiscal Solvency, Accountability and Integrity | <input type="checkbox"/> Public Hearing |

SUBJECT: Contract with School Facility Consultants

DATE: May 9, 2024

PERSON(S) RESPONSIBLE: Joshua Jorn, Assistant Superintendent Business Services

RECOMMENDATION:

The District Administration recommends the Board review and approve the contract with School Facility Consultants (SCF) for professional services.

BACKGROUND:

Pacific Grove Unified School District has historically not subscribed to the Office of Public School Construction (OPSC) School Facilities Program, the application process which would allow for the District to receive 50% project expenditure to match capital improvement projects.

Staff will be developing new facilities needs assessments that will generate modernization and new construction project eligibility. The District will begin submitting State Allocation Board (SAB) applications to the OPSC, and due to capacity issues within Business will need support in the area of establishing baseline eligibility

INFORMATION:

SFC proposes to provide the following services to the Pacific Grove Unified School District:

- Review and prepare documentation required to establish the District's New Construction eligibility under the State School Facility Program: Prepare SAB 50-01, Enrollment Certification/Projection form including:
 - Historical and Current CBEDS Enrollment Data Review
- Prepare Ten-Year Enrollment Projection
- Prepare Five-Year Enrollment Projection
- Prepare Modified Weighting Mechanism Review (AB 1014)
- Birth Attendance Rate Adjustment Review (County & Zip Code)
- Submit SAB 50-01, Enrollment Certification/Projection documents to the Office of Public School Construction, as applicable
- Prepare SAB 50-02, Existing School Building Capacity form including:
 - Prepare Detailed Site Map/Diagram Documentation

- Prepare Detailed Facility Inventory Review
- Outline School Facility Program Regulation Exclusions for Applicable Facilities
- Prepare Detailed Site Analysis Worksheets for Each School
- Submit SAB 50-02, Existing School Building Capacity document to the Office of Public School Construction, as applicable
- Prepare and Submit SAB 50-03, Eligibility Determination form to the Office of Public School Construction, as applicable
- Review, prepare and submit documentation required to update and maximize the District's current Modernization eligibility under the State School Facility Program: Analyze site maps, facility inventory and historical eligibility documents
- Review current CBEDS
- Update and file SAB 50-03 Eligibility Determination forms

FISCAL IMPACT:

Fund 21, Measure D, \$22,500 for baseline funding eligibility (\$17,500) and time and material not to exceed \$5000 (based on submitted hourly rate) for application services.



Professional Consulting Services Proposal

Prepared for:

Pacific Grove Unified School District

Attention:

Joshua R. Jorn

Assistant Superintendent Business Services

Email: josh.dorn@pgusd.org

Phone: (831) 646-6509

Primary Contact:

Matthew A. Pettler

Vice President

Email: matt@s-f-c.org

Phone: (916) 441-5063

Letter of Transmittal

April 2, 2024

Mr. Joshua R. Jorn
Assistant Superintendent Business Services
Pacific Grove Unified School District
435 Hillcrest Avenue
Pacific Grove, CA 93950

Subject: Proposal for Consulting Services

Dear Mr. Jorn:

School Facility Consultants (SFC) is pleased to present Pacific Grove Unified (Client) with this Proposal for Consulting Services. We believe SFC can assist the District with maximizing its facility funding.

SFC is a full-service company which has been assisting its clients in all aspects of school facility planning since 1986. SFC offers a wide variety of services, including the preparation of State funding applications, California Department of Education school plan approval applications, Facility Master Plan reports, and School Facility Needs Analysis/Developer Fee reports. SFC also works with Districts to garner Federal funding and various one-time program funding when available. We have worked with clients to realize over five billion dollars in school facility funding including new construction, modernization, and renovation projects. The team is also active in the implementation, analysis and monitoring of State programs and regulations, and has developed strong working relationships with state agency staff members. With decades of combined experience and diverse backgrounds, our team members work collaboratively, providing a comprehensive knowledge base to address the unique needs of our clients.

School Facility Consultants (SFC) is very experienced in providing creative solutions for districts:

- ✓ We work to obtain multiple funding sources for single projects.
- ✓ We assist clients to determine the optimal project prioritization based on funding availability.
- ✓ We work to maximize project savings allowing quicker access to State funding and more flexibility with State funding to match local needs.
- ✓ We track local and Federal funding opportunities to ensure the District is first in line for funding.

We very much appreciate your consideration of our firm and are happy to discuss in detail any of the services outlined above. Please do not hesitate to contact us at your earliest convenience with any questions.

Sincerely,



Matthew A. Pettler
Vice President

Experience and Qualifications

FIRM INFORMATION

School Facility Consultants (SFC) has assisted its clients in all aspects of school facility funding and planning since 1986. We have worked with clients to realize over five billion dollars in school facility funding including new construction, modernization, and renovation projects. Our knowledgeable staff understands the intricacies of the planning and funding process in California, including the procedures and requirements of the California Department of Education (CDE), Office of Public School Construction (OPSC), Division of the State Architect (DSA) California Energy Commission (CEC) and Department of Toxic Substances Control (DTSC).

With decades of combined experience in a wide range of school facility issues, we at School Facility Consultants are committed to integrity, professionalism, and excellence in all that we do. We are comprised of a diverse group of motivated individuals guided by the shared endeavor of applying analysis and strategy to achieve concrete results for our clients.

At SFC, we offer a full range of comprehensive services and work closely with clients to become a seamless extension of facility teams. Based in Sacramento, our consulting teams are active in the implementation, analysis, and monitoring of State programs and regulations. We have developed strong working relationships with state agency staff members and bring a deep understanding of facility planning to each of our client's projects.

SFC's team structure provides its clients with reliability, accessibility, and a broad knowledge base. The SFC partners maintain direct involvement with clients through regular communications with the consulting teams to maintain strong connections between consultants and clients. A Senior Consultant serves as the primary client liaison and manager of each client's project issues. Additional consulting staff are available on the team to provide additional support, research, and production of work products. Team Leaders manage workload and troubleshoot potential issues for the team. The team approach ensures that a consultant is always available to provide immediate assistance to clients. By working collaboratively, our consulting team members contribute their individual expertise toward an extensive and comprehensive knowledge base that addresses the unique needs of individual clients.

SFC was built upon its strong values, culture, and work ethic. These qualities make for a highly effective and successful work environment for its staff, promoting teamwork and providing valuable opportunities for individual employee growth potential. This positive environment encourages productivity and allows for the highest level of service for its clients.

Experience and Qualifications

STATE FUNDING ELIGIBILITY AND APPLICATION

California school districts and County offices of education have the potential to realize significant State funding contributions through individualized analysis of funding eligibility under the State's School Facility Program (SFP). SFC consulting staff is trained to analyze complex data sets in order to determine eligibility and access funding available through the Office of Public School Construction (OPSC) and other State agencies. SFC assists districts in navigating the multi-step requirements and coordinating with these agencies through the entire funding process.

FUNDING STRATEGY

By synthesizing our various areas of technical expertise, SFC consulting staff is equipped to develop complex and effective long and short term funding strategies that provide proven results in facilities funding. As a full-service consulting firm, SFC can take school districts facilities projects from start to finish, applying methodology that garners the greatest funding gains while addressing specific and individual project needs which may evolve during the life of the project. SFC assists clients in providing a long-term strategy which results in maximizing outside funding sources to expand the life of their local funding availability. These efforts ultimately afford our clients the ability to provide additional and enhanced learning environments for students.

PROJECT CLOSEOUT AND AUDIT SUPPORT

As part of participation in the SFP, school districts and county offices of education are required by statute and regulation to conform to several certifications, as well as to ensure that funds received are expended appropriately. As part of the project closeout process SFC assists clients in compiling the documentation necessary to demonstrate conformance with expenditure requirements and the numerous certifications for clients to retain their awarded project funding amounts.

MASTER PLANNING

Clients utilize Master Plans to forecast their facility needs into the future. SFC produces comprehensive Master Plans for clients, which assess potential impacts associated with outside area developments such as new residential development, shifts in demographic trends, and fluctuating district boundaries. Unification studies, territory transfer and school site placement are interpreted as the physical needs of clients' facilities are also assessed and addressed using Master Plans.

DEVELOPER FEE STUDIES

School districts are authorized to collect impact fees on new residential and commercial/industrial development pursuant to California law. The preparation of developer fee studies in accordance with statute is required for districts to collect these fees. These studies utilize local district data, including new residential development, historical statistical information, and school construction costs to determine the dollar amount that can be justified for collection by the school district. SFC's Planning Division prepares Justification Studies (Level 1) and School Facility Needs Analysis Studies (Level 2 and 3) according to the State Allocation Board's (SAB) provisions.

DEVELOPMENT MITIGATION SERVICES

SFC assists clients with development mitigation services. Services include Student Generation Rate Studies, Mitigation Impact Reports and Fair Share Studies. SFC consulting staff is available to provide comments on the potential impact of planned developments including general plans, specific plans and environmental impact reports. SFC consultants provide Geographic Information System (GIS) mapping services to inform student generation rates on a district-wide basis, by attendance area and for specific development projects. Should a district experience a fee challenge, staff are available to provide expert witness testimony and/or a professional review of developer fee justification reports or mitigation agreements.

Experience and Qualifications



Alexander R. Murdoch

School Facility Consultants, President/Partner

PROFESSIONAL QUALIFICATIONS

Alex Murdoch has worked in the school facility industry for over 28 years providing consulting services for clients in all areas of school facility planning and funding. As President and Partner of School Facility Consultants, Alex applies sophisticated methodologies to the facility funding and planning process resulting in the successful, timely delivery of innovative and complex projects.

As an industry leader, Alex is credited with a number of significant accomplishments including innovative planning that resulted in funding for a school district's reuse of commercial property for educational and economic revitalization purposes, being first to secure a lease/lease-back funding guarantee from the Office of Public School Construction for a school district and being first to receive special, legislated funding for a school district's multi-story replacement project.

Alex applies a nuanced approach to the political intricacies of the allocation of school facilities funding. He works to increase the Federal commitment to California school facilities. Alex specializes in identifying statewide policy trends, which are beneficial to the firm's clients. As an appointed member of statewide committees, Office of Public School Construction's Ad Hoc Committee in 2007 and the Coalition for Adequate School Housing's Grant Adequacy Committee in 1999, Alex has been instrumental in contributing to changes in regulations and legislation that benefit schools in California today.

Alex has crafted dozens of successful appeals to the State Allocation Board, brought numerous special items before the State Allocation Board and has crafted successful statewide bond provisions. His expert understanding of California Ed code and School Facility Program regulations has resulted in millions of dollars of funding for California school districts.

Education:

Bachelor of Arts - Political
Science and Economics,
University of California, Davis

Years with Firm:

28

Professional Affiliations:

C.A.S.H. – Coalition for
Adequate School Housing
C.A.S.B.O – California
Association of School Business
Officials
School Energy Coalition
Californians for School
Facilities
Small School Districts
Association
County School Facilities
Consortium

Proposed Services



Matthew A. Pettler

School Facility Consultants, Vice President/Partner

PROFESSIONAL QUALIFICATIONS

Matt Pettler has been with School Facility Consultants (SFC) for over 25 years. Matt became a Principal and Partner in the Firm in January of 2007. Matt currently serves as Vice President and has assisted over 100 Districts receive billions of dollars in capital outlay funds for public school facilities in California. Matt specializes in managing client projects in all areas of the State School Facility Program as well as leading developer fee mitigation and District Facility Master Planning efforts.

During his time with SFC, Matt has played a key role in multiple successful school district appeals before the State Allocation Board gaining over \$600 million dollars in Financial Hardship, Overcrowding Relief Grant and Facility Hardship funding. Matt has also assisted many school districts with complex audit/closeout issues to reach successful outcomes and avoid Material Inaccuracy penalties.

Additionally, Matt has prepared developer fee justification documents and successfully worked with the Building Industry Association (BIA) to secure millions of dollars needed to offset the impact of new residential development. He has led master planning teams in several school districts, allowing those districts to plan and execute successful bond elections to construct needed facilities for students.

Through these successes Matt has established relationships with State Allocation Board members, their staff and State Agency leadership.

Education:

Bachelor of Arts - Political Science and Public Policy, University of California, Los Angeles

Years with Firm:

25

Professional Affiliations:

C.A.S.H. – Coalition for Adequate School Housing

C.A.S.B.O – California Association of School Business Officials

School Energy Coalition

Californians for School Facilities

Small School Districts Association

County School Facilities Consortium

Awards:

Matt is a 2011 Coalition of Adequate School Housing Service Award Recipient

SFC proposes to provide the following services to the Pacific Grove Unified School District:

Funding Eligibility

- Review and prepare documentation required to establish the District's New Construction eligibility under the State School Facility Program:
 - Prepare SAB 50-01, *Enrollment Certification/Projection* form including:
 - Historical and Current CBEDS Enrollment Data Review
 - Ten-Year Enrollment Projection
 - Five-Year Enrollment Projection
 - Modified Weighting Mechanism Review (AB 1014)
 - Birth Attendance Rate Adjustment Review (County & Zip Code)
 - Submit SAB 50-01, *Enrollment Certification/Projection* documents to the Office of Public School Construction, as applicable
 - Prepare SAB 50-02, *Existing School Building Capacity* form including:
 - Prepare Detailed Site Map/Diagram Documentation
 - Prepare Detailed Facility Inventory Review
 - Outline School Facility Program Regulation Exclusions for Applicable Facilities
 - Prepare Detailed Site Analysis Worksheets for Each School
 - Submit SAB 50-02, *Existing School Building Capacity* document to the Office of Public School Construction, as applicable
 - Prepare and Submit SAB 50-03, *Eligibility Determination* form to the Office of Public School Construction, as applicable
- Review, prepare and submit documentation required to update and maximize the District's current Modernization eligibility under the State School Facility Program:
 - Analyze site maps, facility inventory and historical eligibility documents
 - Review current CBEDS
 - Update and file SAB 50-03 *Eligibility Determination* forms

Application Services

- Assist with the preparation and submittal of California Department of Education plan approval requests
- Prepare and submit State Allocation Board applications for New Construction projects to the Office of Public School Construction as determined by the funding opportunities identified
- Prepare and submit State Allocation Board applications for Modernization projects to the Office of Public School Construction as determined by the funding opportunities identified
- Work with the Client, architect and applicable State agency representatives, as needed, to advance the District's applications and ensure all projects are moving through the approval process in an efficient manner
- Assist Client with planning services, as requested by the Client, and as accepted by SFC

SFC proposes a flat fee of \$17,500 to determine the District's Funding Eligibility. SFC proposes to provide Application Services on a time and materials basis at the hourly rate schedule below. The fees shall cover all normal business expenses incurred in Sacramento by the Contractor on behalf of the Client. Client agrees that if it becomes necessary for a Consultant from School Facility Consultants to visit the Client, the Client will pay for travel time per the rate schedule below. Client also agrees to reimburse Contractor for all necessary and pre-approved travel expenses.

Hourly Rate Schedule

Principal	\$280 per hour
Director	\$250 per hour
Senior Consultant	\$245 per hour
Consultant	\$215 per hour
Research Analyst	\$180 per hour
Administrative Support	\$115 per hour

- | | |
|---|---|
| <input type="checkbox"/> Student Learning and Achievement | <input type="checkbox"/> Consent |
| <input type="checkbox"/> Health and Safety of Students and Schools | <input checked="" type="checkbox"/> Action/Discussion |
| <input type="checkbox"/> Credibility and Communication | <input type="checkbox"/> Information/Discussion |
| <input checked="" type="checkbox"/> Fiscal Solvency, Accountability and Integrity | <input type="checkbox"/> Public Hearing |

SUBJECT: Approval of Commercial Energy Natural Gas Purchase Agreement

DATE: May 9, 2024

PERSON(S) RESPONSIBLE: Joshua Jorn, Assistant Superintendent Business Services

RECOMMENDATION:

The District recommends to the Board approval of the Commercial Energy Natural Gas (CE) Purchase Agreement for natural gas service for the 2024-2025 school year.

BACKGROUND:

The District had participated, for the past 20 years, in the SPURR natural gas procurement program. The School Project for Utility Rate Reduction (SPURR) is a Joint Powers Authority (JPA) formed under state law in 1989 by California public K-12 school districts, community college districts, and county offices of education.

This program served over 200 agencies, including K-12 educational facilities, UC and CSU campuses, municipalities, and other California public agencies. SPURR is no longer providing a purchasing program for natural gas services in California past June 30th, 2024.

INFORMATION:

Under the Commercial Energy program, PGUSD will receive natural gas bills from PG&E for both the PG&E delivery charges and the Commercial Energy procurement charges with a single remittance due to PG&E. PG&E in turn pays Commercial Energy for their portion of the charges.

If the District does nothing, PGUSD will default to PG&E bundled service in July. PG&E only offers a month-to-month variable rate that fluctuates with the wholesale market, giving the District little visibility or predictability with our annual budget formula.

Commercial Energy offers customized pricing options such as a 100% fixed option or a capped option, not offered by PG&E, that will help the District better budget, and mitigate its financial risk. CE's Fixed Rate will provide a 28.9% reduction compared to SPURR's 2023 rate.

Attachments: Exhibit A: Site List
 Budget Options Comparative
 Historical Analysis
 Natural Gas Procurement (Year over Year) Analysis
 CE and PGUSD Natural Gas Purchase Agreement

FISCAL IMPACT:

Contract Term: One-Year (12) months (July 1, 2024, to June 30, 2025)

Projected Cost: \$75,660 – Based upon Fixed Rate of \$0.644 per therm and historical usage
Funding Source: Fund: 010; Resource: 0000; Cost Center: 075400 (Utilities)



NATURAL GAS PURCHASE AGREEMENT

This Agreement is between Commercial Energy of Montana Inc., dba Commercial Energy of California (Seller), 7677 Oakport St., Suite 525, Oakland, CA 94621, and **Pacific Grove Unified School District, 435 Hillcrest Ave., Pacific Grove, CA 93950.**

SELLER'S OBLIGATIONS:

- To sell natural gas to the Buyer under the terms and conditions specified herein, beginning no sooner than July 1st, 2024 for a **12 month billing term.**
- To perform all balancing, nominations and such other services necessary to provide natural gas to Buyer to fulfill Buyer's daily requirements.
- To manage and secure all necessary natural gas transportation and storage capacity requirements on behalf of Buyer as Buyer's agent, for Core service.
- To assist Buyer, if desired, in converting to Non-Core service, as eligible, based upon the Utility's tariffs.

BUYER'S OBLIGATIONS:

- To purchase all natural gas from Seller under the terms detailed herein for the following locations including any and all new future locations (Service ID Number and Meter Number may be modified by the Utility and are listed here for informational purposes only). **Please see Exhibit A:**
- To provide to Seller all necessary or sufficient information to assist Seller in meeting Seller's balancing and nominating duties on behalf of Buyer, including authorizing Seller the right to access Buyer's Utility SmartMeter Accounts to retrieve, analyze, store, and compile consumption and other data. Buyer will provide Seller its passwords, usernames, and/or login information required for Buyer to access the data from the Utility. Username: _____ Password: _____. Seller is responsible for obtaining and maintaining, at its sole cost and expense, any hardware, equipment, third party software, or other support and maintenance services related to the foregoing.
- To pay all invoices for natural gas, customer charges, and transportation under the terms herein.

EXTENSION: If neither party sends a written non-renewal notice to the other party at least fifteen (15) days prior to the beginning of the last delivery month, this Agreement automatically extends monthly. Natural Gas pricing will extend at: (1) the same terms as in this Agreement; or (2) monthly price based on the month's **PG&E** Citygate Monthly Index Price (as published in NGI - www.naturalgasintel.com) plus Seller's risk management fee of **\$0.069** per therm, whichever is greater, plus Seller's risk management fee of **5%** on the **PG&E** Citygate Monthly Index Price. For Core Service (GNR-1, GNR-2, GM, G1, GS or GT), Seller must also bill the monthly Stranded Pipeline Capacity Charge (SPCC) currently **\$0.042** therm. Buyer's monthly price paid to Seller does not include Utility's shrinkage allowance.

UTILITY BILL AUDITING SERVICE: Seller will perform for the Buyer an audit of Utility and/ or other third-party energy providers invoices for generation, transportation, transmission, metering, distribution services, and/ or taxes for electricity and natural gas. Should Seller find errors or reductions in these fees, Seller will provide Buyer with a findings letter to reduce these fees, as well as to obtain potential refund(s) from Utility and/ or other third- party providers for previous overcharges. Buyer will provide Seller all necessary and required documentation and authorization to capture reductions in fees and/or refund(s) of previous overcharges. If Seller is successful in obtaining forward reductions in fees, Seller will receive 33.33% of the savings generated for a period of 24 months. Seller will prepare and deliver a savings true-up report after month 24 to reconcile any differences in the fees to ensure Buyer is charged 33.33% of actual savings realized. If Seller is successful in obtaining refunds for previous errors, Seller will also receive 33.33% of such refund(s). Seller's costs to capture these savings and/or refunds will be borne by Seller. Buyer will provide Seller all necessary information and access to their utility accounts to perform the functions within this paragraph.

ELECTRIC VEHICLE CHARGING DEVELOPMENT: Should Seller identify operational benefits and/or energy cost reductions through equipment changes, opportunities, or programs to install and manage Electric Vehicle Charging for the Buyer, Seller is granted a Right of First Refusal (RFR) to propose, finance, and/or install such solutions.



ELECTRICITY PROCUREMENT: Seller will perform for Buyer a negotiation with the applicable Community Choice Aggregator (CCA) for electricity generation and procurement charges for all of Seller’s locations. Should Seller secure a reduction in these fees, Seller will provide Buyer with a findings letter detailing the amount of the reduction, as well as to obtain potential refund(s) from CCA for previous overcharges. If Seller is successful in obtaining either reductions in fees or refunds from CCA, Seller will receive **25%** of the savings generated for a period of **24** months. Seller’s costs to capture these savings and/or refunds will be borne by Seller

PRICING AND TERM

Natural gas will be measured and billed on the basis of therms delivered to the Buyer’s meter(s). Interstate transportation and gas storage costs paid to the Utility as part of the Utility’s procurement costs will be borne by Seller. Buyer’s monthly price paid to Seller does not include Utility’s customer charge(s) or transportation charge(s). Those charges are published from time-to-time by Utility. Please select or initial as acceptance your desired risk management option offered below:

a. _____ENERGY SAFE (Fixed) PRICE:

Buyer is guaranteed a fixed price of **\$0.644** per therm for all natural gas delivered. There are no volumetric requirements so any excess or deficit quantities relating to changes in Buyer’s monthly natural gas load will also be charged at the fixed price of **\$0.644** per therm.

b. _____CAPPED PRICE:

Buyer pays for each therm of natural gas delivered each month at a monthly price that is capped at **\$0.794** per therm. Monthly natural gas price is determined by taking the month’s PG&E Citygate Monthly Index Price (as published in Natural Gas Intelligence, Inc. - www.naturalgasintel.com) plus Seller’s risk management fee of **\$0.073** per therm and the monthly Stranded Pipeline Capacity Charge (SPCC) of **\$0.025** per therm. Buyer’s monthly price paid to Seller does not include Utility’s shrinkage allowance.

BLEND & EXTEND: On a monthly basis, Buyer may request Seller to provide an additional twelve (12) months to existing Agreement. This extension offer will blend the costs of the remaining Term of existing Agreement with the costs of the additional months of the extended Agreement.

This Offer expires Monday, April 22nd, 2024 **at 5:00 pm Pacific Time**, if not signed and returned via fax or email. This Agreement (5 pages) is the complete agreement of the parties and may be modified only in writing and only upon the mutual consent of both parties.

Seller: Commercial Energy of Montana Inc.

By:

Printed Name:

Title:

Date:

Buyer: Pacific Grove Unified School District

By:

Printed Name:

Title:

Date:



GENERAL CONDITIONS

PRICE AND VOLUME: Buyer will purchase all natural gas measured at the locations listed in Exhibit A of this Agreement from Seller during the term of this Agreement. Buyer's price from Seller, regardless of any changes in usage, will be billed at the selected contracted price in the Pricing section above. There will be no imbalance charges or penalties for excess or deficit quantities relating to any changes in Buyer's consumption. Seller will supply all necessary natural gas to meet Buyer's daily requirements.

PAYMENTS: Billing and collection of Buyer's account will be performed by the Seller or Utility. Buyer will abide by all terms of payment as provided within the monthly billing statement. Payments not received by Seller directly or through the Utility by the due date incur a \$50.00 administrative charge per past due meter account. An invoice billed through the Utility for which a payment is not received by Seller may be invoiced directly to the Buyer and payable upon receipt. Interest on late payments of all undisputed amounts accrues from the due date until the date of payment at the rate of 12% annually, or the maximum applicable lawful interest rate, whichever is less. Seller cannot be compelled to assign Buyer's transportation and storage management to another provider until such time as the amount due, including interest, is paid. However, if Buyer, in good faith, disputes the amount of any such billing or part thereof, and shall pay such amounts as it concedes to be correct, no suspension shall be permitted. Such disputes shall be resolved through arbitration.

VENDOR MASTERFILE: To ensure Seller receives all vendor notifications, Seller shall provide a W-9 for the Buyer to establish the Seller as a vendor within their Accounts Payable masterfile at time of initial contract acceptance.

CHANGE IN METER STATUS: In the event that any meter(s) disconnect, outstanding balances shall be treated as follows:

- (a) If other meter(s) are enrolled under this contract, balances from the disconnected meter will be transferred, and become due and payable.
- (b) Should all meters covered within this contract be disconnected, Seller will prepare and submit final bill inclusive of any outstanding balances, whether billed directly by the Seller or the Utility.

JURISDICTION: This Agreement shall be construed under the laws of the State of California.

ASSIGNMENT: Neither party will assign this Agreement or any of its rights or obligations under this Agreement without the prior written consent of the other party. Consent to assignment shall not be unreasonably withheld. This Agreement binds and inures to the benefit of the parties hereto, their successors and assigns, and constitutes a covenant running with the location(s) listed in Exhibit A.

TITLE AND WARRANTS: Seller warrants that it will transfer good and merchantable title to all natural gas sold hereunder and delivered by it to Buyer, free and clear of all liens, encumbrances and claims. Title and right of possession to all natural gas sold and delivered hereunder shall pass from Seller to Buyer at the Delivery Point, which shall mean the Buyer's Utility meter.

FORCE MAJEURE: If either party due to a condition of force majeure is unable to perform any obligation or condition of this Agreement, with the exception of paying debt, such obligation shall be suspended during the continuance of the inability. Force majeure shall include, without limitations, acts of God, failure of any pipeline or utility to accept or transport gas, strikes, lockouts, or labor disputes, fire, flood, storms, hurricanes or other natural occurrences, or any similar cause which is beyond the reasonable control of the party claiming force majeure. Economic hardship of either party shall not constitute a Force Majeure under this Agreement. A party that is delayed in performing or rendered unable to fulfill any of its obligations under this Agreement by Force Majeure shall notify the other party in writing as soon as possible and shall exercise due diligence to attempt to remove such inability with all reasonable dispatch.

CREDIT: Buyer credit standing is essential to Seller entering into and performing its obligations under this Agreement. Should Seller, at any time, become reasonably concerned about Buyer's credit quality (as a result, for instance, of 2 late payments in a six-month period or a credit rating agency red flag), Seller may require and Buyer will provide credit assurance in the form of a prepayment or cash deposit up to the amount of sixty (60) days exposure plus the Contract Value minus the Market Value for the remaining term. Seller will reasonably determine this amount, which must be funded within 10 business days of written request. Failure to fund the request is a Default event of the Buyer.

FORWARD CONTRACT/EARLY TERMINATION: This Agreement is a forward contract under the Federal Bankruptcy Code. In the event that Buyer or Seller shall: i) make an assignment or any general arrangement for the benefit of creditors; ii) file a petition or otherwise commence, authorize or acquiesce in the commencement of a proceeding or cause under any bankruptcy or similar law for the protection of creditors or have such petition filed or proceeding commenced against it, iii) otherwise become insolvent, then such party will be in Default of this Agreement and this Agreement will terminate immediately. Seller shall have the right to suspend deliveries without prior notice. Buyer's early termination without cause shall be an event of default of this Agreement.

DEFAULT: In the event either party defaults ("Defaulting Party") in its obligations under the terms of this Agreement to the other party ("Performing Party") except to the extent excused by Force Majeure under this Agreement (which shall not include a delay in payment that is cured within 5 (five) business days of a written demand or any other failure of performance that is cured within 10 (ten) business days of a written demand from the Performing Party for corrective action), Performing Party shall have the right to establish an early termination date to this Agreement upon 10 business days written notice to the Defaulting Party. The Performing Party shall act reasonably to minimize its damages.

DISPUTE RESOLUTION AND ARBITRATION: The parties shall attempt to resolve any claim or dispute through good faith negotiations. Upon failure of such negotiations, all claims and disputes that (1) are between Seller and Buyer and (2) arise out of, or relate to, this Agreement between Seller and Buyer or to their performance or breach (including any tort or statutory claim) ("Arbitrable Claims"), shall be arbitrated under the Commercial Arbitration Rules of the American Arbitration Association ("AAA"), in English within the state of California, within the County of Alameda, before one neutral arbitrator who shall be a member of the AAA's Large Complex Case Panel. Upon the reasonable request of a party, specific documents relevant to the claim or dispute in the possession of the other party shall be made available to the requesting party not later than sixty (60) days after the demand for arbitration is served. The arbitrator may permit depositions or other discovery deemed necessary for a fair hearing. The hearing may not exceed two days. The award shall be rendered within 120 days of the demand for arbitration. The arbitrator may award interim and final injunctive relief and other remedies, but may not award punitive damages. No time limit herein is jurisdictional. Any award of the arbitrator (including awards of interim or final remedies) may be confirmed or enforced in any court having jurisdiction. Notwithstanding the



above, Buyer or Seller may bring court proceedings or claims against each other (i) solely as part of separate litigation commenced by an unrelated third party, or (ii) if not first sought from the arbitrator, solely to obtain in the state or federal courts in or for the state of California temporary or preliminary injunctive relief or other interim remedies pending conclusion of the arbitration.

REMEDIES IN THE EVENT OF DEFAULT:

If Seller terminates this Agreement upon the default of Buyer, or Buyer terminates without cause, Buyer will pay Seller the following early termination payment, if a positive number: Contract Value minus Market Value.

If Buyer terminates this Agreement upon the default of Seller, Seller will pay Buyer the following early termination payment, if a positive number: Market Value minus Contract Value.

For purposes of this Section, "Contract Value" means the contract price of natural gas, per therm hereunder, times Remaining Anticipated Usage. "Market Value" means the amount, as determined by the Non-Defaulting Party, less Costs, a bona fide third party would purchase or sell for the Remaining Anticipated Usage over the remaining term of the Agreement at current forward market prices. In determining "Market Value", the Non-Defaulting Party may consider, among other things, quotes from dealers in the wholesale energy industry, forward price valuations developed by the Non-Defaulting Party, and other bona fide offers from third parties, all as commercially available and adjusted for the length of the Remaining Term, as the Non-Defaulting Party reasonably determines. "Costs" mean brokerage fees, commissions and similar transaction costs reasonably incurred by, or on behalf of, the Non-Defaulting Party in terminating or liquidating any arrangement pursuant to which it has hedged its obligations, and attorneys' fees, expenses and costs, if any, incurred in connection with enforcing its rights under this Agreement. "Remaining Anticipated Usage" means the historical usage (in therms), for the remaining term of the Agreement.

If Seller Defaults on the Agreement and the Buyer finds a replacement alternate supplier, Seller should take direction from Buyer with regards to switching the accounts.

After termination, cancellation, or expiration, Buyer agrees that it will remit full payment of all amounts due under this Agreement within the Final Payment Period (which will be deemed to be the 20-day period following receipt of the invoice for the last period of deliveries hereunder). The applicable provisions of this Agreement will continue in effect after termination, cancellation, or expiration hereof to the extent necessary, including but not limited to providing for final billing, billing adjustments and payments, and with respect to any other payment obligations hereunder. Buyer is responsible for all collection costs incurred by seller in the event of nonpayment.

SURVIVAL: Termination of this Agreement shall not relieve either Party from an obligation under this Agreement to pay amounts due to the other Party that were incurred prior to termination.

LIMITATION OF LIABILITY: FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT, THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER DAMAGES OR REMEDIES HEREBY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED, THE LIABILITY OF THE DEFAULTING PARTY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY AND ALL OTHER DAMAGES AND REMEDIES ARE WAIVED. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES IN TORT, CONTRACT UNDER ANY INDEMNITY PROVISION OR OTHERWISE.



California
Public Utilities
Commission

Appendix C CPUC Required Notice of Price, Terms, and Conditions of Service

Public Utilities Code Section 986 and Decision 18-02-002 of the California Public Utilities Commission requires that each registered Core Transport Agent (CTA) offering natural gas (gas) service to residential and small commercial customers provide each customer with this written Notice. This Notice represents standardized information about the price, terms and conditions of service that apply to you in our standard offer. Commercial Energy is required by law to provide this standard Notice to all new or renewing customers in addition to your customized written contract for service with Commercial Energy.

Commercial Energy (CE) is a registered CTA with the California Public Utilities Commission. Our CTA registration number is #0047. Our address is 7677 Oakport St., Suite 525, Oakland, CA 94621. Our telephone number is (510) 567-2700.

Summary

This Notice contains important information regarding the standard price, terms, and conditions of service with our company. This summary describes some of the more important points covered in this notice. You should, however, read the entire notice so that you understand all of the standard price, terms, and conditions which apply to you. Your total price of gas provided by Commercial Energy under our standard contract cannot be estimated in advance, as it is dependent upon the monthly market price of gas and CE's Administrative Fee at the time of the contract signing and the volumes consumed.

Your Right To Choose

You have the right to choose the company you purchase natural gas from. In selecting Commercial Energy, your existing gas utility, PG&E, will still be responsible for transporting the gas to your service location and billing you monthly. If you choose Commercial Energy to be your CTA, be aware that we do not offer a low income assistance program that provides a discount on your gas bill.

Commercial Energy requires you contract with us for a minimum of one year, and not on a month to month basis. If you decide to switch your gas provider before the contract term is up, you may be obligated to pay certain fees or penalties for early termination of the contract. Our early termination fees and penalties are explained below in the Terms and Conditions of Service. Should any CTA refuse to provide you with gas service, you have the right to request, within thirty days from the date service was denied, that the CTA send you a written explanation of why the CTA denied you service.

Verification That You Want a New Provider of Gas

As a small commercial customer or business customer, Commercial Energy must confirm your agreement to switch to our service through an enrollment form created by the utility. CE also requires written/digital contracts for new and renewal service. Accordingly, Commercial Energy will ask you to sign a written contract (or DocuSign a digital one) which explains the effect of the change in your gas service to CTA service with Commercial Energy, and also explains all the relevant terms and prices of service. This Notice will be provided to you with your written contract for service with Commercial Energy.

Your Total Price of Gas

The price of each therm of gas provided by Commercial Energy in our standard contract varies by month and by your usage pattern. On the PG&E system, we use the posted PG&E citygate price for the month of consumption plus our standard Administrative Adder of \$0.09/therm. The CE Administrative Adder includes the price for PG&E's interstate pipeline and storage costs that CTAs must bear, plus our internal costs all multiplied by the volume consumed and metered after accounting for utility imposed, and CPUC approved, fuel and line losses. There are no other charges in our



California
Public Utilities
Commission

standard contract. CE's standard contract has no non-recurring charges, only monthly recurring charges based on volumes consumed.

ILLUSTRATIVE PRICE CALCULATION: In the month of January 2018, the PG&E citygate price was \$0.38/therm. With our standard adder of \$0.09/therm, you would pay CE \$0.47/therm for natural gas. If your meter read 100 therms for the month as shown on your bill, then you would be charged for that 100 therms plus the fuel loss (for that month) of 4.0%, for a total usage of 104 therms multiplied by \$.47 for a CE bill of \$48.88.

For our customized contracts, the price per unit is calculated individually based on a series of variables and the services included in the customized contract. Those services may include, but are not limited to: daily or monthly natural gas prices; natural gas storage, scheduling and dispatching of daily volumes; evaluation, design, installation, financing and/or management of energy efficiency products and/or services; demand response and/or conservation products; gas-fired generating solutions including combined heat and power, peaking or emergency systems, and energy optimization and delivery services.

As the utility customer, you will pay PG&E to transport the gas to your meter location. These charges are based on your rate category and include a meter charge, transmission and distribution charges, as well as various other public goods charges imposed by the CPUC that may vary by month, season, or year.

Description of Terms and Conditions of Service

If you choose Commercial Energy to be your CTA, you agree to let us be your gas provider for the term provided in your contract. Per your contract, you may choose another gas service provider or renew your service agreement with us. In our standard contract offer, you have a Right to Cancel, defined below. After that period of time, if you terminate this contract early, you will pay an early termination fee which is the Administrative Adder multiplied by the estimated remaining consumption for the contract period.

Our standard contract does not require a deposit for qualified businesses. You are required to pay our bill timely and fully for the entire term of the agreement. If an advance deposit is required, Public Utilities Code Section 985(g) provides that the deposit amount cannot be more than your estimated bill for a three-month period. Since you will be purchasing gas from Commercial Energy, PG&E will continue to read your gas meter and send you a single bill for both their charges and Commercial Energy's charges. Should you owe any past due amounts on your bill, PG&E is responsible for collecting any past due amount from you. If you fail to pay any past due amount owed to PG&E, they may disconnect your service. If you fail to pay any past due amount owed to CE, we may transfer your gas service back to PG&E, who may then disconnect your gas service if you fail to pay them. You may still owe CE for natural gas provided per the terms of your contract. If your gas service is disconnected, you may be obligated to pay a disconnect fee to the gas utility. In order to reestablish gas service, you may have to pay a reconnection fee to the gas utility.

Complaint Procedures

Different complaint procedures apply depending upon whom you have a dispute with. If you have a billing-related dispute concerning the gas utility's charges, or a dispute regarding the manner in which the gas is distributed to your residence, an informal complaint may be submitted to the California Public Utilities Commission (CPUC) for an attempt at resolving the matter. If the matter is not resolved, you may file a formal complaint with the CPUC if you meet the conditions set forth in Article 4 of the CPUC's Rules of Practice and Procedure. If you have a billing-related or service-related dispute with Commercial Energy, your CTA, you may complain to the CPUC. We also encourage you to contact Commercial Energy so that we may help resolve any problem. If you contact the CPUC, the agency shall first attempt to informally resolve your complaint. If the matter cannot be resolved satisfactorily, you may file a formal complaint against us with the CPUC or file a complaint against us in civil court per the terms of our contract.



California
Public Utilities
Commission

If you file or submit a complaint with the CPUC against a gas utility or a CTA, your gas service cannot be disconnected if you deposit the disputed amount with the CPUC in an escrow account. If you have any questions regarding the CPUC complaint procedures, you may contact the Consumer Affairs Branch (CAB) or the Public Advisor's Office of the CPUC. The CAB may be reached at 1-800 649-7570, and the Public Advisor's Office may be reached at 1-866-849-8390.

Other Services

We do not offer any Other Services as part of our Standard contract.

Notice Of Your Right To Cancel

You have a limited right to cancel our standard contract for gas service unless you have signed a waiver of your right to cancel. Residential gas customers have the right to cancel the contract until midnight of the thirtieth day after the date of the first bill for CTA service has been issued to you the customer. Core commercial gas customers have the right to cancel the contract until midnight of the third business day after the day on which you the customer signs an agreement or offer to purchase from us, the CTA.

However, core commercial gas customers can also waive their right to cancel under Public Utilities Code §989.1(a) by signing a separate written waiver of your right to cancel and returning that waiver to Commercial Energy. This separate written waiver is presented to you at the same time that you sign the contract for CTA service from Commercial Energy. The waiver of a customer's cancellation rights enables Commercial Energy to provide firm gas price quotes, initiate other services, and/or promptly hedge a customer's contract price and volume for gas, which may be advantageous to the customer.

If you have not signed the waiver of your right to cancel, and wish to cancel the CTA contract with us, you may send us, at the address listed on page 1 of this notice, written notice of your cancellation within the time period specified above. If you have not signed the waiver of your right to cancel, no fee or penalty may be imposed against you for exercising your right to cancel within the applicable time period.

Your Rights If You Are Denied Service By The CTA

If you are offered gas service by Commercial Energy by means of a written contract, and after you have signed the contract we subsequently decline to provide the service to you, you have the right to request we provide a written reason as to why we declined to provide you with service. Your request for the written reason must be made within 35 days from the date that CE declined to provide service to you. We then have 30 days from your request to provide you with the written reason as to why we declined to provide service to you. If you disagree with the written reason why we declined to provide service to you, you may submit an informal complaint to the CPUC to ask them if they can resolve this issue.



CE NATURAL GAS - BUDGET OPTIONS

Customer: **Pacific Grove Unified School District**

Option:	Fixed Price			\$0.644				
Effective Date	Your Monthly Usage (in therms)	PG&E Delivery Rate	PG&E Delivery Charge	Energy Safe Price	CE Supply Charges	Utility Users Tax (0%)	Total Cost per Therm	TOTAL MONTHLY BILL
07/01/24	2,313	\$ 1.481	\$ 3,425	\$ 0.644	\$ 1,489	\$ -	\$ 2.12	\$ 4,914
08/01/24	3,735	\$ 1.404	\$ 5,245	\$ 0.644	\$ 2,404	\$ -	\$ 2.05	\$ 7,650
09/01/24	4,122	\$ 1.389	\$ 5,726	\$ 0.644	\$ 2,654	\$ -	\$ 2.03	\$ 8,379
10/01/24	8,370	\$ 1.335	\$ 11,178	\$ 0.644	\$ 5,388	\$ -	\$ 1.98	\$ 16,566
11/01/24	14,508	\$ 1.510	\$ 21,902	\$ 0.644	\$ 9,339	\$ -	\$ 2.15	\$ 31,242
12/01/24	18,009	\$ 1.504	\$ 27,094	\$ 0.644	\$ 11,593	\$ -	\$ 2.15	\$ 38,687
01/01/25	16,479	\$ 1.507	\$ 24,832	\$ 0.644	\$ 10,608	\$ -	\$ 2.15	\$ 35,440
02/01/25	12,627	\$ 1.512	\$ 19,091	\$ 0.644	\$ 8,129	\$ -	\$ 2.16	\$ 27,220
03/01/25	14,733	\$ 1.510	\$ 22,250	\$ 0.644	\$ 9,484	\$ -	\$ 2.15	\$ 31,734
04/01/25	8,820	\$ 1.331	\$ 11,739	\$ 0.644	\$ 5,678	\$ -	\$ 1.97	\$ 17,417
05/01/25	10,035	\$ 1.326	\$ 13,309	\$ 0.644	\$ 6,460	\$ -	\$ 1.97	\$ 19,769
06/01/25	3,780	\$ 1.399	\$ 5,288	\$ 0.644	\$ 2,433	\$ -	\$ 2.04	\$ 7,721
TOTAL	117,531	\$ 1.456	\$ 171,079	\$ 0.644	\$ 75,660	\$ -	\$ 2.10	\$ 246,740

Option:	Capped			\$0.794		=CAP		
Effective Date	Your Monthly Usage (in therms)	PG&E Delivery Rate	PG&E Delivery Charge	Capped Price	CE Supply Charges	Utility Users Tax (0%)	Total Cost per Therm	Total Monthly Bill
07/01/24	2,313	\$ 1.481	\$ 3,425	\$ 0.429	\$ 992	\$ -	\$ 1.91	\$ 4,418
08/01/24	3,735	\$ 1.404	\$ 5,245	\$ 0.465	\$ 1,738	\$ -	\$ 1.87	\$ 6,983
09/01/24	4,122	\$ 1.389	\$ 5,726	\$ 0.455	\$ 1,874	\$ -	\$ 1.84	\$ 7,599
10/01/24	8,370	\$ 1.335	\$ 11,178	\$ 0.453	\$ 3,791	\$ -	\$ 1.79	\$ 14,969
11/01/24	14,508	\$ 1.510	\$ 21,902	\$ 0.614	\$ 8,913	\$ -	\$ 2.12	\$ 30,816
12/01/24	18,009	\$ 1.504	\$ 27,094	\$ 0.794	\$ 14,295	\$ -	\$ 2.30	\$ 41,389
01/01/25	16,479	\$ 1.507	\$ 24,832	\$ 0.794	\$ 13,080	\$ -	\$ 2.30	\$ 37,912
02/01/25	12,627	\$ 1.512	\$ 19,091	\$ 0.709	\$ 8,954	\$ -	\$ 2.22	\$ 28,045
03/01/25	14,733	\$ 1.510	\$ 22,250	\$ 0.546	\$ 8,051	\$ -	\$ 2.06	\$ 30,301
04/01/25	8,820	\$ 1.331	\$ 11,739	\$ 0.514	\$ 4,534	\$ -	\$ 1.85	\$ 16,273
05/01/25	10,035	\$ 1.326	\$ 13,309	\$ 0.511	\$ 5,133	\$ -	\$ 1.84	\$ 18,442
06/01/25	3,780	\$ 1.399	\$ 5,288	\$ 0.534	\$ 2,018	\$ -	\$ 1.93	\$ 7,306
TOTAL	117,531	\$ 1.456	\$ 171,079	\$ 0.624	\$ 73,374	\$ -	\$ 2.08	\$ 244,453

MAXIMUM CAPPED COST:

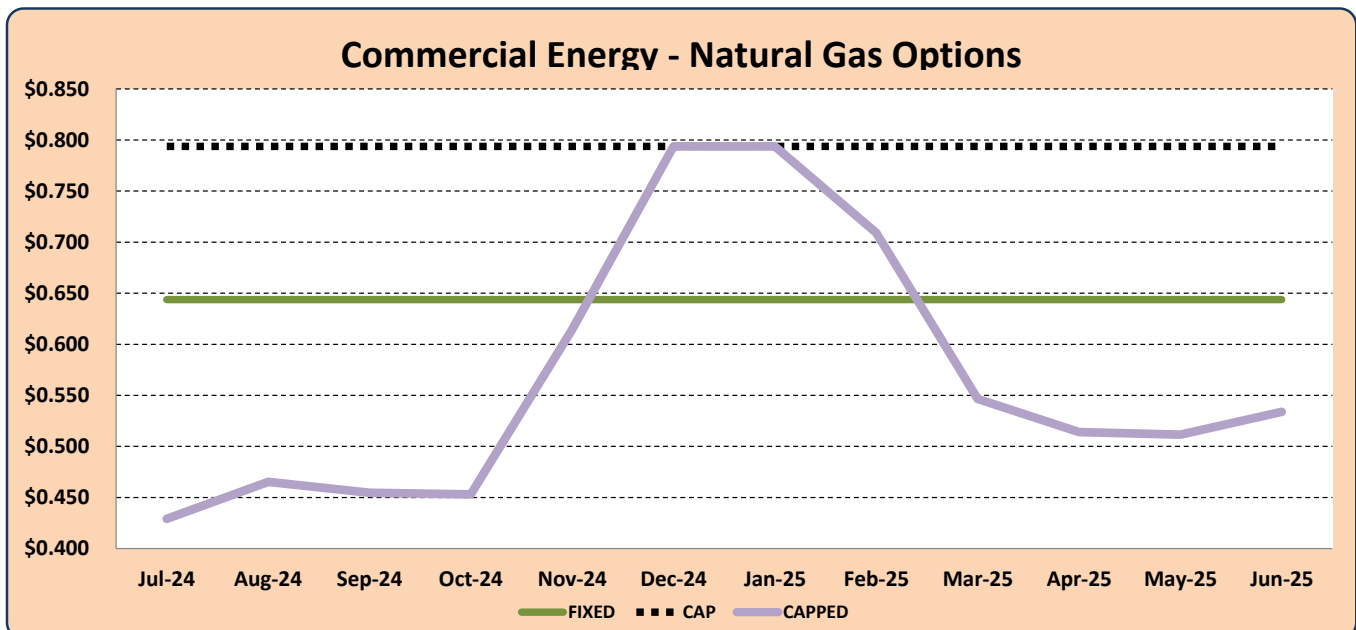
\$ 264,369

VARIATION (MAX COST vs. FIXED):

7.1%

* Source: Natural Gas Exchange, Inc. - www.ngx.com. NGX - PGE Citygate Fixed Swap Settlement Price:

4/18/2024






Pacific Grove Unified School District - Natural Gas Procurement YOY Analysis

Supplier	Natural Gas Procurement Spend		Cost per Therm
CY 2023 - SPURR	\$	106,369	\$ 0.905
FY 24-25 - CE 100% Fixed Rate	\$	75,660	\$ 0.644
YOY Budget Reduction	\$		30,709 28.9%

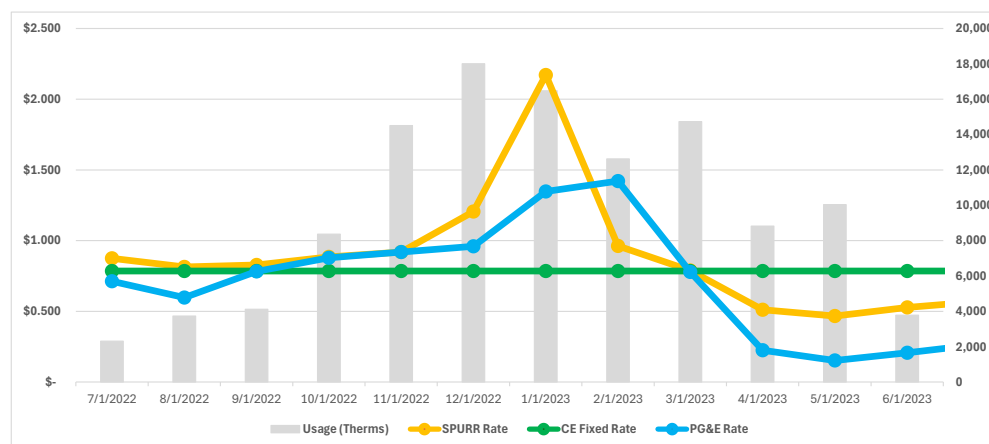
Exhibit A

Address	City	State	Zip Code	Service ID Number	Meter Number
Sunset Dr	Pacific Grove	CA	93950	4691519005	
17 Mile Dr @ Lithse	Pacific Grove	CA	93950	6169581005	
Lighthouse Ave	Pacific Grove	CA	93950	6586248005	
1065 Congress Ave	Pacific Grove	CA	93950	6762640005	
435 Hillcrest Ave	Pacific Grove	CA	93950	7921706560	
835 Forest Ave	Pacific Grove	CA	93950	8501641005	
1004 David Ave	Pacific Grove	CA	93950	8524842005	
485 Pine Ave	Pacific Grove	CA	93950	8584974005	
485 Pine Ave	Pacific Grove	CA	93950	8626641005	

		 Buying Together. Buying Better.				 COMMERCIAL ENERGY		 PG&E	
		SPURR "40/60" Plan				Commercial Energy 100% Fixed		PG&E 100% Market Rate	
Month	Usage (Therms)	40% Fixed	60% Variable	SPURR Rate	SPURR Supply Charges	CE Fixed Rate	CE Supply Charges	PG&E Rate	PG&E Charges
7/1/2022	2,313	\$ 0.944	\$ 0.829	\$ 0.875	\$ 2,024	\$ 0.785	\$ 1,816	\$ 0.713	\$ 1,649
8/1/2022	3,735	\$ 0.944	\$ 0.728	\$ 0.814	\$ 3,042	\$ 0.785	\$ 2,932	\$ 0.597	\$ 2,230
9/1/2022	4,122	\$ 0.944	\$ 0.751	\$ 0.828	\$ 3,414	\$ 0.785	\$ 3,236	\$ 0.782	\$ 3,223
10/1/2022	8,370	\$ 0.944	\$ 0.845	\$ 0.885	\$ 7,404	\$ 0.785	\$ 6,570	\$ 0.879	\$ 7,357
11/1/2022	14,508	\$ 0.944	\$ 0.903	\$ 0.919	\$ 13,339	\$ 0.785	\$ 11,389	\$ 0.919	\$ 13,333
12/1/2022	18,009	\$ 0.944	\$ 1.380	\$ 1.206	\$ 21,712	\$ 0.785	\$ 14,137	\$ 0.959	\$ 17,271
1/1/2023	16,479	\$ 0.944	\$ 2.990	\$ 2.172	\$ 35,786	\$ 0.785	\$ 12,936	\$ 1.347	\$ 22,197
2/1/2023	12,627	\$ 0.944	\$ 0.975	\$ 0.963	\$ 12,155	\$ 0.785	\$ 9,912	\$ 1.421	\$ 17,943
3/1/2023	14,733	\$ 0.944	\$ 0.685	\$ 0.789	\$ 11,618	\$ 0.785	\$ 11,565	\$ 0.778	\$ 11,462
4/1/2023	8,820	\$ 0.944	\$ 0.222	\$ 0.511	\$ 4,505	\$ 0.785	\$ 6,924	\$ 0.225	\$ 1,985
5/1/2023	10,035	\$ 0.944	\$ 0.148	\$ 0.466	\$ 4,680	\$ 0.785	\$ 7,877	\$ 0.152	\$ 1,525
6/1/2023	3,780	\$ 0.944	\$ 0.250	\$ 0.528	\$ 1,994	\$ 0.785	\$ 2,967	\$ 0.207	\$ 782
7/1/2023	2,313	\$ 0.775	\$ 0.432	\$ 0.569	\$ 1,317	\$ 0.785	\$ 1,816	\$ 0.266	\$ 615
8/1/2023	3,735	\$ 0.775	\$ 0.525	\$ 0.625	\$ 2,334	\$ 0.785	\$ 2,932	\$ 0.284	\$ 1,061
9/1/2023	4,122	\$ 0.775	\$ 0.444	\$ 0.576	\$ 2,376	\$ 0.785	\$ 3,236	\$ 0.451	\$ 1,859
10/1/2023	8,370	\$ 0.775	\$ 0.483	\$ 0.600	\$ 5,020	\$ 0.785	\$ 6,570	\$ 0.625	\$ 5,231
11/1/2023	14,508	\$ 0.775	\$ 0.745	\$ 0.757	\$ 10,983	\$ 0.785	\$ 11,389	\$ 0.694	\$ 10,069
12/1/2023	18,009	\$ 0.775	\$ 0.742	\$ 0.755	\$ 13,600	\$ 0.785	\$ 14,137	\$ 0.885	\$ 15,938
Totals	168,588			\$ 0.933	\$ 157,303	\$ 0.785	\$ 132,342	\$ 0.805	\$ 135,731

Nov-Mar Therms	76,356
% of Annual Budget	65%

Cost Summary	
SPURR Cost	\$ 157,303
PG&E Cost	\$ 135,731
Commercial Energy Cost	\$ 132,342



- | | |
|--|---|
| <input type="checkbox"/> Student Learning and Achievement | <input type="checkbox"/> Consent |
| <input type="checkbox"/> Health and Safety of Students and Schools | <input checked="" type="checkbox"/> Action/Discussion |
| <input type="checkbox"/> Credibility and Communication | <input type="checkbox"/> Information/Discussion |
| <input checked="" type="checkbox"/> Fiscal Solvency, Accountability, and Integrity | <input type="checkbox"/> Public Hearing |

SUBJECT: Pacific Grove High School Roofing & Painting project.

DATE: May 9, 2024

PERSON(S) RESPONSIBLE: Jon Anderson, Director of Maintenance, Operations, and Transportation

RECOMMENDATION:

The District Administration recommends that the Board review and approve the contract for services with Ausonio Incorporated.

BACKGROUND:

The Pacific Grove High School is overdue for roofing and painting.

INFORMATION:

Rather than removing and replacing the tar and gravel roofs a seamless reinforced roof encapsulation system will be applied. The roof will have a 40-year renewable warranty. The exteriors of buildings will be painted, and new gutters installed where applicable. This is the second of five phases of the reprioritized Measure D projects. This phase will cover buildings E, G, and H.

A public bid was held for this project and has resulted in a successful bid of \$780,693.96.

FISCAL IMPACT:

With allowances for wood rot and unforeseen items this project is not anticipated to exceed \$855,000.00.

LUMP SUM CONSTRUCTION CONTRACT

LUMP SUM – FIXED PRICE

THIS CONSTRUCTION CONTRACT (this "Agreement") is entered into on this (Date):
May 10, 2024

Between the Owner: **PACIFIC GROVE UNIFIED SCHOOL DISTRICT**
435 Hillcrest Ave
Pacific Grove CA 93950

And the Contractor: **Ausonio Incorporated**
11420 Commercial Parkway
Castroville, CA 95012-3214

RECITALS

A. Owner desires to contract with Contractor for the PGUSD Pacific Grove High School Roofing and Painting, Project No. MD-021 (the "Project"), Located:

Pacific Grove Unified School District
Pacific Grove High School
615 Sunset Ave.
Pacific Grove, CA 93950

B. Contractor desires to construct the Project on the terms and conditions contained herein. NOW THEREFORE, for good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the parties agree as following.

Section 1. Definitions.

Work. As used herein the "Work" shall mean all labor and materials, or both, necessary to perform the Project, to full completion, and shall consist of the components described in the *Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents*. The Work shall be done and the materials furnished in accordance with the information provided in the *Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents*, and as discussed in all correspondence prior to bid time and at the job walk.

Section 2. Obligations of Contractor.

Contractor agrees to furnish and transport all necessary labor, permits, materials, tools, implements, supplies, building materials and component parts, and appliances required to perform and finish the Work to industry standards and all applicable codes, free of any and all liens and claims of laborers, materialmen, suppliers, and subcontractors, free from any and all defects or deficiencies. Contractor shall further endeavor to use its best faith efforts to complete the Project timely, and continually keep Owner apprised of the status of the Project.

Section 3. The Work.

(a) Contractor has reviewed the Scope of Work (*Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents.*), and represents that: (i) if the Work is performed in accordance therewith, the Work shall have been constructed in accordance with all applicable state, county, and municipal laws, codes, and regulations, including, but not limited to, all applicable building codes; and (ii) the Plans and Specifications are sufficiently complete and detailed to permit Contractor to perform the entire Work on the basis of the Notice to Bidders and Jobsite Walk for the Fixed Price Cost. No changes in the scope of work or Fixed Price shall be made unless in a change order signed by both parties. (iii) contractor will be responsible for locating all utilities (above and below ground) with a licensed locating service prior to commencing work on the site. The contractor will be provided with information from the owner locating said utilities to the best of the owner's knowledge.

(b) If at any time or times during the process of the Work, Owner desires to add to, alter, deviate from, or make omissions from the Work to be performed under the *Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents.* Owner shall be at liberty to do so and the same shall in no way affect or make void this Agreement. Any such alterations to the scope of work, or deviations from *Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents,* shall be made only in a writing signed by both parties. Any verbal changes in the scope of Work defined within the *Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents* shall be of no force nor effect. This Agreement shall be considered completed when: (i) the Work is finished in strict accordance with the *Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents* as amended by any written change order

(ii) the Owner approves of the Work;

(iii) a notice of completion has been recorded; and (iv) the Contractor has received final payment.

Section 4. Contract Time.

Contractor agrees to commence the Work or as mutually agreed after receiving written notification to proceed from Owner, and shall complete the Work in no event later than

Wednesday, August 2nd, 2024. Sixty days from the Notice to Proceed (the "Completion Date"). Contractor shall carry out the Work at all times with the greatest possible dispatch and diligence. If Contractor has not completed the Work by the Completion Date, then Owner may terminate this Agreement, Contractor shall immediately terminate its Work, Owner may withhold payment to the Contractor to complete the Work and the Project with another contractor, and in the event withholding such funds is insufficient to complete the Work and the Project, the Contractor will refund to the Owner such funds necessary to complete the Work and the Project within **Sixty calendar days (60)** of receipt of written demand.

Section 5. Fixed Price.

1. Owner agrees, in consideration of Contractor's performance of this Agreement, to pay Contractor the **Fixed Price of Seven Hundred Eighty Thousand, Six Hundred Ninety-Three Dollars and ninety-six cents (\$780,693.96)**. (This sum shall constitute payment in full for all costs incurred by Contractor under this Agreement in performing and completing the Work, including, but not limited to, the costs incurred for insurance, overhead, subcontractor's materials, supplies, bonds (if any are required by Owner), permits and compliance with all building codes and laws, and Social Security, unemployment, sales, use, and all other taxes and costs.

A contingency / tracking log to be maintained during the project.

2. Progress payments on account of the Fixed Price cost shall be made as follows. Please note that Contractor must submit an invoice to the PGUSD for all progress payments as listed below:

(a) Applications for payment as set forth according to the schedule below:

1. **\$1,000.00 - Upon Execution of Contract.**
(\$1,000 or 10% of the contract, whichever is less)
 2. **35% (+/-) - Material Acquisition and Mobilization.**
 3. **45% - Progress Payments**
 4. **10% - Upon Final Inspection and Sign Off of Punch List.**

(b) The balance of ten percent (10%) of the contract price shall not become due until completion and final acceptance of the Work. As a condition precedent to Owner's obligation to make any progress payment, Contractor shall provide Owner with the following documents upon Owner's written request: (i) a conditional mechanics' lien release from each laborer, material supplier, and other subcontractor who provided labor, materials, or supplies for the component(s) of the Work covered by such progress payment. (c) As an additional condition precedent to Contractor's right to receive final payment, Contractor shall discharge and release the Work from any and all

claims or liens that may have accrued from the performance of this Agreement and the final building inspection by Owner and the applicable governmental agency shall have been completed and accepted, and shall provide Owner with the following documents upon Owner's written request: (i) an unconditional mechanics' lien release from each such claimant who provided a conditional mechanics' lien release for the payment due (if any) to such claimant from the immediately preceding progress payment once the funds clear the contractors account. (ii) a recorded notice of completion; and (iii) "as built" drawings.

3. If at any time during the progress of the Work or before the final payment is made, any lien or claim or lien is filed, or notification to withhold money for labor or material furnished by Contractor under this Agreement is served on Owner, and Owner has performed its obligations under this Agreement, then Owner shall have the right to: (i) withhold from any payment due to Contractor an amount sufficient to discharge any and all such liens or claims; (ii) pay the lien holder directly and offset any such amount against the Fixed Price Cost; and (iii) bond around the lien at Contractor's sole cost and expense.

4. Owner reserves the right to make payments to Contractor in the form of checks payable jointly to Contractor and to any of its subcontractors or suppliers if Owner reasonably suspects that Contractor is not making payment to any such subcontractors or suppliers, or to protect Owner from any liens or encumbrances.

5. Owner may withhold any progress payment or final payment, or nullify any certification for payment previously issued, to the extent necessary to protect Owner from loss due to: (i) claims filed (including litigation, mechanic's liens, stop notices ("Claims")); (ii) reasonable evidence indicating probable filing of Claims; (iii) failure of Contractor to make timely payments to subcontractors or material suppliers; (iv) any material breach of this Agreement; (v) any reasonable doubt that the Agreement can be completed for the balance then unpaid; or (vi) defective or deficient work.

6. Final payment is due within thirty days of satisfaction of all completion conditions referenced above.

Section 6. Warranty.

All Work that is not completed to plans and specifications, applicable codes, and industry standards shall be immediately repaired, removed, and replaced with Work of a quality approved by the Owner, without additional compensation to the Contractor. The Contractor guarantees that the Work done under this Agreement will be free from faulty materials or workmanship and will comply with all applicable laws. Upon receiving

notification from Owner, Contractor agrees to remedy, repair, or replace, immediately, without cost to Owner and to Owner's satisfaction, all defects, damages, or imperfections appearing in the Work (including labor and materials) within a period of one (1) year after the date of final completion and acceptance by the applicable governmental agency and Owner of the Work. Payments to Contractor shall not relieve Contractor of these obligations. Contractor will keep clean on a weekly basis the jobsite and grounds around the jobsite, and keep it in a safe, orderly, and neat condition. At the completion of the Work, the entire jobsite will be left in a broom-clean condition. Contractor shall assign all material and parts warranties to the Owner, and shall deliver to the Owner evidence of any such warranties as well as all product information and specifications. Contractor warrants that it is licensed by the Contractors State Licensing Board, and currently in good standing.

Section 7. Insurance/Bonds/Indemnity

7.0 Before commencement of any Work under this Agreement, Contractor shall obtain and maintain in full force and affect the following:

A **Performance Bond** in the amount of one hundred percent (100%) of the Contract Sum to insure Owner during construction, and for one year after completion and during any warranty or guarantee period, against faulty or improper materials or workmanship and to assure Owner of full and prompt performance of the Contract.

A **Payment Bond (Labor and Material)** in the amount of one hundred percent (100%) of the Contract Sum in accordance with the laws of the State of California to secure payment of any and all claims for labor and materials used or consumed in performance of this Contract.

- 1.** Comprehensive General Liability insurance that names Owner as an additional insured and that protects Contractor and Owner against any liability that Contractor may incur:
(a) Because of bodily injuries to or the death of one person other than an employee of Contractor and consequential damages arising therefrom to the extent of not less than *\$2,000,000.00* and on account of bodily injuries to or the death of more than one such person, subject to the same limit for each. (b) Because of damage to or destruction of any property, to the extent of not less than *2,000,000.00* for each incident and aggregate.

- 2.** Worker's Compensation insurance in statutory form and amount and employer's liability insurance covering Contractor's liability to the extent of not less than *\$2,000,000.00* for damages because of bodily injuries to or death of such person or persons.

3. The insurance described in Paragraph 7.1 above also shall provide contractual liability coverage satisfactory to Owner with respect to liability assumed by Contractor under the indemnity provisions in this Agreement. Written proof of compliance with these requirements shall be filed with and approved by Owner before commencement of Work. The insurance provided in Section 7.1 shall name Owner, as an additional insured, and Contractor shall cause to be issued certificates and endorsements evidencing such coverage prior to the commencement of construction. The insurance to be maintained by the Contractor shall at all times be primary to the insurance maintained by Owner.

4. To the maximum extent permitted by law, Contractor shall indemnify, defend, and save harmless Owner and hold Owner, harmless from any and all losses, damages (whether general, punitive or otherwise), liabilities, claims, causes of action, judgments, and other costs and expenses, including attorneys' fees and court costs ("Claim"), including but not limited to Claims involving personal injuries or property damage, which Owner may suffer or incur as a consequence of (i) Contractor's failure to perform any of Contractor's obligations as and when required hereunder, including any failure of any representation or warranty of Contractor to be true and correct and any errors, omissions or negligent acts committed by Contractor, its agents, subcontractors, or employees, (ii) any Claim or cause of action to the effect that Owner is in any way responsible or liable for any act or omission of Contractor, (iii) any act or omission by Contractor or any person or entity hired or employed by Contractor to perform any services relating to the subject matter of this Agreement; (iv) any Claim in any manner arising out of Contractor's performance of the Work; or (v) any breach of this Agreement by Contractor. Contractor shall pay any indebtedness arising under this indemnity to Owner immediately upon demand by Owner together with interest thereon from the date such indebtedness arises until paid at the rate equal to the greater of ten percent (10%) per annum or the highest lawful rate. Contractor's duty to indemnify Owner shall survive the termination of this Agreement. The foregoing indemnity shall not apply if the Owner's sole gross negligence or willful misconduct is the cause of the Claim.

Section 8. Work Stoppage

If Contractor at any time during the progress of the Work refuses or neglects, without the fault of Owner, to supply sufficient materials or workers to continue or complete the Work for a period of more than ten (7) days, not due to conditions beyond control of the contractor are not the cause, after having been notified in writing by Owner to furnish them, Owner shall have the power to terminate this Agreement and/or furnish and provide such materials and workers as are necessary to finish the Work, and the

reasonable expense thereof shall be deducted from the amount of the contract price as determined in this Agreement.

Section 9. Termination.

1. Termination by the Owner for Cause

- a.** the Owner may terminate the Contract if the Contractor repeatedly refuses or fails to supply enough properly skilled workers or proper materials; fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors; repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of a public authority; or otherwise is guilty of substantial breach of a provision of the Contract Document
- b.** When any of the above reasons exists, the Owner, may determine that sufficient cause exists to justify such action, may, without prejudice to any other remedy the Owner may have and after giving the Contractor seven days' written notice, terminate the Contract and take possession of the site and of all materials, thereon owned by the Contractor and may finish the Work by whatever reasonable method the Owner may deem expedient. Upon request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.
- c.** When the Owner terminates the Contract for one of the reasons stated in Section 20.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.
- d.** If the unpaid balance of the Contract Sum exceeds the reasonable costs of finishing the Work. If such reasonable costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner.

9.2 Termination by the Owner for Convenience

The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. The Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

9.3 Termination by the Contractor

If the Owner fails to make payment as provided in Section 5.2 for a period of 7 days, the Contractor may, upon seven additional days' written notice to the Owner and or the Architect, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

Section 10. Independent Contractor.

Contractor agrees to perform the Work as an independent contractor and not as the agent, employee, or servant of Owner. Contractor has and hereby retains the right to exercise full control and supervision of the Work and full control over the employment, direction, method of performing, compensation, and discharge of all persons assisting in the Work. Contractor agrees to be solely responsible for all matters relating to payment of its employees, including compliance with Social Security, withholding, and all other regulations governing such matters. Contractor agrees to be responsible for its own acts and those of its subordinates, employees, and subcontractors during this Agreement.

Section 11. Assignment.

Contractor shall not assign this Agreement or any interest in it or any money due or to become due under it voluntarily, involuntarily, or by operation of law without Owner's prior written consent. In the event of any such purported assignment without Owner's prior written consent,

Owner shall have the right, in addition to all other rights provided by law, to terminate this Agreement by giving written notice to Contractor.

Section 12. Miscellaneous.

Contractor shall at all times operate in good faith to coordinate job site installation and the work of other trades at the Project and to complete the Work in a time efficient manner and in a manner which will minimize disturbance, noise and inconvenience to the surrounding residents. Time is of the essence of this Agreement.

This Agreement shall be governed by the laws of the State of California.

Section 13. Mediation.

Any dispute arising of this Agreement shall first be submitted to mediation in an informal attempt to resolve such dispute. The mediation shall be conducted by a mediator experienced in the area of construction and construction contracts. Any party

who first files any claim, including a complaint, without first seeking in good faith to participate in mediation, shall not be entitled to recover its attorney's fees pursuant to Section 14 of this Agreement, regardless of whether such party is the "prevailing party" in any such action.

Section 14. Attorney Fees.

If any suit or action is brought to enforce or construe any provision of this Agreement, the prevailing party shall be entitled to recover its costs and expenses arising out of such litigation, including attorneys' fees and court costs, from the non-prevailing party.

CONTRACTOR: Ausonio Incorporated

Signature: _____

Print Name: _____

Title: _____

OWNER(S) / AGENT(S): Pacific Grove Unified School District

Signature: _____

Print Name: Joshua Jorn

Title: Assistant Superintendent of Business Services

- | | |
|--|---|
| <input type="checkbox"/> Student Learning and Achievement | <input type="checkbox"/> Consent |
| <input type="checkbox"/> Health and Safety of Students and Schools | <input checked="" type="checkbox"/> Action/Discussion |
| <input type="checkbox"/> Credibility and Communication | <input type="checkbox"/> Information/Discussion |
| <input checked="" type="checkbox"/> Fiscal Solvency, Accountability, and Integrity | <input type="checkbox"/> Public Hearing |

SUBJECT: Pacific Grove High School Modular Removal.

DATE: May 9, 2024

PERSON(S) RESPONSIBLE: Jon Anderson, Director of Maintenance, Operations, and Transportation

RECOMMENDATION:

The District Administration recommends that the Board review and approve the contract for services with Randazzo Enterprises Inc.

BACKGROUND:

The former Custodial building has not been used for several years. The modular building has exceeded its useful life and is in a condemned state. The modular building is to be removed for safety concerns.

INFORMATION:

A hazardous material survey has been conducted and a scope of work was developed for the removal of the modular building. A public bid was held for this project and has resulted in a successful bid of \$14,856.00.

FISCAL IMPACT:

While this project is not specifically mentioned in the original Measure D Master Plan the District Administration suggests this small but important project be undertaken with Measure D funding.

Total cost of removal including hazardous materials survey, electrical disconnect, fire alarm disconnect, and removal of modular building is anticipated not to exceed \$18,000.00

LUMP SUM CONSTRUCTION CONTRACT

LUMP SUM – FIXED PRICE

THIS CONSTRUCTION CONTRACT (this "Agreement") is entered into on this (Date):
May 10, 2024

Between the Owner: **PACIFIC GROVE UNIFIED SCHOOL DISTRICT**
435 Hillcrest Ave
Pacific Grove CA 93950

And the Contractor: **Randazzo Enterprises Inc.**
13550 Blackie Rd
Castroville, CA 95012

RECITALS

A. Owner desires to contract with Contractor for the PGUSD Pacific Grove High School Modular Building Removal, Project No. MD-023 (the "Project"), Located:

Pacific Grove Unified School District
Pacific Grove High School
615 Sunset Ave.
Pacific Grove, CA 93950

B. Contractor desires to perform the Project on the terms and conditions contained herein. NOW THEREFORE, for good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the parties agree as following.

Section 1. Definitions.

Work. As used herein the "Work" shall mean all labor and materials, or both, necessary to perform the Project, to full completion, and shall consist of the components described in the *Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents*. The Work shall be done and the materials furnished in accordance with the information provided in the *Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents*, and as discussed in all correspondence prior to bid time and at the job walk.

Section 2. Obligations of Contractor.

Contractor agrees to furnish and transport all necessary labor, permits, materials, tools, implements, supplies, building materials and component parts, and appliances required to perform and finish the Work to industry standards and all applicable codes, free of any and all liens and claims of laborers, materialmen, suppliers, and subcontractors, free from any and all defects or deficiencies. Contractor shall further endeavor to use its best faith efforts to complete the Project timely, and continually keep Owner apprised of the status of the Project.

Section 3. The Work.

(a) Contractor has reviewed the Scope of Work (*Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents.*), and represents that: (i) if the Work is performed in accordance therewith, the Work shall have been constructed in accordance with all applicable state, county, and municipal laws, codes, and regulations, including, but not limited to, all applicable building codes; and (ii) the Plans and Specifications are sufficiently complete and detailed to permit Contractor to perform the entire Work on the basis of the Notice to Bidders and Jobsite Walk for the Fixed Price Cost. No changes in the scope of work or Fixed Price shall be made unless in a change order signed by both parties. (iii) contractor will be responsible for locating all utilities (above and below ground) with a licensed locating service prior to commencing work on the site. The contractor will be provided with information from the owner locating said utilities to the best of the owner's knowledge.

(b) If at any time or times during the process of the Work, Owner desires to add to, alter, deviate from, or make omissions from the Work to be performed under the *Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents.* Owner shall be at liberty to do so and the same shall in no way affect or make void this Agreement. Any such alterations to the scope of work, or deviations from *Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents,* shall be made only in a writing signed by both parties. Any verbal changes in the scope of Work defined within the *Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents* shall be of no force nor effect. This Agreement shall be considered completed when: (i) the Work is finished in strict accordance with the *Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents* as amended by any written change order

(ii) the Owner approves of the Work;

(iii) a notice of completion has been recorded; and (iv) the Contractor has received final payment.

Section 4. Contract Time.

Contractor agrees to commence the Work or as mutually agreed after receiving written notification to proceed from Owner, and shall complete the Work in no event later than

Wednesday, August 2nd, 2024. Thirty-Two days from the Notice to Proceed (the "Completion Date"). Contractor shall carry out the Work at all times with the greatest possible dispatch and diligence. If Contractor has not completed the Work by the Completion Date, then Owner may terminate this Agreement, Contractor shall immediately terminate its Work, Owner may withhold payment to the Contractor to complete the Work and the Project with another contractor, and in the event withholding such funds is insufficient to complete the Work and the Project, the Contractor will refund to the Owner such funds necessary to complete the Work and the Project within **Thirty-Two calendar days (32)** of receipt of written demand.

Section 5. Fixed Price.

1. Owner agrees, in consideration of Contractor's performance of this Agreement, to pay Contractor the **Fourteen Thousand, Eight Hundred Fifty-Six Dollars and no cents (\$14,856.00)**. (This sum shall constitute payment in full for all costs incurred by Contractor under this Agreement in performing and completing the Work, including, but not limited to, the costs incurred for insurance, overhead, subcontractor's materials, supplies, bonds (if any are required by Owner), permits and compliance with all building codes and laws, and Social Security, unemployment, sales, use, and all other taxes and costs.

A contingency / tracking log to be maintained during the project.

2. Progress payments on account of the Fixed Price cost shall be made as follows. Please note that Contractor must submit an invoice to the PGUSD for all progress payments as listed below:

(a) Applications for payment as set forth according to the schedule below:

1. **\$1,000.00 - Upon Execution of Contract.**
(\$1,000 or 10% of the contract, whichever is less)
 2. **35% (+/-) - Material Acquisition and Mobilization.**
 3. **45% - Progress Payments**
 4. **10% - Upon Final Inspection and Sign Off of Punch List.**

(b) The balance of ten percent (10%) of the contract price shall not become due until completion and final acceptance of the Work. As a condition precedent to Owner's obligation to make any progress payment, Contractor shall provide Owner with the following documents upon Owner's written request: (i) a conditional mechanics' lien release from each laborer, material supplier, and other subcontractor who provided labor, materials, or supplies for the component(s) of the Work covered by such progress payment. (c) As an additional condition precedent to Contractor's right to receive final payment, Contractor shall discharge and release the Work from any and all

claims or liens that may have accrued from the performance of this Agreement and the final building inspection by Owner and the applicable governmental agency shall have been completed and accepted, and shall provide Owner with the following documents upon Owner's written request: (i) an unconditional mechanics' lien release from each such claimant who provided a conditional mechanics' lien release for the payment due (if any) to such claimant from the immediately preceding progress payment once the funds clear the contractors account. (ii) a recorded notice of completion; and (iii) "as built" drawings.

3. If at any time during the progress of the Work or before the final payment is made, any lien or claim or lien is filed, or notification to withhold money for labor or material furnished by Contractor under this Agreement is served on Owner, and Owner has performed its obligations under this Agreement, then Owner shall have the right to: (i) withhold from any payment due to Contractor an amount sufficient to discharge any and all such liens or claims; (ii) pay the lien holder directly and offset any such amount against the Fixed Price Cost; and (iii) bond around the lien at Contractor's sole cost and expense.

4. Owner reserves the right to make payments to Contractor in the form of checks payable jointly to Contractor and to any of its subcontractors or suppliers if Owner reasonably suspects that Contractor is not making payment to any such subcontractors or suppliers, or to protect Owner from any liens or encumbrances.

5. Owner may withhold any progress payment or final payment, or nullify any certification for payment previously issued, to the extent necessary to protect Owner from loss due to: (i) claims filed (including litigation, mechanic's liens, stop notices ("Claims")); (ii) reasonable evidence indicating probable filing of Claims; (iii) failure of Contractor to make timely payments to subcontractors or material suppliers; (iv) any material breach of this Agreement; (v) any reasonable doubt that the Agreement can be completed for the balance then unpaid; or (vi) defective or deficient work.

6. Final payment is due within thirty days of satisfaction of all completion conditions referenced above.

Section 6. Warranty.

All Work that is not completed to plans and specifications, applicable codes, and industry standards shall be immediately repaired, removed, and replaced with Work of a quality approved by the Owner, without additional compensation to the Contractor. The Contractor guarantees that the Work done under this Agreement will be free from faulty materials or workmanship and will comply with all applicable laws. Upon receiving

notification from Owner, Contractor agrees to remedy, repair, or replace, immediately, without cost to Owner and to Owner's satisfaction, all defects, damages, or imperfections appearing in the Work (including labor and materials) within a period of one (1) year after the date of final completion and acceptance by the applicable governmental agency and Owner of the Work. Payments to Contractor shall not relieve Contractor of these obligations. Contractor will keep clean on a weekly basis the jobsite and grounds around the jobsite, and keep it in a safe, orderly, and neat condition. At the completion of the Work, the entire jobsite will be left in a broom-clean condition. Contractor shall assign all material and parts warranties to the Owner, and shall deliver to the Owner evidence of any such warranties as well as all product information and specifications. Contractor warrants that it is licensed by the Contractors State Licensing Board, and currently in good standing.

Section 7. Insurance/Bonds/Indemnity

7.0 Before commencement of any Work under this Agreement, Contractor shall obtain and maintain in full force and affect the following:

A **Performance Bond** in the amount of one hundred percent (100%) of the Contract Sum to insure Owner during construction, and for one year after completion and during any warranty or guarantee period, against faulty or improper materials or workmanship and to assure Owner of full and prompt performance of the Contract.

A **Payment Bond (Labor and Material)** in the amount of one hundred percent (100%) of the Contract Sum in accordance with the laws of the State of California to secure payment of any and all claims for labor and materials used or consumed in performance of this Contract.

- 1.** Comprehensive General Liability insurance that names Owner as an additional insured and that protects Contractor and Owner against any liability that Contractor may incur:
(a) Because of bodily injuries to or the death of one person other than an employee of Contractor and consequential damages arising therefrom to the extent of not less than *\$2,000,000.00* and on account of bodily injuries to or the death of more than one such person, subject to the same limit for each. (b) Because of damage to or destruction of any property, to the extent of not less than *2,000,000.00* for each incident and aggregate.

- 2.** Worker's Compensation insurance in statutory form and amount and employer's liability insurance covering Contractor's liability to the extent of not less than *\$2,000,000.00* for damages because of bodily injuries to or death of such person or persons.

3. The insurance described in Paragraph 7.1 above also shall provide contractual liability coverage satisfactory to Owner with respect to liability assumed by Contractor under the indemnity provisions in this Agreement. Written proof of compliance with these requirements shall be filed with and approved by Owner before commencement of Work. The insurance provided in Section 7.1 shall name Owner, as an additional insured, and Contractor shall cause to be issued certificates and endorsements evidencing such coverage prior to the commencement of construction. The insurance to be maintained by the Contractor shall at all times be primary to the insurance maintained by Owner.

4. To the maximum extent permitted by law, Contractor shall indemnify, defend, and save harmless Owner and hold Owner, harmless from any and all losses, damages (whether general, punitive or otherwise), liabilities, claims, causes of action, judgments, and other costs and expenses, including attorneys' fees and court costs ("Claim"), including but not limited to Claims involving personal injuries or property damage, which Owner may suffer or incur as a consequence of (i) Contractor's failure to perform any of Contractor's obligations as and when required hereunder, including any failure of any representation or warranty of Contractor to be true and correct and any errors, omissions or negligent acts committed by Contractor, its agents, subcontractors, or employees, (ii) any Claim or cause of action to the effect that Owner is in any way responsible or liable for any act or omission of Contractor, (iii) any act or omission by Contractor or any person or entity hired or employed by Contractor to perform any services relating to the subject matter of this Agreement; (iv) any Claim in any manner arising out of Contractor's performance of the Work; or (v) any breach of this Agreement by Contractor. Contractor shall pay any indebtedness arising under this indemnity to Owner immediately upon demand by Owner together with interest thereon from the date such indebtedness arises until paid at the rate equal to the greater of ten percent (10%) per annum or the highest lawful rate. Contractor's duty to indemnify Owner shall survive the termination of this Agreement. The foregoing indemnity shall not apply if the Owner's sole gross negligence or willful misconduct is the cause of the Claim.

Section 8. Work Stoppage

If Contractor at any time during the progress of the Work refuses or neglects, without the fault of Owner, to supply sufficient materials or workers to continue or complete the Work for a period of more than ten (7) days, not due to conditions beyond control of the contractor are not the cause, after having been notified in writing by Owner to furnish them, Owner shall have the power to terminate this Agreement and/or furnish and provide such materials and workers as are necessary to finish the Work, and the

reasonable expense thereof shall be deducted from the amount of the contract price as determined in this Agreement.

Section 9. Termination.

1. Termination by the Owner for Cause

- a.** the Owner may terminate the Contract if the Contractor repeatedly refuses or fails to supply enough properly skilled workers or proper materials; fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors; repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of a public authority; or otherwise is guilty of substantial breach of a provision of the Contract Document
- b.** When any of the above reasons exists, the Owner, may determine that sufficient cause exists to justify such action, may, without prejudice to any other remedy the Owner may have and after giving the Contractor seven days' written notice, terminate the Contract and take possession of the site and of all materials, thereon owned by the Contractor and may finish the Work by whatever reasonable method the Owner may deem expedient. Upon request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.
- c.** When the Owner terminates the Contract for one of the reasons stated in Section 20.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.
- d.** If the unpaid balance of the Contract Sum exceeds the reasonable costs of finishing the Work. If such reasonable costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner.

9.2 Termination by the Owner for Convenience

The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. The Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

9.3 Termination by the Contractor

If the Owner fails to make payment as provided in Section 5.2 for a period of 7 days, the Contractor may, upon seven additional days' written notice to the Owner and or the Architect, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

Section 10. Independent Contractor.

Contractor agrees to perform the Work as an independent contractor and not as the agent, employee, or servant of Owner. Contractor has and hereby retains the right to exercise full control and supervision of the Work and full control over the employment, direction, method of performing, compensation, and discharge of all persons assisting in the Work. Contractor agrees to be solely responsible for all matters relating to payment of its employees, including compliance with Social Security, withholding, and all other regulations governing such matters. Contractor agrees to be responsible for its own acts and those of its subordinates, employees, and subcontractors during this Agreement.

Section 11. Assignment.

Contractor shall not assign this Agreement or any interest in it or any money due or to become due under it voluntarily, involuntarily, or by operation of law without Owner's prior written consent. In the event of any such purported assignment without Owner's prior written consent,

Owner shall have the right, in addition to all other rights provided by law, to terminate this Agreement by giving written notice to Contractor.

Section 12. Miscellaneous.

Contractor shall at all times operate in good faith to coordinate job site installation and the work of other trades at the Project and to complete the Work in a time efficient manner and in a manner which will minimize disturbance, noise and inconvenience to the surrounding residents. Time is of the essence of this Agreement.

This Agreement shall be governed by the laws of the State of California.

Section 13. Mediation.

Any dispute arising of this Agreement shall first be submitted to mediation in an informal attempt to resolve such dispute. The mediation shall be conducted by a mediator experienced in the area of construction and construction contracts. Any party

who first files any claim, including a complaint, without first seeking in good faith to participate in mediation, shall not be entitled to recover its attorney's fees pursuant to Section 14 of this Agreement, regardless of whether such party is the "prevailing party" in any such action.

Section 14. Attorney Fees.

If any suit or action is brought to enforce or construe any provision of this Agreement, the prevailing party shall be entitled to recover its costs and expenses arising out of such litigation, including attorneys' fees and court costs, from the non-prevailing party.

CONTRACTOR: Randazzo Enterprises Incorporated

Signature: _____

Print Name: _____

Title: _____

OWNER(S) / AGENT(S): Pacific Grove Unified School District

Signature: _____

Print Name: Joshua Jorn

Title: Assistant Superintendent of Business Services

Image: Pacific Grove High School Modular



- | | |
|--|---|
| <input type="checkbox"/> Student Learning and Achievement | <input type="checkbox"/> Consent |
| <input type="checkbox"/> Health and Safety of Students and Schools | <input checked="" type="checkbox"/> Action/Discussion |
| <input type="checkbox"/> Credibility and Communication | <input type="checkbox"/> Information/Discussion |
| <input checked="" type="checkbox"/> Fiscal Solvency, Accountability, and Integrity | <input type="checkbox"/> Public Hearing |

SUBJECT: Forest Grove Elementary School Roofing & Painting project.

DATE: May 9, 2024

PERSON(S) RESPONSIBLE: Jon Anderson, Director of Maintenance, Operations, and Transportation

RECOMMENDATION:

The District Administration recommends that the Board review and approve the contract for services with Ausonio Incorporated.

BACKGROUND:

Last year the first phase of roofing and painting was performed at Forest Grove Elementary School. This summer the second phase will complete the roofing and painting of the original school buildings on the campus.

INFORMATION:

Rather than removing and replacing the tar and gravel roofs a seamless reinforced roof encapsulation system will be applied. The roof will have a 40-year renewable warranty. The exteriors of buildings will be painted, and new gutters installed. This second phase of the reprioritized Measure D project which covers buildings B, C, and D.

A public bid was held for this project and has resulted in a successful bid of \$877,572.53.

FISCAL IMPACT:

With allowances for wood rot and unforeseen items this project is not anticipated to exceed \$925,000.00

LUMP SUM CONSTRUCTION CONTRACT

LUMP SUM – FIXED PRICE

THIS CONSTRUCTION CONTRACT (this "Agreement") is entered into on this (Date):
May 10, 2024

Between the Owner: **PACIFIC GROVE UNIFIED SCHOOL DISTRICT**
435 Hillcrest Ave
Pacific Grove CA 93950

And the Contractor: **Ausonio Incorporated**
11420 Commercial Parkway
Castroville, CA 95012-3214

RECITALS

A. Owner desires to contract with Contractor for the PGUSD Forest Grove Elementary School Roofing and Painting, Project No. MD-020 (the "Project"), Located:

Pacific Grove Unified School District
Pacific Grove High School
615 Sunset Ave.
Pacific Grove, CA 93950

B. Contractor desires to construct the Project on the terms and conditions contained herein. NOW THEREFORE, for good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the parties agree as following.

Section 1. Definitions.

Work. As used herein the "Work" shall mean all labor and materials, or both, necessary to perform the Project, to full completion, and shall consist of the components described in the *Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents*. The Work shall be done and the materials furnished in accordance with the information provided in the *Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents*, and as discussed in all correspondence prior to bid time and at the job walk.

Section 2. Obligations of Contractor.

Contractor agrees to furnish and transport all necessary labor, permits, materials, tools, implements, supplies, building materials and component parts, and appliances required to perform and finish the Work to industry standards and all applicable codes, free of any and all liens and claims of laborers, materialmen, suppliers, and subcontractors, free from any and all defects or deficiencies. Contractor shall further endeavor to use its best faith efforts to complete the Project timely, and continually keep Owner apprised of the status of the Project.

Section 3. The Work.

(a) Contractor has reviewed the Scope of Work (*Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents.*), and represents that: (i) if the Work is performed in accordance therewith, the Work shall have been constructed in accordance with all applicable state, county, and municipal laws, codes, and regulations, including, but not limited to, all applicable building codes; and (ii) the Plans and Specifications are sufficiently complete and detailed to permit Contractor to perform the entire Work on the basis of the Notice to Bidders and Jobsite Walk for the Fixed Price Cost. No changes in the scope of work or Fixed Price shall be made unless in a change order signed by both parties. (iii) contractor will be responsible for locating all utilities (above and below ground) with a licensed locating service prior to commencing work on the site. The contractor will be provided with information from the owner locating said utilities to the best of the owner's knowledge.

(b) If at any time or times during the process of the Work, Owner desires to add to, alter, deviate from, or make omissions from the Work to be performed under the *Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents.* Owner shall be at liberty to do so and the same shall in no way affect or make void this Agreement. Any such alterations to the scope of work, or deviations from *Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents,* shall be made only in a writing signed by both parties. Any verbal changes in the scope of Work defined within the *Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents* shall be of no force nor effect. This Agreement shall be considered completed when: (i) the Work is finished in strict accordance with the *Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents* as amended by any written change order

(ii) the Owner approves of the Work;

(iii) a notice of completion has been recorded; and (iv) the Contractor has received final payment.

Section 4. Contract Time.

Contractor agrees to commence the Work or as mutually agreed after receiving written notification to proceed from Owner, and shall complete the Work in no event later than

Wednesday, August 2nd, 2024. Sixty days from the Notice to Proceed (the "Completion Date"). Contractor shall carry out the Work at all times with the greatest possible dispatch and diligence. If Contractor has not completed the Work by the Completion Date, then Owner may terminate this Agreement, Contractor shall immediately terminate its Work, Owner may withhold payment to the Contractor to complete the Work and the Project with another contractor, and in the event withholding such funds is insufficient to complete the Work and the Project, the Contractor will refund to the Owner such funds necessary to complete the Work and the Project within **Sixty calendar days (60)** of receipt of written demand.

Section 5. Fixed Price.

1. Owner agrees, in consideration of Contractor's performance of this Agreement, to pay Contractor the **Fixed Price of Eight Hundred Seventy-Seven Thousand, Five Hundred Seventy-Two Dollars and fifty-three cents (\$877,572.53)**. (This sum shall constitute payment in full for all costs incurred by Contractor under this Agreement in performing and completing the Work, including, but not limited to, the costs incurred for insurance, overhead, subcontractor's materials, supplies, bonds (if any are required by Owner), permits and compliance with all building codes and laws, and Social Security, unemployment, sales, use, and all other taxes and costs.

A contingency / tracking log to be maintained during the project.

2. Progress payments on account of the Fixed Price cost shall be made as follows. Please note that Contractor must submit an invoice to the PGUSD for all progress payments as listed below:

(a) Applications for payment as set forth according to the schedule below:

1. **\$1,000.00 - Upon Execution of Contract.**
(\$1,000 or 10% of the contract, whichever is less)
 2. **35% (+/-) - Material Acquisition and Mobilization.**
 3. **45% - Progress Payments**
 4. **10% - Upon Final Inspection and Sign Off of Punch List.**

(b) The balance of ten percent (10%) of the contract price shall not become due until completion and final acceptance of the Work. As a condition precedent to Owner's obligation to make any progress payment, Contractor shall provide Owner with the following documents upon Owner's written request: (i) a conditional mechanics' lien release from each laborer, material supplier, and other subcontractor who provided labor, materials, or supplies for the component(s) of the Work covered by such progress payment. (c) As an additional condition precedent to Contractor's right to receive final payment, Contractor shall discharge and release the Work from any and all

claims or liens that may have accrued from the performance of this Agreement and the final building inspection by Owner and the applicable governmental agency shall have been completed and accepted, and shall provide Owner with the following documents upon Owner's written request: (i) an unconditional mechanics' lien release from each such claimant who provided a conditional mechanics' lien release for the payment due (if any) to such claimant from the immediately preceding progress payment once the funds clear the contractors account. (ii) a recorded notice of completion; and (iii) "as built" drawings.

3. If at any time during the progress of the Work or before the final payment is made, any lien or claim or lien is filed, or notification to withhold money for labor or material furnished by Contractor under this Agreement is served on Owner, and Owner has performed its obligations under this Agreement, then Owner shall have the right to: (i) withhold from any payment due to Contractor an amount sufficient to discharge any and all such liens or claims; (ii) pay the lien holder directly and offset any such amount against the Fixed Price Cost; and (iii) bond around the lien at Contractor's sole cost and expense.

4. Owner reserves the right to make payments to Contractor in the form of checks payable jointly to Contractor and to any of its subcontractors or suppliers if Owner reasonably suspects that Contractor is not making payment to any such subcontractors or suppliers, or to protect Owner from any liens or encumbrances.

5. Owner may withhold any progress payment or final payment, or nullify any certification for payment previously issued, to the extent necessary to protect Owner from loss due to: (i) claims filed (including litigation, mechanic's liens, stop notices ("Claims")); (ii) reasonable evidence indicating probable filing of Claims; (iii) failure of Contractor to make timely payments to subcontractors or material suppliers; (iv) any material breach of this Agreement; (v) any reasonable doubt that the Agreement can be completed for the balance then unpaid; or (vi) defective or deficient work.

6. Final payment is due within thirty days of satisfaction of all completion conditions referenced above.

Section 6. Warranty.

All Work that is not completed to plans and specifications, applicable codes, and industry standards shall be immediately repaired, removed, and replaced with Work of a quality approved by the Owner, without additional compensation to the Contractor. The Contractor guarantees that the Work done under this Agreement will be free from faulty materials or workmanship and will comply with all applicable laws. Upon receiving

notification from Owner, Contractor agrees to remedy, repair, or replace, immediately, without cost to Owner and to Owner's satisfaction, all defects, damages, or imperfections appearing in the Work (including labor and materials) within a period of one (1) year after the date of final completion and acceptance by the applicable governmental agency and Owner of the Work. Payments to Contractor shall not relieve Contractor of these obligations. Contractor will keep clean on a weekly basis the jobsite and grounds around the jobsite, and keep it in a safe, orderly, and neat condition. At the completion of the Work, the entire jobsite will be left in a broom-clean condition. Contractor shall assign all material and parts warranties to the Owner, and shall deliver to the Owner evidence of any such warranties as well as all product information and specifications. Contractor warrants that it is licensed by the Contractors State Licensing Board, and currently in good standing.

Section 7. Insurance/Bonds/Indemnity

7.0 Before commencement of any Work under this Agreement, Contractor shall obtain and maintain in full force and affect the following:

A **Performance Bond** in the amount of one hundred percent (100%) of the Contract Sum to insure Owner during construction, and for one year after completion and during any warranty or guarantee period, against faulty or improper materials or workmanship and to assure Owner of full and prompt performance of the Contract.

A **Payment Bond (Labor and Material)** in the amount of one hundred percent (100%) of the Contract Sum in accordance with the laws of the State of California to secure payment of any and all claims for labor and materials used or consumed in performance of this Contract.

- 1.** Comprehensive General Liability insurance that names Owner as an additional insured and that protects Contractor and Owner against any liability that Contractor may incur:
(a) Because of bodily injuries to or the death of one person other than an employee of Contractor and consequential damages arising therefrom to the extent of not less than *\$2,000,000.00* and on account of bodily injuries to or the death of more than one such person, subject to the same limit for each. (b) Because of damage to or destruction of any property, to the extent of not less than *2,000,000.00* for each incident and aggregate.

- 2.** Worker's Compensation insurance in statutory form and amount and employer's liability insurance covering Contractor's liability to the extent of not less than *\$2,000,000.00* for damages because of bodily injuries to or death of such person or persons.

3. The insurance described in Paragraph 7.1 above also shall provide contractual liability coverage satisfactory to Owner with respect to liability assumed by Contractor under the indemnity provisions in this Agreement. Written proof of compliance with these requirements shall be filed with and approved by Owner before commencement of Work. The insurance provided in Section 7.1 shall name Owner, as an additional insured, and Contractor shall cause to be issued certificates and endorsements evidencing such coverage prior to the commencement of construction. The insurance to be maintained by the Contractor shall at all times be primary to the insurance maintained by Owner.

4. To the maximum extent permitted by law, Contractor shall indemnify, defend, and save harmless Owner and hold Owner, harmless from any and all losses, damages (whether general, punitive or otherwise), liabilities, claims, causes of action, judgments, and other costs and expenses, including attorneys' fees and court costs ("Claim"), including but not limited to Claims involving personal injuries or property damage, which Owner may suffer or incur as a consequence of (i) Contractor's failure to perform any of Contractor's obligations as and when required hereunder, including any failure of any representation or warranty of Contractor to be true and correct and any errors, omissions or negligent acts committed by Contractor, its agents, subcontractors, or employees, (ii) any Claim or cause of action to the effect that Owner is in any way responsible or liable for any act or omission of Contractor, (iii) any act or omission by Contractor or any person or entity hired or employed by Contractor to perform any services relating to the subject matter of this Agreement; (iv) any Claim in any manner arising out of Contractor's performance of the Work; or (v) any breach of this Agreement by Contractor. Contractor shall pay any indebtedness arising under this indemnity to Owner immediately upon demand by Owner together with interest thereon from the date such indebtedness arises until paid at the rate equal to the greater of ten percent (10%) per annum or the highest lawful rate. Contractor's duty to indemnify Owner shall survive the termination of this Agreement. The foregoing indemnity shall not apply if the Owner's sole gross negligence or willful misconduct is the cause of the Claim.

Section 8. Work Stoppage

If Contractor at any time during the progress of the Work refuses or neglects, without the fault of Owner, to supply sufficient materials or workers to continue or complete the Work for a period of more than ten (7) days, not due to conditions beyond control of the contractor are not the cause, after having been notified in writing by Owner to furnish them, Owner shall have the power to terminate this Agreement and/or furnish and provide such materials and workers as are necessary to finish the Work, and the

reasonable expense thereof shall be deducted from the amount of the contract price as determined in this Agreement.

Section 9. Termination.

1. Termination by the Owner for Cause

- a.** the Owner may terminate the Contract if the Contractor repeatedly refuses or fails to supply enough properly skilled workers or proper materials; fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors; repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of a public authority; or otherwise is guilty of substantial breach of a provision of the Contract Document
- b.** When any of the above reasons exists, the Owner, may determine that sufficient cause exists to justify such action, may, without prejudice to any other remedy the Owner may have and after giving the Contractor seven days' written notice, terminate the Contract and take possession of the site and of all materials, thereon owned by the Contractor and may finish the Work by whatever reasonable method the Owner may deem expedient. Upon request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.
- c.** When the Owner terminates the Contract for one of the reasons stated in Section 20.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.
- d.** If the unpaid balance of the Contract Sum exceeds the reasonable costs of finishing the Work. If such reasonable costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner.

9.2 Termination by the Owner for Convenience

The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. The Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

9.3 Termination by the Contractor

If the Owner fails to make payment as provided in Section 5.2 for a period of 7 days, the Contractor may, upon seven additional days' written notice to the Owner and or the Architect, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

Section 10. Independent Contractor.

Contractor agrees to perform the Work as an independent contractor and not as the agent, employee, or servant of Owner. Contractor has and hereby retains the right to exercise full control and supervision of the Work and full control over the employment, direction, method of performing, compensation, and discharge of all persons assisting in the Work. Contractor agrees to be solely responsible for all matters relating to payment of its employees, including compliance with Social Security, withholding, and all other regulations governing such matters. Contractor agrees to be responsible for its own acts and those of its subordinates, employees, and subcontractors during this Agreement.

Section 11. Assignment.

Contractor shall not assign this Agreement or any interest in it or any money due or to become due under it voluntarily, involuntarily, or by operation of law without Owner's prior written consent. In the event of any such purported assignment without Owner's prior written consent,

Owner shall have the right, in addition to all other rights provided by law, to terminate this Agreement by giving written notice to Contractor.

Section 12. Miscellaneous.

Contractor shall at all times operate in good faith to coordinate job site installation and the work of other trades at the Project and to complete the Work in a time efficient manner and in a manner which will minimize disturbance, noise and inconvenience to the surrounding residents. Time is of the essence of this Agreement.

This Agreement shall be governed by the laws of the State of California.

Section 13. Mediation.

Any dispute arising of this Agreement shall first be submitted to mediation in an informal attempt to resolve such dispute. The mediation shall be conducted by a mediator experienced in the area of construction and construction contracts. Any party

who first files any claim, including a complaint, without first seeking in good faith to participate in mediation, shall not be entitled to recover its attorney's fees pursuant to Section 14 of this Agreement, regardless of whether such party is the "prevailing party" in any such action.

Section 14. Attorney Fees.

If any suit or action is brought to enforce or construe any provision of this Agreement, the prevailing party shall be entitled to recover its costs and expenses arising out of such litigation, including attorneys' fees and court costs, from the non-prevailing party.

CONTRACTOR: Ausonio Incorporated

Signature: _____

Print Name: _____

Title: _____

OWNER(S) / AGENT(S): Pacific Grove Unified School District

Signature: _____

Print Name: Joshua Jorn

Title: Assistant Superintendent of Business Services

- | | |
|--|---|
| <input type="checkbox"/> Student Learning and Achievement | <input type="checkbox"/> Consent |
| <input type="checkbox"/> Health and Safety of Students and Schools | <input checked="" type="checkbox"/> Action/Discussion |
| <input type="checkbox"/> Credibility and Communication | <input type="checkbox"/> Information/Discussion |
| <input checked="" type="checkbox"/> Fiscal Solvency, Accountability, and Integrity | <input type="checkbox"/> Public Hearing |

SUBJECT: Pacific Grove High School and Middle School Gym Floor Refinishing

DATE: May 9, 2024

PERSON(S) RESPONSIBLE: Jon Anderson, Director of Maintenance, Operations, and Transportation

RECOMMENDATION:

The District Administration recommends that the Board review and approve the contract for services with Hart Floor Company.

BACKGROUND:

The Pacific Grove High School main gym floor is overdue for refinishing and has several areas which require repair. The PGHS gym has become a priority due to safety concerns. The Middle School gym floor game lines are failing. Refinishing is required to remove the vinyl lines. New game lines will be painted rather than vinyl adhered lines. The painted lines will provide many years of service.

INFORMATION:

A public bid was held for this project and has resulted in a successful bid of \$85,699.00.

FISCAL IMPACT:

This project is not specifically mentioned in the original Measure D master plan. However, the District Administration recommends this project be undertaken with measure D funds as it aligned with the original Bond Language.

This project is not anticipated to exceed \$90,000.00.

LUMP SUM CONSTRUCTION CONTRACT

LUMP SUM – FIXED PRICE

THIS CONSTRUCTION CONTRACT (this "Agreement") is entered into on this (Date):
May 10, 2024

Between the Owner: **PACIFIC GROVE UNIFIED SCHOOL DISTRICT**
435 Hillcrest Ave
Pacific Grove CA 93950

And the Contractor: **Hart Floor Company**
119 Beth Drive
Felton, CA 95018

RECITALS

A. Owner desires to contract with Contractor for the PGUSD Pacific Grove High School and Pacific Grove Middle School Gymnasium floor refinishing, Project No. MD-024 (the "Project"), Located:

Pacific Grove Unified School District
Pacific Grove High School
615 Sunset Ave.
Pacific Grove, CA 93950
and
Pacific Grove Middle School
835 Forest Ave
Pacific Grove, CA 93950

B. Contractor desires to perform the Project on the terms and conditions contained herein. NOW THEREFORE, for good and valuable consideration the receipt and adequacy of which are hereby acknowledged, the parties agree as following.

Section 1. Definitions.

Work. As used herein the "Work" shall mean all labor and materials, or both, necessary to perform the Project, to full completion, and shall consist of the components described in the *Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents*. The Work shall be done and the materials furnished in accordance with the information provided in the *Notice to Bidders, Jobsite Walk, Addendum, and*

Contract Documents, and as discussed in all correspondence prior to bid time and at the job walk.

Section 2. Obligations of Contractor.

Contractor agrees to furnish and transport all necessary labor, permits, materials, tools, implements, supplies, building materials and component parts, and appliances required to perform and finish the Work to industry standards and all applicable codes, free of any and all liens and claims of laborers, materialmen, suppliers, and subcontractors, free from any and all defects or deficiencies. Contractor shall further endeavor to use its best faith efforts to complete the Project timely, and continually keep Owner apprised of the status of the Project.

Section 3. The Work.

(a) Contractor has reviewed the Scope of Work (*Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents.*), and represents that: (i) if the Work is performed in accordance therewith, the Work shall have been constructed in accordance with all applicable state, county, and municipal laws, codes, and regulations, including, but not limited to, all applicable building codes; and (ii) the Plans and Specifications are sufficiently complete and detailed to permit Contractor to perform the entire Work on the basis of the Notice to Bidders and Jobsite Walk for the Fixed Price Cost. No changes in the scope of work or Fixed Price shall be made unless in a change order signed by both parties. (iii) contractor will be responsible for locating all utilities (above and below ground) with a licensed locating service prior to commencing work on the site. The contractor will be provided with information from the owner locating said utilities to the best of the owner's knowledge.

(b) If at any time or times during the process of the Work, Owner desires to add to, alter, deviate from, or make omissions from the Work to be performed under the *Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents.* Owner shall be at liberty to do so and the same shall in no way affect or make void this Agreement. Any such alterations to the scope of work, or deviations from *Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents,* shall be made only in a writing signed by both parties. Any verbal changes in the scope of Work defined within the *Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents* shall be of no force nor effect. This Agreement shall be considered completed when: (i) the Work is finished in strict accordance with the *Notice to Bidders, Jobsite Walk, Addendum, and Contract Documents* as amended by any written change order

(ii) the Owner approves of the Work;

(iii) a notice of completion has been recorded; and (iv) the Contractor has received final payment.

Section 4. Contract Time.

Contractor agrees to commence the Work or as mutually agreed after receiving written notification to proceed from Owner, and shall complete the Work in no event later than **Wednesday, August 2nd, 2024. Sixty days** from the Notice to Proceed (the "Completion Date"). Contractor shall carry out the Work at all times with the greatest possible dispatch and diligence. If Contractor has not completed the Work by the Completion Date, then Owner may terminate this Agreement, Contractor shall immediately terminate its Work, Owner may withhold payment to the Contractor to complete the Work and the Project with another contractor, and in the event withholding such funds is insufficient to complete the Work and the Project, the Contractor will refund to the Owner such funds necessary to complete the Work and the Project within **Sixty calendar days (60)** of receipt of written demand.

Section 5. Fixed Price.

1. Owner agrees, in consideration of Contractor's performance of this Agreement, to pay Contractor the **Fixed Price of Eighty-Five Thousand, Six Hundred Ninety-Nine Dollars and no cents (\$85,699.00)**. (This sum shall constitute payment in full for all costs incurred by Contractor under this Agreement in performing and completing the Work, including, but not limited to, the costs incurred for insurance, overhead, subcontractor's materials, supplies, bonds (if any are required by Owner), permits and compliance with all building codes and laws, and Social Security, unemployment, sales, use, and all other taxes and costs.

A contingency / tracking log to be maintained during the project.

2. Progress payments on account of the Fixed Price cost shall be made as follows. Please note that Contractor must submit an invoice to the PGUSD for all progress payments as listed below:

(a) Applications for payment as set forth according to the schedule below:

1. **\$1,000.00 - Upon Execution of Contract.**
(\$1,000 or 10% of the contract, whichever is less)
2. **35% (+/-) - Material Acquisition and Mobilization.**
3. **45% - Progress Payments**
4. **10% - Upon Final Inspection and Sign Off of Punch List.**

(b) The balance of ten percent (10%) of the contract price shall not become due until completion and final acceptance of the Work. As a condition precedent to Owner's obligation to make any progress payment, Contractor shall provide Owner with the following documents upon Owner's written request: (i) a conditional mechanics' lien

release from each laborer, material supplier, and other subcontractor who provided labor, materials, or supplies for the component(s) of the Work covered by such progress payment. (c) As an additional condition precedent to Contractor's right to receive final payment, Contractor shall discharge and release the Work from any and all claims or liens that may have accrued from the performance of this Agreement and the final building inspection by Owner and the applicable governmental agency shall have been completed and accepted, and shall provide Owner with the following documents upon Owner's written request: (i) an unconditional mechanics' lien release from each such claimant who provided a conditional mechanics' lien release for the payment due (if any) to such claimant from the immediately preceding progress payment once the funds clear the contractors account. (ii) a recorded notice of completion; and (iii) "as built" drawings.

3. If at any time during the progress of the Work or before the final payment is made, any lien or claim or lien is filed, or notification to withhold money for labor or material furnished by Contractor under this Agreement is served on Owner, and Owner has performed its obligations under this Agreement, then Owner shall have the right to: (i) withhold from any payment due to Contractor an amount sufficient to discharge any and all such liens or claims; (ii) pay the lien holder directly and offset any such amount against the Fixed Price Cost; and (iii) bond around the lien at Contractor's sole cost and expense.

4. Owner reserves the right to make payments to Contractor in the form of checks payable jointly to Contractor and to any of its subcontractors or suppliers if Owner reasonably suspects that Contractor is not making payment to any such subcontractors or suppliers, or to protect Owner from any liens or encumbrances.

5. Owner may withhold any progress payment or final payment, or nullify any certification for payment previously issued, to the extent necessary to protect Owner from loss due to: (i) claims filed (including litigation, mechanic's liens, stop notices ("Claims")); (ii) reasonable evidence indicating probable filing of Claims; (iii) failure of Contractor to make timely payments to subcontractors or material suppliers; (iv) any material breach of this Agreement; (v) any reasonable doubt that the Agreement can be completed for the balance then unpaid; or (vi) defective or deficient work.

6. Final payment is due within thirty days of satisfaction of all completion conditions referenced above.

Section 6. Warranty.

All Work that is not completed to plans and specifications, applicable codes, and industry standards shall be immediately repaired, removed, and replaced with Work of a quality approved by the Owner, without additional compensation to the Contractor. The Contractor guarantees that the Work done under this Agreement will be free from faulty materials or workmanship and will comply with all applicable laws. Upon receiving notification from Owner, Contractor agrees to remedy, repair, or replace, immediately, without cost to Owner and to Owner's satisfaction, all defects, damages, or imperfections appearing in the Work (including labor and materials) within a period of one (1) year after the date of final completion and acceptance by the applicable governmental agency and Owner of the Work. Payments to Contractor shall not relieve Contractor of these obligations. Contractor will keep clean on a weekly basis the jobsite and grounds around the jobsite, and keep it in a safe, orderly, and neat condition. At the completion of the Work, the entire jobsite will be left in a broom-clean condition. Contractor shall assign all material and parts warranties to the Owner, and shall deliver to the Owner evidence of any such warranties as well as all product information and specifications. Contractor warrants that it is licensed by the Contractors State Licensing Board, and currently in good standing.

Section 7. Insurance/Bonds/Indemnity

7.0 Before commencement of any Work under this Agreement, Contractor shall obtain and maintain in full force and affect the following:

A **Performance Bond** in the amount of one hundred percent (100%) of the Contract Sum to insure Owner during construction, and for one year after completion and during any warranty or guarantee period, against faulty or improper materials or workmanship and to assure Owner of full and prompt performance of the Contract.

A **Payment Bond (Labor and Material)** in the amount of one hundred percent (100%) of the Contract Sum in accordance with the laws of the State of California to secure payment of any and all claims for labor and materials used or consumed in performance of this Contract.

- 1.** Comprehensive General Liability insurance that names Owner as an additional insured and that protects Contractor and Owner against any liability that Contractor may incur:
 - (a) Because of bodily injuries to or the death of one person other than an employee of Contractor and consequential damages arising therefrom to the extent of not less than *\$2,000,000.00* and on account of bodily injuries to or the death of more than one such person, subject to the same limit for each.
 - (b) Because of damage to or destruction of any property, to the extent of not less than *2,000,000.00* for each incident and aggregate.

2. Worker's Compensation insurance in statutory form and amount and employer's liability insurance covering Contractor's liability to the extent of not less than \$2,000,000.00 for damages because of bodily injuries to or death of such person or persons.

3. The insurance described in Paragraph 7.1 above also shall provide contractual liability coverage satisfactory to Owner with respect to liability assumed by Contractor under the indemnity provisions in this Agreement. Written proof of compliance with these requirements shall be filed with and approved by Owner before commencement of Work. The insurance provided in Section 7.1 shall name Owner, as an additional insured, and Contractor shall cause to be issued certificates and endorsements evidencing such coverage prior to the commencement of construction. The insurance to be maintained by the Contractor shall at all times be primary to the insurance maintained by Owner.

4. To the maximum extent permitted by law, Contractor shall indemnify, defend, and save harmless Owner and hold Owner, harmless from any and all losses, damages (whether general, punitive or otherwise), liabilities, claims, causes of action, judgments, and other costs and expenses, including attorneys' fees and court costs ("Claim"), including but not limited to Claims involving personal injuries or property damage, which Owner may suffer or incur as a consequence of (i) Contractor's failure to perform any of Contractor's obligations as and when required hereunder, including any failure of any representation or warranty of Contractor to be true and correct and any errors, omissions or negligent acts committed by Contractor, its agents, subcontractors, or employees, (ii) any Claim or cause of action to the effect that Owner is in any way responsible or liable for any act or omission of Contractor, (iii) any act or omission by Contractor or any person or entity hired or employed by Contractor to perform any services relating to the subject matter of this Agreement; (iv) any Claim in any manner arising out of Contractor's performance of the Work; or (v) any breach of this Agreement by Contractor. Contractor shall pay any indebtedness arising under this indemnity to Owner immediately upon demand by Owner together with interest thereon from the date such indebtedness arises until paid at the rate equal to the greater of ten percent (10%) per annum or the highest lawful rate. Contractor's duty to indemnify Owner shall survive the termination of this Agreement. The foregoing indemnity shall not apply if the Owner's sole gross negligence or willful misconduct is the cause of the Claim.

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If Contractor at any time during the progress of the Work refuses or neglects, without the fault of Owner, to supply sufficient materials or workers to continue or complete the Work for a period of more than ten (7) days, not due to conditions beyond control of

the contractor are not the cause, after having been notified in writing by Owner to furnish them, Owner shall have the power to terminate this Agreement and/or furnish and provide such materials and workers as are necessary to finish the Work, and the reasonable expense thereof shall be deducted from the amount of the contract price as determined in this Agreement.

Section 9. Termination.

1. Termination by the Owner for Cause

- a.** the Owner may terminate the Contract if the Contractor repeatedly refuses or fails to supply enough properly skilled workers or proper materials; fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors; repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of a public authority; or otherwise is guilty of substantial breach of a provision of the Contract Document
- b.** When any of the above reasons exists, the Owner, may determine that sufficient cause exists to justify such action, may, without prejudice to any other remedy the Owner may have and after giving the Contractor seven days' written notice, terminate the Contract and take possession of the site and of all materials, thereon owned by the Contractor and may finish the Work by whatever reasonable method the Owner may deem expedient. Upon request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.
- c.** When the Owner terminates the Contract for one of the reasons stated in Section 20.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.
- d.** If the unpaid balance of the Contract Sum exceeds the reasonable costs of finishing the Work. If such reasonable costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner.

9.2 Termination by the Owner for Convenience

The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. The Contractor shall be entitled to receive payment for Work executed,

and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

9.3 Termination by the Contractor

If the Owner fails to make payment as provided in Section 5.2 for a period of 7 days, the Contractor may, upon seven additional days' written notice to the Owner and or the Architect, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

Section 10. Independent Contractor.

Contractor agrees to perform the Work as an independent contractor and not as the agent, employee, or servant of Owner. Contractor has and hereby retains the right to exercise full control and supervision of the Work and full control over the employment, direction, method of performing, compensation, and discharge of all persons assisting in the Work. Contractor agrees to be solely responsible for all matters relating to payment of its employees, including compliance with Social Security, withholding, and all other regulations governing such matters. Contractor agrees to be responsible for its own acts and those of its subordinates, employees, and subcontractors during this Agreement.

Section 11. Assignment.

Contractor shall not assign this Agreement or any interest in it or any money due or to become due under it voluntarily, involuntarily, or by operation of law without Owner's prior written consent. In the event of any such purported assignment without Owner's prior written consent,

Owner shall have the right, in addition to all other rights provided by law, to terminate this Agreement by giving written notice to Contractor.

Section 12. Miscellaneous.

Contractor shall at all times operate in good faith to coordinate job site installation and the work of other trades at the Project and to complete the Work in a time efficient manner and in a manner which will minimize disturbance, noise and inconvenience to the surrounding residents. Time is of the essence of this Agreement.

This Agreement shall be governed by the laws of the State of California.

Section 13. Mediation.

Any dispute arising of this Agreement shall first be submitted to mediation in an informal attempt to resolve such dispute. The mediation shall be conducted by a mediator experienced in the area of construction and construction contracts. Any party who first files any claim, including a complaint, without first seeking in good faith to participate in mediation, shall not be entitled to recover its attorney's fees pursuant to Section 14 of this Agreement, regardless of whether such party is the "prevailing party" in any such action.

Section 14. Attorney Fees.

If any suit or action is brought to enforce or construe any provision of this Agreement, the prevailing party shall be entitled to recover its costs and expenses arising out of such litigation, including attorneys' fees and court costs, from the non-prevailing party.

CONTRACTOR: Hart Floor Company

Signature: _____

Print Name: _____

Title: _____

OWNER(S) / AGENT(S): Pacific Grove Unified School District

Signature: _____

Print Name: Joshua Jorn

Title: Assistant Superintendent of Business Services

- | | |
|---|---|
| <input checked="" type="checkbox"/> Student Learning and Achievement | <input type="checkbox"/> Consent |
| <input checked="" type="checkbox"/> Health and Safety of Students and Schools | <input checked="" type="checkbox"/> Action/Discussion |
| <input checked="" type="checkbox"/> Credibility and Communication | <input type="checkbox"/> Information/Discussion |
| <input checked="" type="checkbox"/> Fiscal Solvency, Accountability and Integrity | <input type="checkbox"/> Public Hearing |

SUBJECT: Proposed Board Calendar/Future Meetings

DATE: May 9, 2024

PERSON(S) RESPONSIBLE: Dr. Linda Adamson, Superintendent

RECOMMENDATION:

The District Administration recommends that the Board review and possibly modify the schedule of meeting dates on the attached calendar and determine, given information from the Administration, whether additional Board dates or modifications need to be established.

BACKGROUND:

The Board has approved Bylaw 9320, which states that regular Board Meetings be held on the first and third Thursday of each month, from August through June. At the annual organizational meeting held in December, Trustees approve the meeting calendar as presented. The calendar is reviewed at each Board meeting.

INFORMATION:

Changes to the Board Meeting dates must be approved by a majority vote of the Trustees.

Board Meeting Calendar January-June 2024

Closed Session times vary

Open Session begins at 6:30 PM

Thursday, January 11	<p>Regular Board Meeting</p> <ul style="list-style-type: none"> ✓ Superintendent Goals- midyear check-in ✓ Preliminary Enrollment Projection for 2024-25 ✓ Property Tax Update ✓ Resolution recognizing February as Black History Month ✓ School Accountability Report Cards
Thursday, January 25	<p>Special Board Meeting</p> <ul style="list-style-type: none"> ✓ Board NCBI Training ✓ School Accountability Report Card ✓ HR SSC Report Plan
Thursday, February 8	<p>Regular Board Meeting</p> <ul style="list-style-type: none"> ✓ Report on Governor's Budget Proposal ✓ Budget Development Calendar ✓ Approve Aug.- Dec. 2024-25 Board Meeting Calendar ✓ Quarterly Facilities Project Updates ✓ Resolution recognizing March as Women's History Month ✓ LCAP 2023-2024 Midyear Report ✓ CSBA Policy Update ✓ ABM Building Solution, LLC Construction Agreement: Public Hearing and Contract Approval
Monday, March 4 4:00-8:00 PM	<p>Special Board Meeting</p> <ul style="list-style-type: none"> ✓ Board Governance Training
Thursday, March 7	<p>Regular Board Meeting</p> <ul style="list-style-type: none"> ✓ Second Interim ✓ TRAN Resolution ✓ Williams/Valenzuela Uniform Complaint Report ✓ Possible Personnel Action Presented as Information (RIF) ✓ <i>Non-reelects Solution</i> ✓ Board Goals Study Session ✓ Cultural Proficiency Implementation Plan Presentation ✓ <i>2023-24 Audit Report</i> ✓ Board considers legislative action at local and state levels
Thursday, March 21 5:00-9:00 PM	<p>Special Board Meeting</p> <ul style="list-style-type: none"> ✓ Board Study Session on Facilities Master Planning and 2024 Bond Extension
Thursday, April 4	<p>Regular Board Meeting</p>

	<ul style="list-style-type: none"> ✓ Resolution recognizing May as Asian American Pacific Islander Heritage Month ✓ <i>School Resource Officer Update</i> ✓ <i>Student Board Recognition</i> ✓ <i>M.C. Kimball & Associates Inc. Safety Report Presentation</i>
Thursday, April 18 5:00-10:00 PM	<p>Special Board Meeting</p> <ul style="list-style-type: none"> ✓ <i>LCAP Study Session</i> ✓ <i>Master Facilities Follow-Up Study Session</i>
Thursday, May 9	<p>Regular Board Meeting</p> <ul style="list-style-type: none"> ✓ Board Goals for 2024-25 ✓ California Day of the Teacher ✓ Week of the CSEA Employee ✓ Retiree Recognition ✓ <i>Begin Superintendent Evaluation</i> ✓ <i>CSBA Policy Update</i>
Thursday, May 23	<p>Regular Board Meeting</p> <ul style="list-style-type: none"> ✓ 2024-25 Board Goals ✓ Review Governor's Revised Budget ✓ Suspensions/Expulsions Annual Report ✓ 2024-25 Budget Public Hearing ✓ LCAP Public Hearing ✓ Resolution recognizing June as LGBTQ+ Month ✓ <i>Continue Superintendent Evaluation</i> ✓ <i>Review of Site Master Schedules</i> ✓ <i>School Resource Officer Contract</i>
Tuesday, May 28 5:00 - 10:00 PM	<p>Special Board Meeting</p> <ul style="list-style-type: none"> ✓ <i>Board Governance Training</i>
Thursday, June 6	<p>Regular Board Meeting</p> <ul style="list-style-type: none"> ✓ Williams/Valenzuela Uniform Complaint Report ✓ 2024-25 Budget Public Adoption ✓ LCAP and Local Indicators Adoption ✓ Approval of Contracts and Purchase Orders for 2024-25 ✓ Resolution recognizing Juneteenth ✓ Declaration of Need for Highly Qualified Educators ✓ <i>Complete Superintendent's Evaluation</i> ✓ <i>Instructional Materials Policy</i> ✓ <i>Bond Discussion*</i>
Thursday, July 18 TIME TBD	<p>Special Board Meeting</p> <ul style="list-style-type: none"> ✓ <i>Board Governance Training</i>

Board Meeting Calendar August-December 2024

Closed Session times vary

Open Session begins at 6:30 PM

Thursday, August 8	Regular Board Meeting <ul style="list-style-type: none"> ✓ Quarterly Facilities Project Updates ✓ Review of Legal Services Costs ✓ Student Enrollment Update ✓ Property Tax Report
Thursday, August 15 TIME TBD	Special Board Meeting <ul style="list-style-type: none"> ✓ TBD
Thursday, September 5	Regular Board Meeting <ul style="list-style-type: none"> ✓ Quarterly District Safety Update* (Superintendent Report) ✓ CSBA Policy Update ✓ Cultural Proficiency/Equity Presentation ✓ Unaudited Actuals* ✓ Board Goals Discussion ✓ Williams Uniform Complaint Report (Quarterly)
Thursday, September 19 TIME TBD	Special Board Meeting <ul style="list-style-type: none"> ✓ TBD
Thursday, October 3	Regular Board Meeting <ul style="list-style-type: none"> ✓ Week of the School Administrator ✓ Board Goals check-in ✓ Resolution for the GANN Limit for 2024-2025 ✓ Quarterly District Safety Update (Superintendent Report) ✓ FY 2024-2025 Budget Revision #1 ✓ CAASPP/ELPAC Review of Data
Thursday, October 24 TIME TBD	Special Board Meeting <ul style="list-style-type: none"> ✓ TBD
Thursday, November 7	Regular Board Meeting <ul style="list-style-type: none"> ✓ Intent Form Due (to serve as Board President/Clerk) ✓ Review of Special Education Contracts ✓ PGHS Course Bulletin Information/Discussion ✓ CSBA Policy Update
Thursday, November 21 TIME TBD	Special Board Meeting <ul style="list-style-type: none"> ✓ TBD
Thursday, December 5	Regular Board Meeting <ul style="list-style-type: none"> ✓ District Goals Update ✓ Annual Cultural Proficiency Implementation Plan ✓ Quarterly Facilities Project Updates ✓ First Interim Report

	✓ CSBA Board Comments
Tuesday, December 12 TIME TBD	Special Board Meeting ✓ Board Governance and Self-evaluation
Thursday, December 19	Regular Board Meeting ✓ Election of 2024-2025 Board President and Clerk ✓ PGHS Course Bulletin Action/Discussion ✓ Williams Uniform Complaint Report (Quarterly) ✓ CSBA Policy Update

- Student Learning and Achievement
 Health and Safety of Students and Schools
 Credibility and Communication
 Fiscal Solvency, Accountability and Integrity

- Consent
 Action/Discussion
 Information/Discussion
 Public Hearing

SUBJECT: TK Registration Policy – AR 6170.1

DATE: May 9, 2024

PERSON(S) RESPONSIBLE: Dr. Linda Adamson, Superintendent

RECOMMENDATION:

The District Administration recommends the Board review and approve Administrative Regulation 6170.1, Transitional Kindergarten.

BACKGROUND:

The Board Policy Committee contains two Trustees (Carolyn Swanson and Jennifer McNary) who meet with Administrators responsible for whatever policies are up for review/discussion. The Board Policy Committee reviews the updates provided by CSBA as well as any Board requested or District generated Board Policies or Administrative recommendations.

The following Administrative Regulation is being brought forward for approval as submitted by staff being that the Board Policy had no accompanying Administrative Regulation.

INFORMATION:

The Board of Trustees desires to offer a high-quality transitional kindergarten (TK) program for eligible children who do not yet meet the minimum age criterion for kindergarten.

AR 6170.1 was developed to address the following areas of clarity associated with the Transitional Kindergarten Program at PGUSD.

1. Pre-Registration Process
2. Class Size Limitations
3. Registration as Determined by Neighborhood School
4. Final Registration Process
5. Site Level Staff Processing of Enrollment

FISCAL IMPACT:

None

Regulation

PACIFIC GROVE UNIFIED SCHOOL DISTRICT

Revised:

Pacific Grove, California

Instruction**Transitional Kindergarten**

AR 6170.1

PURPOSE

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

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

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

PRE REGISTRATION

All families who pre-register for Transitional Kindergarten and prove residency within the district boundaries will be accommodated at either Forest Grove Elementary or Robert Down Elementary.

Pre-registration is intended to help the District in planning for the next school year by providing approximate enrollment numbers, which help guide our staffing and facilities-related decisions.

Every March the District will hold a TK/Kindergarten Parent Orientation Night hosted at a PGUSD school site to inform parents of the final registration process, provide information about the programs, and answer questions families may have about TK or Kindergarten.

CLASS SIZE LIMITATIONS

PGUSD transitional kindergarten (TK) class size maximums are 24 students, which is the allowable class size maximum for all TK programs in the State of California. There will be one certificated teacher and one instructional assistant for 24 students which maintains the current (2023-24) adult to student ratio of 12:1.

Regulation

PACIFIC GROVE UNIFIED SCHOOL DISTRICT

Revised:

Pacific Grove, California

Instruction**Transitional Kindergarten**

AR 6170.1

REGISTRATION DETERMINED BY NEIGHBORHOOD SCHOOLS

While the intention is to place students at their neighborhood school, this will not always be possible. Criteria such as enrollment, class size, available facilities, and staffing decisions all factor into the placement of a student and/or program. The location of a student's TK classroom may not be at their neighborhood school.

Any student who is enrolled at a school site other than their neighborhood school for TK will have the option to return to their neighborhood school the following year for kindergarten.

FINAL REGISTRATION

Final registration does not officially open until May of the prior school year. Within 45 days of final registration, parents will be informed of their child's placement for enrollment.

The District will make every effort to assign students to their neighborhood school based on following criteria:

1. First Priority Placement: Students who reside in the neighborhood school boundary area will have first priority for placement.
2. Second Priority Placement: Students with siblings whose residence is in the neighborhood school boundary will be given second priority for placement.
3. Placement of IDT Students: Students with an Interdistrict BP/AR 5117 or Intradistrict Transfer (IDT) BP/AR 5116.1 will not be prioritized for placement; however, their school of choice selection will be noted at the time of pre-registration.
 - a. PGUSD Staff who have submitted IDT's via the Residency process, will receive priority placement over non-PGUSD staff family with submitted IDT's
 - b. IDT's will be considered for placement after all neighborhood students have been accommodated.
 - c. Non-PGUSD Staff IDT's may be entered in a lottery for placement if there are spots available at a given site, but given last priority among neighborhood students.
 - d. For further information on the IDT selection process please refer to BP/AR 5116.1.

Regulation

PACIFIC GROVE UNIFIED SCHOOL DISTRICT

Revised:

Pacific Grove, California

Instruction**Transitional Kindergarten**

AR 6170.1

4. If the maximum number of students enrolled is met at a particular site, there will be a lottery for placement of students.
 - a. The result of the lottery may place your student in a classroom at a non-neighborhood school.
 - b. In such a case, the family may return to their neighborhood school for kindergarten in the subsequent school year as referenced in **CLASS SIZE LIMITATIONS** above.

SITE STAFF PROCESSING

When a parent/guardian who is a resident of a school's attendance boundary registers for TK, use the Google Sheet Titled "New TK/K Numbers" to determine if there is room for placement at their neighborhood school site.

If there is no room, please provide the families with directions to the website to fill out the Intradistrict transfer form for processing and notify them this will place them in the queue for alternate placement as described in **FINAL REGISTRATION** above.

(NOTE: Neighborhood students with siblings will automatically move to the top of the waitlist)

The District Office Residency staff will date stamp the Intradistrict Transfer Form and solicit other necessary information from the family if required.

The school site Office Manager will communicate with the receiving school and contact the family to schedule a registration appointment within two business days.

- | | |
|---|--|
| <input type="checkbox"/> Student Learning and Achievement | <input type="checkbox"/> Consent |
| <input checked="" type="checkbox"/> Health and Safety of Students and Schools | <input type="checkbox"/> Action/Discussion |
| <input type="checkbox"/> Credibility and Communication | <input checked="" type="checkbox"/> Information/Discussion |
| <input type="checkbox"/> Fiscal Solvency, Accountability and Integrity | <input type="checkbox"/> Public Hearing |

SUBJECT: Board Policy Updates

DATE: May 9, 2024

PERSON(S) RESPONSIBLE: Dr. Linda Adamson, Superintendent

RECOMMENDATION:

The District Administration recommends the Board review the Board Policy, Administrative Regulation, and Board Bylaw updates recently reviewed by the Board Policy Committee on April 16, 2024.

BACKGROUND:

The Board Policy Committee contains two Trustees (Trustee Carolyn Swanson and Trustee Jennifer McNary) who meet with Administrators responsible for whatever policies are up for review/discussion. The Board Policy Committee reviews the updates provided by CSBA (explanation below) as well as any Board requested policies or Administrative recommendations. The following updates will be reviewed as Information/Discussion, and will return to the subsequent meeting as Consent for final Board approval.

CSBA employs several full-time staff to keep its sample policy manual updated. It updates approximately 100 policies every year to stay up to date with changes in the law and publishes these updates in four bundles called “policy update packets.” These are issued four times a year: March, June, September, and December, as well as any special updates as needed. Subscribers to GAMUT Policy Plus receive announcements every time CSBA issues a policy update packet and can access the packet by logging into their proprietary site.

CSBA encourages districts to review each update packet once it’s issued to see which policies the district may need to update. Districts can review a “guide sheet” that lists the changes that CSBA has made as well as the text in the policies themselves to determine which policies they want to update. Once they determine this, they can prepare drafts of the new policies to send to their board for review and adoption. By reviewing each CSBA policy update packet and taking action accordingly, districts can ensure that their policy manual is always accurate and up-to-date. CSBA encourages districts to establish a consistent process for reviewing, processing, and approving update packets so that they never fall behind on their policies.

INFORMATION:

At the April 16, 2024 Board Policy Committee meeting, the committee reviewed the CSBA policy updates from March 2024, as well as Board requested and Administrative recommended updates.

MARCH 2024 CSBA POLICY UPDATES

Board Policy 0450 – Comprehensive Safety Plan

- Reviewed by Assistant Superintendent
- Option 1; No other recommended changes

Administrative Regulation 0450 – Comprehensive Plan

- Reviewed by Assistant Superintendent
- No recommended changes

Board Policy 3516 – Emergency And Disaster Preparedness Plan

- Reviewed by Assistant Superintendent
- No recommended changes

Administrative Regulation 3516 – Emergency and Disaster Preparedness

- Reviewed by Assistant Superintendent
- No recommended changes

Board Policy 3550 – Food Service/Child Nutrition Program

- Reviewed by Assistant Superintendent
- No recommended changes

Administrative Regulation 3550 – Food Service/Child Nutrition Program

- Reviewed by Assistant Superintendent
- No recommended changes

Board Policy 3551 – Food Service Operations/Cafeteria Fund

- Reviewed by Assistant Superintendent
- No recommended changes

Administrative Regulation 3551 – Food Service Operations/Cafeteria Fund

- Reviewed by Assistant Superintendent
- Option 2; No other recommended changes

Board Policy 3553 – Free and Reduced Price Meals

- Reviewed by Assistant Superintendent
- No recommended changes

Administrative Regulation 3553 – Free and Reduced Price Meals

- Reviewed by Assistant Superintendent
- Add Director of Food Services; No recommended changes

Board Policy 4111/4211/4311 – Recruitment and Selection

- Reviewed by Director II of Human Resources
- No recommended changes

Administrative Regulation 4112.5/4212.5/4312.5 – Criminal Record Check

- Reviewed by Director II of Human Resources
- No recommended changes

Exhibit(1) 4112.5/4212.5/4312.5 – Criminal Record Check

- Reviewed by Director II of Human Resources
- No recommended changes

Board Policy 4118 – Dismissal/Suspension/Disciplinary Action

- Reviewed by Director II of Human Resources
- No recommended changes

Regulation 4118 – Dismissal/Suspension/Disciplinary Action

- Reviewed by Director II of Human Resources
- No recommended changes

Board Policy 4140/4240/4340 – Bargaining Units

- Reviewed by Director II of Human Resources
- No recommended changes

Board Policy 4157/4257/4357 – Employee Safety

- Reviewed by Director II of Human Resources/Assistant Superintendent
- No recommended changes

Administrative Regulation 4157/4257/4357 – Employee Safety

- Reviewed by Director II of Human Resources/Assistant Superintendent
- No recommended changes

Administrative Regulation 4157.1/4257.1/4357.1 – Work-Related Injuries

- Reviewed by Director II of Human Resources
- No recommended changes

Board Policy 4218 – Dismissal/Suspension/Disciplinary Action

- Reviewed by Director II of Human Resources
- No recommended changes

Administrative Regulation 4218 – Dismissal/Suspension/Disciplinary Action

- Reviewed by Director II of Human Resources
- No recommended changes

Board Policy 5126 – Awards for Achievement

- Reviewed by Director of Curriculum and Special Projects
- Remove “Scholarship and Loan Fund”; No other recommended changes

Administrative Regulation 5126 – Awards for Achievement

- Reviewed by Director of Curriculum and Special Projects
- No recommended changes

Board Policy 5141.21 – Administering Medication and Monitoring Health Conditions

- Reviewed by Director of Student Services
- Option 2; No other recommended changes

Board Policy 5144 – Discipline

- Reviewed by Superintendent
- No recommended changes

Administrative Regulation 5144 – Discipline

- Reviewed by Superintendent
- No recommended changes

Board Policy 6115 – Ceremonies and Observances

- Reviewed by Superintendent
- No recommended changes

Administrative Regulation 6115 – Ceremonies and Observances

- Reviewed by Superintendent
- No recommended changes

Board Policy 6141.2 – Recognition of Religious Beliefs and Customs

- Reviewed by Superintendent
- No recommended changes

Administrative Regulation 6141.2 – Recognition of Religious Beliefs and Customs

- Reviewed by Superintendent
- No recommended changes

Board Bylaw 9320 – Meetings and Notices

- Reviewed by Superintendent
- No recommended changes

Board Bylaw 9323.2 – Actions by the Board

- Reviewed by Superintendent
- No recommended changes

Exhibit(1) 9323.2 – Actions by the Board

- Reviewed by Superintendent
- No recommended changes

Board Policy 0415 – Equity

- Reviewed by Superintendent & Director of Curriculum and Special Projects
- Recommended changes redlined in document

Policy 0450: Comprehensive Safety Plan**Status: ADOPTED**

Original Adopted Date: 11/01/2011 | Last Revised Date: ~~12~~03/01/2022~~2024~~ | Last Reviewed Date: ~~12~~03/01/2022~~2024~~

CSBA NOTE: Pursuant to Education Code 32280-32289.5, districts are responsible for ensuring that a comprehensive safety plan with specified components is in place for each district school. As required by Education Code 32282 and 32288, the California Department of Education (CDE) has posted on its ~~web site~~ [website](#) a compliance checklist for developing comprehensive safety plans and best practices for reviewing and approving the plans. Comprehensive safety plans are reviewed through the annual audits required by Education Code 41020 to ensure that they are updated and approved by March 1 of each year.

The Governing Board recognizes that students and staff have the right to a safe and secure campus where they are free from physical and psychological harm. The Board is fully committed to maximizing school safety and to creating a positive learning environment that includes strategies for violence prevention and high expectations for student conduct, responsible behavior, and respect for others.

CSBA NOTE: Pursuant to Education Code 32281 and 32286, each school is required to adopt a comprehensive safety plan (Option 1 below). However, districts with an average daily attendance (ADA) of 2,500 or less are authorized by Education Code 32281 to develop a districtwide [comprehensive](#) safety plan in lieu of developing school plans; thus, those districts may select either Option 1 or 2 to reflect district practice. Any district may choose to develop both district and school plans.

OPTION 1: (Districts with more than 2,500 ADA, and districts with 2,500 or less ADA that choose to develop school site plans)

The school site council at each district school shall develop a comprehensive school safety plan relevant to the needs and resources of that particular school. New school campuses shall develop a [comprehensive](#) safety plan within one year of initiating operations. (Education Code 32281, 32286)

The [comprehensive](#) school safety plan shall take into account the school's staffing, available resources, and building design, as well as other factors unique to the site.

OPTION 1 ENDS HERE

OPTION 2: (Districts with 2,500 or less ADA that choose to develop a districtwide plan)

The Superintendent or designee shall oversee the development of a districtwide comprehensive safety plan that is applicable to each school site. (Education Code 32281)

OPTION 2 ENDS HERE

CSBA NOTE: The following two paragraphs apply to all districts. Education Code 32286 requires that the school site council review and update the comprehensive safety plan by March 1 of each year. In districts with ADA of 2,500 or less that choose to develop a districtwide plan in accordance with Option 2 above, the Superintendent or designee may conduct the annual review.

Pursuant to Education Code 32288, the updated plan(s) must be submitted to the ~~district~~Governing Board for approval. The ~~Governing~~ Board may choose to delegate to the Superintendent or designee the responsibility to review and approve the updated plans, but the Board remains responsible for ensuring compliance with the law.

The comprehensive safety plan(s) shall be reviewed and updated by March 1 of each year and forwarded to the Board for approval. (Education Code 32286, 32288)

CSBA NOTE: Pursuant to Education Code 32282, as amended by SB 323 (Ch. 599, Statutes of 2023), the annual evaluation of the comprehensive safety plan is required to include ensuring that the plan provides appropriate adaptations for students with disabilities.

The Board shall review the comprehensive safety plan(s) in order to ensure compliance with state law, Board policy, and administrative regulation and shall approve the plan(s) at a regularly scheduled meeting.

CSBA NOTE: Education Code 32288 requires that districts notify CDE if a school has not complied with the comprehensive safety plan requirements. In the event that the Superintendent of Public Instruction determines that there has been a willful failure by a district to make any report required by Education Code 32280-32289, Education Code 32287 provides that the district may be fined up to \$2,000.

By October 15 of each year, the Superintendent or designee shall notify the California Department of Education (CDE) of any schools that have not complied with the requirements of Education Code 32281. (Education Code 32288)

Tactical Response Plan

CSBA NOTE: The following section is optional. Pursuant to Education Code 32281, the Board may, after consulting with law enforcement officials, elect to have the district, rather than the school site council, develop those portions of the comprehensive safety plan that include tactical responses to criminal incidents that may result in death or serious bodily injury.

Notwithstanding the process described above, any portion of a comprehensive safety plan that addresses tactical responses to criminal incidents that may result in death or serious bodily injury at the school site, including steps to safeguard students and staff, secure affected school premises, and apprehend criminal perpetrator(s), shall be developed by ~~district administrators~~the Superintendent or designee in accordance with Education Code 32281. In developing such strategies, ~~district administrators~~the Superintendent or designee shall consult with law enforcement officials and with representative(s) of employee bargaining unit(s), if they choose to participate.

When reviewing the tactical response plan, the Board may meet in closed session to confer with law enforcement officials and approve the tactical response plan, provided that any vote to approve the tactical response plan is announced in open session following the closed session. (Education Code 32281)

Safety Plan(s) Access and Reporting

The Superintendent or designee shall ensure that an updated file of all safety-related plans and materials is readily available for inspection by the public. (Education Code 32282)

CSBA NOTE: The following paragraph is optional. Pursuant to Education Code 32281, the Board may choose to prohibit disclosure of those portions of the comprehensive safety plan that include tactical responses to criminal incidents.

However, those portions of the comprehensive safety plan that include tactical responses to criminal incidents ~~shall~~need not be publicly disclosed.

The Superintendent or designee shall share the comprehensive safety plans and any updates to the plans with local law enforcement, the local fire department, and other first responder entities. (Education Code 32281)

CSBA NOTE: Pursuant to Education Code 32289.5, the district is required to provide data to CDE pertaining to lockdown or multi-option response drills conducted at district schools, as specified.

The Superintendent or designee shall also provide data to CDE pertaining to lockdown or multi-option response drills conducted at district schools in accordance with Education Code 32289.5. (Education Code 32289.5)

Policy Reference UPDATE Service

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Policy Reference Disclaimer:

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

State	Description
5 CCR 11987-11987.7	School Community Violence Prevention Program requirements
5 CCR 11992-11993	Definition; persistently <u>Persistently</u> dangerous schools; <u>definition</u>
CA Constitution Article 1, Section 28	Right to Safe Schools
Ed. Code 200-262.4	Prohibition of discrimination
Ed. Code 32260-32262	Interagency School Safety Demonstration Act of 1985
Ed. Code 32270	School safety cadre
Ed. Code 32280-32289.5	School safety plans
Ed. Code 32290	Safety devices
Ed. Code 35147	School site councils and advisory committees
Ed. Code 35183	School dress code; uniforms

Ed. Code 35266	Reporting of cyber attacks
Ed. Code 35291	Rules
Ed. Code 35291.5	School-adopted discipline rules
Ed. Code 41020	Requirement for annual audit
Ed. Code 48900-48927	Suspension and expulsion
Ed. Code 48950	Speech and other communication
Ed. Code 48980	Parent/Guardian notifications
Ed. Code 49079	Notification to teacher; student act constituting grounds for suspension or expulsion
Ed. Code 49390-49395	Homicide threats
Ed. Code 67381	Availability of information regarding crimes
Gov. Code 8586.5	California Cybersecurity Integration Center
Gov. Code 11549.3	Independent security assessment
Gov. Code 54957	Closed session meetings for threats to security
Pen. Code 11164-11174.3	Child Abuse and Neglect Reporting Act
Pen. Code 422.55	Definition of hate crime
Pen. Code 626.8	Disruptions
Federal	Description
20 USC 1400-1482	Individuals with Disabilities Education Act
20 USC 7111-7122	Student support and academic enrichment grants
20 USC 7912	Transfers from persistently dangerous schools
29 USC 794	Rehabilitation Act of 1973; Section 504
42 USC 12101-12213	Americans with Disabilities Act
6 USC 665k	Federal Clearinghouse on School Safety Evidence-Based Practices
Management Resources	Description
CSBA Publication	Community Schools: Partnerships Supporting Students, Families and Communities, Policy Brief, October 2010
CSBA Publication	Cyberbullying: Policy Considerations for Boards, Policy Brief, rev. July 2010
CSBA Publication	Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014

CSBA Publication	Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011
<u>CSBA Publication</u>	<u>School Safety: Firearm Safety and Storage, May 2023</u>
CSBA Publication	Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools, October 2022
Federal Bureau of Investigation Publication	Uniform Crime Reporting Handbook, 2004
U.S. DOE <u>Department of Education</u> Publication	Practical Information on Crisis Planning: A Guide for Schools and Communities, January 2007
U.S. Secret Service & DOE <u>Department of Education</u> Publication	Threat Assessment in Schools: A Guide to Managing Threatening Situations and to Creating Safe School Climates, 2004
Website	California Military Department
<u>Website</u>	<u>California Department of Education, Safe Schools Planning (https://www.cde.ca.gov/ls/ss/vp/safeschlplanning.asp)</u>
Website	California Department of Technology, Independent Security Assessment
Website	U.S. Department of Homeland Security, Fusion Centers
<u>Website</u>	<u>Schoolsafety.gov (https://www.schoolsafety.gov/)</u>
Website	California State Threat Assessment System
Website	CSBA District and County Office of Education Legal Services
Website	U.S. Secret Service, National Threat Assessment Center
Website	Centers for Disease Control and Prevention
Website	Federal Bureau of Investigation
Website	National Center for Crisis Management
Website	National School Safety Center
<u>Website</u>	<u>California Department of Education, Language Services Policy and Process</u>
Website	California Department of Education, Safe Schools
Website	California Governor's Office of Emergency Services
Website	California Healthy Kids Survey
Website	U.S. Department of Education
Website	CSBA

Cross References

Code	Description
0400	Comprehensive Plans
0410	Nondiscrimination In District Programs And Activities
0420	School Plans/Site Councils
0420	School Plans/Site Councils
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
0470	COVID-19 Mitigation Plan
0500	Accountability
0510	School Accountability Report Card
1100	Communication With The Public
1112	Media Relations
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1220	Citizen Advisory Committees
1220	Citizen Advisory Committees
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1313	Civility
1330	Use Of School Facilities
1330	Use Of School Facilities
1330.1	Joint Use Agreements
1340	Access To District Records
1340	Access To District Records
1400	Relations Between Other Governmental Agencies And The Schools
2210	Administrative Discretion Regarding Board Policy
3510	Green School Operations

3511	Energy And Water Management
3511	Energy And Water Management
3513.3	Tobacco-Free Schools
3513.3	Tobacco-Free Schools
3514	Environmental Safety
3514	Environmental Safety
3514.1	Hazardous Substances
3514.1	Hazardous Substances
3514.2	Integrated Pest Management
3515	Campus Security
3515	Campus Security
3515.2	Disruptions
3515.2	Disruptions
3515.3	District Police/Security Department
3515.3	District Police/Security Department
3515.31	School Resource Officers
3515.4	Recovery For Property Loss Or Damage
3515.4	Recovery For Property Loss Or Damage
3515.5	Sex Offender Notification
3515.5	Sex Offender Notification
3515.7	Firearms On School Grounds
3516	Emergencies And Disaster Preparedness Plan
3516	Emergencies And Disaster Preparedness Plan
3516.1	Fire Drills And Fires
3516.2	Bomb Threats
3516.3	Earthquake Emergency Procedure System
3516.5	Emergency Schedules
3530	Risk Management/Insurance
3530	Risk Management/Insurance
3543	Transportation Safety And Emergencies
4112.41	Employee Drug Testing

4112.41	Employee Drug Testing
4119.11	Sexual Harassment
4119.11	Sexual Harassment
4119.23	Unauthorized Release Of Confidential/Privileged Information
4131	Staff Development
4140	Bargaining Units
4141.6	Concerted Action/Work Stoppage
4141.6	Concerted Action/Work Stoppage
4157	Employee Safety
4157	Employee Safety
4158	Employee Security
4158	Employee Security
4212.41	Employee Drug Testing
4212.41	Employee Drug Testing
4219.11	Sexual Harassment
4219.11	Sexual Harassment
4219.23	Unauthorized Release Of Confidential/Privileged Information
4231	Staff Development
4240	Bargaining Units
4241.6	Concerted Action/Work Stoppage
4241.6	Concerted Action/Work Stoppage
4257	Employee Safety
4257	Employee Safety
4258	Employee Security
4258	Employee Security
4312.41	Employee Drug Testing
4312.41	Employee Drug Testing
4319.11	Sexual Harassment
4319.11	Sexual Harassment
4319.21	Professional Standards
4319.21-E(1)	Professional Standards

4319.23	Unauthorized Release Of Confidential/Privileged Information
4331	Staff Development
4340	Bargaining Units
4357	Employee Safety
4357	Employee Safety
4358	Employee Security
4358	Employee Security
5020	Parent Rights And Responsibilities
5020	Parent Rights And Responsibilities
5112.5	Open/Closed Campus
5113	Absences And Excuses
5113	Absences And Excuses
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy
5116.1	Intradistrict Open Enrollment
5116.1	Intradistrict Open Enrollment
5131	Conduct
5131.2	Bullying
5131.2	Bullying
5131.4	Student Disturbances
5131.4	Student Disturbances
5131.41	Use Of Seclusion And Restraint
5131.5	Vandalism And Graffiti
5131.6	Alcohol And Other Drugs
5131.6	Alcohol And Other Drugs
5131.61	Drug Testing
5131.62	Tobacco
5131.62	Tobacco
5131.63	Steroids
5131.63	Steroids
5131.7	Weapons And Dangerous Instruments

5131.7	Weapons And Dangerous Instruments
5131.8	Mobile Communication Devices
5132	Dress And Grooming
5132	Dress And Grooming
5136	Gangs
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CSBA Sample District Policy Manual
CSBA Sample Manual Site

Regulation 0450: Comprehensive Safety Plan**Status:** ADOPTED

Original Adopted Date: 11/01/2011 | **Last Revised Date:** ~~12/03/01/2022~~2024 | **Last Reviewed Date:** ~~12/03/01/2022~~2024

CSBA NOTE: The following optional administrative regulation should be revised to reflect district practice.

Pursuant to Education Code 234.5, the California Department of Education (CDE) has posted on its ~~web site~~[website](#) a list of statewide resources for youth who have been subjected to school-based discrimination, harassment, intimidation, or bullying, and youth affected by gangs, gun violence, and psychological trauma caused by violence at home, at school, and in the community.

Additionally, ~~6 USC 665k, as added~~[school safety.gov, a website developed](#) by the ~~Luke~~[federal government, provides schools with actionable recommendations to create safe](#) and ~~Alex School Safety Act of 2022 (P.L. 117-159), requires the creation of a~~[supportive learning environments and includes the](#) Federal Clearinghouse on School Safety Evidence-Based Practices, [required by 6 USC 665k](#) to serve as a ~~federal~~ resource to identify and publish online evidence-based practices and recommendations to improve school safety.

Development and Review of Comprehensive School Safety Plan

CSBA NOTE: The following section reflects requirements for the development of site-level comprehensive safety plans pursuant to Education Code 32280-32289 and is for use by districts that selected Option 1 in the accompanying Board policy. Districts with an average daily attendance of 2,500 or less that selected Option 2 in the accompanying Board policy (i.e., that have developed a districtwide comprehensive safety plan applicable to all school sites in lieu of individual site plans, as authorized by Education Code 32281) should omit this section.

The school site council shall consult with local law enforcement, the local fire department, and other first responders in the writing and development of the comprehensive school safety plan. When practical, the school site council shall also consult with other school site councils and safety planning committees. ~~-(Education Code 32281, 32282)~~

The school site council may delegate the responsibility for developing a comprehensive safety plan to a school safety planning committee composed of the following members: ~~-(Education Code 32281)~~

1. The principal or designee
2. One teacher who is a representative of the recognized certificated employee organization
3. One parent/guardian whose child attends the school

4. One classified employee who is a representative of the recognized classified employee organization

CSBA NOTE: Item #5 below may be modified to specify other groups or individuals who will be represented on the committee. For example, the committee might include representatives of social service agencies, other city or county agencies, health care and emergency service providers, community-based organizations, and/or students.

5. Other members, if desired

Before adopting the comprehensive safety plan, the school site council or school safety planning committee shall hold a public meeting at the school in order to allow members of the public the opportunity to express an opinion about the plan. -(Education Code 32288)

The school site council or safety planning committee shall notify, in writing, the following persons and entities of the public meeting: -, if available: (Education Code 32288)

1. The local mayor
2. A representative of the local school employee organization
3. A representative of each parent/guardian organization at the school, including the parent teacher association and parent teacher clubs
4. A representative of each teacher organization at the school
5. A representative of the school's student body government
6. All persons who have indicated that they want to be notified

In addition, the school site council or safety planning committee may notify, in writing, the following entities of the public meeting: -(Education Code 32288)

1. Representatives of local religious organizations
2. Local civic leaders
3. Local business organizations

CSBA NOTE: Pursuant to Education Code 32282, as amended by SB 323 (Ch. 599, Statutes of 2023), after the first evaluation or review is conducted, and after each annual evaluation or review, a school employee, a student's parent/guardian or educational rights holder, or a student may bring concerns about an individual student's ability to access disaster safety procedures described in the comprehensive school safety plan to the principal.

After the first evaluation or review is conducted, and after each annual evaluation or review, a school employee, a student's parent/guardian or educational rights holder, or a student may bring concerns about an individual student's ability to access disaster safety procedures described in the comprehensive school safety plan to the principal. (Education Code 32282)

If the principal determines there is merit to a concern, the principal shall direct the school site council or school safety planning committee, to make appropriate modifications to the

comprehensive school safety plan during the evaluation of the comprehensive safety plan. The principal may direct the school site council or the school safety planning committee to make such modifications before the evaluation, as appropriate. (Education Code 32282)

Content of the Comprehensive Safety Plan

Each comprehensive safety plan shall include an assessment of the current status of any crime committed on campus and at school-related functions. -(Education Code 32282)

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. In assessing the current status of school crime as required by Education Code 32282, districts may contract with a consultant, work with local law enforcement, develop their own local assessment, and/or use available instruments such as the, "California Healthy Kids Survey," or the Centers for Disease Control and Prevention's, "Youth Risk Behavior Survey."

The assessment may include, but not be limited to, reports of crime, suspension and expulsion rates, and surveys of students, parents/guardians, and staff regarding their perceptions of school safety.

CSBA NOTE: Education Code 32282 requires that the following components be included in the districtwide and/or school site comprehensive safety plan. The district may expand this list to require other components at its discretion.

The plan shall identify appropriate strategies and programs that will provide or maintain a high level of school safety and address the school's procedures for complying with existing laws related to school safety, including all of the following: -(Education Code 32282)

1. Child abuse reporting procedures consistent with Penal Code 11164-11174.3
2. Routine and emergency disaster procedures including, but not limited to:

CSBA NOTE: Pursuant to Education Code 32282, as amended by SB 323, schools are required to include in their comprehensive safety plans adaptations for students with disabilities in accordance with the federal Americans with Disabilities Act, the Individuals with Disabilities Education Act, and Section 504 of the federal Rehabilitation Act of 1973.

- a. Adaptations for students with disabilities in accordance with the Americans with Disabilities Act, the federal Individuals with Disabilities Education Act, and Section 504 of the federal Rehabilitation Act of 1973

CSBA NOTE: Education Code 32282 requires districts to incorporate earthquake emergency procedures into the comprehensive safety plan, as specified in Items #2b and #2c below. See BP/AR 3516 - Emergencies and Disaster Preparedness Plan and AR 3516.3 - Earthquake Emergency Procedure System for further details about required components of these procedures.

- b. An earthquake emergency procedure system in accordance with Education Code 32282
- c. A procedure to allow public agencies, including the American Red Cross, to use school buildings, grounds, and equipment for mass care and welfare shelters during

disasters or other emergencies affecting the public health and welfare

3. Policies pursuant to Education Code 48915(d) for students who commit an act listed in Education Code 48915(c) and other school-designated serious acts that would lead to suspension, expulsion, or mandatory expulsion recommendations
4. Procedures to notify teachers of dangerous students pursuant to Education Code 49079

CSBA NOTE: Education Code 234.1 requires the Governing Board to adopt policy prohibiting discrimination, harassment, intimidation, and bullying based on specified characteristics and requires school personnel who witness such acts to take immediate steps to intervene when safe to do so; see BP 0410 - Nondiscrimination in District Programs and Activities and BP 5145.3 - Nondiscrimination/Harassment. In addition, the district's complaint process must include a timeline for investigating and resolving complaints and an appeals process; see BP/AR 1312.3 - Uniform Complaint Procedures.

5. A policy consistent with the prohibition against discrimination, harassment, intimidation, and bullying pursuant to Education Code 200-262.4
6. If the school has adopted a dress code prohibiting students from wearing "gang-related apparel" pursuant to Education Code 35183, the provisions of that dress code and the definition of "gang-related apparel"
7. Procedures for safe ingress and egress of students, parents/guardians, and employees to and from school
8. A safe and orderly school environment conducive to learning
9. The rules and procedures on school discipline adopted pursuant to Education Code 35291 and 35291.5

CSBA NOTE: Pursuant to Education Code 32282, schools are required to include in their comprehensive safety plans procedures for conducting tactical responses to criminal incidents, as specified in Item #10. Such procedures must be based on the specific needs and context of each school and community.

Pursuant to Education Code 32281, the Governing Board may elect to have district administrators, rather than the school site council, develop those portions of the comprehensive safety plan that include tactical responses to criminal incidents that may result in death or serious bodily injury; see the accompanying Board policy.

10. Procedures for conducting tactical responses to criminal incidents, including procedures related to individuals with guns on campus and at school-related functions

CSBA NOTE: Pursuant to Education 32282, as amended by SB 671 (Ch. 626, Statutes of 2023), schools are required to include in their comprehensive safety plans procedures to assess and respond to reports of any dangerous, violent, or unlawful activity that is being conducted or threatened to be conducted at the school, at an activity sponsored by the school, or on a school bus serving the school.

11. Procedures to assess and respond to reports of any dangerous, violent, or unlawful activity that is being conducted or threatened to be conducted at the school, at an activity sponsored by the school, or on a school bus serving the school.

CSBA NOTE: Pursuant to Education 32282, as amended by SB 10 (Ch. 856, Statutes of 2023), schools that serve students in any of grades 7-12 are required to include in their comprehensive safety plans a protocol in the event a student is suffering or is reasonably believed to be suffering from an opioid overdose.

12. For schools that serve students in any of grades 7-12, a protocol in the event a student is suffering or is reasonably believed to be suffering from an opioid overdose

CSBA NOTE: The following list reflects material listed on CDE's website related to Safe Schools Planning. The components are optional and should be revised to reflect district practice.

Among the strategies for providing a safe environment, the comprehensive safety plan may also include:

1. Development of a positive school climate that promotes respect for diversity, personal and social responsibility, effective interpersonal and communication skills, self-esteem, anger management, and conflict resolution

CSBA NOTE: Education Code 32261 and 32282 encourage, but do not require, all comprehensive safety plans to include policies and procedures aimed at the prevention of bullying, as defined in Education Code 48900(r).

2. Disciplinary policies and procedures that contain prevention strategies, such as strategies to prevent bullying, hazing, and cyberbullying, as well as behavioral expectations and consequences for violations

CSBA NOTE: Education Code 32261 encourages, but does not require, comprehensive safety plans to include Item #3, below.

3. Strategies aimed at preventing potential incidents involving crime and violence on school campuses, including vandalism, drug and alcohol abuse, gang membership and violence, hate crimes, bullying, including bullying committed personally or by means of an electronic act, teen relationship violence, and discrimination and harassment, including sexual harassment
4. Curriculum that emphasizes prevention and alternatives to violence, such as multicultural education and literacy, character/values education, social and emotional learning, media analysis skills, conflict resolution, community service learning, and education related to the prevention of dating violence
5. Parent/guardian involvement strategies, including strategies to help ensure parent/guardian support and reinforcement of the school's rules and increase the number of adults on campus

CSBA NOTE: When providing parents/guardians with school safety materials and emergency communications, ~~CSBA~~CDE encourages districts to do so in language(s) understandable to parents/guardians, as appropriate for the school site.

6. Provision of safety materials and emergency communications in language(s) understandable to parents/guardians

~~CSBA NOTE: Education Code 49392, as added by SB 906 (Ch. 144, Statutes of 2022), requires districts, starting with the 2023-24 school year, to include in the annual notification to parents/guardians pursuant to Education Code 48980 information related to the safe storage of firearms, as specified.~~

[CSBA NOTE: The California School Board Association's Research and Policy Fact Sheet, "School Safety: Firearm Safety and Storage," provides guidance and best practices related to the safe storage of firearms.](#)

7. Annual notification to parents/guardians related to the safe storage of firearms
8. Prevention and intervention strategies related to the sale or use of drugs and alcohol which shall reflect expectations for drug-free schools and support for recovering students
9. Collaborative relationships among the city, county, community agencies, local law enforcement, the judicial system, and the schools that lead to the development of a set of common goals and community strategies for violence prevention instruction
10. District policy prohibiting the possession of firearms and ammunition on school grounds
11. Measures to prevent or minimize the influence of gangs on campus

CSBA NOTE: Education Code 32281 authorizes the principal, upon receiving verification from law enforcement, to notify parents/guardians and employees in writing that a violent crime has occurred on the school site. A "violent crime" is any act for which a student could be expelled and which meets the definition listed in Education Code 67381, including willful homicide, forcible rape, robbery, and aggravated assault, as defined in the, "Federal Bureau of Investigation's Uniform Crime Reporting Handbook." Education Code 32281 encourages that the notice be sent no later than the second workday after receiving verification from law enforcement.

20 USC 7912 requires that all students attending a "persistently dangerous" school be provided notice of the designation and an option to transfer to a different school within the district. See BP/AR 5116.1 - Intradistrict Open Enrollment.

12. Procedures for receiving verification from law enforcement when a violent crime has occurred on school grounds and for promptly notifying parents/guardians and employees of that crime
13. Procedures for the early identification and threat assessment of, and appropriate response to, suspicious and/or threatening digital media content
14. Assessment of the school's physical environment, including a risk management analysis and development of ground security measures such as procedures for closing campuses to outsiders, installing surveillance systems, securing the campus perimeter, protecting buildings against vandalism, and providing for a law enforcement presence on campus

~~CSBA NOTE: Government Code 11549.3, as amended by AB 1352 (Ch. 593, Statutes of 2021),~~ CSBA NOTE: Pursuant to Government Code 8586.5, the California Cybersecurity Integration Center (CSIC) serves as the central organizing hub of the state government's cybersecurity preparedness and response activities and coordinates cyber intelligence and information sharing, and, as amended by AB 1023 (Ch. 555, Statutes of 2023), is required to coordinate information sharing, including cyber threat information, with school districts. Government Code 11549.3 authorizes districts, at district expense, to request the Military Department, in consultation with ~~the California Cybersecurity Integration Center~~ CSIC, to perform an independent security assessment of the district or individual district school. Districts are encouraged to consult with the California Office of Emergency Services (OES) and utilize resources such as the State Threat Assessment System and Regional Fusion Centers to help assess potential threats. For more information see OES' ~~web site~~ website.

~~Pursuant to Education Code 35266, as added by AB 2355 (Ch. 498, Statutes of 2022),~~ districts that experience a cyberattack, as defined, which impacts more than 500 students or personnel, are required to report such cyberattack to ~~the California Cybersecurity Integration Center~~ CSIC.

15. Independent security assessment of the school's network infrastructure and selected web applications to identify vulnerabilities and provide recommendations to improve cybersecurity

~~CSBA NOTE: Education Code 32282.1 does not require, but encourages, that~~ comprehensive safety plans include the strategies described in Item #16 below, to the extent the district uses the listed professionals. CDE's, "The Comprehensive School Safety Plan: Recommended Components," available on its ~~web site~~ website, includes athletic coaches in the list of professionals and specifies that community intervention professionals include those who speak languages other than English.

16. Guidelines for the roles and responsibilities of mental health professionals, athletic coaches, community intervention professionals, school counselors, school resource officers, and police officers on school campuses. Guidelines may include, but are not limited to, the following:
 - a. Strategies to create and maintain a positive school climate, promote school safety, and increase student achievement
 - b. Strategies to prioritize mental health and intervention services, restorative and transformative justice programs, and positive behavior interventions and support
 - c. Protocols to address the mental health care of students who have witnessed a violent act at any time, including, but not limited to, while on school grounds, while coming or going from school, during a lunch period whether on or off campus, or during or while going to or coming from a school-sponsored activity
17. Strategies for suicide prevention and intervention

~~CSBA NOTE: Policies and/or plans for maintaining a safe school environment during a pandemic, as described in Item #18 below, may be included in the district's comprehensive safety plan. Such policies may include BP 0470 – COVID-19 Mitigation Plan, BP 3516.5 -~~

Emergency Schedules, BP 4113.5 - Working Remotely, BP 4119.41 - Employees with Infectious Disease, BP/AR 5141.22 - Infectious Diseases, and BP/AR 6158 - Independent Study.

18. District policy and/or plan related to pandemics

CSBA NOTE: Penal Code 626.8 provides that a person may be guilty of a misdemeanor for infringing with or disrupting a school activity, remaining on campus after having been asked to leave, reentering within seven days of being asked to leave, establishing a continued pattern of unauthorized entry, or willfully or knowingly creating a disruption with the intent to threaten the immediate physical safety of a student in preschool or grades K-8 who is arriving at, attending, or leaving school; see BP/AR 3515.2 - Disruptions.

19. Procedures to implement when a person interferes with or disrupts a school activity, remains on campus after having been asked to leave, or creates a disruption with the intent to threaten the immediate physical safety of students or staff

20. Crisis prevention and intervention strategies, which may include the following:

- a. Identification of possible crises that may occur, determination of necessary tasks that need to be addressed, and development of procedures relative to each crisis, including the involvement of law enforcement and other public safety agencies as appropriate
- b. Threat assessment strategies to determine the credibility and seriousness of a threat and provide appropriate interventions for the potential offender(s)
- c. Assignment of staff members responsible for each identified task and procedure
- d. Development of an evacuation plan based on an assessment of buildings and grounds and opportunities for students and staff to practice the evacuation plan
- e. Coordination of communication to schools, Governing Board members, parents/guardians, and the media
- f. Communication with parents/guardians of reunification plans and the necessity of cooperating with first responders
- g. Development of a method for the reporting of violent incidents
- h. Development of follow-up procedures that may be required after a crisis has occurred, such as counseling

CSBA NOTE: Education Code 49390 and 49393, ~~as added by SB 906~~, require certificated and classified employees of the district, or other school officials such as Board members, whose duties bring the employee or other school official in contact on a regular basis with students in any of grades 6-12, as part of a middle school or high school, who are alerted to or observe any threat or perceived threat of a homicidal act, as defined, to immediately report the threat or perceived threat to law enforcement in accordance with Education Code 49393. "Threat or perceived threat"

means any writing or action of a student that creates a reasonable suspicion that the student is preparing to commit a homicidal act related to school or a school activity. This may include possession, use, or depictions of firearms, ammunition, shootings, or targets in association with infliction of physical harm, destruction, or death in a social media post, journal, class note, or other media associated with the student. It may also include a warning by a parent, student, or other individual.

21. Training on assessment and reporting of potential threats, violence prevention, and intervention techniques. Such training shall include preparation to implement the elements of the [comprehensive](#) safety plan

CSBA NOTE: Pursuant to Education Code 32284, the comprehensive safety plan may, at the discretion of the Board, include procedures for responding to the release of a pesticide or other toxic substance from properties located within one-quarter mile of a school. No state funds may be used for this purpose.

22. Environmental safety strategies, including, but not limited to, procedures for preventing and mitigating exposure to toxic pesticides, lead, asbestos, vehicle emissions, and other hazardous substances and contaminants
23. Continuity of operations procedures to ensure that the district's essential functions are not disrupted during an emergency, to the extent possible

Policy Reference UPDATE Service

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Policy Reference Disclaimer:

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

State	Description
5 CCR 11987-11987.7	School Community Violence Prevention Program requirements
5 CCR 11992-11993	Definition; persistently Persistently dangerous schools; definition
CA Constitution Article 1, Section 28	Right to Safe Schools
Ed. Code 200-262.4	Prohibition of discrimination
Ed. Code 32260-32262	Interagency School Safety Demonstration Act of 1985
Ed. Code 32270	School safety cadre
Ed. Code 32280-32289.5	School safety plans
Ed. Code 32290	Safety devices
Ed. Code 35147	School site councils and advisory committees

Ed. Code 35183	School dress code; uniforms
Ed. Code 35266	Reporting of cyber attacks
Ed. Code 35291	Rules
Ed. Code 35291.5	School-adopted discipline rules
Ed. Code 41020	Requirement for annual audit
Ed. Code 48900-48927	Suspension and expulsion
Ed. Code 48950	Speech and other communication
Ed. Code 48980	Parent/Guardian notifications
Ed. Code 49079	Notification to teacher; student act constituting grounds for suspension or expulsion
Ed. Code 49390-49395	Homicide threats
Ed. Code 67381	Availability of information regarding crimes
<u>Gov. Code 8586.5</u>	<u>California Cybersecurity Integration Center</u>
Gov. Code 11549.3	Independent security assessment
Gov. Code 54957	Closed session meetings for threats to security
Pen. Code 11164-11174.3	Child Abuse and Neglect Reporting Act
Pen. Code 422.55	Definition of hate crime
Pen. Code 626.8	Disruptions
Federal	Description
<u>20 USC 1400-1482</u>	<u>Individuals with Disabilities Education Act</u>
20 USC 7111-7122	Student support and academic enrichment grants
20 USC 7912	Transfers from persistently dangerous schools
<u>29 USC 794</u>	<u>Rehabilitation Act of 1973; Section 504</u>
42 USC 12101-12213	Americans with Disabilities Act
6 USC 665k	Federal Clearinghouse on School Safety Evidence-Based Practices
Management Resources	Description
CSBA Publication	Community Schools: Partnerships Supporting Students, Families and Communities, Policy Brief, October 2010
CSBA Publication	Cyberbullying: Policy Considerations for Boards, Policy Brief, rev. July 2010
CSBA Publication	Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014

CSBA Publication	Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011
<u>CSBA Publication</u>	<u>School Safety: Firearm Safety and Storage, May 2023</u>
CSBA Publication	Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools, October 2022
Federal Bureau of Investigation Publication	Uniform Crime Reporting Handbook, 2004
U.S. DOE <u>Department of Education</u> Publication	Practical Information on Crisis Planning: A Guide for Schools and Communities, January 2007
U.S. Secret Service & DOE <u>Department of Education</u> Publication	Threat Assessment in Schools: A Guide to Managing Threatening Situations and to Creating Safe School Climates, 2004
Website	California Military Department
<u>Website</u>	<u>California Department of Education, Safe Schools Planning (https://www.cde.ca.gov/ls/ss/vp/safeschlplanning.asp)</u>
Website	California Department of Technology, Independent Security Assessment
Website	U.S. Department of Homeland Security, Fusion Centers
<u>Website</u>	<u>Schoolsafety.gov (https://www.schoolsafety.gov/)</u>
Website	California State Threat Assessment System
Website	CSBA District and County Office of Education Legal Services
Website	U.S. Secret Service, National Threat Assessment Center
Website	Centers for Disease Control and Prevention
Website	Federal Bureau of Investigation
Website	National Center for Crisis Management
Website	National School Safety Center
<u>Website</u>	<u>California Department of Education, Language Services Policy and Process</u>
Website	California Department of Education, Safe Schools
Website	California Governor's Office of Emergency Services
Website	California Healthy Kids Survey
Website	U.S. Department of Education
Website	CSBA

Cross References

Code	Description
0400	Comprehensive Plans
0410	Nondiscrimination In District Programs And Activities
0420	School Plans/Site Councils
0420	School Plans/Site Councils
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
0470	COVID-19 Mitigation Plan
0500	Accountability
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5144.1	Suspension And Expulsion/Due Process
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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
5145.9	Hate-Motivated Behavior
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6020	Parent Involvement
6141.2	Recognition Of Religious Beliefs And Customs
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6142.8	Comprehensive Health Education
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6159	Individualized Education Program
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6164.2	Guidance/Counseling Services
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
6184	Continuation Education
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7214	General Obligation Bonds
7214	General Obligation Bonds
9010	Public Statements
9011	Disclosure Of Confidential/Privileged Information
9320	Meetings And Notices
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session

Policy 0470: COVID-19 Mitigation Plan

Status: ADOPTED

Original Adopted Date: 06/01/2020 | **Last Revised Date:** 09/01/2021 | **Last Reviewed Date:** 09/01/2021

CSBA NOTE: The following policy is intended for use during the coronavirus (COVID-19) pandemic and supersedes conflicting provisions in other district policies and administrative regulations, thereby eliminating the need to temporarily revise multiple policies. When the Governing Board determines, consistent with state and local orders from health officials, that the need for this policy no longer exists, the following policy should be removed from the district's policy manual.

Due to the unexpected nature of the pandemic, the evolving circumstances, and rapidly changing health and safety guidance regarding COVID-19, this policy has been revised to refer directly to the state resources that serve as both mandatory and recommended guidance to districts during the pandemic. Districts are encouraged to consult with local health officials, staff, students, parents/guardians, neighboring school districts, and the county office of education in comprehensive planning for safe operations.

This policy is not intended to serve as or supersede the District's COVID-19 Prevention Program ("CPP") required by the California Division of Occupational Safety and Health (Cal/OSHA), as described below, or the District's Injury and Illness Prevention Program ("IIPP"). Rather, this policy should supplement and support the IIPP. See BP/AR 4157/4257/4357 - Employee Safety.

This policy involves a number of working conditions that are often addressed in collective bargaining agreements and, as such, may be subject to negotiations with employee organizations.

The following policy establishes actions that will be taken by the district to provide a safe learning and working environment during the coronavirus (COVID-19) pandemic, and shall supersede any conflicting language in existing district policies or administrative regulations until the Governing Board determines that the need for this policy no longer exists. The Board acknowledges that, due to the evolving nature of the pandemic, federal, state, and local orders impacting district operations are subject to change without notice. In the event that any federal or state law and/or order or local order may conflict with this policy, the law or order shall govern.

The Board may also adopt resolutions or take other actions as needed to respond to such orders or provide further direction during the pandemic.

To limit the impact of the pandemic on the education of district students, the district shall implement learning recovery, social-emotional support, and other measures and strategies designed to keep students learning and engaged in the instructional program.

COVID-19 Safety Plan

CSBA NOTE: Pursuant to Health and Safety Code 120130, the State Public Health Officer has the authority to create mandates for K-12 schools to prevent the spread of a communicable disease. In addition, the California Department of Public Health (CDPH) may adopt and enforce regulations requiring strict or modified isolation or quarantine if necessary for the protection of the public health. Local health officials have similar authority pursuant to Health and Safety Code 120175-

120255 to issue orders they deem necessary to control the spread of a communicable disease, subject to the control and regulation of CDPH. Districts are therefore obligated to comply with COVID-19 mitigation requirements from multiple jurisdictional authorities including: (1) the California Department of Public Health (CDPH); (2) Cal/OSHA; and (3) local health authorities.

CDPH's COVID-19 Public Health Guidance for K-12 Schools in California, 2021-22 School Year (updated September 1, 2021) provides updated public health guidance applicable to California schools. The CDPH guidance provides that all students must have access to safe and full in-person instruction and to as much instructional time as possible. The guidance includes both mandatory and recommended practices on a range of topics, including: masking; physical distancing; ventilation; protocols for staying home when sick and getting tested; screening testing; case reporting, contact tracing and investigation; quarantining; isolating when sick with COVID-19; hand hygiene; cleaning; vaccination verification; COVID-19 safety planning transparency; school-based extracurricular activities; supporting students with disabilities or other health care needs; and visitors.

On June 11, 2021, the State Public Health Officer issued an order that requires all individuals to follow the CDPH face mask guidance and any amended guidance for K-12 schools. This order went into effect on June 15, 2021 and does not have an expiration date. In a letter dated August 23, 2021, CDPH emphasized that universal masking indoors is mandatory, that districts have no discretion to opt out or not enforce the mandate, and that districts that do not enforce the mandate will be at significant liability risk.

In addition, on August 11, 2021, the State Public Health Officer issued an order that requires workers and volunteers in school settings serving students in transitional kindergarten through grade 12 to either provide proof of vaccination, as specified by CDPH, or submit to regular testing for COVID-19. Schools are also required to have a plan in place by October 15, 2021 for tracking verified worker vaccination status and records must be made available, upon request, to the local health authority for the purposes of case investigation.

Pursuant to 8 CCR 3205, districts must have a Cal/OSHA COVID-19 prevention program that contains the following elements: (1) a system for communicating with and providing notice to employees; (2) identification and evaluation of COVID-19 hazards; (3) investigation and response to COVID-19 cases; (4) procedures for correcting COVID-19 hazards; (5) training and instruction to employees; (6) face coverings; (7) other engineering controls, administrative controls, and personal protective equipment (PPE); (8) reporting, recordkeeping, and access to the written COVID-19 prevention program; (9) exclusion of COVID-19 cases; and (10) return-to-work criteria.

Pursuant to state and federal law, districts are required to create and post COVID-19 safety plans. Specifically, pursuant to Education Code 32091, districts are required to post a completed COVID-19 safety plan that complies with the health guidance of CDPH and Cal/OSHA on the district's web site home page. In addition, districts receiving Elementary and Secondary School Emergency Relief funds are required to adopt and post a Safe Return to In-Person Instruction and Continuity of Services Plan and review it at least every six months for possible revisions, describing how the district will maintain the health and safety of students, educators and other staff, including the extent to which it has adopted policies, and a description of such policies, on each of the safety recommendations provided by the Centers for Disease Control and Prevention (CDC). A template plan for this purpose is available on the California Department of Education's web site.

Due to the evolving nature of the pandemic, health and safety guidance is subject to change.

Districts are strongly encouraged to refer directly to public health orders and guidance and work closely with public health authorities to ensure that COVID-19 mitigation measures stay current.

The Superintendent or designee shall establish, implement, and maintain a COVID-19 safety plan that complies with any mandatory public health guidance of the California Department of Public Health (CDPH), the COVID-19 prevention program ("CPP") consistent with the regulations of the California Division of Occupational Safety and Health, any orders of state or local health authorities, and any other applicable law and/or health order(s). The Superintendent or designee shall ensure, at a minimum, that the COVID-19 safety plan complies with all mandatory guidance and gives priority to recommended practices that are identified as being particularly effective at COVID-19 mitigation. The Superintendent or designee shall regularly review public health guidance to ensure that the district's COVID-19 mitigation strategies are current with public health mandates or recommendations.

The district's COVID-19 safety plan shall be posted on the district's web site.

CSBA NOTE: The following list is optional and may be revised to reflect district practice. CDPH recommends that districts consider certain factors when making decisions regarding COVID-19 mitigation strategies, reflected in Items #1-3 below.

To promote transparency and facilitate decision-making regarding COVID-19 mitigation strategies, the Superintendent or designee shall report to the Board on a regular basis regarding the following:

1. Level of community transmission of COVID-19
-
2. COVID-19 vaccination coverage in the community and among students and staff
-
3. Any local COVID-19 outbreaks or increasing trends
-
4. Changes to local, state, and/or federal public health guidance, orders, and laws
-
5. Any revisions to the district's COVID-19 safety plan

Reporting to the Public Health Department

CSBA NOTE: The following section reflects reporting obligations pursuant to Education Code 32090-32091, as added by AB 86 (Ch. 10, Statutes of 2021) and amended by AB 130 (Ch. 44, Statutes of 2021).

Upon learning that a school employee or student who has tested positive for COVID-19 was present on campus while infectious, the Superintendent or designee shall immediately, and in no case later than 24 hours after learning of the positive case, notify the local health officer or the local health officer's representative about the positive case. The notification shall be made even if the individual who tested positive has not provided prior consent to the disclosure of personally identifiable information and shall include all of the following information, if known: (Education Code 32090)

Identifying information of the individual who tested positive, including full name, address, telephone number, and date of birth

-

The date of the positive test, the school(s) at which the individual was present, and the date the individual was last onsite at the school(s)

-

The name, address, and telephone number of the person making the report

If a school has two or more outbreaks of COVID-19 and is subject to a safety review by CDPH pursuant to Education Code 32090, the Superintendent or designee shall cooperate fully with the review.

Statewide Instructional Mode Survey

CSBA NOTE: Pursuant to Education Code 32091, as amended by AB 130, districts are required to notify the California Collaborative for Educational Excellence (CCEE) of specified information in a form and adhering to the procedures to be determined by the CCEE.

On or before the second and fourth Monday of each month, the Superintendent or designee shall submit to the California Collaborative for Educational (CCEE) information required under Education Code 32091, in accordance with the form and procedures determined by CCEE.

Stakeholder Engagement and Community Relations

The district shall solicit input from stakeholders on how to best support students following the learning disruptions of the pandemic through appropriate methods, which may include surveys, community and family meetings, and other methods identified by the Superintendent or designee.

The Superintendent or designee shall collaborate with local health authorities to ensure that parents/guardians are provided with the information needed to ensure that public health guidance is observed in the home as well as in school, such as information about isolation and quarantine requirements, face mask requirements, symptom checks prior to school attendance, and who to contact when students have symptoms and/or were exposed.

The Superintendent or designee shall use a variety of methods to regularly communicate with students, parents/guardians, and the community regarding community transmission levels, district operations, school schedules, and steps the district is taking to promote the health and safety of students. In addition, the members of the Board have a responsibility as community leaders to communicate matters of public interest in a manner that is consistent with Board policies and bylaws regarding public statements.

The district shall continue to collaborate with local health officials and agencies, community organizations, and other stakeholders to ensure that district operations reflect current recommendations and best practices for COVID-19 mitigation strategies. The Superintendent or designee shall keep informed about resources and services available in the community to assist students and families in need.

Learning Recovery and Social-Emotional Support

CSBA NOTE: Pursuant to Education Code 43520-43525, as added by AB 86 and amended by AB 130, starting in the 2020-21 school year and continuing into the 2022-23 school year, districts are required to provide academic interventions and student supports to address barriers to learning and accelerate progress to closing learning gaps.

The U.S. Department of Education's Office of Special Education Programs (OSEP) has emphasized that districts are required to fully implement the Individuals with Disabilities Education Act (IDEA) during the COVID-19 pandemic, including but not limited to the requirement to meet child find obligations. In Return to School Roadmap: Child Find Under Part B of the Individuals with

Disabilities Education Act, OSEP encourages districts to reexamine the efficacy of existing child find practices in light of the educational disruptions caused by the COVID-19 pandemic. See BP/AR 6164.4 - Identification and Evaluation of Individuals for Special Education for "child find" procedures.

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

The Superintendent or designee shall develop a plan for assessing students' current academic levels early in the school year to ensure that each student is provided with appropriate opportunities for learning recovery based on need. The plan may include:

1. Use of interim or diagnostic assessments
-
2. Review of available data from assessments within the California Assessment of Student Performance and Progress
-
3. Review of attendance data from the 2020-2021 school year
-
4. Review of prior year grades
-
5. Discussion of student needs and strengths with parents/guardians and former teachers

CSBA NOTE: Pursuant to Education Code 43522, as amended by AB 130, districts that receive Extended Learning Opportunities (ELO) grant funding are required to implement a learning recovery program that provides supplemental instruction, support for social-emotional well-being, and to the maximum extent permissible as specified in U.S. Department of Agriculture guidelines, meals and snacks, to students who are eligible for free or reduced-price meals, English learners, foster youth, homeless students, students with disabilities, students at risk of abuse, neglect, or exploitation, disengaged students, and students who are below grade level, including, but not limited to, those who did not enroll in kindergarten in the 2020-21 school year, credit-deficient students, high school students at risk of not graduating, and other students identified by certificated staff.

The Superintendent or designee shall develop and implement a learning recovery program that, at a minimum, provides supplemental instruction and support for social-emotional well-being, and to the maximum extent permissible meals and snacks, to eligible students. (Education Code 43522)

Supplemental Instruction and Support

The district shall provide students with evidence-based supports and interventions in a tiered framework that bases universal, targeted, and intensive supports on students' needs for academic, social-emotional, and other integrated student supports through a program of engaging learning experiences in a positive school climate. (Education Code 43522)

Targeted and intensive supports may include: (Education Code 43522)

1. Extending instructional learning time based on student learning needs including through summer school or intersessional instructional programs
-
2. Tutoring or other one-on-one or small group learning supports provided by certificated or classified staff
-

3. ~~Learning recovery programs and materials designed to accelerate student academic proficiency, English language proficiency, or both~~
-
4. ~~Integrated student supports to address other barriers to learning, such as:~~
 - a. ~~The provision of health, counseling, or mental health services~~
 -
 - b. ~~Access to school meal programs~~
 -
 - c. ~~Access to before and after school programs~~
 -
 - d. ~~Programs to address student trauma and social-emotional learning~~
 -
 - e. ~~Referrals for support for family or student needs~~
 -
5. ~~Community learning hubs that provide students with access to technology, high-speed internet, and other academic supports~~

~~CSBA NOTE: Pursuant to Education Code 51225, as added by AB 104 (Ch. 41, Statutes of 2021), the district is required to provide a student who was enrolled in the student's third or fourth year of high school during the 2020-21 school year and is not on track to graduate in the 2020-21 or 2021-22 school years the opportunity to complete the statewide coursework required for graduation pursuant to Education Code 51225.3, which may include, but is not limited to, completion of the coursework through a fifth year of instruction, credit recovery, or other opportunity to complete the required coursework. See BP 6146.1 – High School Graduation Requirements.~~

6. ~~Supports for credit deficient students to complete graduation or grade promotion requirements and to increase or improve students' college eligibility~~
-
7. ~~Additional academic services for students, such as diagnostic, progress monitoring, and benchmark assessments of student learning~~
-
8. ~~Other interventions identified by the Superintendent or designee~~

~~CSBA NOTE: Pursuant to Education Code 43522, as added by AB 86 and amended by AB 130, funding from ELO grants may be expended for educating school staff regarding strategies, including trauma-informed practices, to engage students and families in addressing students' social-emotional health and academic needs as well as for accelerated learning and effectively addressing learning gaps.~~

~~To ensure schoolwide implementation of the district's tiered framework of supports, the Superintendent or designee shall plan staff development that includes: (Education Code 43522)~~

1. ~~Accelerated learning strategies and effective techniques for closing learning gaps, including training in facilitating quality learning opportunities for all students~~
-
2. ~~Strategies, including trauma-informed practices, to engage students and families in addressing students' social-emotional health needs and academic needs~~

Reengagement for Chronically Absent Students

~~CSBA NOTE: The U.S. Department of Education (USDOE) recommends that nonpunitive measures be used to reengage students who became chronically absent during the pandemic. See USDOE's~~

ED COVID-19 Handbook, Volume 2: Roadmap to Reopening Safely and Meeting All Students' Needs (August 2021).

The Superintendent or designee shall implement strategies for identifying, locating, and reengaging students who were chronically absent or disengaged during the 2020-21 school year, including students who were kindergarten-age but who did not enroll in kindergarten. Strategies for reengaging students may include:

1. Personal outreach to families, including by staff who are known to families
-
2. Door-to-door campaigns
-
3. The use of social media to spread awareness about the implementation of COVID-19 mitigation strategies
-
4. Welcoming and supporting students who experienced chronic absenteeism due to the COVID-19 pandemic or who are returning to school after a long absence

Student Absence and Attendance

The Board recognizes that COVID-19 will continue to impact the attendance of students. The Superintendent or designee shall notify students and parents/guardians of expectations regarding school attendance. Such notification shall direct any student who contracts the virus or is subject to a quarantine order to stay home in accordance with state and local health orders.

CSBA NOTE: Pursuant to Education Code 51745, as amended by AB 130, for the 2021-22 school year all districts are required to offer independent study to meet the educational needs of students. See BP 6158 – Independent Study and 3516.5 – Emergency Schedules.

The Superintendent or designee shall ensure continuity of instruction for students who may be under a quarantine order to stay home, by offering such students independent study or other instructional delivery channels that allows the student to continue to participate in the instructional program to the greatest extent possible.

Nondiscrimination

The Board prohibits discrimination based on actual or perceived medical condition or disability status. (Government Code 11135)

Individual students and staff shall not be identified as being COVID-positive, nor shall students be shamed, treated differently, or denied access to a free and appropriate public education because of their COVID-19 status or medical condition. Staff shall not disclose confidential or privileged information, including the medical history or health information of students and staff except as allowed by law. (Education Code 49450)

The Superintendent or designee shall investigate any reports of harassment, intimidation, and bullying targeted at any student based on their medical condition or COVID status, exposure, or high-risk status.

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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 11087-11098	<u>California Family Rights Act</u>
5 CCR 202	<u>Exclusion of students with a contagious disease</u>
5 CCR 306	<u>Explanation of absence</u>
5 CCR 420-421	<u>Record of verification of absence due to illness and other causes</u>
8 CCR 3205	<u>COVID-19 prevention</u>
Ed. Code 32096-32096.1	<u>COVID-19 reporting and public health requirements</u>
Ed. Code 43520-43525	<u>In-person instruction and expanded learning opportunities grants</u>
Ed. Code 44978	<u>Sick leave; certificated employees</u>
Ed. Code 45191	<u>Personal illness and injury leave; classified employees</u>
Ed. Code 48205	<u>Excused absences</u>
Ed. Code 48213	<u>Prior parent notification of exclusion; exemption</u>
Ed. Code 48240	<u>Supervisors of attendance</u>
Ed. Code 49451	<u>Physical examinations: parent's refusal to consent</u>
Gov. Code 11135	<u>Prohibition of discrimination</u>
Gov. Code 12945.1-12945.2	<u>California Family Rights Act</u>
Gov. Code 54950-54963	<u>The Ralph M. Brown Act</u>
H&S Code 120175-120255	<u>Functions and duties of local health officers</u>
H&S Code 120230	<u>Exclusion for communicable disease</u>
H&S Code 120275	<u>Violations of quarantine order</u>
H&S Code 131080	<u>Advice to and control of local health authorities</u>
Lab. Code 245-249	<u>Healthy Workplaces, Healthy Families Act of 2014</u>
Federal	Description
29 CFR 825.100-825.702	Family and Medical Leave Act of 1993
Management Resources	Description
CA Collaboration for Educational Excellence Pub	Statewide Instructional Mode Survey Frequently Asked Questions (FAQs), September 14, 2021
CA Div. of Occup. Safety & Health Publication	COVID-19 Prevention Emergency Temporary Standards – Fact Sheets, Model Written Program and Other Resources
California Department of Education Publication	Safe Return to In-Person Instruction and Continuity of Services Plan Template

California Department Of Public Health Publication	State Public Health Officer Order of June 11, 2021
California Department Of Public Health Publication	State Public Health Officer Order of August 11, 2021
California Department Of Public Health Publication	Requirement for Universal Masking Indoors at K-12 Schools, August 23, 2021
California Department of Public Health Publication	COVID-19 Public Health Guidance for K-12 Schools in California, 2021-22 School Year, September 1, 2021
Californians Together Publication	Teaching and Learning During Uncertain Times: A Review of Learning Continuity Plans
CDC and Prevention Publication	Guidance for COVID-19 Prevention in K-12 Schools, August 5, 2021
CSBA Publication	Understanding and Addressing Disruptions to Learning During the COVID-19 Pandemic, May 2021
CSBA Publication	The Resource Guide: Turning Crisis into Opportunity, Delegate Assembly Report, May 2021
CSBA Publication	Sample School Board Resolution on Grading During Emergency School Closures
Institute Of Education Sciences Publication	Addressing Trauma in Educational Settings, Module 1: Impacts and Symptoms of Trauma and Relevant Strategies to Support Students, Webinar, November 2020
Nat'l School Public Relations Assoc. Pub.	Coronavirus Communications Crisis for Public Schools Guide
National Ctr For Learning Disabilities Pub.	Promising Practices to Accelerate Learning for Students with Disabilities During COVID-19 and Beyond
Office of Management and Budget Publication	Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by COVID-19 due to Loss of Operations, Memo M-20-17, March 19, 2020
Office of the Governor Publication	Executive Order N-26-20, March 13, 2020
Office of the Governor Publication	Executive Order N-30-20, March 17, 2020
Policy Analysis For California Education Pub.	Evidence-Based Practices for Assessing Students' Social and Emotional Well-Being, February 2021
U.S. Department Of Education Publication	Long COVID under Section 504 and the IDEA: A Resource to Support Children, Students, Educators, Schools, Service Providers, and Families, July 2021
U.S. Department Of Education Publication	Return to School Roadmap: Child Find Under Part B of the Individuals with Disabilities Education Act, August 2021
U.S. Department Of Education Publication	ED COVID-19 Handbook, Volume 2: Roadmap to Reopening Safely and Meeting All Students' Needs, August 2021
U.S. Department Of Education Publication	ED COVID-19 Handbook, Volume 1: Strategies for Safely Reopening Elementary and Secondary Schools, August 2021

U.S. Department Of Education Publication	<u>Confronting COVID-19-Related Harassment in Schools,</u> August 2021
Website	<u>CSBA District and County Office of Education Legal Services</u>
Website	<u>State of California Safe Schools for All Hub</u>
Website	<u>California Division of Occupational Safety and Health</u>
Website	<u>California Collaborative for Educational Excellence</u>
Website	<u>Office of the Governor</u>
Website	<u>World Health Organization</u>
Website	<u>California Interscholastic Federation</u>
Website	<u>U.S. Department of Labor</u>
Website	<u>California Department of Education</u>
Website	<u>California Department of Public Health</u>
Website	<u>Centers for Disease Control and Prevention</u>
Website	<u>CSBA</u>
Website	<u>Office of Management and Budget</u>

Cross-References

Code	Description
0400	<u>Comprehensive Plans</u>
0410	<u>Nondiscrimination In District Programs And Activities</u>
0415	<u>Equity</u>
0450	<u>Comprehensive Safety Plan</u>
0450	<u>Comprehensive Safety Plan</u>
1100	<u>Communication With The Public</u>
1112	<u>Media Relations</u>
1240	<u>Volunteer Assistance</u>
1240	<u>Volunteer Assistance</u>
1250	<u>Visitors/Outsiders</u>
1250	<u>Visitors/Outsiders</u>
1312.3	<u>Uniform Complaint Procedures</u>
1312.3	<u>Uniform Complaint Procedures</u>
1312.3-E(1)	<u>Uniform Complaint Procedures</u>
1312.3-E(2)	<u>Uniform Complaint Procedures</u>
1330	<u>Use Of School Facilities</u>

1330	<u>Use Of School Facilities</u>
1400	<u>Relations Between Other Governmental Agencies And The Schools</u>
1700	<u>Relations Between Private Industry And The Schools</u>
2210	<u>Administrative Discretion Regarding Board Policy</u>
3510	<u>Green School Operations</u>
3514.1	<u>Hazardous Substances</u>
3514.1	<u>Hazardous Substances</u>
3516	<u>Emergencies And Disaster Preparedness Plan</u>
3516	<u>Emergencies And Disaster Preparedness Plan</u>
3540	<u>Transportation</u>
3543	<u>Transportation Safety And Emergencies</u>
3550	<u>Food Service/Child Nutrition Program</u>
3550	<u>Food Service/Child Nutrition Program</u>
3553	<u>Free And Reduced Price Meals</u>
3553	<u>Free And Reduced Price Meals</u>
4030	<u>Nondiscrimination In Employment</u>
4030	<u>Nondiscrimination In Employment</u>
4113	<u>Assignment</u>
4113	<u>Assignment</u>
4113.4	<u>Temporary Modified/Light-Duty Assignment</u>
4113.5	<u>Working Remotely</u>
4119.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4131	<u>Staff Development</u>
4151	<u>Employee Compensation</u>
4157	<u>Employee Safety</u>
4157	<u>Employee Safety</u>
4161.1	<u>Personal Illness/Injury Leave</u>
4161.8	<u>Family Care And Medical Leave</u>
4213.4	<u>Temporary Modified/Light-Duty Assignment</u>
4213.5	<u>Working Remotely</u>
4219.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4231	<u>Staff Development</u>

4251	<u>Employee Compensation</u>
4257	<u>Employee Safety</u>
4257	<u>Employee Safety</u>
4261.1	<u>Personal Illness/Injury Leave</u>
4261.8	<u>Family Care And Medical Leave</u>
4313.4	<u>Temporary Modified/Light-Duty Assignment</u>
4313.5	<u>Working Remotely</u>
4319.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4331	<u>Staff Development</u>
4351	<u>Employee Compensation</u>
4357	<u>Employee Safety</u>
4357	<u>Employee Safety</u>
4361.1	<u>Personal Illness/Injury Leave</u>
4361.8	<u>Family Care And Medical Leave</u>
5113	<u>Absences And Excuses</u>
5113	<u>Absences And Excuses</u>
5113.1	<u>Chronic Absence And Truancy</u>
5113.1	<u>Chronic Absence And Truancy</u>
5113.11	<u>Attendance Supervision</u>
5121	<u>Grades/Evaluation Of Student Achievement</u>
5121	<u>Grades/Evaluation Of Student Achievement</u>
5131.2	<u>Bullying</u>
5131.2	<u>Bullying</u>
5141	<u>Health Care And Emergencies</u>
5141	<u>Health Care And Emergencies</u>
5141.22	<u>Infectious Diseases</u>
5141.22	<u>Infectious Diseases</u>
5141.3	<u>Health Examinations</u>
5141.3	<u>Health Examinations</u>
5141.4	<u>Child Abuse Prevention And Reporting</u>
5141.4	<u>Child Abuse Prevention And Reporting</u>
5141.5	<u>Mental Health</u>
5141.52	<u>Suicide Prevention</u>

5141.52	<u>Suicide Prevention</u>
5141.6	<u>School Health Services</u>
5141.6	<u>School Health Services</u>
5142.2	<u>Safe Routes To School Program</u>
5142.2	<u>Safe Routes To School Program</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5147	<u>Dropout Prevention</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>
6020	<u>Parent Involvement</u>
6020	<u>Parent Involvement</u>
6111	<u>School Calendar</u>
6112	<u>School Day</u>
6112	<u>School Day</u>
6120	<u>Response To Instruction And Intervention</u>
6142.8	<u>Comprehensive Health Education</u>
6142.8	<u>Comprehensive Health Education</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145.2	<u>Athletic Competition</u>
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6173	<u>Education For Homeless Children</u>
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Policy 3516: Emergencies And Disaster Preparedness Plan

Status: ADOPTED

Original Adopted Date: 11/01/2004 | **Last Revised Date:** 05/03/01/2018/2024 | **Last Reviewed Date:** 05/03/01/2018/2024

CSBA NOTE: 5 CCR 560 mandates that the Governing Board adopt policy for use by district schools in formulating individual civil defense and disaster preparedness plans.

The Governing Board recognizes that all district staff and students must be prepared to respond quickly and responsibly to emergencies, disasters, and threats of disaster. The district shall take all reasonable steps to prevent and/or mitigate the impact of a disaster on district students, staff, and schools.

CSBA NOTE: Education Code 32282 requires that emergency disaster procedures, including, but not limited to, earthquake emergency procedures, be incorporated into the comprehensive school safety plan. See BP/AR 0450 - Comprehensive Safety Plan and AR 3516.3 - Earthquake Emergency Procedure System. ~~For districts with an average daily attendance (ADA) over 2,500, the comprehensive safety plan is a school-level plan developed by the school site council or school safety planning committee. Districts with an ADA of 2,500 or less may instead choose to develop a districtwide plan. The following paragraph may be revised to reflect district practice and the individuals or groups responsible for developing the disaster preparedness plan.~~

Pursuant to Education Code 32282, as amended by SB 323 (Ch. 599, Statutes of 2023), schools are required to include in their emergencies and disaster preparedness plan adaptations for students with disabilities in accordance with the federal Individuals with Disabilities Education Act and Section 504 of the federal Rehabilitation Act of 1973.

The Superintendent or designee shall develop and maintain a disaster preparedness plan which contains routine and emergency disaster procedures, including, but not limited to, earthquake emergency procedures, and adaptations for individuals with disabilities in accordance with the Americans with Disabilities Act, the federal Individuals with Disabilities Education Act, and Section 504 of the federal Rehabilitation Act of 1973. Such procedures shall be incorporated into the comprehensive school safety plan. (Education Code 32282)

CSBA NOTE: The following optional paragraph reflects a recommendation from the U.S. Department of Education's, "Guide for Developing High-Quality School Emergency Operations Plans," available on its ~~web site~~ website, and may be revised to reflect district practice.

In developing the disaster preparedness plan, the Superintendent or designee shall involve district staff at all levels, including administrators, district police or security officers, facilities managers, transportation managers, food services personnel, school psychologists, counselors, school nurses, teachers, classified employees, and public information officers. As appropriate, ~~he/she~~ the Superintendent shall also collaborate with law enforcement, fire safety officials, emergency medical services, health and mental health professionals, parents/guardians, and students.

CSBA NOTE: In order to be eligible for reimbursement of response-related personnel costs due to a Governor-proclaimed disaster, each district must follow the Standardized Emergency Management System (SEMS) guidelines (Government Code 8607; 19 CCR 2400-2450) to coordinate multiple-jurisdiction or multiple-agency operations. The guidelines urge districts to formally adopt policy language giving clear direction to staff to meet SEMS requirements. Districts may contact the California Governor's Office of Emergency Services (CalOES) for more

information.

In addition, public agencies must comply with the National Incident Management System (NIMS). See the ~~The~~ Federal Emergency Management Agency's publication, "[National Incident Management System](#)," [provides guidance to all levels of government to prevent, protect against, mitigate, respond to, and recover from threats, hazards, and events ranging from traffic accidents to major disasters](#). In accordance with the State of California Emergency Plan, Cal OES is the principal coordinator for NIMS implementation statewide and will annually communicate, monitor, and implement NIMS requirements in cooperation with state and local agencies.

The plan shall comply with state-approved Standardized Emergency Management System (SEMS) guidelines established for multiple-jurisdiction or multiple-agency operations and with the National Incident Management System.

The Superintendent or designee shall provide training to employees regarding their responsibilities, including periodic drills and exercises to test and refine staff's responsiveness in the event of an emergency.

CSBA NOTE: Pursuant to Education Code 32282, a procedure to allow the use of school facilities for mass care and welfare shelters during disasters or other emergencies must be incorporated into the comprehensive school safety plan. See AR 0450 - Comprehensive Safety Plan.

The Board shall grant the use of school buildings, grounds, and equipment to public agencies, including the American Red Cross, for mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare. The Board shall cooperate with such agencies in furnishing and maintaining whatever services the district may deem necessary to meet the community's needs. (Education Code 32282)

CSBA NOTE: Pursuant to Government Code 3100, all public employees are declared to be disaster service workers. As such, in the event that a local or state emergency has been proclaimed or a federal disaster declaration has been made, district staff may be directed to perform jobs other than their usual duties for periods of time exceeding their normal working hours. In those cases, their workers' compensation insurance coverage becomes the responsibility of Cal OES, but their overtime is paid by the district. For further information, see the Cal OES publication [OES', "School Emergency Response: Using SEMS at Districts and Sites"](#).

Government Code 3100-3109 require all disaster service workers to take the oath or affirmation of allegiance to the U.S. Constitution contained in the California Constitution, Article 20, Section 3; see AR/E 4112.3/4212.3/4312.3 - Oath or Affirmation. Although Board members are required to take the same oath upon entering office (see BB 9224 - Oath or Affirmation), they are not considered disaster service workers according to the definition in Government Code 3101.

District employees are considered disaster service workers and are subject to disaster service activities assigned to them. (Government Code 3100)

Policy Reference UPDATE Service

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Policy Reference Disclaimer:

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

State

Description

19 CCR 2400-2450	Standardized Emergency Management System
5 CCR 550	Fire drills
5 CCR 560	Civil defense and disaster preparedness plans
CA Constitution Article 20, Section 3	Oath or affirmation
Civ. Code 1714.5	Release from liability for disaster service workers and shelters
Ed. Code 32001	Fire alarms and drills
Ed. Code 32040	Duty to equip school with first aid kit
Ed. Code 32280-32289.5	School safety plans
Ed. Code 32290	Safety devices
Ed. Code 39834	Operating overloaded bus
Ed. Code 46390-46392	Emergency average daily attendance in case of disaster
Ed. Code 49505	Natural disaster; meals for homeless students; reimbursement
Gov. Code 3100-3109	Oath or affirmation of allegiance
Gov. Code 8586.5	California Cybersecurity Integration Center
Gov. Code 8607	Standardized Emergency Management System
Gov. Code 11549	Cybersecurity assessment
Gov. Code 11549.3	Office of information security
Public Utilities Code 2872	Automatic dialing
Federal	Description
20 USC 1400-1482	Individuals with Disabilities Education Act
29 USC 794	Rehabilitation Act of 1973; Section 504
42 USC 12101-12213	Americans with Disabilities Act
Management Resources	Description
Cal OES Publication	California Emergency Management for Schools: A Guide for Districts and Sites
Cal OES Publication	School Emergency Response: -Using SEMS at Districts and Sites, June 1998
Cal OES Publication	State of California Emergency Plan, 2017
Cal OES Publication	Active Shooter Awareness Guidance, February 2018
California Department of Education Publication	Crisis Response Box, 2000
Fed. Emgcy. Mgmt. Federal Emergency Management Agency Pub. Publication	National Incident Management System, 3rd ed., October 2017
U.S. DOE Department of Education Publication	Guide for Developing High-Quality School Emergency Operations Plans, 2013
Website	CSBA District and County Office of Education Legal Services

<u>Website</u>	<u>California Cybersecurity Integration Center</u> (https://www.caloes.ca.gov/office-of-the-director/operations/homeland-security/california-cybersecurity-integration-center/)
<u>Website</u>	<u>California Department of Education, Comprehensive School Safety Plans</u> (https://www.cde.ca.gov/ls/ss/vp/cssp.asp)
Website	California Department of Education, Crisis Preparedness
Website	Centers for Disease Control and Prevention
<u>Website</u>	<u>California Office of Emergency Services: School Emergency Planning & Safety</u> (https://www.caloes.ca.gov/office-of-the-director/operations/planning-preparedness-prevention/planning-preparedness/school-emergency-planning-safety/)
Website	U.S. Department of Education, Emergency Planning
Website	U.S. Department of Homeland Security
Website	Federal Emergency Management Agency
Website	California Governor's Office of Emergency Services
<u>Website</u>	<u>California Public Utilities Commission</u> (https://www.cpuc.ca.gov/)
Website	California Seismic Safety Commission
Website	American Red Cross
Website	California Attorney General's Office
Website	CSBA

Cross References

Code	Description
0400	Comprehensive Plans
0420	School Plans/Site Councils
0420	School Plans/Site Councils
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0470	COVID-19 Mitigation Plan
1100	Communication With The Public
1112	Media Relations

1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
1220	Citizen Advisory Committees
1220	Citizen Advisory Committees
1313	Civility
1330	Use Of School Facilities
1330	Use Of School Facilities
1330.1	Joint Use Agreements
1340	Access To District Records
1340	Access To District Records
1400	Relations Between Other Governmental Agencies And The Schools
3000	Concepts And Roles
3511	Energy And Water Management
3511	Energy And Water Management
3513.3	Tobacco-Free Schools
3513.3	Tobacco-Free Schools
3514	Environmental Safety
3514	Environmental Safety
3514.2	Integrated Pest Management
3515	Campus Security
3515	Campus Security
3515.2	Disruptions
3515.2	Disruptions
3515.7	Firearms On School Grounds
3516.1	Fire Drills And Fires
3516.2	Bomb Threats
3516.3	Earthquake Emergency Procedure System
3516.5	Emergency Schedules
3517	Facilities Inspection

3517-E(1)	Facilities Inspection
3530	Risk Management/Insurance
3530	Risk Management/Insurance
3540	Transportation
3543	Transportation Safety And Emergencies
3580	District Records
3580	District Records
4112.3	Oath Or Affirmation
4112.3-E(1)	Oath Or Affirmation
4113.5	Working Remotely
4119.41	Employees With Infectious Disease
4131	Staff Development
4157	Employee Safety
4157	Employee Safety
4212.3	Oath Or Affirmation
4212.3-E(1)	Oath Or Affirmation
4213.5	Working Remotely
4219.41	Employees With Infectious Disease
4231	Staff Development
4257	Employee Safety
4257	Employee Safety
4312.3	Oath Or Affirmation
4312.3-E(1)	Oath Or Affirmation
4313.5	Working Remotely
4319.41	Employees With Infectious Disease
4331	Staff Development
4357	Employee Safety
4357	Employee Safety
5113	Absences And Excuses
5113	Absences And Excuses
5131.4	Student Disturbances
5131.4	Student Disturbances
5141	Health Care And Emergencies

5141	Health Care And Emergencies
5141.21	<u>Administering Medication And Monitoring Health Conditions</u>
5141.21	<u>Administering Medication And Monitoring Health Conditions</u>
5141.22	Infectious Diseases
5141.22	Infectious Diseases
5142	Safety
5142	Safety
6142.8	Comprehensive Health Education
6142.8	Comprehensive Health Education
6153	School-Sponsored Trips
6153	School-Sponsored Trips
6164.2	Guidance/Counseling Services
7111	Evaluating Existing Buildings
9320	Meetings And Notices
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session

Regulation 3516: Emergencies And Disaster Preparedness Plan

Status: ADOPTED

Original Adopted Date: 11/01/2004 | **Last Revised Date:** 0503/01/20182024 | **Last Reviewed Date:** 0503/01/20182024

CSBA NOTE: The following administrative regulation should be modified to reflect district practice. [The list below reflects material listed on the California Department of Education's \(CDE\) website related to comprehensive school safety plans, and the Office of Emergency Services \(OES\) publication, "California Emergency Management for Schools: A Guide for Districts and Sites".](#)

The Superintendent or designee shall ensure that district and/or school site plans address, at a minimum, the following types of emergencies and disasters:

1. Fire on or off school grounds which endangers students and staff
2. Earthquake, flood, or other natural disasters
3. Environmental hazards, such as leakages or spills of hazardous materials
4. Attack or disturbance, or threat of attack or disturbance, by an individual or group
5. Bomb threat or actual detonation
6. Biological, radiological, chemical, and other activities, or heightened warning of such activities
7. Medical emergencies and quarantines, such as a pandemic influenza outbreak
8. [Attack or threat of attack to the district's digital network and technology infrastructure](#)

[CSBA NOTE: The following list reflects material listed on OES' website related to School Emergency Planning and Safety.](#)

The Superintendent or designee shall ensure that the district's procedures include strategies and actions for prevention/mitigation, preparedness, response, and recovery, including, but not limited to, the following:

1. Regular inspection of school facilities and equipment, identification of risks, and implementation of strategies and measures to increase the safety and security of school facilities

[CSBA NOTE: Pursuant to Government Code 8586.5, the California Cybersecurity Integration Center \(CSIC\) serves as the central organizing hub of the state government's cybersecurity preparedness and response activities and coordinates cyber intelligence and information sharing, and, as amended by AB 1023 \(Ch. 555, Statutes of 2023\), is required to coordinate information sharing, including cyber threat information, to school districts.](#)

[Additionally, Government Code 11549.3 authorizes districts, at district expense, to request the Military Department, in consultation with CSIC, to perform an independent security assessment of the district or an individual district school. Districts are encouraged to consult with OES and utilize resources such as the State Threat Assessment System and Regional Fusion Centers to help assess potential threats. For more information see OES' website.](#)

2. Routine monitoring of the security of the district's digital network and technology infrastructure

3. Instruction for district staff and students regarding emergency plans, including:
- a. Training of staff in first aid and cardiopulmonary resuscitation
 - b. Regular practice of emergency procedures by students and staff
4. Specific determination of roles and responsibilities of staff during a disaster or other emergency, including determination of:
- a. The appropriate chain of command at the district and, if communication between the district and site is not possible, at each site
 - b. Individuals responsible for specific duties
 - c. Designation of the principal for the overall control and supervision of activities at each school during an emergency, including authorization to use his/her discretion in situations which do not permit execution of prearranged plans
 - d. Identification of at least one person at each site who holds a valid certificate in first aid and cardiopulmonary resuscitation
 - e. Assignment of responsibility for identification of injured persons and administration of first aid
5. Personal safety and security, including:
- a. Identification of areas of responsibility for the supervision of students
 - b. Procedures for the evacuation of students and staff, including posting of evacuation routes
 - c. Procedures for the release of students, including a procedure to release students when reference to the emergency card is not feasible
- CSBA NOTE: Although loading a school bus in excess of capacity is generally prohibited, Education Code 39834 allows the Governing Board to adopt a policy or rule permitting such overloading for the evacuation of students in case of an emergency, as provided in the following paragraph.
- d. Identification of transportation needs, including a plan which allows bus seating capacity limits to be exceeded when a disaster or hazard requires students to be moved immediately to ensure their safety
 - e. Provision of a first aid kit to each classroom
 - f. Arrangements for students and staff with special needs
 - g. Upon notification that a pandemic situation exists, adjustment of attendance policies for students and sick leave policies for staff with known or suspected pandemic influenza or other infectious disease

56. Closure of schools, including an analysis of:

- a. The impact on student learning and methods to ensure continuity of instruction
- b. How to provide for continuity of operations for essential central office functions, such as payroll and ongoing communication with students and parents/guardians

67. Communication among staff, parents/guardians, the Governing Board, other governmental agencies, and the media during an emergency, including:

- a. Identification of spokesperson(s)

CSBA NOTE: Pursuant to Public Utilities Code 2872, the use of an automatic dialing device by schools for the purpose of contacting parents/guardians of students regarding attendance or the health or safety of students is exempt from the control and regulation of the Public Utilities Commission.

- b. Development and testing of communication platforms, such as hotlines, automatic dialing devices, telephone trees, ~~web sites~~websites, social media, and electronic notifications
- c. Development of methods to ensure that communications are, to the extent practicable, in a language and format that is easy for parents/guardians to understand
- d. Distribution of information about district and school site emergency procedures to staff, students, and parents/guardians

78. Cooperation with other state and local agencies, including:

- a. Development of guidelines for law enforcement involvement and intervention
- b. Collaboration with the local health department, including development of a tracking system to alert the local health department of a substantial increase of student or staff absenteeism as indicative of a potential outbreak of an infectious disease

89. Steps to be taken after the disaster or emergency, including:

- a. Inspection of school facilities
- b. Provision of mental health services for students and staff, as needed

CSBA NOTE: The following optional paragraph reflects a recommendation of the California Office of the Attorney General and the California Department of Education (CDE) in their joint publication, "Crisis Response Box," which is available on the CDE's ~~web site~~website.

The Superintendent or designee shall assemble key critical information that would be needed in an emergency. Such information may include, but is not limited to, a list of individuals and organizations who should be contacted for assistance in an emergency, current layouts and blueprints of school buildings, aerial photos of the campus, maps of evacuation routes and alternate routes, a roster of employees with their work locations, student photographs and their emergency contact information, a clearly labeled set of keys, location of first aid supplies, ~~and~~ procedures and locations for turning off fire alarms, sprinklers, utilities, and other systems, information to access the district's technology infrastructure, and insurance information. Such information shall be stored in a

box in a secure, easily accessible location, with a duplicate kept at another location in case the primary location is inaccessible.

Policy Reference UPDATE Service

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Ed. Code 46390-46392	Emergency average daily attendance in case of disaster
Ed. Code 49505	Natural disaster; meals for homeless students; reimbursement
Gov. Code 3100-3109	Oath or affirmation of allegiance
Gov. Code 8586.5	California Cybersecurity Integration Center
Gov. Code 8607	Standardized Emergency Management System
Gov. Code 11549	Cybersecurity assessment
Gov. Code 11549.3	Office of information security
Public Utilities Code 2872	Automatic dialing
Federal	Description
20 USC 1400-1482	Individuals with Disabilities Education Act
29 USC 794	Rehabilitation Act of 1973; Section 504
42 USC 12101-12213	Americans with Disabilities Act
Management Resources	Description
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Cal OES Publication	School Emergency Response: -Using SEMS at Districts and Sites, June 1998
Cal OES Publication	State of California Emergency Plan, 2017

Cal OES Publication	Active Shooter Awareness Guidance, February 2018
California Department of Education Publication	Crisis Response Box, 2000
Fed. Emgcy. Mgmt. Agency <u>Federal Emergency Management Agency Pub. Publication</u>	National Incident Management System, 3rd ed., October 2017
U.S. DOE <u>Department of Education</u> Publication	Guide for Developing High-Quality School Emergency Operations Plans, 2013
Website	CSBA District and County Office of Education Legal Services
<u>Website</u>	<u>California Cybersecurity Integration Center</u> (https://www.caloes.ca.gov/office-of-the-director/operations/homeland-security/california-cybersecurity-integration-center/)
<u>Website</u>	<u>California Department of Education, Comprehensive School Safety Plans</u> (https://www.cde.ca.gov/ls/ss/vp/cssp.asp)
Website	California Department of Education, Crisis Preparedness
Website	Centers for Disease Control and Prevention
<u>Website</u>	<u>California Office of Emergency Services: School Emergency Planning & Safety</u> (https://www.caloes.ca.gov/office-of-the-director/operations/planning-preparedness-prevention/planning-preparedness/school-emergency-planning-safety/)
Website	U.S. Department of Education, Emergency Planning
Website	U.S. Department of Homeland Security
Website	Federal Emergency Management Agency
Website	California Governor's Office of Emergency Services
<u>Website</u>	<u>California Public Utilities Commission</u> (https://www.cpuc.ca.gov/)
Website	California Seismic Safety Commission
Website	American Red Cross
Website	California Attorney General's Office
Website	CSBA

Cross References

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0450	Comprehensive Safety Plan
0470	COVID-19 Mitigation Plan
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1113-E(1)	District And School Websites
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3513.3	Tobacco-Free Schools
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3514	Environmental Safety
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3515.2	Disruptions

3515.2	Disruptions
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3517-E(1)	Facilities Inspection
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3580	District Records
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4112.3-E(1)	Oath Or Affirmation
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5141.21	<u>Administering Medication And Monitoring Health Conditions</u>
5141.21	<u>Administering Medication And Monitoring Health Conditions</u>
5141.22	Infectious Diseases
5141.22	Infectious Diseases
5142	Safety
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6142.8	Comprehensive Health Education
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6153	School-Sponsored Trips
6164.2	Guidance/Counseling Services
7111	Evaluating Existing Buildings
9320	Meetings And Notices
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session

CSBA Sample District Policy Manual
CSBA Sample Manual Site

Policy 3550: Food Service/Child Nutrition Program**Status:** ADOPTED

Original Adopted Date: 11/01/2007 | **Last Revised Date:** 06/03/01/20222024 | **Last Reviewed Date:** 06/03/01/20222024

CSBA NOTE: The following optional policy may be revised to reflect district practice. Beginning in the 2022–23 school year, Education Code 49501.5, as added amended by AB 130 SB 348 (Ch. 44 600, Statutes of 2021 2023), requires districts, during each school day, to provide make available, free of charge, one nutritionally adequate breakfast and one nutritiously adequate lunch free of charge to any student who requests a meal, regardless of the student's eligibility for a federally funded free or reduced-price meal. However, in pursuant to Education Code 49431, as amended by AB 95 (Ch. 318, Statutes of 2023), a school is not prohibited from selling an additional nutritiously adequate meal that qualifies for federal reimbursement from the same meal service to a student who has been provided a free meal.

In order to receive reimbursements for the meals, a district must is required to be approved for participation in the National School Lunch Program (42 USC 1751-1769j) or the School Breakfast Program (42 USC 1773). Additionally, pursuant to Education Code 49531, as amended by SB 348, a district must comply with state and federal guidelines or regulations in order to be eligible for state meal reimbursement. See BP/AR 3552 - Summer Meal Program, AR 5148 - Child Care and Development, and AR 5148.2 - Before/After School Programs for nutrition requirements pertaining to those programs. For food sales outside the district's food service program (e.g., by student and adult organizations, through vending machines, or at student stores), see BP/AR 3554 - Other Food Sales.

Pursuant to Education Code 49495, the California Department of Education (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 that serves any of grades K-6.

The Governing Board recognizes that adequate, nourishing food is essential to student health and well-being, development, and ability to learn. The Superintendent or designee shall develop strategies to increase students' access to and participation in the district's food service programs and maintain fiscal integrity of the programs in accordance with law.

CSBA NOTE: Education Code 49501.5, as amended by SB 348, requires that a nutritionally adequate breakfast and lunch be made available to any student who requests a meal regardless of the student's eligibility for a free or reduced-price meal. However, the district still must determine student eligibility for free or reduced-price meals under the National School Lunch or School Breakfast Program in order to be reimbursed for such meals, as the funds provided under the California Universal Meal Program are meant to supplement, not supplant, federal funds.

Additionally, pursuant to Education Code 49501.5, as amended by SB 348, if a district offers independent study, the district must make available a nutritionally adequate breakfast and lunch on any school day that a student is scheduled for educational activities, as defined in Education Code

49010, lasting two or more hours, at a school site, resource center, meeting space, or other satellite facility.

Each school day, a nutritionally adequate breakfast and lunch shall be made available at no cost to any student who requests a meal, including a student enrolled in an independent study program on any school day in which the student is scheduled for in-person educational activities of two or more hours. A nutritionally adequate breakfast or lunch is one that qualifies for reimbursement under the most current meal pattern for the federal School Breakfast Program or National School Lunch Program.

CSBA NOTE: Pursuant to Education Code 49431, as amended by SB 95, a school is not prohibited from selling an additional nutritiously adequate meal that qualifies for federal reimbursement from the same meal service to a student who has already been provided a free meal.

After a student has been provided a school meal at no cost, the district may sell the student the entrée from an additional nutritiously adequate meal that qualifies for federal reimbursement, from the same meal service. (Education Code 49431)

Foods and beverages available through the district's food service program shall:

1. Be carefully selected so as to contribute to students' nutritional well-being and the prevention of disease

CSBA NOTE: 42 USC 1758b mandates each district participating in the National School Lunch Program (42 USC 1751-1769j) or any program in the Child Nutrition Act (42 USC 1771-1791), including the School Breakfast Program, to adopt a districtwide school wellness policy which includes nutrition guidelines for all foods available on school campuses; see BP 5030 - Student Wellness for language fulfilling this mandate. In addition, Education Code 49501.5, as added by AB 130, requires that meals provided under the California Universal Meals Program qualify for federal reimbursement. Also see the accompanying administrative regulation for state and federal legal requirements pertaining to nutrition standards.

2. Meet or exceed nutrition standards specified in law
3. Be prepared in ways that will appeal to students, retain nutritive quality, and foster lifelong healthful eating habits
4. Be served in age-appropriate portions

CSBA NOTE: Education Code 49501.5, as added by AB 130, requires that nutritionally adequate meals be provided to any student who requests a meal regardless of the student's eligibility for a free or reduced-price meal. However, the district still must determine student eligibility for free or reduced-price meals under the National School Lunch or School Breakfast Program, in order to be reimbursed for such meals as the funds provided under the California Universal Meal Program are meant to supplement, not supplant, federal funds. CSBA NOTE: The following paragraph is optional and may be revised to reflect district practice. In its, "Food and Nutrition Services Instruction 113-1," the U.S. Department of Agriculture (USDA) states that a district must put in place a public notification system or grassroots effort to inform applicants, participants, and

potentially eligible individuals of program availability, rights and responsibilities, and nondiscrimination policy related to federally funded nutrition programs.

5.—Be provided at no cost to students who request a meal

CSBA NOTE: The following paragraph is optional and may be revised to reflect district practice. In its, "Food and Nutrition Services Instruction 113-1," the U.S. Department of Agriculture (USDA) states that a district must put in place a public notification system or grassroots effort to inform applicants, participants, and potentially eligible individuals of program availability, rights and responsibilities, and nondiscrimination policy related to federally funded nutrition programs.

At the beginning of each school year, the Superintendent or designee shall communicate information related to the district's food service programs to the public through available means, including, but not limited to, the district's ~~web site~~website, social media, flyers, and school publications.

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. Grant funding may be available through the Fresh Fruit and Vegetable Program (42 USC 1769a) to provide elementary students with a variety of free fresh fruits and vegetables throughout the school day as a supplement to school breakfast and lunch programs. Eligible schools are those that operate the National School Lunch Program and have 50 percent or more of students eligible for free and reduced-price meals.

Additionally, SB 114 (Ch. 48, Statutes of 2023) allocates funds for eligible districts which may be expended on kitchen infrastructure upgrades and implementing any of the following school food best practices: (1) procuring California-grown or produced, sustainably grown, or whole or minimally processed foods to support equity in procurement practices, (2) using California-grown, whole or minimally processed foods in plant-based or restricted diet meals, (3) procuring plant-based or restricted diet food options, and/or (4) freshly preparing meals onsite. Districts that do not receive the above funding are nonetheless encouraged to follow these school food best practices. In addition, grant funding may be available from the California Department of Food and Agriculture's (CDFA) California Farm to School Incubator Grant, which includes a transitional kingergarten-12 Procurement and Education Grant for districts to procure California grown or produced, whole or minimally processed foods for incorporation into school meals and engage students in hands-on food education opportunities. See BP/AR 3551 - Food Service Operations/Cafeteria Fund for information regarding procurement.

The district's food service program shall give priority to serving ~~unprocessed~~freshly prepared onsite meals, using whole or minimally processed sustainable foods ~~and~~which are locally grown or produced, including fresh fruits and vegetables, and providing plant-based or restricted diet food options for students.

CSBA NOTE: ~~The following paragraph is optional.~~ Both state and federal law support the concept of using locally grown and/or organic produce in school cafeterias. Consistent with the state meal mandate, the Instructional School Gardens Program, established pursuant to Education Code 51795-~~51797~~51798, encourages the creation of school gardens as a means of providing children an opportunity to learn to make healthier food choices. Pursuant to Education Code 51798, a district that operates a school garden may sell produce grown in the school garden, regardless of whether the school participates in the Instructional School Gardens Program, if the district complies with

applicable federal, state, and local health and safety requirements for the production, processing, and distribution of the produce. For more information about the benefits of farm to school programs, including the increase in student fruit and vegetable consumption associated with these programs, see CDFA's 2022 publication, "Planting the Seed: Farm to School Roadmap for Success." In addition, 42 USC 1769 permits a high poverty school (schools with 50 percent or more students eligible for free and/or reduced-price meals) that runs a community garden to use produce from the garden to supplement food provided at the school. Thus, such use is allowable provided the foods comply with health and sanitation requirements as well as applicable nutrition standards.

District schools are encouraged to establish school gardens and/or farm-to-school projects to increase the availability of safe, fresh, seasonal fruits and vegetables for school meals, positively impact students' knowledge related to food and nutrition, support the district's nutrition education program, and increase students' consumption of these foods and participation in school meals.

CSBA NOTE: The following paragraph is optional. Education Code 49534, as amended by AB 486 (Ch. 666, Statutes of 2021), authorizes nutrition education programs to coordinate classroom instruction with the food service program and be of sufficient variety and flexibility to meet the needs of students in the district.

To the extent possible, the school meal program shall be coordinated with the nutrition education program, instructional program for teachers, parents/guardians and food service employees, available community resources, and other related district programs.

To encourage student participation in school meal programs, schools may offer multiple choices of food items within a meal service, provided all food items meet nutrition standards and all students are given an opportunity to select any food item.

The Superintendent or designee may invite students and parents/guardians to participate in the selection of foods of good nutritional quality for school menus.

CSBA NOTE: Pursuant to Education Code 49501.5, as amended by SB 348, students must be provided adequate time to eat, as determined by the district in consideration of the recommendations provided by CDE on or before June 30, 2025.

Students shall be allowed adequate time and space to eat meals. (Education Code 49501.5)

To the extent possible, school, recess, and transportation schedules shall be designed to promote participation in school meal programs.

The Superintendent or designee shall periodically review the adequacy of school cafeterias and facilities for food preparation and consumption.

CSBA NOTE: The district's food service program is subject to the food safety standards in the California Retail Food Code (Health and Safety Code 113700-114437). In addition, 42 USC 1758 and 7 CFR 210.13 and 220.7 require all schools participating in the National School Lunch and/or Breakfast Program to implement a food safety program for the storage, preparation, and service of school meals. See the accompanying administrative regulation for requirements of the food safety program.

In accordance with law, the Superintendent or designee shall develop and maintain a food safety program in order to reduce the risk of foodborne hazards at each step of the food preparation and service process.

CSBA NOTE: The following optional paragraph may be revised to reflect program evaluation indicators and reporting schedules determined by the district. Districts that participate in the National School Lunch Program, School Breakfast Program, Seamless Summer Feeding Option, and/or other federal meal program are subject to a state Administrative Review of district compliance with requirements for federal meal programs, including, but not limited to, a review of nutritional quality, meal patterns, provision of drinking water, school meal environment, and food safety. Each district is reviewed at least once every three years. Also see BP 3551 - Food Service Operations/Cafeteria Fund. However, Education Code 49431, 49431.2, and 49431.5 express legislative intent that the Governing Board annually review the district's compliance with nutrition standards for foods sold outside the National School Lunch or Breakfast Program.

Pursuant to USDA's, "Food and Nutrition Services Instruction 113-1," any district participating in federal meal programs must collect racial and ethnic data on potentially eligible populations, applicants, and program participants; see BP 3555 - Nutrition Program Compliance.

The Superintendent or designee shall annually report to the Board on student participation in the district's nutrition programs and the extent to which the district's food service program meets state and federal nutrition standards for foods and beverages. In addition, the Superintendent or designee shall provide all necessary and available documentation required for the Administrative Review conducted by the California Department of Education (CDE) to ensure the food service program's compliance with federal requirements related to nutrition standards, meal patterns, provision of drinking water, school meal environment, food safety, and other areas as required by the CDE.

Policy Reference UPDATE Service

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Policy Reference Disclaimer:

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State	Description
5 CCR 15510	Mandatory meals for needy students
5 CCR 15530-15535	Nutrition education
5 CCR 15550-15565	School lunch and breakfast programs
5 CCR 15575-15578	Requirements for foods and beverages outside the federal meals program
Ed. Code 35182.5	Contracts for advertising
Ed. Code 38080-38103	Cafeteria; establishment and use
Ed. Code 45103.5	Contracts for management consulting services; restrictions

Ed. Code 48432.3	Voluntary enrollment in continuation education
Ed. Code 49430-49434	Pupil Nutrition, Health, and Achievement Act of 2001
Ed. Code 49490-49494	School breakfast and lunch programs
Ed. Code 49500-49505 <u>49501.5-49506</u>	School meals
Ed. Code 49501.5	<u>California Universal Meals Program</u>
Ed. Code 49510-49520	Nutrition
Ed. Code 49530-49536	Child Nutrition Act
Ed. Code 49540-49546	Child care food program
Ed. Code 49547-49548.3	Comprehensive nutrition services
Ed. Code 49550.3 -49562	Meals for needy students
Ed. Code 49570	National School Lunch Act
Ed. Code 51795-51797 <u>51798</u>	School instructional gardens
H&S Code 113700-114437	California Retail Food Code; sanitation and safety requirements

Federal

42 USC 1751-1769j	Description School Lunch Program
42 USC 1758b	Local wellness policy
42 USC 1761	Summer Food Service Program and Seamless Summer Feeding Option
42 USC 1769a	Fresh Fruit and Vegetable Program
42 USC 1771-1793	Child Nutrition Act
42 USC 1772	Special Milk Program
42 USC 1773	School Breakfast Program
7 CFR 210.1-210.33	National School Lunch Program
7 CFR 215.1-215.18	Special Milk Program
7 CFR 220.2-220.22	National School Breakfast Program
7 CFR 245.1-245.13	Eligibility for free and reduced-price meals and free milk

Management Resources

California Department of Education Publication	Description Healthy Children Ready to Learn, January 2005 2006 (https://www.cde.ca.gov/ls/fa/sf/documents/healthychildren.pdf)
California Department of Education Publication	Professional Standards in the School Nutrition Programs, Management Bulletin SNP-13-2020, Updated January 2022 (https://www.cde.ca.gov/ls/nu/sn/mbsnp132020.asp)

<u>California Department of Food and Agriculture Publication</u>	<u>Planting the Seed: Farm to School Roadmap for Success, February 2022</u> (https://www.gov.ca.gov/wp-content/uploads/2022/02/Farm To School Report 2022022-2-small.pdf)
California Project Lean Publication	Policy in Action: A Guide to Implementing Your Local School Wellness Policy, October 2006 (https://www.californiaprojectlean.org/docuserfiles/policy%20in%20Action%20Guide%20FINAL.pdf)
CSBA Publication	Monitoring for Success: Student Wellness Policy Implementation Monitoring Report and Guide, 2007 2008 (https://www.csba.org/~/_/media/Files/EducationIssues/Wellness/200910_MFS_Guide.ashx)
<u>CSBA Publication</u>	<u>Monitoring for Success: A Guide for Assessing and Strengthening Student Wellness Policies, 2012</u> (https://www.csba.org/~/_/media/CSBA/Files/GovernanceResources/EducationIssues/ConditionsofChildren/201211MonitoringForSuccess.ashx?la=en&rev=90a8b252b84a4e80b2ebd6c1a6899865)
CSBA Publication	Nutrition Standards for Schools: Implications for Student Wellness, Policy Brief, rev. October 2007 (https://www.csba.org/~/_/media/3A78FEAF129D488FA34CFAAA16B38911.ashx)
CSBA Publication	Building Healthy Communities: A School Leader's Guide to Collaboration and Community Engagement, 2009
CSBA Publication	Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide, rev. April 2006 <u>Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide, April 2006</u> (https://www.csba.org/~/_/media/B5947DF3DE58432C9B038C9C38360684.ashx)
U.S. Department of Agriculture Publication	School Breakfast Toolkit (https://www.fns.usda.gov/sbp/toolkit)
U.S. Department of Agriculture Publication	Civil Rights Compliance and Enforcement - Nutrition Programs and Activities, FNS Instruction 113-1, November 2005 (https://www.fns.usda.gov/cr/fns-instruction-113-1)
U.S. Department of Agriculture Publication	Dietary Guidelines for Americans, 2005 2020 (https://www.dietaryguidelines.gov/sites/default/files/2020-12/Dietary_Guidelines_for_Americans_2020-2025.pdf)
U.S. Department of Agriculture Publication	Food Buying Guide for Child Nutrition Programs, December 2007 May 2022 (https://www.fns.usda.gov/tn/food-buying-guide)

U.S. Department of Agriculture Publication	Fresh Fruit and Vegetable Program: Handbook for Schools, December 2010 (https://www.fns.usda.gov/ffvp/fresh-fruits-and-vegetable-program-handbook-schools)
U.S. Department of Agriculture Publication	Guidance for School Food Authorities: Developing a School Food Safety Program Based on the Process Approach to HACCP Principles, June 2005 (https://www.fns.usda.gov/fs/developing-school-food-safety-program-based-process-approach-haccp)
Website	CSBA District and County Office of Education Legal Services
Website	U.S. Department of Agriculture, Food and Nutrition Service
Website	California Farm Bureau Federation
Website	Nourish California
Website	California Project LEAN (Leaders Encouraging Activity and Nutrition)
Website	Centers for Disease Control and Prevention
Website	California School Nutrition Association
Website	California Department of Education, Nutrition Services Division California Department of Education, School Nutrition (https://www.cde.ca.gov/ls/nu/sn/)
Website	California Department of Food and Agriculture, Office of Farm to Fork (https://cafarmtofork.cdfa.ca.gov/)
Website	National Alliance for Nutrition and Activity
Website	California Department of Public Health
Website	California Healthy Kids Resource Center
Website	CSBA

Cross References

Code	Description
0470	COVID-19 Mitigation Plan
0500	Accountability
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
3000	Concepts And Roles
3260	Fees And Charges
3260	Fees And Charges
3510	Green School Operations
3514	Environmental Safety
3514	Environmental Safety
3517	Facilities Inspection
3517-E(1)	Facilities Inspection
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
3554	Other Food Sales
3554	Other Food Sales
3555	Nutrition Program Compliance
3555-E(1)	Nutrition Program Compliance
3580	District Records
3580	District Records
4131	Staff Development
4141.6	Concerted Action/Work Stoppage
4141.6	Concerted Action/Work Stoppage
4231	Staff Development
4241.6	Concerted Action/Work Stoppage
4241.6	Concerted Action/Work Stoppage
5030	Student Wellness
5141.27	Food Allergies/Special Dietary Needs
5141.27	Food Allergies/Special Dietary Needs
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
5148.3	Preschool/Early Childhood Education
5148.3	Preschool/Early Childhood Education
6142.8	Comprehensive Health Education
6142.8	Comprehensive Health Education
6173	Education For Homeless Children
6173	Education For Homeless Children
6173-E(1)	Education For Homeless Children
6173-E(2)	Education For Homeless Children
6176	Weekend/Saturday Classes
7110	Facilities Master Plan

CSBA Sample District Policy Manual
CSBA Sample Manual Site

Regulation 3550: Food Service/Child Nutrition Program**Status:** ADOPTED

Original Adopted Date: 03/01/2011 | **Last Revised Date:** 06/03/01/20222024 | **Last Reviewed Date:** 06/03/01/20222024

CSBA NOTE: The following optional administrative regulation applies to food sales through the district's food service program, including, California's Universal Meals Program (Education Code 49501.5), the National School Lunch Program (42 USC 1751-1769j), the School Breakfast Program (42 USC 1773), and the Special Milk Program (42 USC 1772). The district should select all sections below that apply to programs offered by the district. See BP/AR 3552 - Summer Meal Program, AR 5148 - Child Care and Development, and AR 5148.2 - Before/After School Programs for nutrition requirements pertaining to those programs. For food sales outside the district's food service program (e.g., by student and adult organizations, through vending machines, or at student stores), see BP/AR 3554 - Other Food Sales.

Nutrition Standards for School Meals

CSBA NOTE: The following section is for use by all districts. Education Code 49501.5, as amended by AB 130 SB 348 (Ch. 44600, Statutes of 20212023), requires all schools to provide make available, free of charge, ~~two~~ one nutritiously adequate meals per breakfast and one nutritiously adequate lunch each school day, to any student who requests a meal, regardless of a student's eligibility to participate in any federally-funded free or reduced-price meal. Education Code 49553 defines a "nutritionally adequate meal" as one that qualifies for reimbursement under federal child nutrition program regulations. Schools participating in the National School Lunch and/or Breakfast Program ~~must~~ are required to extend meal service to all students enrolled in the school. However, pursuant to Education Code 49431, as amended by SB 95 (Ch. 318, Statutes of 2023), a school is not prohibited from selling an additional nutritiously adequate meal that qualifies for federal reimbursement from the same meal service to a student who has been provided a free meal.

Meals, food items, and beverages provided through the district's food services program shall: (Education Code 49501.5, 49553; 42 USC 1758, 1773)

1. Comply with National School Lunch and/or Breakfast Program standards for meal patterns, nutrient levels, and calorie requirements for the ages/grade levels served, as specified in 7 CFR 210.10 or 220.8 as applicable

CSBA NOTE: Item #2 below reflects an additional requirement for (1) districts participating in the National School Lunch and/or Breakfast Program which choose to apply for state reimbursements for free and reduced-price meals in addition to their base reimbursement, and (2) districts participating in the State Meal Program. Pursuant to Education Code 49430.7, such districts may not provide foods that are deep fried, par fried, or flash fried. Other districts may delete or use this item at their discretion. Although the new California Universal Meals Program (Education Code 49501.5) is not expressly subject to this requirement, it is recommended that all districts comply with it as a best practice, since only meals that qualify for federal reimbursement are reimbursable by the state under the program.

2. Not be deep fried, par fried, or flash fried, as defined in Education Code 49430 and 49430.7

Drinking Water

CSBA NOTE: The following section is for use by all districts. Pursuant to 42 USC 1758, schools participating in the National School Lunch Program are required to make free drinking water available for consumption at locations where meals are served during meal service. In addition, Education Code 38086 requires all California schools to make free drinking water available during school meal times. Pursuant to Education Code 38086, a district may be exempted from this requirement only if the Governing Board adopts a resolution, publicly noticed on at least two consecutive meeting agendas, demonstrating that the district is unable to comply due to fiscal constraints or health or safety concerns. Any district whose Board has adopted such a resolution should delete this section.

Pursuant to Education Code 38086, schools may satisfy this requirement by, among other means, providing cups and containers of water or soliciting or receiving donated water. [Pursuant to Education Code 38042, a district must allow students to bring and carry water bottles.](#) Recommendations on the California Department of Education's ~~web site~~ [\(CDE\) website](#) include providing chilled water, ensuring that all water fountains are clean and operational, and encouraging water consumption through marketing and advertising. [Pursuant to Education Code 38043, districts must encourage water consumption through promotional and educational activities and signage that focus on the benefits of drinking water and highlight water bottle filling stations throughout schools.](#)

The district shall provide access to free, fresh drinking water during meal times in food service areas at all district schools, including, but not limited to, areas where reimbursable meals under the National School Lunch or Breakfast Program are served or consumed. (Education Code 38086; 42 USC 1758)

Special Milk Program

CSBA NOTE: The following section is optional. The Special Milk Program (42 USC 1772; 7 CFR 215.1-215.18) is a federally funded program which assists in providing milk at reasonable prices to students in schools that do not participate in the National School Lunch or Breakfast Program. Pursuant to 7 CFR 215.7, districts may choose to provide milk at no charge to students who qualify for free meals; see BP 3553 - Free and Reduced Price Meals.

Any school that does not participate in the National School Lunch or Breakfast Program may participate in the Special Milk Program to provide all enrolled students with reasonably priced milk. (7 CFR 215.7)

Food Safety

CSBA NOTE: Pursuant to Health and Safety Code 113789, school cafeterias are among food facilities subject to the California Retail Food Code.

The Superintendent or designee shall ensure that the district's food service program meets the applicable sanitation and safety requirements of the California Retail Food Code as set forth in Health and Safety Code 113700-114437.

CSBA NOTE: The remainder of this section is for use by any district participating in the National School Lunch and/or Breakfast Program and may be used or revised by other districts at their discretion. 42 USC 1758 requires such participating districts to implement a food safety program applicable to any facility or part of a facility in which food is stored, prepared, or served. Pursuant to 42 USC 1758 and 7 CFR 210.13 and 220.7, the food safety program must comply with Hazard Analysis and Critical Control Point (HACCP) principles, which include establishing measures needed to prevent hazards at each stage of food production. Pursuant to 7 CFR 210.13, districts may implement either the "traditional" HACCP system or the simplified "process approach." Under the process approach, foods are grouped together according to preparation process and the same control measure is applied to all menu items within the group, rather than developing an HACCP plan for each item. These principles are described in USDA's, "Guidance for School Food Authorities: Developing a School Food Safety Program Based on the Process Approach to HACCP Principles".

For all district schools participating in the National School Lunch and/or School Breakfast Program, the Superintendent or designee shall implement a written food safety program for the storage, preparation, and service of school meals which complies with the national Hazard Analysis and Critical Control Point (HACCP) system. The district's HACCP plan shall include, but is not limited to, a determination of critical control points and critical limits at each stage of food production, monitoring procedures, corrective actions, and recordkeeping procedures. (42 USC 1758; 7 CFR 210.13, 220.7)

CSBA NOTE: Pursuant to 7 CFR 210.30, directors, managers, and staff in the food service program must complete annual training on specified topics, including, but not limited to, training on health and safety standards. Based on CDE Management Bulletin SNP-13-2020, districts must ensure that such directors, managers, and staff complete an annual continuing education or training on topics that are job-related, including, but not limited to, food safety standards. In addition, at least one employee at each food facility or site must have successfully passed an approved and accredited food safety certification examination in accordance with Health and Safety Code 113947.2-113947.3.

The Superintendent or designee shall ensure that food service directors, managers, and staff complete an annual continuing education or training as required by law. Each new employee, including a substitute, or volunteer shall complete initial food safety training prior to handling food. For each employee, the Superintendent or designee shall document the date, trainer, and subject of each training.

CSBA NOTE: The following paragraph is optional. USDA's, "Guidance for School Food Authorities: Developing a School Food Safety Program Based on the Process Approach to HACCP Principles," states that districts should maintain the following types of records in order to periodically review the food safety program and, in the event of a foodborne illness, to document that reasonable care was exercised in the operation of the school's food service program.

The Superintendent or designee shall assign staff to maintain records and logs documenting food safety activities, including, but not limited to, records of food deliveries, time and temperature monitoring during food production, equipment temperature (freezer, cooler, thermometer calibration), corrective actions, verification or review of safety efforts, and staff training.

Inspection of Food Facilities

CSBA NOTE: Health and Safety Code 113725-113725.3 require all food facilities in California to be inspected by the county environmental health agency in accordance with the timelines and procedures established in county regulations. The inspections cover all food service areas, including cafeterias, vending machines, and mobile food carts. Health and Safety Code 113725 specifies findings that would be considered violations, including (1) improper holding temperatures, improper cooling, or inadequate cooking of potentially hazardous foods (i.e., foods that require temperature control); (2) poor personal hygiene of food service employees; (3) contaminated equipment; and (4) food from unapproved sources.

All food preparation and service areas shall be inspected in accordance with Health and Safety Code 113725-113725.1 and applicable county regulations.

CSBA NOTE: The following paragraph is for use by districts participating in the National School Lunch and/or Breakfast Program. Notwithstanding the requirements of county regulations, districts participating in these programs must obtain at least two safety inspections each school year.

Each school participating in the National School Lunch and/or Breakfast Program shall, during each school year, obtain a minimum of two food safety inspections conducted by the county environmental health agency. (42 USC 1758; 7 CFR 210.13, 220.7)

The Superintendent or designee shall retain records from the most recent food safety inspection. All schools shall post a notice indicating that the most recent inspection report is available to any interested person upon request. (Health and Safety Code 113725.1; 42 USC 1758; 7 CFR 210.13, 210.15, 220.7)

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State	Description
5 CCR 15510	Mandatory meals for needy students
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5 CCR 15550-15565	School lunch and breakfast programs
5 CCR 15575-15578	Requirements for foods and beverages outside the federal meals program
Ed. Code 35182.5	Contracts for advertising
Ed. Code 38080-38103	Cafeteria; establishment and use
Ed. Code 45103.5	Contracts for management consulting services; restrictions
Ed. Code 48432.3	Voluntary enrollment in continuation education
Ed. Code 49430-49434	Pupil Nutrition, Health, and Achievement Act of 2001
Ed. Code 49490-49494	School breakfast and lunch programs

Ed. Code 49500-49505 <u>49501.5-49506</u>	School meals
Ed. Code 49501.5	<u>California Universal Meals Program</u>
Ed. Code 49510-49520	Nutrition
Ed. Code 49530-49536	Child Nutrition Act
Ed. Code 49540-49546	Child care food program
Ed. Code 49547-49548.3	Comprehensive nutrition services
Ed. Code 49550. 3 -49562	Meals for needy students
Ed. Code 49570	National School Lunch Act
Ed. Code 51795- 51797 <u>51798</u>	School instructional gardens
H&S Code 113700-114437	California Retail Food Code; sanitation and safety requirements
Federal	Description
42 USC 1751-1769j	School Lunch Program
42 USC 1758b	Local wellness policy
42 USC 1761	Summer Food Service Program and Seamless Summer Feeding Option
42 USC 1769a	Fresh Fruit and Vegetable Program
42 USC 1771-1793	Child Nutrition Act
42 USC 1772	Special Milk Program
42 USC 1773	School Breakfast Program
7 CFR 210.1-210.33	National School Lunch Program
7 CFR 215.1-215.18	Special Milk Program
7 CFR 220.2-220.22	National School Breakfast Program
7 CFR 245.1-245.13	Eligibility for free and reduced-price meals and free milk
Management Resources	Description
California Department of Education Publication	Healthy Children Ready to Learn, January 2005 <u>2006</u> (https://www.cde.ca.gov/ls/fa/sf/documents/healthychildren.pdf)
California Department of Education Publication	Professional Standards in the School Nutrition Programs, Management Bulletin SNP-13-2020, Updated January 2022 (https://www.cde.ca.gov/ls/nu/sn/mbsnp132020.asp)
<u>California Department of Food and Agriculture Publication</u>	<u>Planting the Seed: Farm to School Roadmap for Success, February 2022</u> (https://www.gov.ca.gov/wp-content/uploads/2022/02/Farm_To_School_Report_2022022-2-small.pdf)

California Project Lean Publication	Policy in Action: A Guide to Implementing Your Local School Wellness Policy, October 2006 https://www.californiaprojectlean.org/docuserfiles/policy%20in%20Action%20Guide%20FINAL.pdf
CSBA Publication	Monitoring for Success: Student Wellness Policy Implementation Monitoring Report and Guide, 2007 2008 https://www.csba.org/~/-/media/Files/EducationIssues/Wellness/200910_MFS_Guide.ashx
<u>CSBA Publication</u>	<u>Monitoring for Success: A Guide for Assessing and Strengthening Student Wellness Policies, 2012</u> https://www.csba.org/~/-/media/CSBA/Files/GovernanceResources/EducationIssues/ConditionofChildren/201211MonitoringForSuccess.ashx?la=en&rev=90a8b252b84a4e80b2ebd6c1a6899865
CSBA Publication	Nutrition Standards for Schools: Implications for Student Wellness, Policy Brief, rev. October 2007 https://www.csba.org/~/-/media/3A78FEAF129D488FA34CFAAA16B38911.ashx
CSBA Publication	Building Healthy Communities: A School Leader's Guide to Collaboration and Community Engagement, 2009
CSBA Publication	Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide, rev. April 2006 <u>Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide, April 2006</u> https://www.csba.org/~/-/media/B5947DF3DE58432C9B038C9C38360684.ashx
U.S. Department of Agriculture Publication	School Breakfast Toolkit https://www.fns.usda.gov/sbp/toolkit
U.S. Department of Agriculture Publication	Civil Rights Compliance and Enforcement - Nutrition Programs and Activities, FNS Instruction 113-1, November 2005 https://www.fns.usda.gov/cr/fns-instruction-113-1
U.S. Department of Agriculture Publication	Dietary Guidelines for Americans, 2005 2020 https://www.dietaryguidelines.gov/sites/default/files/2020-12/Dietary_Guidelines_for_Americans_2020-2025.pdf
U.S. Department of Agriculture Publication	Food Buying Guide for Child Nutrition Programs, December 2007 May 2022 https://www.fns.usda.gov/tn/food-buying-guide
U.S. Department of Agriculture Publication	Fresh Fruit and Vegetable Program: Handbook for Schools, December 2010 https://www.fns.usda.gov/ffvp/fresh-fruits-and-vegetable-program-handbook-schools
U.S. Department of Agriculture Publication	Guidance for School Food Authorities: Developing a School Food Safety Program Based on the Process Approach to HACCP Principles, June 2005

<https://www.fns.usda.gov/fs/developing-school-food-safety-program-based-process-approach-haccp>

Website	CSBA District and County Office of Education Legal Services
Website	U.S. Department of Agriculture, Food and Nutrition Service
Website	California Farm Bureau Federation
Website	Nourish California
Website	California Project LEAN (Leaders Encouraging Activity and Nutrition)
Website	Centers for Disease Control and Prevention
Website	California School Nutrition Association
Website	California Department of Education, Nutrition Services Division California Department of Education, School Nutrition (https://www.cde.ca.gov/ls/nu/sn/)
Website	California Department of Food and Agriculture, Office of Farm to Fork (https://cafarmtofork.cdfa.ca.gov/)
Website	National Alliance for Nutrition and Activity
Website	California Department of Public Health
Website	California Healthy Kids Resource Center
Website	CSBA

Cross References

Code	Description
0470	COVID-19 Mitigation Plan
0500	Accountability
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
3000	Concepts And Roles
3260	Fees And Charges
3260	Fees And Charges

3510	Green School Operations
3514	Environmental Safety
3514	Environmental Safety
3517	Facilities Inspection
3517-E(1)	Facilities Inspection
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
3554	Other Food Sales
3554	Other Food Sales
3555	Nutrition Program Compliance
3555-E(1)	Nutrition Program Compliance
3580	District Records
3580	District Records
4131	Staff Development
4141.6	Concerted Action/Work Stoppage
4141.6	Concerted Action/Work Stoppage
4231	Staff Development
4241.6	Concerted Action/Work Stoppage
4241.6	Concerted Action/Work Stoppage
5030	Student Wellness
5141.27	Food Allergies/Special Dietary Needs
5141.27	Food Allergies/Special Dietary Needs
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
5148.3	Preschool/Early Childhood Education
5148.3	Preschool/Early Childhood Education
6142.8	Comprehensive Health Education
6142.8	Comprehensive Health Education
6173	Education For Homeless Children
6173	Education For Homeless Children
6173-E(1)	Education For Homeless Children
6173-E(2)	Education For Homeless Children
6176	Weekend/Saturday Classes
7110	Facilities Master Plan

CSBA Sample District Policy Manual
CSBA Sample Manual Site

Policy 3551: Food Service Operations/Cafeteria Fund**Status:** ADOPTED

Original Adopted Date: 03/01/2018 | **Last Revised Date:** 09/03/01/2023~~2023~~2024 | **Last Reviewed Date:** 09/03/01/2023~~2023~~2024

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 amended by SB 348 \(Ch. 600, Statutes of 2023\)](#), all public schools in California must ~~provide~~[make available](#) free of charge, ~~a~~[one](#) nutritionally adequate breakfast and [one nutritionally adequate](#) lunch [each school day](#), 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. 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~~[which](#) 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~~[Office](#) of Education [Legal Services](#) 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 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 applies to all districts. Pursuant to Education Code 49503, as amended by SB 348, district funds may also be used for the purchase of school meals for students as provided in Education Code 49501.5.](#)

[At the Board's discretion, district funds other than the cafeteria fund may be used for the purchase of school meals.](#)

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 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: ~~In accordance with~~ Education Code 49501.5, as amended by SB 348, requires each district is required to provide make available one nutritionally adequate breakfast and one nutritiously adequate lunch each school day 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.~~ Education Code 49501.5, as amended by SB 348, makes several other changes, including requiring a district that offers independent study to make such nutritionally adequate breakfast and lunch available to an independent study student on any school day that the student is scheduled for educational activities as defined in Education Code 49010, and, to the extent CDE receives approval from USDA, make available during a school day lasting four hours or less a nutritionally adequate breakfast or lunch in a noncongregate manner.

Furthermore, pursuant to Education Code 49431, as amended by AB 95 (Ch. 318, Statutes of 2023), a school is not prohibited from selling an additional nutritiously adequate meal that qualifies for federal reimbursement from the same meal service to a student who has been provided a free meal. 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-, that serves any of grades K-6.

Any student who requests a meal shall be served Each school day, a nutritionally adequate breakfast and lunch free shall be made available at no cost to any student who requests a meal, including a student enrolled in an independent study program on any school day in which the student is scheduled for in-person educational activities of charge, each school day. two or more hours. After such school meals have been made available to a student, the district may sell the student the entrée from an additional nutritiously adequate meal that qualifies for federal reimbursement, from the same meal service. (Education Code 49431, 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, 49431, 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 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~~paragraph reflects 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 has made information available on its 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: The following optional paragraph may be revised to reflect district practice. SB 114 (Ch. 48, Statutes of 2023) allocates funds for eligible districts which may be expended on kitchen infrastructure upgrades and implementing any of the following school food best practices: (1) procuring California-grown or produced, sustainably grown, or whole or minimally processed foods to support equity in procurement practices, (2) using California-grown, whole or minimally processed foods in plant-based or restricted diet meals, (3) procuring plant-based or restricted diet food options, and/or (4) freshly preparing meals onsite. Districts that do not receive the above funding are nonetheless encouraged to follow these school food best practices. Additionally, grant funding may be available from the California Department of Food and Agriculture's (CDFA) California Farm to School Incubator Grant, which includes a transitional kingergarten-12 Procurement and Education Grant for districts to procure California grown or produced, whole or minimally processed foods for incorporation into school meals and engage students in hands-on food education opportunities.

The district's food service program shall give priority to serving freshly prepared onsite meals, using whole or minimally processed sustainable foods which are locally grown or produced, including fresh fruits and vegetables, and to providing plant-based or restricted diet food options for students.

CSBA NOTE: The following paragraph reflects requirements for districts participating in the National School Lunch and/or Breakfast Program. 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. Districts that have an annual reimbursement of less than \$1,000,000 may delete 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, the quality of the domestic product 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 for three years from the date of purchase. (Food and Agriculture Code 58596.3)

CSBA NOTE: The following paragraph applies to all districts, regardless of 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 to 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, 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 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.

SB 114 allocates funds for eligible districts to expend on kitchen infrastructure upgrades, such as cooking or service equipment, refrigeration, storage, transportation, and training and professional development, that will increase a school's capacity to provide freshly prepared onsite meals, to serve fresh and nutritious school meals using minimally processed, locally grown, and sustainable food, or for expanding meal options for students with restricted diets.

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. CDE performs an administrative review of participating districts every three years. See CDE's nutrition services 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

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Policy Reference Disclaimer:

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

State	Description
12 CCR 18928-18998.4	Short-lived climate pollutants
5 CCR 15550-15565	School lunch and breakfast programs
Ed. Code 38080-38086	<u>School meals</u>
Ed. Code 38090-38095	<u>Cafeterias; funds and accounts</u>
Ed. Code 38100-38103	<u>Cafeterias; allocation of charges</u>
Ed. Code 42646	<u>Alternate payroll procedure</u>
Ed. Code 45103.5	<u>Contracts for management consulting services; restrictions</u>
<u>Ed. Code 49010</u>	<u>Educational activity; definition</u>
<u>Ed. Code 49431</u>	<u>The Pupil Nutrition, Health, and Achievement Act of 2001</u>
Ed. Code 49490-49494	School breakfast and lunch programs
Ed. Code 49500-49505 <u>49501.5-49506</u>	School meals
Ed. Code 49550. <u>3</u> -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

2 CFR 200	Description 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 210.1-210.33	National School Lunch 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

CA Department of Education Publication	Description California School Accounting Manual
CA Dept of Social Services Publication	Food Distribution Program Administrative Manual
California Department of Education Publication	Food Service Management Company Contract Preapproval, NSD Management Bulletin, SNP-05-2023, March 2023
California Department of Education Publication	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
California Department of Education Publication	Excess Net Cash Resources – Revised to Increase Limitation, NSD Management Bulletin, SNP-04-2022, May 2022
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
California Department of Education Publication	Procuring and Monitoring of Food Service Management Contracts, NSD Management Bulletin, SNP-13-2015, January 2015
California Department of Education Publication	Storage and Inventory Management of U.S. Department of Agriculture Foods, NSD Management Bulletin, FDP-01-2018, January 2018

California Department of Education Publication	Professional Standards in the SNPs, NSD Management Bulletin, SNP-13-2020, rev. January 2022 (https://www.cde.ca.gov/ls/nu/sn/mbsnp132020.asp)
California Department of Education Publication	Cafeteria Funds - Allowable Uses, NSD Management Bulletin, SNP-05-2020, February 2020
U.S. Department of Agriculture Publication	Buy American and the Agriculture Improvement Act of 2018, SP-32-2019, August 2019
U.S. Department of Agriculture Publication	Procuring Local Foods for Child Nutrition Programs, January 2022
U.S. Department of Agriculture Publication	Unpaid Meal Charges: Local Meal Charge Policies, SP 46-2016, July 2016
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
U.S. Department of Agriculture Publication	Discretionary Elimination of Reduced Price Charges in the School Meal Programs, SP 17-2014, January 2014
U.S. Department of Agriculture Publication	Indirect Costs: Guidance for State Agencies and School Food Authorities, SP 60-2016, September 2016
U.S. Dept of Agriculture Publication	School Meals - FAQs
Website	CalRecycle, Resources for Local Education Agencies: K-12 Public Schools and School Districts
Website	California Department of Education, Accounting
Website	California Department of Social Services (https://www.cdss.ca.gov/)
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 California Department of Education, School Nutrition (https://www.cde.ca.gov/ls/nu/sn/)
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
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3552	Summer Meal Program
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5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications

Regulation 3551: Food Service Operations/Cafeteria Fund

Status: ADOPTED

Original Adopted Date: 03/01/2018 | **Last Revised Date:** ~~09/03/01/2023~~2024 | **Last Reviewed Date:** ~~09/03/01/2023~~2024

CSBA NOTE: With the establishment of the California Universal Meal Program pursuant to Education Code 49501.5, as amended by SB 348 (Ch. 600, Statutes of 2023), all public schools in California must ~~provide~~make available, free of charge, ~~a~~one nutritionally adequate breakfast and one nutritionally adequate lunch each school day, 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~~Office of Education Legal Services 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 website

Reimbursement Claims

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 Minimizing Food Waste and Reducing Food Insecurity

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~~ 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, USDA's guidance, "SP 60-2016," and CDE's website, "Frequently Asked Questions about Indirect Costs," 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 SNP-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 has increased the excess net cash resources limitation to six months' average operating expenditures.

Net cash resources in the nonprofit school food service shall not exceed 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

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Policy Reference Disclaimer:

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

State	Description
12 CCR 18928-18998.4	Short-lived climate pollutants
5 CCR 15550-15565	School lunch and breakfast programs
Ed. Code 38080-38086	<u>School meals</u>
Ed. Code 38090-38095	<u>Cafeterias; funds and accounts</u>
Ed. Code 38100-38103	<u>Cafeterias; allocation of charges</u>
Ed. Code 42646	<u>Alternate payroll procedure</u>
Ed. Code 45103.5	<u>Contracts for management consulting services; restrictions</u>
<u>Ed. Code 49010</u>	<u>Educational activity; definition</u>
<u>Ed. Code 49431</u>	<u>The Pupil Nutrition, Health, and Achievement Act of 2001</u>
Ed. Code 49490-49494	School breakfast and lunch programs

Ed. Code 49500-49505 <u>49501.5-49506</u>	School meals
Ed. Code 49550. <u>3</u> -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 210.1-210.33	National School Lunch 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
CA Dept of Social Services Publication	Food Distribution Program Administrative Manual
California Department of Education Publication	Food Service Management Company Contract Preapproval, NSD Management Bulletin, SNP-05-2023, March 2023
California Department of Education Publication	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

California Department of Education Publication	Excess Net Cash Resources – Revised to Increase Limitation, NSD Management Bulletin, SNP-04-2022, May 2022
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
California Department of Education Publication	Procuring and Monitoring of Food Service Management Contracts, NSD Management Bulletin, SNP-13-2015, January 2015
California Department of Education Publication	Storage and Inventory Management of U.S. Department of Agriculture Foods, NSD Management Bulletin, FDP-01-2018, January 2018
<u>California Department of Education Publication</u>	<u>Professional Standards in the SNPs, NSD Management Bulletin, SNP-13-2020, rev. January 2022</u> <u>(https://www.cde.ca.gov/ls/nu/sn/mbsnp132020.asp)</u>
California Department of Education Publication	Cafeteria Funds - Allowable Uses, NSD Management Bulletin, SNP-05-2020, February 2020
U.S. Department of Agriculture Publication	Buy American and the Agriculture Improvement Act of 2018, SP-32-2019, August 2019
U.S. Department of Agriculture Publication	Procuring Local Foods for Child Nutrition Programs, January 2022
U.S. Department of Agriculture Publication	Unpaid Meal Charges: Local Meal Charge Policies, SP 46-2016, July 2016
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
U.S. Department of Agriculture Publication	Discretionary Elimination of Reduced Price Charges in the School Meal Programs, SP 17-2014, January 2014
<u>U.S. Department of Agriculture Publication</u>	<u>Indirect Costs: Guidance for State Agencies and School Food Authorities, SP 60-2016, September 2016</u>
U.S. Dept of Agriculture Publication	School Meals - FAQs
Website	CalRecycle, Resources for Local Education Agencies: K-12 Public Schools and School Districts
Website	California Department of Education, Accounting
<u>Website</u>	<u>California Department of Social Services</u> <u>(https://www.cdss.ca.gov/)</u>
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 California Department of Education, School Nutrition (https://www.cde.ca.gov/ls/nu/sn/)
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

CSBA Sample District Policy Manual
CSBA Sample Manual Site

Policy 3553: Free And Reduced Price Meals**Status:** ADOPTED

Original Adopted Date: 03/01/2016 | **Last Revised Date:** 06/03/01/20222024 | **Last Reviewed Date:** 06/03/01/20222024

CSBA NOTE: In addition to the requirement, pursuant to Education Code 49550, that all districts provide at least one nutritionally adequate meal during each school day to needy students, as defined in Education Code 49552, commencing June 1, 2022, all districts are required pursuant to Education Code 49501.5, as added amended by AB 130 SB 348 (Ch. 44600, Statutes of 2021), to provide a 2023, requires districts, during each school day, to make available, free, of charge, one nutritionally adequate breakfast and one nutritionally adequate breakfast and lunch each school day, to any student who requests a meal, regardless of the student's free or reduced-price meal eligibility. To be eligible for state reimbursement for provision of meals under Education Code 49501.5, a district must participate in the National School Lunch and/or School Breakfast Programs. Consequently, the and comply with state and federal rules and guidelines or regulations governing those programs are applicable to districts that may want to seek state reimbursement for the cost of meals required pursuant to Education Code 49501.5, as amended by SB 348.

Pursuant to 42 USC 1758 and 1773, districts that participate in the National School Lunch and/or Breakfast Program (42 USC 1751-1769j, 1773) may receive a higher reimbursement rate for free and reduced-price meals than that provided for meals for noneligible students. In addition, state funding may be available through the State Breakfast and Lunch Program (Education Code 49490-49494). The district may apply to the California Department of Education (CDE) for available state and federal funds.

The requirement to provide make available at least one nutritionally adequate meal breakfast and one nutritionally adequate lunch to needy students applies during summer school sessions unless the district receives a waiver from the State Board of Education (SBE) under the conditions described in Education Code 49548. In order to receive a waiver, the district is required to submit a waiver request no later than 60 days before the last regular meeting of the SBE before the start of the summer school session for which the waiver is sought. However, pursuant to Education Code 49547.5, as amended by SB 348, the provision of one free breakfast and one free lunch, as described above, does not apply to the Summer Food Service Program. Funding to support the provision of summer school meals is available through the Seamless Summer Feeding Option and/or Summer Food Service Program (Education Code 49547.5; 42 USC 1761); see BP/AR 3552 - Summer Meal Program.

Pursuant to Education Code 49506, as added by SB 348, CDE is required to work with the California Department of Social Services to maximize participation in the federal Summer Electronic Benefit Transfer for Children (Summer EBT) program, which, beginning in summer 2024, will provide families with \$40 per eligible child per month. For more information about the Summer EBT program, see the U.S. Department of Agriculture's (USDA), "Summer EBT," available on its website.

Additionally, pursuant to Education Code 49501.5, as amended by SB 348, to the extent CDE receives approval from USDA, a district may make available one meal in a school day lasting four

hours or less to be served in a noncongregate manner.

Student eligibility for free and reduced-price meals serves as the basis for identifying students as low income for a variety of purposes, including, but not limited to, state allocations of supplemental and concentration funding within the local control funding formula. Districts must use such funding to increase or improve services for low-income students and other populations of "unduplicated students" (see BP/AR 3100 - Budget) and must establish goals and specific actions for low-income students in the local control and accountability plan (see BP/AR 0460 - Local Control and Accountability Plan).

The following policy is mandated for any district that authorizes employee access to students' free and reduced-price meal eligibility information for the disaggregation of academic achievement data and other specified purposes; see section "Confidentiality/Release of Records" below.

The Governing Board recognizes that adequate nutrition is essential to the development, health and well-being, and learning of all students. The Superintendent or designee shall facilitate and encourage the participation of all students in the district's food service program.

Each school day, the district shall ~~provide~~ make available, free of charge, a one nutritionally adequate breakfast and one nutritionally adequate lunch for any student who requests a meal. (Education Code 49501.5)

CSBA NOTE: Pursuant to Education Code 49431, as amended by AB 95 (Ch. 318, Statutes of 2023), a school is not prohibited from selling an additional nutritiously adequate meal that qualifies for federal reimbursement from the same meal service to a student who has already been provided a free meal.

After a student has been provided a school meal at no cost, the district may sell the student the entrée from an additional nutritiously adequate meal that qualifies for federal reimbursement, from the same meal service. (Education Code 49431)

CSBA NOTE: Education Code 49564.3, as ~~added by AB 130~~, requires districts with a "high poverty school," defined as a school that is eligible to operate the Community Eligibility Provision (CEP) pursuant to 42 USC 1759a, to adopt a universal meal service provision such as the CEP or Provision 2 ~~no later than June 30, 2022.~~

To provide optimal nutrition and ensure that schools receive maximum federal meal reimbursement, the Superintendent or designee shall assess the eligibility of district schools to operate a federal universal meal service provision, such as Provision 2 or the Community Eligibility Provision, pursuant to 42 USC 1759a. The Superintendent or designee shall submit an application to operate a federal universal meal provision to the California Department of Education (CDE) on behalf of any district school that meets the definition of a "high poverty school." (Education Code 49564.3)

CSBA NOTE: In order to be reimbursed for the California Universal Meal Program established pursuant to Education Code 49501.5, as ~~added~~ amended by AB 130, ~~or for free~~ SB 348, a school must participate in and ~~reduced-price meals under~~ meet the requirements of the federal School Breakfast Program or National School Lunch or School Breakfast Program; a school must ~~meet~~ meet and any applicable state and/or federal nutritional guidelines in Education Code 49430 ~~laws~~ and 49430.7 and 7 CFR 210.10 and 220.8, as described in AR 3550 - Food Service/Child Nutrition Program regulations.

The Superintendent or designee shall ensure that meals served under the school nutrition program meet applicable state and/or federal nutritional standards, as specified in accordance with law; Board policy, and administrative regulation.~~district-adopted guidelines.~~

CSBA NOTE: Education Code 49557 requires the district to develop a plan ensuring that students eligible to receive free and reduced-price meals are not treated differently in the implementation of the food services program. See the accompanying administrative regulation for plan requirements.

The Board shall approve, and shall submit to CDE for approval, a plan that ensures that students eligible to receive free or reduced-price meals are not treated differently from other students and that meets other requirements specified in Education Code 49557.

Confidentiality/Release of Records

All applications and records related to eligibility for the free and reduced-price meal program shall be confidential and may not be disclosed except as provided by law and authorized by the Board or pursuant to a court order. (Education Code 49558)

CSBA NOTE: The remainder of this section should be revised to reflect the purposes for sharing free and reduced-price eligibility information that are authorized by the Governing Board. Districts wishing to use free and reduced-price meal records for the following purposes are mandated by Education Code 49558 to adopt a policy authorizing employee access. See the accompanying administrative regulation for additional requirements applicable to districts that authorize such access.

The Board authorizes designated employees to use records pertaining to an individual student's eligibility for the free and reduced-price meal program for the following purposes: (Education Code 49558)

1. Disaggregation of academic achievement data

CSBA NOTE: Education Code 49558 allows districts to use the name and eligibility status of students participating in the free and reduced-price meal program to identify students eligible for school choice and supplemental educational services (SES) in Title I schools identified for program improvement. However, the Every Student Succeeds Act (P.L. 114-95) repealed 20 USC 6316 which had required the provision of student transfers and SES.

Although Education Code 49558 has not yet been amended to reflect the repeal of 20 USC 6316, CSBA believes that the use of free and reduced-price eligibility data would be necessary to implement Title I, Part A of the Elementary and Secondary Education Act, which provides financial assistance to meet the needs of students from low-income families, as well as other federal programs. The district should consult CSBA's District and County Office of Education Legal Services or district legal counsel if it has questions about the use of free and reduced-price meal information for these or other purposes.

2. Identification of students eligible for services under the federal Elementary and Secondary Education Act pursuant to 20 USC 6301-6576

CSBA NOTE: In its Management Bulletin SNP-02-2018, CDE clarified that designated school officials authorized to administer the free and reduced-price meal program may share the name and eligibility status of a student with other school officials within the district for purposes not directly related to the free and reduced-price meal program, such as to facilitate the provision of educational services and support to students who participate in the free and reduced-price meal program on a targeted basis rather than on a schoolwide or districtwide basis, in accordance with the local control accountability plan.

3. Facilitation of targeted educational services and supports to individual students based on the local control accountability plan

CSBA NOTE: According to CDE's Management Bulletin SNP-12-2015, Education Code 49558 does not prohibit the sharing of free and reduced-price meal application information to other districts/schools for the purpose of determining student eligibility. For this purpose, the district may provide only a student's name and eligibility status unless the applicant consents to the sharing of additional information.

If a student transfers from the district to another district, charter school, county office of education program, or private school, the Superintendent or designee may share the student's meal eligibility information to the other educational agency to assist that other educational agency in ensuring that the student continues to receive school meals.

The Superintendent or designee may release the name and eligibility status of a student participating in the free or reduced-price meal program to another school district, charter school, or county office of education that is serving a student living in the same household for purposes related to program eligibility and data used in local control funding formula (LCFF) calculations. (Education Code 49558)

The Superintendent or designee may release the name and eligibility status of a student participating in the free or reduced-price meal program to the Superintendent of Public Instruction for purposes of determining allocations under the LCFF and for assessing accountability of that funding. (Education Code 49558)

The Superintendent or designee may release information on the school lunch program application to the local agency that determines eligibility for participation in the Medi-Cal program if the student has been approved for free meals or, if included in the agreement with the local agency, for reduced-price meals. The Superintendent or designee also may release information on the school lunch application to the local agency that determines eligibility for CalFresh or another nutrition assistance program authorized under 7 CFR 210.1 if the student has been approved for free or reduced-price meals. Information may be released for these purposes only if the student's parent/guardian consents to the sharing of information and the district has entered into a memorandum of understanding with the local agency which, at a minimum, includes the roles and responsibilities of the district and local agency and the process for sharing the information. After sharing information with the local agency for purposes of determining eligibility for that program, no further information shall be shared unless otherwise authorized by law. (Education Code 49557.2, 49557.3, 49558)

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Policy Reference Disclaimer:

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State	Description
5 CCR 15510	Mandatory meals for needy students
5 CCR 15530-15535	Nutrition education
5 CCR 15550-15565	School lunch and breakfast programs
Ed. Code 48980	Parent/Guardian notifications
Ed. Code 49430-49434	Pupil Nutrition, Health, and Achievement Act of 2001
Ed. Code 49490-49494	School breakfast and lunch programs
Ed. Code 49500-49505 <u>49501.5-49506</u>	School meals
Ed. Code 49501.5	<u>California Universal Meals Program</u>
Ed. Code 49510-49520	Nutrition
Ed. Code 49530-49536	Child Nutrition Act
Ed. Code 49547-49548.3	Comprehensive nutrition services
Ed. Code 49550. <u>3</u> -49564.5	Meals for needy students
Ed. Code 49564.3	High-poverty schools; universal meal service
Federal	Description
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 6301-6576	Title I Improving the Academic Achievement of the Disadvantaged
42 USC 1751-1769j	School Lunch Program
42 USC 1771-1791	Child nutrition
42 USC 1773	School Breakfast Program
7 CFR 210.1-210.33	National School Lunch Program
7 CFR 220.10-220.21	National School Breakfast Program
7 CFR 245.1-245.13	Eligibility for free and reduced-price meals and free milk
Management Resources	Description
California Department of Education Publication	Clarification on the Sharing of Individual Student Eligibility Information for Local Control and Accountability Plan Purposes, Management Bulletin SNP-02-2018, May 2018 https://www.cde.ca.gov/ls/nu/sn/mbsnp022018.asp
<u>California Department of Education Publication</u>	<u>Updated Guidance on Sharing of School Meal Applications and the Passing of Assembly Bill 1599, Management Bulletin SNP-</u>

	12-2015, July 2015 (https://www.cde.ca.gov/ls/nu/sn/mbsnp122015.asp)
CSBA Publication	<u>Monitoring for Success: A Guide for Assessing and Strengthening Student Wellness Policies, rev-2012</u> (https://www.csba.org/-/media/CSBA/Files/GovernanceResources/EducationIssues/ConditionsofChildren/201211MonitoringForSuccess.ashx?la=en&ev=90a8b252b84a4e80b2ebd6c1a6899865)
CSBA Publication	Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide, 2012April 2006 (https://www.csba.org/~/~~/media/B5947DF3DE58432C9B038C9C38360684.ashx)
U.S. Department of Agriculture Publication	Provision 2 Guidance: National School Lunch and School Breakfast Programs, Summer 2002 (https://www.fns.usda.gov/cn/provision-2-guidance-national-school-lunch-and-school-breakfast-programs)
U.S. Dept of Agriculture Publication	Eligibility Manual for School Meals: Determining and Verifying Eligibility, July 2017 (https://www.fns.usda.gov/cn/eligibility-manual-school-meals)
Website	CSBA District and County Office of Education Legal Services
Website	U.S. Department of Agriculture, Food and Nutrition Service
Website	Nourish California
Website	California Project LEAN (Leaders Encouraging Activity and Nutrition)
Website	California Department of Education, Nutrition Services Division
Website	CSBA

Cross References

Code	Description
0200	Goals For The School District
0410	Nondiscrimination In District Programs And Activities
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
0470	COVID-19 Mitigation Plan
1340	Access To District Records
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1400	Relations Between Other Governmental Agencies And The Schools
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3552	Summer Meal Program
3552	Summer Meal Program
3554	Other Food Sales
3554	Other Food Sales
3555	Nutrition Program Compliance
3555-E(1)	Nutrition Program Compliance
4119.23	Unauthorized Release Of Confidential/Privileged Information
4219.23	Unauthorized Release Of Confidential/Privileged Information
4319.23	Unauthorized Release Of Confidential/Privileged Information
5030	Student Wellness
5117	Interdistrict Attendance
5117	Interdistrict Attendance
5125	Student Records
5125	Student Records
5141.6	School Health Services
5141.6	School Health Services
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
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
6162.51	State Academic Achievement Tests
6162.51	State Academic Achievement Tests
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
6175	Migrant Education Program
6175	Migrant Education Program
6176	Weekend/Saturday Classes
6177	Summer Learning Programs

CSBA Sample District Policy Manual
CSBA Sample Manual Site

Regulation 3553: Free And Reduced Price Meals**Status:** ADOPTED

Original Adopted Date: 03/01/2016 | **Last Revised Date:** 06/03/01/2022~~2024~~ | **Last Reviewed Date:** 06/03/01/2022~~2024~~

CSBA NOTE: In addition to the requirement pursuant to Education Code 49550, that all districts provide at least one nutritionally adequate meal during each school day to needy students, as defined in Education Code 49552, commencing June 1, 2022, all districts are required pursuant to Education Code 49501.5, as added [Education Code 49501.5, as amended](#) by AB 130~~SB 348~~ (Ch. 44~~600~~, Statutes of 2021), to provide a~~2023~~, [requires districts, during each school day, to make available, free, of charge, one nutritionally adequate breakfast and one](#) nutritionally adequate breakfast and lunch each school day to any student who requests a meal, regardless of the student's free or reduced-price meal eligibility. To be eligible for state reimbursement for provision of meals under Education Code 49501.5, a district must participate in the National School Lunch and/or School Breakfast Programs. Consequently, the federal rules and [comply with state and federal guidelines or](#) regulations governing those programs are applicable to districts that may want to seek state reimbursement for the cost of meals required pursuant to Education Code 49501.5, [as amended by SB 348](#).

The following administrative regulation is for use by all districts, regardless of whether they receive reimbursement for free and reduced-price meals through the National School Lunch and/or Breakfast Program (42 USC 1751-1769j, 1773) and/or the State Meal Program (Education Code 49490-49494).

Applications

CSBA NOTE: The California Department of Education's (CDE), "Universal Meals Program [Frequently Asked Questions and Answers](#)," clarifies that districts participating in the National School Lunch and/or Breakfast Program must continue to collect meal applications, as meal counts for reimbursement purposes need to be claimed in accordance with the amount of free, reduced-price, and paid meals served.

The Superintendent or designee shall ensure that the district's application form for free and reduced-price meals and related materials include the statements specified in Education Code 49557 and 7 CFR 245.5. The district's application packet shall include the notifications and information listed in Education Code 49557.2.

The application form and related information shall be distributed in paper form to all parents/guardians at the beginning of each school year and shall be available to students at all times during the school day. (Education Code 48980, 49520, [49557](#); 42 USC 1758; 7 CFR 245.5)

CSBA NOTE: The following paragraph is optional. In addition to the paper application form described above, Education Code 49557 authorizes districts to make the application for free or reduced-price meals available online, provided that it complies with specified requirements.

In addition, the district application form for free and reduced price meals shall be available online. The online application form shall require completion of only those questions necessary for determining eligibility, contain clear instructions for families that are ~~homeless or migrant~~, experiencing homelessness or who are migratory and comply with other requirements specified in Education Code 49557.

CSBA NOTE: According to the U.S. Department of Agriculture's (USDA), "Eligibility Manual for School Meals: Determining and Verifying Eligibility," households enrolling a new student after the start of the school year must also be provided an application and related materials.

An application form and related information shall also be provided whenever a new student is enrolled.

At the beginning of each school year, the Superintendent or designee shall send a public release, containing the same information supplied to parents/guardians and including eligibility criteria, to local media, the local unemployment office, and any major employers in the district attendance area contemplating large layoffs. Copies of the public release shall be made available upon request to any interested person. (7 CFR 245.5)

Eligibility

CSBA NOTE: Districts are responsible for determining students' eligibility for free and reduced-price meals in accordance with criteria established by CDE consistent with 42 USC 1758 and 1773 and 7 CFR 245.3. Family income levels that qualify for free or reduced-price meals, by household size, are annually posted on CDE's ~~web site~~ website.

Pursuant to 42 USC 1769c, a district that has demonstrated a high level of, or a high risk for, administrative error may be required to implement a second-level, independent review of the eligibility determination for each application. Such districts also will be subject to additional CDE reporting requirements.

The Superintendent or designee shall determine students' eligibility for the free and reduced-price meal program based on the criteria specified in 42 USC 1758 and 1773 and 7 CFR 245.1-245.13 and made available by the California Department of Education.

CSBA NOTE: In accordance with law, participants in certain state and federal programs are deemed to have met the income eligibility requirements of the free and reduced-price meal program and therefore may be directly certified as eligible without further action or additional application. For purpose of direct certification, districts may obtain data through the California Longitudinal Pupil Achievement Data System (CALPADS) or may enter into a local agreement with the county department of social or welfare services to match enrollment data.

Pursuant to 42 USC 1758 and 7 CFR 245.6, districts must directly certify for enrollment in the free and reduced-price meal program students who participate in the CalFresh program or California Work Opportunity and Responsibility to Kids (CalWORKs) program. 42 USC 1758 and 7 CFR 245.6 also authorize, but do not require, districts to directly certify any student who is ~~homeless~~ experiencing homelessness, migratory, a foster youth, or enrolled in a Head Start program. Education Code 49562, also requires districts to use participation data in the Medi-Cal program to directly certify students as eligible for free and reduced-price meals; ~~beginning with participation data from the 2017-18 school year as provided by CDE.~~

Further information about direct certification and eligibility is available in the USDA's "Eligibility Guidance for School Meals Manual."

Pursuant to 42 USC 1759a, certain districts located in high poverty areas may be eligible to participate in alternative processes for annual determinations of student eligibility for free and reduced-price meals (Provisions 1, 2, 3, and 4). Districts participating in these alternative processes should revise the following section to reflect district practice.

Participants in the CalFresh, California Work Opportunity and Responsibility to Kids (CalWORKS), and Medi-Cal programs shall be directly certified for enrollment in the free and reduced-price meal program without further application. Participants in other state or federal programs may be directly certified when authorized by law. (Education Code 49561, 49562; 42 USC 1758; 7 CFR 245.6)

Verification of Eligibility

Not later than November 15 of each year, the Superintendent or designee shall verify the eligibility of a sample of household applications approved for the school year in accordance with the sample sizes and procedures specified in 42 USC 1758 and 7 CFR 245.6a. (~~42 USC 1758; 7 CFR 245.6a~~)

If the review indicates that the initial eligibility determination is correct, the Superintendent or designee shall verify the approved household application. If the review indicates that the initial eligibility determination is incorrect, the Superintendent or designee shall: (42 USC 1758; 7 CFR 245.6a)

1. If the eligibility status changes from reduced price to free, make the increased benefits immediately available and notify the household of the change in benefits
2. If the eligibility status changes from free to reduced price, first verify the application, then notify the household of the correct eligibility status, and, when required by law, send a notice of adverse action as described below
3. If the eligibility status changes from free or reduced price to paid, send the household a notice of adverse action as described below

If, as a result of verification activities, the eligibility of a household that is receiving free or reduced-price benefits cannot be confirmed, or if the household fails to cooperate with verification efforts, the Superintendent or designee shall reduce or terminate benefits, as applicable, and shall properly document and retain on file in the district the reasons for the household's ineligibility. At least 10 days prior to the actual reduction or termination, the Superintendent or designee shall send a notice of adverse action to the household. The notice shall advise the household of: (7 CFR 245.6a)

1. The change and the reasons for the change
2. The right to appeal, when the appeal must be filed to ensure continued benefits while awaiting a hearing and decision, and instructions on how to appeal
3. The right to reapply at any time during the school year

Confidentiality/Release of Records

CSBA NOTE: The following section is for use by districts that have adopted a policy, pursuant to Education Code 49558, allowing designated district employees to use individual student records compiled in the administration of the free and reduced-price meal program for the purpose of disaggregation of academic achievement data and/or the provision of services under the federal Elementary and Secondary Education Act pursuant to 20 USC 6301-6576. See the accompanying Board policy. ~~The district should consult legal counsel if it has~~ Districts with questions about the use of free and reduced-price meal information for these or other purposes should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

It is recommended that the district designate by name or job title the employee(s) authorized to use records for these purposes. Districts should identify the specific title(s) of the designated employee(s) in the space provided below, such as Title I Coordinator.

The Superintendent designates the following district employee(s) to disclose a student's name and eligibility status from individual meal records only for the purpose of disaggregation of academic achievement data and/or the provision of services under the federal Elementary and Secondary Education Act pursuant to 20 USC 6301-6576.

(title or position)

In permitting the disclosure of student records for such purposes, the Superintendent or designee shall ensure that: (Education Code 49558)

1. No individual indicators of participation in the free and reduced-price meal program are maintained in the permanent records of any student if not otherwise allowed by law.
2. Information regarding individual student participation in the free and reduced-price meal program is not publicly released.
3. All other confidentiality provisions required by law are met.
4. Information collected regarding individual students certified to participate in the free and reduced-price meal program is destroyed when no longer needed for its intended purpose.

Nondiscrimination Plan

CSBA NOTE: Pursuant to Education Code 49557, even with the establishment of the ~~universal meal program~~ California Universal Meal Program, the legal obligation under federal law to ensure that students who are eligible for free and reduced-price meals are not treated differently remains applicable to districts.

In implementing the district's food service programs for students who are eligible to receive free or reduced-price meals, the district shall ensure the following: (Education Code 49557; 42 USC 1758)

1. The names of the students shall not be published, posted, or announced in any manner, or used for any purpose other than the National School Lunch and School Breakfast Programs, unless otherwise provided by law.
2. There shall be no overt identification of any of the students by the use of special tokens or tickets or by any other means.

3. The students shall not be required to work for their meals.
4. The students shall not be required to use a separate dining area, go through a separate serving line or entrance, or consume their meals at a different time.

Policy Reference UPDATE Service

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Policy Reference Disclaimer:

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

State	Description
5 CCR 15510	Mandatory meals for needy students
5 CCR 15530-15535	Nutrition education
5 CCR 15550-15565	School lunch and breakfast programs
Ed. Code 48980	Parent/Guardian notifications
Ed. Code 49430-49434	Pupil Nutrition, Health, and Achievement Act of 2001
Ed. Code 49490-49494	School breakfast and lunch programs
Ed. Code 49500-49505 49501.5-49506	School meals
Ed. Code 49501.5	<u>California Universal Meals Program</u>
Ed. Code 49510-49520	Nutrition
Ed. Code 49530-49536	Child Nutrition Act
Ed. Code 49547-49548.3	Comprehensive nutrition services
Ed. Code 49550. 3 -49564.5	Meals for needy students
Ed. Code 49564.3	High-poverty schools; universal meal service
Federal	Description
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 6301-6576	Title I Improving the Academic Achievement of the Disadvantaged
42 USC 1751-1769j	School Lunch Program
42 USC 1771-1791	Child nutrition
42 USC 1773	School Breakfast Program
7 CFR 210.1-210.33	National School Lunch Program
7 CFR 220.10-220.21	National School Breakfast Program
7 CFR 245.1-245.13	Eligibility for free and reduced-price meals and free milk
Management Resources	Description

California Department of Education Publication	Clarification on the Sharing of Individual Student Eligibility Information for Local Control and Accountability Plan Purposes, Management Bulletin SNP-02-2018, May 2018 (https://www.cde.ca.gov/ls/nu/sn/mbsnp022018.asp)
California Department of Education Publication	Updated Guidance on Sharing of School Meal Applications and the Passing of Assembly Bill 1599, Management Bulletin SNP-12-2015, July 2015 (https://www.cde.ca.gov/ls/nu/sn/mbsnp122015.asp)
CSBA Publication	Monitoring for Success: A Guide for Assessing and Strengthening Student Wellness Policies, rev. 2012 (https://www.csba.org/-/media/CSBA/Files/GovernanceResources/EducationIssues/ConditionsofChildren/201211MonitoringForSuccess.ashx?la=en&rev=90a8b252b84a4e80b2ebd6c1a6899865)
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U.S. Dept of Agriculture Publication	Eligibility Manual for School Meals: Determining and Verifying Eligibility, July 2017 (https://www.fns.usda.gov/cn/eligibility-manual-school-meals)
Website	CSBA District and County Office of Education Legal Services
Website	U.S. Department of Agriculture, Food and Nutrition Service
Website	Nourish California
Website	California Project LEAN (Leaders Encouraging Activity and Nutrition)
Website	California Department of Education, Nutrition Services Division
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6173-E(1)	Education For Homeless Children
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6173.1	Education For Foster Youth
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6175	Migrant Education Program
6176	Weekend/Saturday Classes
6177	Summer Learning Programs

Policy 4111: Recruitment And Selection

Status: ADOPTED

Original Adopted Date: 07/01/2012 | Last Revised Date: 03/01/2018 2024 | Last Reviewed Date: 03/01/2018 2024

CSBA NOTE: The following optional policy may be revised to reflect district practice and related should be aligned with relevant collective bargaining agreement provisions of collective bargaining agreements.

The Additionally, the Governing Board should ensure that district hiring procedures are designed to avoid liability for negligent hiring aligned with law, Board policy, and collective bargaining agreements. In *C.A. v. William S. Hart Union High School District*, the California Supreme Court held that a district can be held vicariously liable for the negligence of its administrators and supervisors in the hiring, retention, and supervision of a counselor who sexually harassed and/or abused a student.

The following paragraph reflects concepts from the California Department of Education's (CDE) publication, "How to Increase the Diversity of California's Educator Workforce," and the California Commission on Teacher Credentialing's (CTC) publication, "Strategic Plan: Ensuring Educator Excellence," related to the benefits students receive when staff reflects the racial, ethnic, linguistic, and cultural diversity of the district.

The Governing Board is committed to employing suitable, qualified individuals to effectively carry out the district's vision, mission, and goals, and believes that students benefit when district staff reflects the racial, ethnic, linguistic, and cultural diversity of the district.

The Superintendent or designee shall develop equitable, fair, and transparent recruitment and selection processes and procedures that ensure individuals are selected for employment in the district based on demonstrated knowledge, skills, and competence and not on any bias, personal preference, or unlawful discrimination.

Additionally, the Superintendent or designee shall, through the recruitment and selection processes and procedures, seek to establish and maintain a diverse staff, including the active recruitment from institutions and organizations that serve populations underrepresented among district employees.

When a vacancy occurs, the Superintendent or designee shall review, as appropriate, the job description for the position to ensure that it accurately describes the major functions and duties of the position. ~~He/she~~ The Superintendent or designee shall also disseminate job announcements to ensure a wide range of candidates.

CSBA NOTE: Pursuant to Labor Code 432.3, an employer with 15 or more employees is required to include the pay scale for a position in any job posting.

The district's selection procedures When posting an employment opportunity, the Superintendent or designee shall include screening processes, interviews, recommendations from previous employers, the pay scale for the open position. (Labor Code 432.2)

The Superintendent shall develop and observations when maintain appropriate, as necessary hiring procedures to identify the best possible candidate candidates for a position.

The Superintendent or designee may establish In doing so, an interview committee may be established to rank candidates and recommend finalists. During job interviews, applicants may be asked to describe or demonstrate how they will be able to perform the duties of the job. All discussions and recommendations shall be confidential ~~in accordance with law.~~

No inquiry shall be made with regard to any information prohibited by state or federal nondiscrimination laws and consistent with law.

No inquiry shall be made about any information prohibited by state or federal nondiscrimination laws.

CSBA NOTE: Pursuant to Government Code 12954, the district may not discriminate against a person in hiring based on the person's use of cannabis when off the job or away from the workplace. Additionally, Government Code 12954, as amended by SB 700 (Ch. 408, Statutes of 2023), prohibits the district from requesting information from an applicant related to the applicant's prior use of cannabis, apart from the person's criminal history, unless the district is otherwise legally permitted to consider or inquire about that information. However, Government Code 12954 does not interfere with the district's right to maintain drug-free schools or to prohibit employees from possessing, being impaired by, or using cannabis while at work. Government Code 12954 does not preempt state or federal laws requiring applicants to be tested for controlled substances as a condition of employment or to applicants in the building and construction trades or for positions requiring a federal background investigation. The district may utilize drug screenings that do not rely on nonpsychoactive cannabis metabolite results. Districts with questions about applicant cannabis use or screening should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

Unless otherwise provided for in law, the district may not discriminate against a person in hiring based on the person's use of cannabis off the job and away from the workplace, including that the district may not request information from an applicant related to the applicant's prior use of cannabis, apart from the applicant's criminal history, or penalize an applicant based on a drug screening which finds that the applicant has nonpsychoactive cannabis metabolites in the applicant's hair, blood, urine, or other bodily fluid. (Government Code 12954)

However, the district retains the right to maintain drug-free schools or prohibit employees from possessing, being impaired by, or using cannabis while on the job. (Government Code 12954)

CSBA NOTE: Labor Code 432.3, as added by AB 168 (Ch. 688, Statutes of 2017), prohibits districts from seeking a job applicant's salary history information and from relying on salary history as a factor in determining whether to offer employment to an applicant or the salary to offer. However, if the applicant discloses salary history information voluntarily and without prompting, the district is not prohibited from considering or relying on such information in determining the salary for that applicant. Labor Code 432.3 is not applicable to salary history information that is disclosable pursuant to the California Public Records Act (Government Code 7920.000 - 7930.170) or the Freedom of Information Act (5 USC 552).

The Superintendent or designee shall not inquire, orally or in writing, ~~in regard to~~ about an applicant's salary history information, including compensation and benefits. ~~He/she~~ Additionally, the Superintendent or designee shall ~~also~~ not rely on salary history information as a factor in determining whether to offer employment to an applicant or the salary to offer. However, the Superintendent or designee may consider salary information that is disclosable under state or federal law or that the applicant discloses voluntarily and without prompting. ~~Upon request, the Superintendent or designee shall provide the applicant the pay scale for the position to which he/she is applying.~~ (Labor Code 432.3)

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

For each position, the Superintendent or designee shall present to the Board one candidate who meets all qualifications established by law and the Board for the position. No person shall be employed by the Board without the recommendation or endorsement of the Superintendent or designee.

Incentives

CSBA NOTE: ~~The~~ Consistent with any applicable collective bargaining agreements, the district may offer incentives (e.g., signing bonuses, assistance with beginning teacher induction costs, assistance with the process of obtaining a clear credential including covering credential costs, a mentoring program, additional compensation, and/or subsidized housing) to recruit teachers, administrators, or other employees in accordance with district needs.

AB 99 ~~SB 114~~ (Ch. 1548, Statutes of 2017 ~~2023~~) establishes the California Educator Development (CalED) grant program Diverse Education Leaders Pipeline Initiative to assist districts with attracting train, place, and supporting the preparation retain culturally responsive school administrators to improve student outcomes and continued learning meet the needs of teachers, principals, and other school leaders California's education workforce.

Health and Safety Code 53573 permits districts to establish and implement programs that address the housing needs of teachers and other district employees who face challenges in securing affordable housing. Health and Safety Code 53574 enables housing projects on district property restricted to rentals for district employees to qualify for both federal and state low-income housing tax credits. For more information regarding housing for district employees, see the Center for Cities + Schools (UC Berkeley), cityLAB (UCLA), and the Turner Center for Housing Innovation's (UC Berkeley), "Education Workforce Housing Handbook."

The following optional section may be revised to reflect local incentive programs.

With Board approval and in accordance with district needs and any applicable collective bargaining agreements, the district may provide incentives to recruit teachers, administrators, or other employees, such as signing bonuses, assistance with beginning teacher induction and/or credential costs, mentoring, additional compensation, and/or subsidized housing.

Policy Reference UPDATE Service

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Policy Reference Disclaimer:

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State	Description
Ed. Code 200-262.4	Prohibition of discrimination
Ed. Code 35035	Powers and duties of the superintendent; transfer authority
Ed. Code 44066	Limitations on certification requirements
Ed. Code 44259	Teaching credential, exception; designated subjects; minimum requirements
Ed. Code 44750	Teacher recruitment resource center

Ed. Code 44830-44831	Employment of certificated persons
Ed. Code 44858	Age or marital status in certificated positions
Ed. Code 44859	Prohibition against certain rules and regulations re: <u>regarding</u> residency
Ed. Code 45103-45139	Employment (; classified employees)
Ed. Code 49406	Examination for tuberculosis
Gov. Code 12900-12996	Fair Employment and Housing Act
Gov. Code 12940-12957	Discrimination prohibited; unlawful practices
Gov. Code 7920.000-7930.470 <u>215</u>	California Public Records Act
Gov. Code 815.2	Liability of public entities and public employees
H&S Code 53570-53574	Teacher Housing Act of 2016
Lab. Code 432.3	Salary information
Federal	Description
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
28 CFR 35.101-35.190	Americans with Disabilities Act
34 CFR 106.51-106.61	Nondiscrimination on the basis of sex in employment in education program or activities
42 USC 12101-12213	Americans with Disabilities Act
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended
5 USC 552	Freedom of Information Act
8 USC 1324a	Unlawful employment of aliens
8 USC 1324b	Unfair immigration related employment practices
Management Resources	Description
CCSESA <u>California County Superintendents</u> Publication	Teacher Recruitment in California: An Analysis of Effective Strategies, Research Brief, Veritas Research and Evaluation Group, October 2017
<u>California Department of Education</u> Publication	<u>How to Increase the Diversity of California's Educator Workforce, April 2022</u> (https://www.cde.ca.gov/pd/ee/documents/dtwcouncilreportapril22.pdf)
<u>California Commission on Teacher Credentialing</u> Publication	<u>Strategic Plan: Ensuring Educator Excellence, 2023</u> (https://www.ctc.ca.gov/docs/default-source/commission/files/ctc-strategic-plan.pdf?sfvrsn=baef20b1_12)

[Center for Cities + Schools, cityLAB, and Turner Center for Housing Innovation Publication](#)

[Education Workforce Housing Handbook, 2022 \(https://citylab.ucla.edu/education-workforce-housing-research-report\)](#)

[Center for Cities + Schools, cityLAB, and Turner Center for Housing Innovation Publication](#)

[Education Workforce Housing in California: Developing the 21st Century Campus, 2021 \(https://citylab.ucla.edu/education-workforce-housing-research-report\)](#)

Court Decision

C.A. v William S. Hart Union High School District et al., (2012) 138 Cal.Rptr.3d 1

Website

CSBA District and County Office of Education Legal Services

[Website](#)

[California Department of Education \(https://www.cde.ca.gov/\)](#)

Website

Commission on Teacher Credentialing

Website

Education Job Opportunities Information Network

Website

Teach USA

Website

California County Superintendents

Website

California Civil Rights Department

Website

U.S. Department of Education

Website

U.S. Equal Employment Opportunity Commission

[Website](#)

[University of California Berkeley, Center for Cities + Schools \(https://citiesandschools.berkeley.edu/\)](#)

[Website](#)

[University of California Berkeley, Turner Center for Housing Innovation \(https://turnercenter.berkeley.edu/\)](#)

[Website](#)

[University of California Los Angeles, cityLAB \(https://www.citylab.ucla.edu/\)](#)

Cross References

Code	Description
0000	Vision
0200	Goals For The School District
0410	Nondiscrimination In District Programs And Activities
2230	Representative And Deliberative Groups
3542	School Bus Drivers
4000	Concepts And Roles
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4032	Reasonable Accommodation
4100	Certificated Personnel

4111.2	Legal Status Requirement
4111.2	Legal Status Requirement
4112	Appointment And Conditions Of Employment
4112.2	Certification
4112.2	Certification
4112.21	Interns
4112.21	Interns
4112.22	Staff Teaching English Learners
4112.23	Special Education Staff
4112.61	Employment References
4112.8	Employment Of Relatives
4113	Assignment
4113	Assignment
4117.14	Postretirement Employment
4200	Classified Personnel
4200	Classified Personnel
4211.2	Legal Status Requirement
4211.2	Legal Status Requirement
4212	Appointment And Conditions Of Employment
4212.61	Employment References
4212.8	Employment Of Relatives
4300	Administrative And Supervisory Personnel
4300	Administrative And Supervisory Personnel
4311.2	Legal Status Requirement
4311.2	Legal Status Requirement
4312.1	Contracts
4312.61	Employment References
4312.8	Employment Of Relatives
4317.14	Postretirement Employment
4331	Staff Development
6141.4	International Baccalaureate Program
6141.5	Advanced Placement
6171	Title I Programs

6171

Title I Programs

293/630

9000

Role Of The Board

Regulation 4112.5: Criminal Record Check

Status: ADOPTED

Original Adopted Date: 10/01/1998 | **Last Revised Date:** 12/03/01/2014/2024 | **Last Reviewed Date:** 12/03/01/2014/2024

CSBA NOTE: Education Code 44830.1, 44836, 45122.1, and 45123 prohibit the district from hiring or retaining in employment, in a certificated or classified position, a person who has been convicted of or pleads no contest to a violent or serious felony, sex offense, or controlled substance offense, as defined. Exceptions specified in law are reflected in ~~items~~Items #1-5 below.

These requirements apply to job applicants, temporary employees, substitute employees, and probationary employees serving before March 15 of their second year. Employees with permanent status may only be suspended or dismissed in accordance with the grounds and procedures specified in BP/AR 4118 - Dismissal/Suspension/Disciplinary Action or BP/AR 4218 - Dismissal/Suspension/Disciplinary Action, as applicable.

However, pursuant to Government Code 12954, the district may not discriminate against a person in hiring, termination, or any term or condition of employment based on the person's use of cannabis when off the job or away from the workplace. Additionally, Government Code 12954, as amended by SB 700 (Ch. 408, Statutes of 2023), prohibits the district from requesting information from an applicant related to the applicant's prior use of cannabis, apart from the person's criminal history, unless the district is otherwise legally permitted to consider or inquire about that information. Certain employees may be subject to stricter laws related to drug testing. Districts with questions about drug testing employees should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

The Superintendent or designee shall not hire or retain in employment, in a certificated or classified position, a person who has been convicted of a violent or serious felony as defined in Penal Code 667.5(c) or 1192.7(c), a controlled substance offense as defined in Education Code 44011, or a sex offense as defined in Education Code 44010. However, the Superintendent or designee shall not deny or terminate employment ~~if~~solely on the basis that the person has been: (Education Code 44830.1, 44836, 45122.1, 45123)

- ~~The conviction for~~Convicted of a violent or serious felony, controlled substance offense, or sex offense, and the conviction is reversed and the person is acquitted of the offense in a new trial or the charges against the person are dismissed, unless the sex offense for which the conviction is dismissed pursuant to Penal Code 1203.4 involves a victim who was a minor;
- ~~A person convicted~~Convicted of a violent or serious felony and has obtained a certificate of rehabilitation or a pardon;
- ~~A person who has been convicted~~Convicted of a serious felony, that is not also a violent felony, proves and has proven to the sentencing court that ~~he/she has been rehabilitated~~rehabilitation for purposes of school employment has been attained for at least one year;
- ~~A person who has been convicted~~Convicted of a controlled substance offense and is applying for or is employed in a certificated position and has a credential issued by the

5. ~~A person who has been convicted~~ **Convicted** of a controlled substance offense **and** is applying for or is employed in a classified position and has been determined by the Governing Board, from the evidence presented, to have been rehabilitated for at least five years.

A certificated employee may be hired by the district without obtaining a criminal record summary if that employee is employed as a certificated employee in another California school district and became a permanent employee of another California school district as of October 1, 1997. (Education Code 44830.1, 44836)

CSBA NOTE: The following optional paragraph is for use by districts that issue temporary certificates pursuant to Education Code 44332.5 to authorize salary payments while a certificated employee's credential application is being processed. If the issuance of temporary certificates is handled by the county office of education, the following paragraph should be deleted.

The Superintendent or designee shall not issue a temporary certificate of clearance to a person whose application for a credential, certificate, or permit is being processed by the Commission on Teacher Credentialing if that person has been convicted of a violent or serious felony, unless the person is otherwise exempt pursuant to Education Code 44332.6 or 44830.1. (Education Code 44332.5, 44332.6)

Pre-Employment Record Check

CSBA NOTE: The following section may be revised to reflect district practice. To fulfill the requirement for a criminal record check through the California Department of Justice (DOJ) and Federal Bureau of Investigation, the applicant ~~must~~ **is required to** submit fingerprints using the electronic Live Scan process. Locations offering the Live Scan service are listed on the DOJ's ~~web site~~ **website**. The DOJ provides the results to the district via email, or by U.S. mail if no email is available.

While the DOJ normally does not provide notice of a conviction for which relief has been granted, pursuant to Penal Code 11105, the Commission on Teacher Credentialing will receive every conviction rendered against an applicant, retroactive to January 1, 2020, regardless of relief granted. However, notwithstanding the above, pursuant to Penal Code 1203.425, information for a conviction for a controlled substance offense listed in Health and Safety Code 11350 or 11377, or former Health and Safety Code 11500 or 11500.5, that is more than five years old, for which relief is granted, is prohibited from being disseminated.

The Superintendent or designee shall require each person to be employed by the district to submit ~~his/her~~ fingerprints electronically through the Live Scan system so that a criminal record check may be conducted by the Department of Justice (DOJ). -The Superintendent or designee shall provide the applicant with a Live Scan request form and a list of nearby Live Scan locations.

When a person is applying for a classified position, the Superintendent or designee shall request that the DOJ also obtain a criminal record check through the Federal Bureau of Investigation whenever the applicant meets one of the following conditions: (Education Code 45125)

1. The applicant has not resided in California for at least one year immediately preceding the application for employment.
2. The applicant has resided in California for more than one year, but less than seven years, and the DOJ has ascertained that the person was convicted of a sex offense where -the victim

was a minor or a drug offense where an element of the offense is either the distribution to or the use of a controlled substance by a minor.

The Superintendent or designee shall immediately notify the DOJ when an applicant who has submitted his/her fingerprints to the DOJ is not subsequently employed by the district. (Penal Code 11105.2)

Subsequent Arrest Notification

CSBA NOTE: Pursuant to Education Code 44830.1 and 45125, the district ~~must~~ is required to sign up for "subsequent arrest notification" from the DOJ in accordance with Penal Code 11105.2. Forms available for this purpose are available on DOJ's ~~web site~~ website.

The Superintendent or designee shall enter into a contract with the DOJ to receive notification of subsequent arrests resulting in conviction of any person whose fingerprints have been submitted to the DOJ. (Education Code 44830.1, 45125; Penal Code 11105.2)

Upon telephone or email notification by the DOJ that a current temporary employee, substitute employee, or probationary employee serving before March 15 of his/her the employee's second probationary year has been convicted of a violent or serious felony, the Superintendent or designee shall immediately place that employee on leave without pay. (Education Code 44830.1, 45122.1)

When the district receives written electronic notification by the DOJ of the fact of conviction, the temporary employee, substitute employee, or probationary employee serving before March 15 of his/her the employee's second probationary year shall be terminated automatically unless the employee challenges the DOJ record and the DOJ withdraws its notification in writing. Upon receipt of the written withdrawal of notification by the DOJ, the Superintendent or designee shall immediately reinstate ~~that~~ the employee with full restoration of salary and benefits for the period of time from the suspension without pay to the reinstatement if the employee is still employed by the district. (Education Code 44830.1, 45122.1)

The Superintendent or designee shall immediately notify the DOJ whenever a person whose fingerprints are maintained by the DOJ is terminated. (Penal Code 11105.2)

Notification of Applicant/Employee

The Superintendent or designee shall expeditiously furnish a copy of any DOJ notification to the applicant or employee to whom it relates if the information is a basis for an adverse employment decision. The copy shall be delivered in person or to the last contact information provided by the applicant or employee. (Penal Code 11105, 11105.2)

Maintenance of Records

CSBA NOTE: To be qualified to obtain Criminal Record Offender Information (CORI) for the purpose of employment decisions, the district ~~must~~ is required to apply to the DOJ for authorization and ~~must~~ is required to designate at least one custodian of records who is responsible for the security, storage, dissemination, and destruction of criminal records furnished to the district.

The Superintendent shall designate at least one custodian of records who shall be responsible for the security, storage, dissemination, and destruction of all Criminal Offender Record Information (CORI) furnished to the district and shall serve as the primary contact for the DOJ for any related issues. (Penal Code 11102.2)

An employee designated as custodian of records shall receive a criminal background check clearance from the DOJ prior to serving in that capacity. (Penal Code 11102.2)

CSBA NOTE: The DOJ requires every person with access to CORI, including the custodian of records, to complete an Employee Statement Form acknowledging an understanding of the law governing CORI. The custodian of records is required to return ~~his/her own~~ such form to the DOJ and to retain any forms completed by other district staff. The Employee Statement Form is reproduced in the accompanying Exhibit.

The custodian of records shall sign and return to the DOJ the Employee Statement Form acknowledging ~~his/her an~~ understanding of the laws prohibiting misuse of CORI.- In addition, the custodian of records shall ensure that any individual with access to CORI has on file a signed Employee Statement Form.

To ensure its confidentiality, CORI shall be accessible only to the custodian of records and shall be kept in a locked file separate from other files. -CORI shall be used only for the purpose for which it is requested and its contents shall not be disclosed or reproduced. (Education Code 44830.1, 45125)

Once a hiring determination is made, the applicant's CORI shall be destroyed to the extent that the identity of the individual can no longer be reasonably ascertained. (Education Code 44830.1, 45125; 11 CCR 708)

CSBA NOTE: ~~SB 1461 (Ch. 54, Statutes of 2014) amended Penal Code 11102.2 to delete the requirement to annually notify DOJ of the district's custodian of records. Pursuant to Penal Code 11102.2, districts are now only required to notify the DOJ when the custodian of records ceases to serve in that capacity.~~

The Superintendent or designee shall immediately notify the DOJ whenever a designated custodian of records ceases to serve in that capacity. (Penal Code 11102.2)

Interagency Agreement

CSBA NOTE: The following optional section is for use by any district that has been designated to act on behalf of other school districts within the same county or in contiguous counties to share CORI as authorized by Education Code 44830.2 and 45125.01. Districts that have not entered into an agreement to share such information, or for whom another district or the County Superintendent of Schools has been designated to receive and share the information, should delete this section.

Pursuant to Education Code 45125.01, any district that participates in such an interagency agreement may use this arrangement to conduct criminal background checks for a noncertificated candidate for a paid or volunteer position in a student activity program pursuant to Education Code 49024; see BP/AR 1240 - Volunteer Assistance and BP/AR 4127/4227/4327 - Temporary Athletic Team Coaches.

Subject to an interagency agreement with other school districts, the district shall submit and receive CORI on behalf of all participating districts. (Education Code 44830.2, 45125.01)

Upon receipt from the DOJ of a report of conviction of a serious or violent felony, the district shall communicate that fact to participating districts and shall remove the affected employee from the common list of persons eligible for employment. (Education Code 44830.2, 45125.01)

In addition, upon receipt from the DOJ of a criminal history record or report of subsequent arrest

for any person on a common list of persons eligible for employment, the district shall give notice to the superintendent of any participating district, or the person designated in writing by that superintendent, that the report is available for inspection on a confidential basis by the superintendent or the authorized designee. The report shall be made available at the district office for 30 days following the receipt of the notice. (Education Code 44830.2, 45125.01)

The district shall not release a copy of that information to any participating district or any other person. In addition, the district shall retain or dispose of the information in the manner specified in law and in this administrative regulation after all participating districts have had an opportunity to inspect it in accordance with law. (Education Code 44830.2, 45125.01)

The district shall maintain a record of all persons to whom the information has been shown and shall make this record available to the DOJ. (Education Code 44830.2, 45125.01)

Policy Reference UPDATE Service

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Policy Reference Disclaimer:

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

State	Description
11 CCR 701-708	Criminal offender record information
11 CCR 720-724	Incomplete criminal history information
11 CCR 994-994.15	Certification of individuals who take fingerprint impressions
Ed. Code 44010	Sex offense; definitions
Ed. Code 44011	Controlled substance offense
Ed. Code 44332-44332.6	Temporary certificate of clearance
Ed. Code 44346.1	Applicants for credential; conviction of a violent or serious felony
Ed. Code 44830.1	Criminal record summary certificated employees
Ed. Code 44830.2	Certificated employees; interagency agreement for sharing criminal record information
Ed. Code 44836	Employment of certificated persons convicted of sex offense or controlled substance offenses
Ed. Code 44932	Grounds for dismissal of permanent employees
Ed. Code 45122.1	Classified employees; conviction of a violent or serious felony
Ed. Code 45125	Use of personal identification cards to ascertain conviction of crime
Ed. Code 45125.01	Interagency agreements for criminal record information
Ed. Code 45125.5	Automated records check
Ed. Code 45126	Duty of Department of Justice to furnish information

Ed. Code 49024	Activity Supervisor Clearance Certificate
Gov. Code 12954	Employment discrimination; cannabis use
H&S Code 11350	Offenses Involving Controlled Substances Formerly Classified as Narcotics
H&S Code 11377	Offenses Involving Controlled Substances Formerly Classified as Restricted Dangerous Drugs
Pen. Code 11075-11081	Criminal record dissemination
Pen. Code 11102.2	Maintenance of criminal offender records; custodian of records
Pen. Code 11105	Access to criminal history information
Pen. Code 11105.2	Subsequent arrest notification
Pen. Code 11105.3	Record of conviction involving sex crimes, drug crimes, or crimes of violence
Pen. Code 11140-11144	Furnishing of state criminal history information
Pen. Code 1192.7	Plea bargaining limitation
Pen. Code 1203.4	Dismissal of conviction
Pen. Code 1203.425	Conviction relief
Pen. Code 13300-13305	Local summary criminal history information
Pen. Code 667.5	Prior prison terms; enhancement of prison terms
Management Resources	Description
Court Decision	Central Valley Chapter of the 7th Step Foundation Inc. v. Evelle J. Younger; (1989) 214 Cal. App. 3d 145
Website	CSBA District and County Office of Education Legal Services
Website	Office of the Attorney General, Department of Justice, Background Checks
Website	CSBA

Cross References

Code	Description
1240	Volunteer Assistance
1240	Volunteer Assistance
1340	Access To District Records
1340	Access To District Records
2120	Superintendent Recruitment And Selection
3515.3	District Police/Security Department
3515.3	District Police/Security Department

3542	School Bus Drivers
3580	District Records
3580	District Records
4112	Appointment And Conditions Of Employment
4112.2	Certification
4112.2	Certification
4112.6	Personnel Files
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4116	Probationary/Permanent Status
4116	Probationary/Permanent Status
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.23	Unauthorized Release Of Confidential/Privileged Information
4121	Temporary/Substitute Personnel
4121	Temporary/Substitute Personnel
4127	Temporary Athletic Team Coaches
4127	Temporary Athletic Team Coaches
4200	Classified Personnel
4200	Classified Personnel
4212	Appointment And Conditions Of Employment
4212.6	Personnel Files
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4218.1	Dismissal/Suspension/Disciplinary Action (Merit System)
4219.23	Unauthorized Release Of Confidential/Privileged Information
4227	Temporary Athletic Team Coaches
4227	Temporary Athletic Team Coaches
4312.6	Personnel Files
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications

4319.23	Unauthorized Release Of Confidential/Privileged Information
4327	Temporary Athletic Team Coaches
4327	Temporary Athletic Team Coaches
5148	Child Care And Development
5148	Child Care And Development
5148.2	Before/After School Programs
5148.2	Before/After School Programs
5148.3	Preschool/Early Childhood Education
5148.3	Preschool/Early Childhood Education
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
9011	Disclosure Of Confidential/Privileged Information

Exhibit 4112.5-E(1): Criminal Record Check

Status: ADOPTED

Original Adopted Date: 10/01/1997 | **Last Revised Date:** ~~12~~03/01/2014~~2024~~ | **Last Reviewed Date:** ~~12~~03/01/2014~~2024~~

CSBA NOTE: The following is based on the sample Employee Statement Form provided by the California Department of Justice. Such a form must be signed by an employee designated as custodian of records of criminal history information and any other individual granted access to this information by the custodian of records; see the accompanying administrative regulation.

**SAMPLE EMPLOYEE STATEMENT FORM
USE OF CRIMINAL JUSTICE INFORMATION**

As an employee/volunteer of [REDACTED] School District, you may have access to confidential criminal record information which is controlled by state and federal statutes. Misuse of such information may adversely affect the individual's civil rights and violate constitutional rights of privacy. Penal Code 502 prescribes the penalties relating to computer crimes. Penal Code 11105 and 13300 identify who has access to criminal history information and under what circumstances it may be disseminated. Penal Code 11140-11144 and 13301-13305 prescribe penalties for misuse of criminal history information. Government Code 6200 prescribes felony penalties for misuse of public records. Penal Code 11142 and 13300 state:

"Any person authorized by law to receive a record or information obtained from a record who knowingly furnishes the record or information to a person not authorized by law to receive the record or information is guilty of a misdemeanor."

Civil Code 1798.53, Invasion of Privacy, states:

"Any person who intentionally discloses information, not otherwise public, which they know or should reasonably know was obtained from personal or confidential information maintained by a state agency or from records within a system of records maintained by a federal government agency, shall be subject to a civil action, for invasion of privacy, by the individual."

CIVIL, CRIMINAL, AND ADMINISTRATIVE PENALTIES:

- Penal Code 11141: DOJ furnishing to unauthorized person (misdemeanor)
- Penal Code 11142: Authorized person furnishing to other (misdemeanor)
- Penal Code 11143: Unauthorized person in possession (misdemeanor)
- California Constitution, Article I, Section 1 (Right to Privacy)
- Civil Code 1798.53, Invasion of Privacy

- Title 18 USC 641, 1030, 1951, and 1952

Any employee who is responsible for such misuse may be subject to immediate dismissal. Violations of this law may result in criminal and/or civil action.

I HAVE READ THE ABOVE AND UNDERSTAND THE POLICY REGARDING MISUSE OF CRIMINAL RECORD INFORMATION.

Signature _____ Date _____

Printed Name _____ Title _____

Name of District _____

PLEASE NOTE: Do not return this form to the DOJ. Your Custodian of Records should maintain these forms.

Policy Reference UPDATE Service

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Ed. Code 44830.1	Criminal record summary certificated employees
Ed. Code 44830.2	Certificated employees; interagency agreement for sharing criminal record information
Ed. Code 44836	Employment of certificated persons convicted of <u>sex offense</u> or controlled substance <u>offenses</u> <u>offense</u>
Ed. Code 44932	Grounds for dismissal of permanent employees
Ed. Code 45122.1	Classified employees; conviction of a violent or serious felony
Ed. Code 45125	Use of personal identification cards to ascertain conviction of crime
Ed. Code 45125.01	Interagency agreements for criminal record information

Ed. Code 45125.5	Automated records check
Ed. Code 45126	Duty of Department of Justice to furnish information
Ed. Code 49024	Activity Supervisor Clearance Certificate
Gov. Code 12954	Employment discrimination; cannabis use
H&S Code 11350	Offenses Involving Controlled Substances Formerly Classified as Narcotics
H&S Code 11377	Offenses Involving Controlled Substances Formerly Classified as Restricted Dangerous Drugs
Pen. Code 11075-11081	Criminal record dissemination
Pen. Code 11102.2	Maintenance of criminal offender records; custodian of records
Pen. Code 11105	Access to criminal history information
Pen. Code 11105.2	Subsequent arrest notification
Pen. Code 11105.3	Record of conviction involving sex crimes, drug crimes, or crimes of violence
Pen. Code 11140-11144	Furnishing of state criminal history information
Pen. Code 1192.7	Plea bargaining limitation
Pen. Code 1203.4	Dismissal of conviction
Pen. Code 1203.425	Conviction relief
Pen. Code 13300-13305	Local summary criminal history information
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5148.3	Preschool/Early Childhood Education
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
9011	Disclosure Of Confidential/Privileged Information

Policy 4118: Dismissal/Suspension/Disciplinary Action

Status: ADOPTED

Original Adopted Date: 07/01/2000 | **Last Revised Date:** 09/03/01/20222024 | **Last Reviewed Date:** 09/03/01/20222024

CSBA NOTE: The following optional policy and accompanying administrative regulation are subject to collective bargaining and ~~may be deleted or revised by any district whose agreement covers certificated employee suspension and discipline.~~ should be revised in accordance with any applicable collective bargaining agreement. To the extent that this policy is inconsistent with provisions of the collective bargaining agreement, the collective bargaining agreement would prevail, so long as the provision is consistent with law. Pursuant to Government Code 3543.2, the district and the bargaining unit representing certificated employees must, upon request of either party, negotiate causes and procedures for disciplinary action, other than dismissal and suspension beyond 15 days.

For information about dismissal of substitute or temporary employees, see BP 4121 - Temporary/Substitute Personnel.

The Governing Board expects all employees to perform their jobs satisfactorily, exhibit professional and appropriate conduct, and serve as positive role models both at school and in the community. A certificated employee may be disciplined for conduct or performance in accordance with law, the applicable collective bargaining agreement, Board policy, ~~and~~ or administrative regulation.

CSBA NOTE: When disciplining an employee, the district must ensure that all of the surrounding facts and circumstances are considered and analyzed within the parameters of any applicable constitutional or legal framework. ~~In Kennedy v. Bremerton School District, the U.S. Supreme Court held that the district violated the employee's protected free exercise and free speech rights when the district did not rehire the employee, a coach, for refusing to follow the district's direction to refrain from kneeling and praying at the 50-yard line immediately after each football game. The district's direction was based on a concern that the employee's prayer violated the district's religious practices policy and could subject the district to an Establishment Clause violation. Notwithstanding that the prayer occurred at a school event and in the presence of students, the court reasoned that the timing and circumstances indicated that the coach's prayers were offered as a private citizen rather than as a district employee. According to the Court, since the prayer, a religious activity, occurred during a period when employees would ordinarily be free to engage in personal secular activities such as speaking with friends, checking email, calling for restaurant reservations, etc., the district's concerns about a possible Establishment Clause violation did not justify restricting the employee's free exercise and free speech rights to engage in a personal religious activity such as offering a prayer. In Morrison v. State Board of Education, the court articulated multiple factors to determine fitness to teach; see the accompanying administrative regulation for these factors.~~

Employee discipline, especially with respect to suspension and dismissal, involves complex legal considerations and districts are advised to consult ~~CSBA~~ CSBA's District and County Office of Education Legal Services or the district's district legal counsel, accordingly.

Disciplinary action shall be based on the particular facts and circumstances involved and the severity of the conduct or performance. ~~An employee's private exercise of personal beliefs and activities, including religious, political, cultural, social, or other beliefs or activities, or lack thereof,~~

shall not be grounds for disciplinary action against the employee, provided that the beliefs or activities do not involve coercion of students or any other violation of law, Board policy, or administrative regulation.

CSBA NOTE: In *Kennedy v. Bremerton School District*, the U.S. Supreme Court held that the district could not discipline an employee for non-coercive religious conduct while the employee was acting as a private citizen. For more information see the U.S. Department of Education's May 2023, "Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools." Also see BP/AR 4030 - Nondiscrimination in Employment and BP 4119.1 - Civil and Legal Rights.

In *Visalia Unified School District v. Public Employment Relations Board (PERB)*, the Fifth District Court of Appeal upheld PERB's determination that service as a union officer constitutes protected activity under the Educational Employment Relations Act for purposes of the employee's complaint of retaliation for union activities and that the district retaliated against the employee. However, the court ultimately held in favor of the district, finding that the district proved it would have terminated the employee for poor performance regardless of the protected union activity. Districts with questions about disciplining an officer of an employee organization are encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel.

The Superintendent or designee shall ensure that disciplinary actions are appropriately documented and taken in a consistent, nondiscriminatory manner. In addition, an employee shall not be suspended, disciplined, reassigned, transferred, dismissed, or otherwise retaliated against solely for engaging in protected activities, or for acting to protect a student engaged in exercising any free speech or press right authorized by, or for refusing to infringe upon a student's conduct protected pursuant to, Education Code 48907 or 48950. _

Disciplinary actions may include, but are not limited to, verbal ~~warnings~~, and written warnings, ~~reassignment~~, suspension, ~~freezing or reduction of wages~~, ~~compulsory leave~~ without pay, or dismissal.

~~The Superintendent or designee shall ensure that disciplinary actions are taken in a consistent, nondiscriminatory manner and are appropriately documented.~~

Suspension/Dismissal Procedures

CSBA NOTE: Education Code 44932 and 44933 specify the causes for which a certificated employee may be suspended without pay or dismissed; see the accompanying administrative regulation.

The Superintendent shall notify the Board whenever there is cause to suspend or dismiss an employee pursuant to Education Code 44932 or 44933.

When the Board finds that there is cause to suspend or dismiss an employee pursuant to Education Code 44932 or 44933, it may formulate a written statement of charges specifying instances of behavior and the acts or omissions constituting the charge, the statutes and rules that the employee is alleged to have violated when applicable, and the facts relevant to each charge. The Board shall also review any duly signed and verified written statement of charges filed by any other person. -(Education Code 44934, 44934.1)

CSBA NOTE: Pursuant to Education Code 44934 and 44934.1, upon the formulation or receipt of a written statement of charges, the Governing Board may notify the employee of the Board's intent to suspend or dismiss the employee.-

Based on the written statement of charges, the Board may, upon majority vote, give notice to the employee of the Board's intention to suspend or dismiss the employee at the expiration of 30 days from the date the notice is served. -(Education Code 44934, 44934.1)

CSBA NOTE: Prior to serving the notice of suspension or dismissal, Education Code 44938 requires that, when the charge involves unsatisfactory performance or unprofessional conduct, the employee must be given time to correct the performance or conduct as provided in the following two paragraphs. According to *Crowl v. Commission on Professional Competence*, when the employee fully remediates the misconduct specified in the written notice, no disciplinary action may be taken. The *Crowl* decision did not address what could be done when the misconduct specified in the notice reoccurs. Because the lack of further misconduct may not necessarily be equal to full remediation, appropriate disciplinary action should be determined on a case-by-case basis in consultation with [CSBA's District and County Office of Education Legal Services or district](#) legal counsel and the collective bargaining agreement.

Prior to serving a suspension or dismissal notice that includes a charge of unsatisfactory performance, the district shall give the employee written notice of the unsatisfactory performance that specifies the nature of the unsatisfactory performance with such specific instances of behavior and with such particularity as to furnish the employee an opportunity to correct the faults and overcome the grounds for any unsatisfactory performance charges and, if applicable, that includes the evaluation made pursuant to Education Code 44660-44665. -The written notice of the unsatisfactory performance shall be provided at least 90 days prior to the filing of the suspension or dismissal notice or prior to the last one-fourth of the school days in the year. -(Education Code 44938)

Prior to serving a suspension or dismissal notice that includes a charge of unprofessional conduct, the district shall give the employee written notice that describes the nature of the unprofessional conduct with such specific instances of behavior and with such particularity as to furnish the employee an opportunity to correct the faults and overcome the grounds for any unprofessional conduct charges and, if applicable, that includes the evaluation made pursuant to Education Code 44660-44665. The written notice of the unprofessional conduct shall be provided at least 45 days prior to the filing of the suspension or dismissal notice. -(Education Code 44938)

~~CSBA NOTE: Education Code 44936 allows a suspension or dismissal notice to be given at any time of year, except when the charge is unsatisfactory performance in which case the notice must be given during the instructional year. Education Code 44936 also requires any written notice given during the instructional year to be served personally or by mail, whereas notices outside of the instructional year must be served personally upon the employee.~~

Except for notices that only include charges of unsatisfactory performance, the written suspension or dismissal notice may be served at any time of year. Such notice shall be served upon the employee personally if given outside of the instructional year or, if given during the instructional year, may be served personally or by registered mail to the employee's last known address. Notices with a charge of unsatisfactory performance shall be given only during the instructional year of the school site where the employee is physically employed and may be served personally or by registered mail to the employee's last known address. -(Education Code 44936)

If an employee has been served notice and demands a hearing pursuant to Government Code 11505 and 11506, the Board shall either rescind its action or schedule a hearing on the matter. -(Education Code 44941, 44941.1, 44943, 44944)

CSBA NOTE: Pursuant to Education Code 44939, ~~and 44939.1, and 44940~~, the Board may immediately suspend an employee from performing assigned duties pending suspension or dismissal proceedings for specified causes. -

Pursuant to Education Code 44939, an employee who is immediately suspended for a charge other than egregious misconduct may, within 30 days of receiving the suspension notice, serve the Board and file a motion with the Office of Administrative Hearings to seek reversal of the suspension. The review will be limited to whether the facts as alleged in the statement of charges would be a sufficient basis for immediate suspension. A hearing will be held no later than 30 days after the motion is filed, and the administrative law judge will issue a decision no later than 15 days after the hearing. During the review of the motion or while dismissal charges are pending, the Board retains the authority to determine the physical placement and assignment of the employee.

Pending suspension or dismissal proceedings for an employee who is charged with egregious misconduct, immoral conduct, conviction of a felony or of any crime involving moral turpitude, incompetency due to mental disability, or willful refusal to perform regular assignments without reasonable cause as prescribed by district rules and regulations, the Board may, if it deems it necessary, immediately suspend the employee from assigned duties. If the employee files a motion with the Office of Administrative Hearings for immediate reversal of the suspension based on a cause other than egregious misconduct, the Board may file a written response before or at the time of the hearing. -(Education Code 44939, 44939.1, ~~44940~~)

CSBA NOTE: If an employee has requested a hearing upon receiving notice of suspension or dismissal, the hearing will be conducted by the Commission on Professional Competence or an administrative law judge pursuant to Education Code 44944 or 44944.1; see the accompanying administrative regulation. The hearing before the Commission on Professional Competence must begin within six months of the employee's request for the hearing, unless extended due to extraordinary circumstances. The Commission on Professional Competence consists of an administrative law judge of the Office of Administrative Hearings, a member appointed by the Board, and a member appointed by the employee. When a suspension or dismissal hearing is to be conducted by a Commission on Professional Competence, the Board shall, no later than 45 days before the date set for the hearing, select one person with a currently valid credential to serve on the Commission. The appointee shall not be an employee of the district and shall have at least three years' experience within the past 10 years at the same grade span or assignment as the employee, as defined in Education Code 44944. -(Education Code 44944)

Compulsory Leave of Absence

CSBA NOTE: Pursuant to Education Code 44940 and 44940.5, the district is required to place an employee charged with a "mandatory leave of absence offense" on a compulsory leave of absence; see the accompanying administrative regulation.

Upon being informed that a certificated employee has been charged with a mandatory leave of absence offense, the Superintendent or designee shall immediately place the employee on a compulsory leave of absence. (Education Code 44940, 44940.5)

Policy Reference UPDATE Service

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Policy Reference Disclaimer:

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State	Description
5 CCR 80303	Reports of change in employment status; alleged misconduct
5 CCR 80304	Notice of sexual misconduct
CA Constitution Article 1, Section 1	Inalienable rights
Ed. Code 44008	Effect of termination of probation
Ed. Code 44009	Conviction of specified crimes
Ed. Code 44010	Sex offense; definitions
Ed. Code 44011	Controlled substance offense
Ed. Code 44242.5	Reports and review of alleged misconduct
Ed. Code 44425	Conviction of a sex or narcotic offense
Ed. Code 44660-44665	Evaluation and assessment of performance of certificated employees
Ed. Code 44830.1	Criminal record summary; certificated employees
Ed. Code 44929.21	Notice of reelection decision; districts with 250 ADA or more
Ed. Code 44929.23	Districts with less than 250 ADA
Ed. Code 44930-44988	Resignations, dismissals, and leaves of absence
Ed. Code 45055	Drawing of warrants for teachers
Ed. Code 48907	Exercise of free expression; time, place, and manner rules and regulations
Ed. Code 48950	Speech and other communication
Ed. Code 51530	Advocacy or teaching of communism
Gov. Code 1028	Advocacy of communism
Gov. Code 11505-11506	Hearing
Gov. Code 12954	Employment discrimination; cannabis use
Gov. Code 3543.2	Scope of representation
H&S Code 11054	Schedule I; substances included
H&S Code 11055	Schedule II; substances included
H&S Code 11056	Schedule III; substances included
H&S Code 11357-11361	Marijuana
H&S Code 11363	Peyote
H&S Code 11364	Opium

H&S Code 11370.1	Possession of controlled substances with a firearm
Pen. Code 11165.2-11165.6	Child abuse or neglect; definitions
Pen. Code 1192.7	Plea bargaining limitation
Pen. Code 187	Murder
Pen. Code 291	School employees arrest for sex offense
Pen. Code 667.5	Prior prison terms; enhancement of prison terms
Federal	Description
U.S. Constitution, First Amendment	<u>Amendment 1</u> : Free exercise, free speech, and establishment clauses
Management Resources	Description
Commission on Teacher Credentialing Publication	California's Laws and Rules Pertaining to the Discipline of Professional Certificated Personnel, 2007
U.S. Department of Education Publication	Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023 (https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html)
Court Decision	Kennedy v. Bremerton (2022) 142 S.Ct. 2407
Court Decision	Visalia Unified School District v. Public Employment Relations Board (2024) 98 Cal.App.5th 844
Court Decision	Crowl v. Commission on Professional Competence, (1990) 225 Cal. App. 3d 334
Court Decision	Morrison v. State Board of Education (1969) 1 Cal.3d 214
Website	Office of the Attorney General
Website	Office of Administrative Hearings
Website	Department of General Services, About Teacher Dismissal Case Type
Website	CSBA District and County Office of Education Legal Services
Website	Commission on Teacher Credentialing
Website	CSBA
Website	U.S. Department of Education (https://www.ed.gov/)

Cross References

Code	Description
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
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
3230	Federal Grant Funds
3230	Federal Grant Funds
3512	Equipment
3512-E(1)	Equipment
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)
3516.2	Bomb Threats
4000	Concepts And Roles
4020	Drug And Alcohol-Free Workplace
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4040	Employee Use Of Technology
4040-E(1)	Employee Use Of Technology
4112	Appointment And Conditions Of Employment
4112.1	Contracts
4112.4	Health Examinations
4112.42	Drug And Alcohol Testing For School Bus Drivers
4112.42	Drug And Alcohol Testing For School Bus Drivers
4112.5	Criminal Record Check
4112.5-E(1)	Criminal Record Check
4112.6	Personnel Files
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4113.5	Working Remotely

4114	Transfers
4115	Evaluation/Supervision
4115	Evaluation/Supervision
4117.7	Employment Status Reports
4119.1	Civil And Legal Rights
4119.11	Sexual Harassment
4119.11	Sexual Harassment
4119.12	Title IX Sexual Harassment Complaint Procedures
4119.12-E(1)	Title IX Sexual Harassment Complaint Procedures
4119.21	Professional Standards
4119.21-E(1)	Professional Standards
4119.22	Dress And Grooming
4119.23	Unauthorized Release Of Confidential/Privileged Information
4119.25	Political Activities Of Employees
4119.25	Political Activities Of Employees
4127	Temporary Athletic Team Coaches
4127	Temporary Athletic Team Coaches
4131.1	Teacher Support And Guidance
4131.1	Teacher Support And Guidance
4136	Nonschool Employment
4141	Collective Bargaining Agreement
4141.6	Concerted Action/Work Stoppage
4141.6	Concerted Action/Work Stoppage
4154	Health And Welfare Benefits
4154	Health And Welfare Benefits
4157	Employee Safety
4157	Employee Safety
4158	Employee Security
4158	Employee Security
4159	Employee Assistance Programs
4161	Leaves
4161	Leaves
4212.4	Health Examinations

4212.42	Drug And Alcohol Testing For School Bus Drivers
4212.42	Drug And Alcohol Testing For School Bus Drivers
4212.5	Criminal Record Check
4212.5-E(1)	Criminal Record Check
4212.6	Personnel Files
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4213.5	Working Remotely
4219.1	Civil And Legal Rights
4219.11	Sexual Harassment
4219.11	Sexual Harassment
4219.12	Title IX Sexual Harassment Complaint Procedures
4219.12-E(1)	Title IX Sexual Harassment Complaint Procedures
4219.21	Professional Standards
4219.21-E(1)	Professional Standards
4219.22	Dress And Grooming
4219.23	Unauthorized Release Of Confidential/Privileged Information
4219.25	Political Activities Of Employees
4219.25	Political Activities Of Employees
4227	Temporary Athletic Team Coaches
4227	Temporary Athletic Team Coaches
4236	Nonschool Employment
4241	Collective Bargaining Agreement
4241.6	Concerted Action/Work Stoppage
4241.6	Concerted Action/Work Stoppage
4254	Health And Welfare Benefits
4254	Health And Welfare Benefits
4257	Employee Safety
4257	Employee Safety
4258	Employee Security
4258	Employee Security
4259	Employee Assistance Programs
4261	Leaves

4261	Leaves
4312.4	Health Examinations
4312.42	Drug And Alcohol Testing For School Bus Drivers
4312.42	Drug And Alcohol Testing For School Bus Drivers
4312.5	Criminal Record Check
4312.5-E(1)	Criminal Record Check
4312.6	Personnel Files
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4313.5	Working Remotely
4317.7	Employment Status Reports
4319.1	Civil And Legal Rights
4319.11	Sexual Harassment
4319.11	Sexual Harassment
4319.12	Title IX Sexual Harassment Complaint Procedures
4319.12-E(1)	Title IX Sexual Harassment Complaint Procedures
4319.21	Professional Standards
4319.21-E(1)	Professional Standards
4319.22	Dress And Grooming
4319.23	Unauthorized Release Of Confidential/Privileged Information
4319.25	Political Activities Of Employees
4319.25	Political Activities Of Employees
4327	Temporary Athletic Team Coaches
4327	Temporary Athletic Team Coaches
4336	Nonschool Employment
4354	Health And Welfare Benefits
4354	Health And Welfare Benefits
4357	Employee Safety
4357	Employee Safety
4358	Employee Security
4358	Employee Security
4359	Employee Assistance Programs
4361	Leaves

4361	Leaves
5144.2	Suspension And Expulsion/Due Process (Students With Disabilities)
5145.2	Freedom Of Speech/Expression
5145.2	Freedom Of Speech/Expression
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
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
6145.2	Athletic Competition
6145.2	Athletic Competition
6162.54	Test Integrity/Test Preparation
9000	Role Of The Board
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session

Regulation 4118: Dismissal/Suspension/Disciplinary Action

Status: ADOPTED

Original Adopted Date: 07/01/2000 | Last Revised Date: 09/03/01/20222024 | Last Reviewed Date: 09/03/01/20222024

CSBA NOTE: The following optional administrative regulation is subject to collective bargaining and should be revised to reflect provisions in accordance with any applicable to the size of the district as well as any related provisions of collective bargaining agreements. To the extent that this policy is inconsistent with provisions of the collective bargaining agreement, the collective bargaining agreement would prevail, so long as the provision is consistent with law.

Pursuant to Government Code 3543.2, the district and certificated employee bargaining unit must, upon request of either party, negotiate causes and procedures for disciplinary action, other than dismissal and suspension beyond 15 days. If the Governing Board has adopted a collective bargaining agreement ~~which~~that includes such procedures, then, pursuant to Education Code 44932, the authorization to suspend an employee for up to 15 days pursuant to the procedures specified in Education Code 44933, 44934, 44934.1, 44935, 44936, 44937, 44943, and 44944 would not apply. The suspension procedures specified in Education Code 44934 and 44939 are explicitly for use only by districts that do not have such a provision in their collective bargaining agreement.

Because Education Code provisions pertaining to employee suspension and dismissal are complex, districts are advised to consult with CSBA's District and County Office of Education Legal Services or district legal counsel before instituting such proceedings.

Causes for Suspension or Dismissal

CSBA NOTE: Education Code 44932 lists causes for which a certificated employee may be suspended without pay or dismissed.

The causes listed in Education Code 44932 have been found to be so broad as to be sometimes difficult to apply. However, the California Supreme Court, in *Morrison v. State Board of Education*, has articulated a ~~seven-part~~ test to determine fitness to teach, including (1) likelihood of recurrence of the questioned conduct or performance, (2) extenuating or aggravating circumstances, (3) effect of notoriety and publicity, (4) impairment of teacher-student relationships, (5) disruption of the education process, (6) motive, and (7) proximity or remoteness in time of conduct or performance. multiple factors to determine fitness to teach, which is the relevant inquiry under most of the causes for dismissal or suspension. The factors include: (1) the likelihood that the conduct may have adversely affected others and the degree of such adversity anticipated, (2) the proximity or remoteness in time of the conduct, (3) the type of certification held by the party involved, (4) the extenuating or aggravating circumstances, if any, surrounding the conduct, (5) the praiseworthiness or blameworthiness of the motives resulting in the conduct, (6) the likelihood of the recurrence of the questioned conduct, (7) the extent to which disciplinary action may inflict an adverse impact or chilling effect upon the constitutional rights of the teacher involved or other teachers, and (8) the notoriety associated with the conduct or behavior. The conduct or performance that gives rise to the need to suspend or dismiss need not occur on or involve district property. but there must be some nexus to employment.

A certificated employee with permanent status may be suspended without pay or dismissed only for one or more of the following causes: (Education Code 44932)

CSBA NOTE: Pursuant to Government Code 12954, the district may not discriminate against a person in termination or any term or condition of employment, based on the person's use of cannabis when off the job or away from the workplace, and consequently, districts may be prohibited from disciplining employees in certain circumstances. However, certain employees may be subject to stricter laws related to drug testing. Districts with questions about drug testing employees should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

1. Immoral conduct including, but not limited to, egregious misconduct that is the basis for a sex offense or controlled substance offense described in Education Code 44010 or 44011 or child abuse and neglect as described in Penal Code 11165.2-11165.6
2. Unprofessional conduct
3. Commission, aiding, or advocating the commission of acts of criminal syndicalism
4. Dishonesty
5. Unsatisfactory performance
6. Evident unfitness for service
7. Physical or mental condition unfitting the employee to instruct or associate with children
8. Persistent violation of or refusal to obey the school laws or reasonable regulations of the state or district
9. Conviction of a felony or of any crime involving moral turpitude
10. Violation of Education Code 51530 or Government Code 1028 prohibiting the advocacy or teaching of communism
11. Alcoholism or other drug abuse that makes the employee unfit to instruct or associate with children

An employee may be suspended or dismissed on grounds of unprofessional conduct consisting of acts or omissions not listed above if the charge specifies instances of behavior deemed to constitute unprofessional conduct. (Education Code 44933)

Suspension/Dismissal of Permanent Employees

CSBA NOTE: Procedures for the suspension or dismissal of permanent employees are addressed in Education Code 44932-44947.

See the accompanying Board policy for information about Board responsibilities related to reviewing the statement of charges, providing notice to the employee of the Board's intent to suspend or dismiss the employee, and, when applicable, appointing a member of the Commission on Professional Competence that will conduct a hearing on the matter.

When a permanent certificated employee is charged with one or more of the offenses specified in the section "Causes for Suspension or Dismissal" above, the following procedures shall apply:

1. The person preparing a written statement of charges that there is cause to suspend or dismiss an employee shall submit the signed statement to the Governing Board, or a written statement of charges shall be formulated by the Board that cause to suspend or dismiss the permanent employee exists. (Education Code 44934, 44934.1)
2. The employee, upon receiving notice of the Board's intent to suspend or dismiss, may request a hearing on the matter. The hearing shall be conducted by the Commission on Professional Competence, except that any case involving only egregious misconduct shall be heard instead by an administrative law judge and, in any other case, the hearing may be conducted by an administrative law judge when both the district and the employee so stipulate. (Education Code 44943, 44944, 44944.05, 44944.1, 44944.3)
3. Except when the employee is charged solely with egregious misconduct, the district may amend the charges less than 90 days before the hearing only upon showing of good cause and upon approval of the administrative law judge. (Education Code 44934)
4. The employee shall be suspended or dismissed when the Commission on Professional Competence or administrative law judge has issued its decision ~~supporting~~ **upholding** suspension or dismissal or, if the employee did not request a hearing, at the expiration of 30 days after service of the notice of intent to suspend or dismiss. (Education Code 44941, 44943, 44944)

The Superintendent or designee shall notify the Commission on Teacher Credentialing when the employment status of a certificated employee has been changed as a result of alleged misconduct or while an allegation of misconduct is pending. (Education Code 44030.5, 44242.5, 44940; 5 CCR 80303)

Suspension/Dismissal of Probationary Employees

CSBA NOTE: With proper notice, the district may choose not to rehire probationary employees for the following year without giving a statement of reasons; see BP 4116 - Probationary/Permanent Status. However, during the school year, probationary employees may only be suspended without pay or dismissed for cause and in accordance with the applicable procedures specified in law.

The district may choose not to rehire probationary employees for the following school year without giving a statement of reasons; if proper notice is provided by March 15 of the employee's second, complete, consecutive year of employment. (Education Code 44929.21, 44929.23)

CSBA NOTE: Districts with average daily attendance (ADA) of 250 or more may dismiss probationary employees during the school year in accordance with the procedures contained in Education Code 44948.3, in which case the decision whether to dismiss an employee rests with the Board rather than the Commission on Professional Competence (Option 1 below).

Districts with less than 250 ADA should select the appropriate option below depending on how the district grants permanent status to certificated employees in accordance with BP/AR 4116 - ~~Permanent/-~~ Probationary/**Permanent** Status. Districts with less than 250 ADA that have not adopted a collective bargaining agreement may elect to use the procedures in Education Code 44934 and 44934.1 for dismissal of probationary employees (Option 2 below), as reflected in the section "Suspension/Dismissal of Permanent Employees" above. Alternatively, Education Code 44948.2 authorizes districts with less than 250 ADA to elect to dismiss probationary employees during the school year pursuant to Education Code 44948.3 (Option 1 below). When districts with less than 250 ADA decide to use the procedures in Education Code 44948.3, their employees will become permanent employees if they are not served with a notice of non-reelection before March 15 of their second year. Since Education Code 44948.3 applies only to dismissal of probationary

employees in districts with 250 ADA or more or to districts of less than 250 ADA that elect to use Education Code 44948.3, it is not appropriate for use by districts that either grant permanent status after three consecutive years or that reelect employees from year to year without granting permanent status.

OPTION 1: (Districts with ADA of 250 or more, or districts with less than 250 ADA that have elected to use the dismissal procedures in Education Code 44948.3)

During the school year, a probationary employee who is in the first or second year of service may be dismissed only for one or more of the causes listed in Items #1-11 in the section "Causes for Suspension or Dismissal" above or for unsatisfactory performance determined pursuant to Education Code 44660-44665. (Education Code 44948.2, 44948.3)

Whenever a first- or second-year probationary employee is so charged, the following procedures shall apply for dismissing the employee during the school year: (Education Code 44948.3)

1. The Superintendent or designee shall give 30 days' prior written notice of dismissal, not later than March 15 in the case of second-year probationary employees. The notice shall include a statement of the reasons for the dismissal, notice of the opportunity to appeal, and, if the cause is unsatisfactory performance, a copy of the evaluation conducted pursuant to Education Code 44664.

CSBA NOTE: Pursuant to Education Code 44948.3, the probationary employee may request a hearing as provided below. The employee's failure to request a hearing within 15 days from receipt of the dismissal notice constitutes a waiver of the right to a hearing.

2. Upon receipt of the notice of dismissal, the employee may be dismissed if no request for a hearing is submitted to the Board within 15 days.

CSBA NOTE: Education Code 44948.3 authorizes the district to establish procedures for the appointment of an administrative law judge to conduct the hearing and submit a recommended decision to the Board. Item #3 may be revised to reflect any such procedures established by the district.

3. If a hearing is requested, the district may arrange for the appointment of an administrative law judge to conduct the hearing and to recommend a decision to the Board.

A probationary employee may be suspended without pay for a specified period of time as an alternative to dismissal. (Education Code 44948.3)

OPTION 1 ENDS HERE

OPTION 2: (Districts with less than 250 ADA that do not grant permanent status after two years and do not elect to use the procedures in Education Code 44948.3)

During the school year, probationary employees may be dismissed only for one or more of the causes listed in Items #1-11 in the section "Causes for Suspension or Dismissal" above. (Education Code 44948)

Whenever a probationary employee is so charged, dismissal procedures shall be those set forth in Education Code 44934 and 44934.1 as described in the section "Suspension/Dismissal of Permanent Employees" above.

Compulsory Leave of Absence

CSBA NOTE: Whenever a certificated employee is charged with a "mandatory leave of absence offense" as defined in Education Code 44940, the district is required to place the employee on a compulsory leave of absence. Penal Code 291 requires law enforcement, including the local police, sheriff, or California Highway Patrol, to telephone the Superintendent when a school employee has been arrested for a sex offense and provide written notice to the County Superintendent of Schools and the Commission on Teacher Credentialing (CTC).

Pursuant to Education Code 44009 and 44425, CTC will revoke the credential of an individual who has been convicted of a mandatory leave of absence offense.

Upon being informed by law enforcement that a certificated employee has been charged with a "mandatory leave of absence offense," the Superintendent or designee shall immediately place the employee on a leave of absence. A mandatory leave of absence offense includes: (Education Code 44830.1, 44940)

1. Any sex offense as defined in Education Code 44010
2. Violation or attempted violation of Penal Code 187, prohibiting murder or attempted murder
3. Any offense involving the unlawful sale, use, or exchange to minors of controlled substances as listed in Health and Safety Code 11054, 11055, and 11056

CSBA NOTE: Education Code 44940 permits the Board to ~~require compulsory~~ place certificated employees on leave for certain "optional leave of absence offenses" as defined below.

The following optional paragraph should be revised to reflect offenses which the Board has determined will require a compulsory leave of absence.

The Superintendent or designee may place on an immediate compulsory leave of absence a certificated employee who is charged with an "optional leave of absence offense," defined as a controlled substance offense specified in Education Code 44011 and Health and Safety Code 11357-11361, 11363, 11364, and 11370.1, except as it relates to marijuana, mescaline, peyote, or ~~tetrahydrocannabinols~~. tetrahydrocannabinol. (Education Code 44940)

If an employee is charged with an offense that falls into both the mandatory and optional leave of absence definitions, the offense shall be treated as a mandatory leave of absence offense. (Education Code 44940)

An employee's compulsory leave for a mandatory or optional leave of absence offense may extend for not more than 10 days after the entry of judgment in the criminal proceedings. However, the compulsory leave may be extended if the Board gives notice, within 10 days after the entry of judgment in the proceedings, that the employee will be dismissed within 30 days from the date of service of the notice unless a hearing is demanded. (Education Code 44940, 44940.5)

CSBA NOTE: Pursuant to Education Code 44940.5, while on compulsory leave, the employee's salary may be paid if the employee provides a suitable bond or other acceptable security as a guarantee that the leave-period salary will be repaid if the employee is convicted of the charges or fails to return to district service. If the employee is acquitted or the charges are dismissed, the district must reimburse the employee for the cost of the bond upon return to service in the district. If an employee who does not furnish a bond or other security is acquitted or the charges

are dismissed, the district must pay the employee's salary for the time spent on leave upon return to service.

Education Code 44940.5 specifies that, if the charges against an employee are dismissed as a result of the employee's successful completion of a drug diversion program and the employee returns to service, the employee may elect to receive payment for any accrued leave and differential pay for the length of the employee's leave of absence.

During the period of compulsory leave, the employee shall be compensated in accordance with Education Code 44940.5.

Upon receipt of telephone or electronic notification from the Department of Justice that a current temporary, substitute, or probationary employee serving before March 15 of the second probationary year has been convicted of a violent or serious felony, the Superintendent or designee shall immediately place the employee on leave without pay. Upon receipt of electronic notification of the conviction from the Department of Justice, such employee shall be automatically terminated and without regard to any other termination procedure. (Education Code 44830.1)

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Ed. Code 44010	Sex offense; definitions
Ed. Code 44011	Controlled substance offense
Ed. Code 44242.5	Reports and review of alleged misconduct
Ed. Code 44425	Conviction of a sex or narcotic offense
Ed. Code 44660-44665	Evaluation and assessment of performance of certificated employees
Ed. Code 44830.1	Criminal record summary; certificated employees
Ed. Code 44929.21	Notice of reelection decision; districts with 250 ADA or more
Ed. Code 44929.23	Districts with less than 250 ADA
Ed. Code 44930-44988	Resignations, dismissals, and leaves of absence
Ed. Code 45055	Drawing of warrants for teachers
Ed. Code 48907	Exercise of free expression; time, place, and manner rules and regulations

Ed. Code 48950	Speech and other communication
Ed. Code 51530	Advocacy or teaching of communism
Gov. Code 1028	Advocacy of communism
Gov. Code 11505-11506	Hearing
Gov. Code 12954	Employment discrimination; cannabis use
Gov. Code 3543.2	Scope of representation
H&S Code 11054	Schedule I; substances included
H&S Code 11055	Schedule II; substances included
H&S Code 11056	Schedule III; substances included
H&S Code 11357-11361	Marijuana
H&S Code 11363	Peyote
H&S Code 11364	Opium
H&S Code 11370.1	Possession of controlled substances with a firearm
Pen. Code 11165.2-11165.6	Child abuse or neglect; definitions
Pen. Code 1192.7	Plea bargaining limitation
Pen. Code 187	Murder
Pen. Code 291	School employees arrest for sex offense
Pen. Code 667.5	Prior prison terms; enhancement of prison terms
Federal	Description
U.S. Constitution, First Amendment	Amendment 1 ; Free exercise, free speech, and establishment clauses
Management Resources	Description
Commission on Teacher Credentialing Publication	California's Laws and Rules Pertaining to the Discipline of Professional Certificated Personnel, 2007
U.S. Department of Education Publication	Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023 (https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html)
Court Decision	Kennedy v. Bremerton (2022) 142 S.Ct. 2407
Court Decision	Visalia Unified School District v. Public Employment Relations Board (2024) 98 Cal.App.5th 844
Court Decision	Crowl v. Commission on Professional Competence, (1990) 225 Cal. App. 3d 334
Court Decision	Morrison v. State Board of Education (1969) 1 Cal.3d 214
Website	Office of the Attorney General

Website	Office of Administrative Hearings
Website	Department of General Services, About Teacher Dismissal Case Type
Website	CSBA District and County Office of Education Legal Services
Website	Commission on Teacher Credentialing
Website	CSBA
Website	U.S. Department of Education (https://www.ed.gov/)

Cross References

Code	Description
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CSBA Sample District Policy Manual
CSBA Sample Manual Site

Policy 4140: Bargaining Units**Status:** ADOPTED

Original Adopted Date: 11/01/2011 | **Last Revised Date:** 06/03/01/2023~~2023~~2024 | **Last Reviewed Date:** 06/03/01/2023~~2023~~2024

CSBA NOTE: Pursuant to Government Code 3544, an employee organization may become the employees' employees' exclusive representative for negotiations by filing a request with the district providing proof that a majority of the specified employees in an appropriate unit wish to be represented by that organization. Notice of such request must be immediately posted conspicuously on all employee bulletin boards in each district facility in which ~~members of the unit~~ employees to be represented by that organization are employed. Government Code 3544.1 requires the district to grant the request for recognition unless (1) the district doubts the appropriateness of the ~~unit~~ organization, (2) another employee organization files a challenge to the appropriateness of the ~~unit~~ organization or submits a competing claim of representation within 15 work days of the posting of notice of the written request, or (3) the district currently has a lawful written agreement with another employee organization representing the same employees.

"Exclusive representative," as defined in Government Code 3540.1, While the terms "employee organization," "exclusive representative," "recognized employee organization," and "bargaining unit" are similar, the differences are important for purposes of understanding the rights and obligations of each one. As defined by Government 3540.1, "employee organization" means an organization that includes district employees that represents those employees in their relations with the district as one of its primary purposes; "exclusive representative" means an employee organization recognized or certified as the exclusive negotiating representative for all district employees other than management and confidential employees; and "recognized employee organization" means an employee organization that has been recognized by a district as the exclusive representative. "Bargaining unit" is not defined in statute but is used in this policy to referred to the entity with which the district is required to bargain regarding compensation and working conditions for a represented group of district employees.

Government Code 3543 provides that public school employees have the right to represent themselves individually in their employment relations with the district except that, once an exclusive representative has been recognized, an employee in that bargaining unit is prohibited from meeting and negotiating with the district.

The Governing Board recognizes the right of district employees to form a bargaining unit and to select an employee organization as the exclusive representative ~~to represent~~ for the employees in the employees' employment relationship with the district. The Board is committed to negotiating in good faith with ~~recognized employee organizations~~ the exclusive representative and respecting the rights of employees and employee organizations.

The district shall not dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it. (Government Code 3543.5)

CSBA NOTE: ~~In East Whittier School District, the~~ The Public Employment Relations Board (PERB) uses a case-by-case approach to determine whether a district's policy restricting the wearing of

union buttons, insignia, or other pictorial or written messages by employees is justified by special circumstances. In East Whittier School District, PERB found that the district's policy limiting the wearing of union buttons that favor or oppose any matter that is the subject of negotiations in the classroom or in other instructional areas in the presence of students violated the Educational Employment Relations Act (EERA), as there was no finding of special circumstances which would limit the established right of employees to wear union buttons in the workplace, nor was there a finding that wearing the union buttons was a political activity. ~~PERB continues to use a case-by-case approach to determine whether a district's policy restricting the wearing of union buttons by employees is justified by special circumstances, as seen in PERB's ruling in City of Sacramento with regard to union insignia on employees' hardhats.~~ Due to the legal uncertainty in this area, districts are encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to limiting the wearing of union buttons ~~that support the union's position in collective bargaining.~~ insignia, or other pictorial or written messages.

Employees shall not be prohibited from wearing union buttons, insignia, or other ~~items~~ pictorial or written messages that favor or oppose the formation of a bargaining unit or any matter that is the subject of negotiations.

Formation of Bargaining Units

CSBA NOTE: The following section contains legal requirements for the certification or recognition of bargaining units for different categories of employees.

Certificated and classified employees shall not be included in the same bargaining unit. (Government Code 3545)

A bargaining unit of certificated or classified supervisory employees may only be recognized if the bargaining unit includes all certificated or classified supervisory employees, respectively, and is not represented by ~~an~~ the same employee organization that represents district employees who are supervised by the supervisory employees. (Government Code 3545)

For this purpose, supervisory employee means any employee, regardless of job description, having authority, in the interest of the district, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to assign work to, direct, or adjust grievance of other employees, or effectively recommend that action, when the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment. (Government Code 3540.1)

CSBA NOTE: Pursuant to Government Code 3543.4, management (including senior management) and confidential employees, as defined in Government Code 3540.1, are excluded from the right to be represented in negotiations by an ~~employee organization.~~ exclusive representative. Certain management positions designated by the Board under state law such as Education Code 45100.5 may be subject to review by PERB ultimately determines, based upon the duties of the position. For questions regarding which positions qualify as "management" or "confidential," districts are encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel.

Employees serving in management, senior management, or confidential positions shall not be represented by an exclusive representative. In the employment relationship with the district, ~~such employees~~ employees who serve in a management, senior management, or confidential position may represent themselves or be represented by an employee organization whose membership is

composed entirely of employees designated as holding those positions. ~~An~~ However, an employee organization representing management, senior management, or confidential employees shall not be permitted to meet and negotiate with the district on behalf of the employees. (Education Code 45100.5, Government Code 3543.4)

Management employee means an employee in a position having significant responsibilities for formulating district policies or administering district programs. ~~Management positions shall be designated by the Board which may be subject to review by the Public Employment Relations Board.~~ (Government Code 3540.1)

Confidential employee means any employee who is required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information that is used to contribute significantly to the development of management positions. (Government Code 3540.1)

Membership

CSBA NOTE: Government Code 3550 prohibits districts from deterring or discouraging district employees or job applicants from becoming or remaining members of an employee organization, authorizing representation by an employee organization, or authorizing dues or fee deductions to an employee organization. Pursuant to Government Code 3551.5, as added by SB 931 (Ch. 823, Statutes of 2022), any district found by PERB to be in violation of this prohibition may be subject to civil penalties of \$1,000 for each affected employee, up to a maximum of \$100,000 in total, and may be ordered to pay attorney's fees and costs to the employee organization.

The district shall not deter or discourage employees or job applicants from becoming or remaining members of an employee organization, authorizing representation by an employee organization, or authorizing dues or fee deductions to an employee organization. In addition, the district shall not impose or threaten to impose reprisals on employees, discriminate or threaten to discriminate against employees, or otherwise interfere with, restrain, or coerce employees because of their membership or nonmembership in an employee organization. (Government Code 3543.5, 3550, 3551.5)

District Communications to Employees

CSBA NOTE: ~~The remainder of this~~ This section is optional and may be revised to reflect district practice. Government Code 3553 establishes requirements for districts that choose to disseminate a mass communication regarding employees' rights to join, support, or refrain from joining or supporting an employee organization. A "mass communication" means any written document, including a script for an oral or recorded presentation or message, intended for multiple employees.

Districts should exercise caution and consult with CSBA's District and County Office of Education Legal Services or district legal counsel before communicating with employees about their rights to join or not join an employee organization to avoid violating the law against unfair labor practices. When an employee approaches the district with questions specifically about the benefits of the membership in an employee organization, the employee should be referred to the employee organization.

The Superintendent or designee may communicate with district employees regarding their rights to

join and/or support an officially recognized employee organization or to refrain from joining or supporting an officially recognized employee organization. Such communications shall be factual and accurate, and may not promise a benefit, threaten a reprisal, or in any way deter or discourage employees from joining an employee organization or paying dues.

However, before disseminating

The district may disseminate written documents, recorded messages, or other mass communications to multiple actual or perspective employees any mass communication represented by an exclusive representative concerning employees' their rights under the law, such as a written document or script for oral or recorded presentation to join and/or message, support, or refrain from joining and/or supporting, an employee organization only after the Superintendent or designee shall meet meets and confer confers with the employees' exclusive representative regarding concerning the content of the mass communication. If the district and exclusive representative do not come to agreement on the content of the mass communication and the district still chooses to disseminate it, the Superintendent or designee may disseminate the district's mass communication, provided shall request that at the same time, copies of the exclusive representative's representative provide a communication, which shall be of reasonable length, are also distributed. to the district that shall be disseminated to the employees at the same time as the district's own mass communication. (Government Code ~~3553~~3556)

Access to New Employee Orientations

The district shall permit employee organizations each exclusive representative access to new employee orientation or onboarding process where newly hired employees represented by the exclusive representative are advised, whether in person, online, or through other means or mediums, of their employment status, rights, benefits, duties, responsibilities, or any other employment-related matters. The district shall provide employee organizations the exclusive representative at least 10 days' notice in advance of an orientation, except that a shorter notice may be provided if where there is an unforeseeable, urgent need critical to the district's operation prevents the required 10 days' notice. district's operations that was not reasonably foreseeable. (Government Code 3555.5, 3556)

Following a request to negotiate by either party, the structure, time, and manner of access to new employee orientations shall be determined by mutual agreement of the district and the exclusive representative. If the district and exclusive representative fail to reach an agreement, matters related to the structure, time, and manner of access to the new employee orientation shall be subject to compulsory interest arbitration. The district and employee organization the exclusive representative may mutually agree to submit any dispute to compulsory interest arbitration at any time. In addition, if any dispute arises during negotiations and is not resolved within 45 days after the first meeting or within 60 days after the initial request to negotiate, whichever is earlier, either party may make a demand for compulsory interest arbitration. The arbitrator selection process shall commence within 14 days of a party's demand for compulsory interest arbitration. When any such dispute arises during the summer when the district's administrative office is closed, the timeline shall commence on the first day the administrative office reopens. The arbitrator's decision of the arbitrator shall be issued within 10 days and shall be final and binding on the parties. (Government Code 3556, 3557)

The date, time, and place of a new employee orientation shall not be disclosed to anyone other than employees, the exclusive representative, or a vendor that is contracted to provide a service for purposes of the orientation. (Government Code 3556)

CSBA NOTE: The following paragraph applies until June 30, 2025; unless the date is extended by law. Government Code 3556, as amended by SB 191 (Ch. 67, Statutes of 2022), provides additional obligations for public employers under the conditions specified in the following paragraph.

Until June 30, 2025, in addition to above provisions regarding new employee orientations, unless the district shall ensure and the following: (Government Code 3556)

1. ~~When an inperson new employee orientation~~ exclusive representative have agreed otherwise, when the district has not been conducted an in-person orientation within 30 days of hiring ~~any~~ a new employee ~~who is working in person~~, the Superintendent or designee shall permit the exclusive representative to schedule an ~~inperson~~ in-person meeting which ~~newly hired employees shall have an opportunity to attend, at the employee's worksite and during employment hours. Each newly hired employee within the bargaining unit shall be provided at least 30 minutes of paid time to attend the meeting~~ at the new employee's worksite, during which the exclusive representative shall be permitted to communicate directly with the newly hired employees.

~~Within seven days of an exclusive representative's request to schedule such an inperson meeting, the Superintendent or designee~~ new employee shall have the opportunity to attend and shall be relieved of other duties for the purpose of attending the meeting. The district shall provide an appropriate on-site meeting space.

2. ~~When, by reason of a state or local public health order limiting the size of gatherings, at the district is prohibited~~ worksite within seven calendar days of receiving a request from organizing a new employee orientation, ~~an~~ the exclusive representative may schedule multiple meetings to ensure that newly hired employees have an opportunity to attend without exceeding the maximum allowable number of people. If such an order prohibits all gatherings, the exclusive representative may schedule a meeting(s) once the order is lifted or modified to permit gatherings.

Alternative access to these meetings shall be determined through mutual agreement between the district and the exclusive representative. (Government Code 3556, 3557)

CSBA NOTE: Pursuant to Government Code 3556, the district must provide at least 30 minutes of paid time for new employees to attend the meeting. However, nothing prohibits the district and the exclusive representative from providing more than 30 minutes of paid time.

During this meeting, the exclusive representative shall be permitted to communicate directly with the new employees for up to 30 minutes of paid time. (Government Code 3556)

Access to Employee Contact Information

CSBA NOTE: Pursuant to Government Code 3558, and 7928.300, which implemented the decision by the California Supreme Court in County of Los Angeles v. Los Angeles County Employee Relations Commission, districts are required to provide recognized employee organizations each exclusive representative with specified contact information for new employees in the bargaining unit, as provided below. The information required by Government Code 3558 must be provided in a manner consistent with Government Code 7928.300, which authorizes disclosure of an employee's the

home address, home telephone number(s), and personal cell phone number to ~~an~~ of every employee organization represented by the exclusive representative unless the district receives a written request by the employee to not disclose the information. Pursuant to Government Code 7928.300, the personal email address of an employee is not disclosable unless used by the employee to conduct public business. The following paragraph should be revised if districts have an agreement with their employee organization(s) requiring more frequent or more detailed contact lists.

In *County of Los Angeles v. Los Angeles County Employee Relations Commission*, the California Supreme Court held that (1) an employer has a duty to provide information relevant to collective bargaining to the applicable bargaining unit and failure to do so is a violation of the employer's obligation to bargain in good faith; (2) the disclosure of an employee's home address and phone number(s) by an employer to the union is presumptively relevant to the union's role as bargaining agent and does not violate the employee's constitutional right of privacy; and (3) other avenues for implementing privacy safeguards are available, such as bargaining for a notice and opt-out procedure or drafting employment contracts that will notify employees that their home contact information is subject to disclosure to the union and that they may request nondisclosure.

The Superintendent or designee shall provide an exclusive representative with the name, job title, department, work location, telephone numbers (work, home, and personal cell phone), ~~personal email address(es)~~ of all employees represented by the exclusive representative on file with the district; and home address of any newly hired. An employee's personal email address shall only be disclosed if it used by the employee within 30 days of hire or by the first pay period of the month following hire to conduct district business.

CSBA NOTE: Pursuant to Government Code 3558, specified contact information is required to be provided for all employees every 120 days and within 30 days of the date of hire or by the first pay period of the month following the date of hire for new employees. The following paragraph should be revised if districts have an agreement with an exclusive representative requiring more frequent disclosure.

Such information shall be provided within 30 days of hire or by the first pay period of the month following hire for all new employees represented by the exclusive representative, unless the exclusive representative has agreed to a different interval for the provision of the information. ~~In addition~~ Additionally, the Superintendent or designee shall provide the exclusive representative with the same information in regard to for all employees in the bargaining unit at least represented by the exclusive representative every 120 days, unless more frequent or detailed lists are disclosure is required by agreement with the exclusive representative. (Government Code 3558, 7928.300)

However, the Superintendent or designee shall not disclose: (Government Code 3558, ~~6207~~ 6205-6210, 6215; ~~6215.2~~ 6216, 7928.300)

1. The home address and any phone numbers on file for employees performing law enforcement-related functions

CSBA NOTE: The Safe at Home address confidentiality program has been in existence pursuant to Government Code ~~6207~~ 6205-6210 and 6215-6216 to protect victims of domestic violence, sexual assault, and stalking. This type of protection has been extended, pursuant to Government Code 6215, human trafficking, and ~~6215.2~~ elder or dependent adult abuse, and members of their households, as amended by SB 1131 (Ch. 554, Statutes of 2022); ~~to~~ well as district employees who face threats of violence, or violence or

harassment from the public because of the employee's work for the district. This type of protection has been extended, pursuant to Government Code 6205-6210, as amended by AB 243 (Ch. 642, Statutes of 2023), to victims of child abduction and members of their households.

2. The home address, home telephone or personal cell phone number(s), or personal email address(es) of any employee who is a participant in the Safe at Home address confidentiality program pursuant to Government Code ~~6207~~6205-6210 and 6215-16
3. The employee's home address, home telephone and personal cell phone numbers, and personal email address of an employee not performing law enforcement related functions if the employee has submitted a written request to the district to keep such information private. In such instances, the Superintendent or designee shall also remove the employee's home address, ~~and~~ home telephone number, and personal cell phone ~~numbers~~number from any mailing list maintained by the district unless the list is only used by the district to contact the employee.

CSBA NOTE: Pursuant to Government Code 3558, an employee organization is authorized, after notifying the district of a violation of the district's employee information disclosure obligations, to file a special unfair labor practice charge with PERB. If the alleged violation involves the provision of an inaccurate or incomplete list of employees, Government Code 3558 allows the district 20 calendar days to cure the alleged violation and to give the exclusive representative written notice of the actions taken. The opportunity to cure is limited to not more than three times in any 12-month period. If a violation is found, PERB is required to assess against the district a civil penalty of at most \$10,000 and payment of the exclusive representative's attorney's fees and costs in addition to any other remedy provided by law.

Within 20 calendar days after an exclusive representative notifies the Superintendent or designee that a list of employees provided by the district is inaccurate or incomplete, the Superintendent or designee shall take steps to correct the list and provide a new list of employees to the exclusive representative. (Government Code 3558)

CSBA NOTE: Government Code 3558 limits to three times within any 12-month period a district's opportunity to cure when an inaccurate or incomplete list has been provided to an exclusive representative. The following paragraph offers a way to avoid or minimize possible ~~violation~~violations and may be revised to reflect district practice.

To ~~provide accurate information,~~ The Superintendent or designee shall review the list of contact information for district employees at the beginning of each school year, or more often as appropriate.

Communications with Employees by Employee Organizations

CSBA NOTE: Pursuant to Government Code 3543.1, districts are required, subject to "reasonable regulation" set forth by the district and at "reasonable times," to provide an employee organization with access to the work areas of employees represented by the employee organization and district facilities for the purpose of meetings with employees represented by the employee organization. Similarly, Government Code 3543.1 requires the district, subject to "reasonable regulation" by the district, to provide an employee organization with the use of institutional bulletin boards, mailboxes, and other means of communication to communicate with employees represented by the employee organization. In Desert Community College District, PERB held that the district must show that a

regulation is "reasonable" if it is (1) necessary to the efficient operation of the district's business and/or safety of its employees and others and (2) narrowly drawn to avoid overboard, unnecessary interference with the exercise of statutory rights. Such regulation is also subject to bargaining with the exclusive representative, if applicable. Districts are encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to adopting or implementing such regulations.

Subject to reasonable regulation by the district, employee organizations may shall have access at reasonable times to areas in which employees work and may use district facilities, at reasonable times for the purpose of meetings. Subject to reasonable regulation, to the work areas of employees represented by the employee organization and to district facilities for the purpose of meeting with employees represented by the employee organization. Access may be limited in instances where it would be disruptive to district operations. (Government Code 3543.1)

Additionally, subject to reasonable regulation by the district, employee organizations may also shall have the ability to use institutional bulletin boards, mailboxes, and other means of communication to communicate with employees. represented by the employee organization. (Government Code 3543.1)

Access to district means of communication shall be limited in cases where such access would be disruptive to district operations.

Membership Dues or Other Payments to an Employee Organization

CSBA NOTE: Bargaining unit employees Employees who choose to join the become members of an employee organization pay membership dues, which are required to be deducted from the employee's salary or wage payment as provided below. Pursuant to the U.S. Supreme Court's decision in *Janus v. American Federation of State, County, and Municipal Employees*, bargaining unit employees who choose not to join become members of an employee organization cannot be required to pay any fees to the employee organization. However, pursuant to Education Code 45060 and 45168, an employee who chooses not to join an employee organization may be charged fees for applicable services, programs, or committees provided to the employee by the employee organization if that nonmember employee first affirmatively and voluntarily consents to pay those fees to the employee organization, as required by *Janus v. AFSCME*.

Education Code 45060 and 45168 set forth the process for handling authorizations, changes, and cancellations for dues or other payments, and provide safeguards for districts that rely on information provided by an employee organization concerning such payroll deductions (i.e., the employee organization's indemnification of the district against any employee's claim based on such reliance).

When drawing an order for the salary or wage payment of a bargaining unit employee of an employee organization, the district shall deduct any amount which that has been requested by the employee in a revocable written authorization for the purpose of paying dues or other payments for any service, program, or committee provided or sponsored by the employee organization. (Education Code 45060, 45168)

An When an employee organization that certifies has certified to the district that it has and will maintain individual employee authorizations shall handle and process employee written authorizations for payroll deductions. ~~When an employee organization provides such a certification~~

to the district, the district shall rely on information from the employee organization regarding the amounts of such payroll deductions and from which the employees. The to whom they apply and shall not handle or process employee written authorizations for the employees represented by such employee organization shall not be required to submit to the . The district also shall not require a copy of the written authorization in order for the payroll deductions to be effective. However, to be submitted by the employee organization, except when there is a dispute about the existence or terms of the written authorization; a copy of the employee's written authorization shall be submitted to the district. The employee organization shall indemnify the district for any employee claims regarding payroll deductions made by the district in reliance on notification from the employee organization. (Education Code 45060, 45168)

When an employee organization which has declined to certify that it will handle and process employee written authorizations makes a request for payroll deductions, the district shall request a copy of the employee's written authorization before making the payroll deductions. (Education Code 45060, 45168)

A written authorization shall remain in effect until expressly revoked in writing by the employee and pursuant to the terms of the written authorization. Employee requests to cancel or change authorizations for payroll deductions for employee organizations shall be directed to the employee organization that represents the employee rather than the district. The employee organization shall be responsible for processing these requests. The district shall rely on the information provided by the employee organization regarding whether deductions for an employee organization were properly canceled or changed. The employee organization shall be required to indemnify the district for any claims made by an employee for deductions made by the district in reliance on information from the employee organization. (Education Code 45060, 45168) (Education Code 45060, 45168)

When an employee organization has declined to certify that it will handle and process written authorizations from employee(s) represented by the employee organization and makes a request for payroll deductions, the district shall request a copy of the written authorization for an employee before making the payroll deductions for that employee. (Education Code 45060, 45168)

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State	Description
8 CCR 33015-33490	Recognition of exclusive representative; proceedings
8 CCR 33700-33710	Severance of established unit
Ed. Code 45060-45061.5	Deduction of fees from salary or wage payment; certificated employees
Ed. Code 45100.5	Senior classified management positions
Ed. Code 45104.5	Abolishment of senior classified management positions

Ed. Code 45108.5	Definition of senior classified management employees
Ed. Code 45108.7	Waiver of provisions of Education Code 45108.5
Ed. Code 45168	Deduction of fees from salary or wage payment; classified employees
Ed. Code 45220-45320	Merit system; classified employees
Gov. Code 3500-3511	Local public employee organizations
Gov. Code 3507.7	Representation of temporary employees
Gov. Code 3540-3549.3	Educational Employment Relations Act
Gov. Code 3540.1	Public employment; definitions
Gov. Code 3543.4	Management and confidential positions; representation
Gov. Code 3545	Appropriateness of unit; basis
Gov. Code 3550-3552	Prohibition on public employers deterring or discouraging union membership
Gov. Code 3555-3559	Public employee communication, information, and orientation
Gov. Code 53260-53264	Employment contracts
Gov. Code 6205-6210	Confidentiality of addresses for victims of domestic violence, sexual assault, or stalking, or child abduction
Gov. Code 6215-6216	Address confidentiality for individuals who face threats or violence because of work for a public entity
Gov. Code 6503.5	Joint powers agencies; agreement
Gov. Code 7928.300	Disclosure of employee contact information to employee organization
Management Resources	Description
Court Decision	County of Los Angeles v. Los Angeles County Employee Relations Commission (2013) 56 Cal. 4th 905
Court Decision	Friedrichs v. California Teachers Association, et al. (2016) 136 S.Ct. 1083
Court Decision	Janus v. American Federation of State, County and Municipal Employees, Council 31 (2018) 138 S.Ct. 2448
Public Employment Relations Board Ruling	East Whittier School District (2004) PERB Dec. No. 1727
Public Employment Relations Board Ruling	City of Sacramento (2019) PERB Dec. No. 2702m 2702
Public Employment Relations Board Ruling	Desert Community College District (2007) PERB Dec. No. 1921

[Public Employment Relations Board Ruling](#)[Regents of the University of California \(2004\) PERB Dec. No. 1700-H.](#)

Website	CSBA District and County Office of Education Legal Services
Website	California Federation of Teachers
Website	California Public Employment Relations Board
Website	California School Employees Association
Website	California Teachers Association
Website	Association of California School Administrators
Website	CSBA

Cross References

Code	Description
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
1340	Access To District Records
1340	Access To District Records
1431	Waivers
4113	Assignment
4113	Assignment
4115	Evaluation/Supervision
4115	Evaluation/Supervision
4119.1	Civil And Legal Rights
4119.25	Political Activities Of Employees
4119.25	Political Activities Of Employees
4121	Temporary/Substitute Personnel
4121	Temporary/Substitute Personnel
4141	Collective Bargaining Agreement
4143	Negotiations/Consultation
4151	Employee Compensation

4154	Health And Welfare Benefits
4154	Health And Welfare Benefits
<u>4158</u>	<u>Employee Security</u>
4161.2	Personal Leaves
4219.1	Civil And Legal Rights
4219.25	Political Activities Of Employees
4219.25	Political Activities Of Employees
4241	Collective Bargaining Agreement
4243	Negotiations/Consultation
4251	Employee Compensation
4254	Health And Welfare Benefits
4254	Health And Welfare Benefits
4261.2	Personal Leaves
4300	Administrative And Supervisory Personnel
4300	Administrative And Supervisory Personnel
4301	Administrative Staff Organization
4312.1	Contracts
4315	Evaluation/Supervision
4319.1	Civil And Legal Rights
4319.25	Political Activities Of Employees
4319.25	Political Activities Of Employees
4351	Employee Compensation
4354	Health And Welfare Benefits
4354	Health And Welfare Benefits
4361.2	Personal Leaves
9000	Role Of The Board
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session

CSBA Sample District Policy Manual
CSBA Sample Manual Site

Policy 4157: Employee Safety**Status:** ADOPTED

Original Adopted Date: 06/01/1991 | **Last Revised Date:** ~~10/03/01/2020~~2024 | **Last Reviewed Date:** ~~10/03/01/2020~~2024

CSBA NOTE: The following optional policy and accompanying administrative regulation may be subject to collective bargaining agreements and should be modified to reflect district practice. Pursuant to Government Code 3543.2, safety conditions of employment are within the scope of bargaining.

The Governing Board is committed to maximizing employee safety and believes that workplace safety is the responsibility of every employee. -Working conditions and equipment shall comply with standards prescribed by federal, state, and local laws and regulations.

No employee shall be required or permitted to be in any place of employment which is unsafe or unhealthful. (Labor Code 6402)

The Superintendent or designee shall promote safety and correct any unsafe work practices through education and enforcement.

All employees are expected to use safe work practices and, to the extent possible, correct any unsafe conditions ~~which~~that may occur. If an employee is unable to correct an unsafe condition, the employee shall immediately report the problem to the Superintendent or designee.

CSBA NOTE: Labor Code 6401.7, as amended by SB 553 (Ch. 289, Statutes of 2023), requires the district to establish, implement, and maintain an effective district's injury prevention program. ~~See the accompanying administrative regulation for required program elements.~~ to include a workplace violence prevention plan.

Additionally, 8 CCR 3203, ~~as amended by Register 2020, No. 10~~, requires the district to provide employees with access to the district's injury and illness prevention program.

See the accompanying administrative regulation for required injury prevention program elements and specific requirements related to employee access.

The Superintendent or designee shall establish and implement a written injury and illness prevention program; that includes a workplace violence prevention plan and ~~provide~~that provides employees with access to such program; in accordance with law. (Labor Code 6401.7; 8 CCR 3203)

CSBA NOTE: 8 CCR 3400 requires districts to make provisions in advance to ensure that employees receive prompt medical treatment for serious injury or illness. -See the accompanying administrative regulation for specific requirements.

The Superintendent or designee shall make first aid materials readily available at district workplaces and shall make effective provisions to prepare for prompt medical treatment in the event of an employee's serious injury or illness. (8 CCR 3400)

No employee shall be discharged or discriminated against for exercising any right regarding employee safety or health specified in Labor Code 6310, including:

1. Making a report or complaint
2. Instituting proceedings or causing proceedings to be instituted
3. Testifying with regard to employee safety or health
4. Participating in any occupational health and safety committee established pursuant to Labor Code 6401.7
5. Requesting access to injury or illness reports and records
6. Exercising any other right protected by the Occupational Safety and Health Act

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State	Description
17 CCR 2508	Reporting of communicable diseases
8 CCR 14000-14316	Occupational injury or illness reports and records
8 CCR 3203	Injury and illness prevention program
8 CCR 3204	Access to employee exposure and medical records
8 CCR 3400	Medical services and first aid
8 CCR 5095-5100	Control of noise exposure
8 CCR 5193	Bloodborne pathogens
Ed. Code 32030-32034	Eye safety
Ed. Code 32225-32226	Communications devices in classrooms
Ed. Code 32280-32289.5	School safety plans
Ed. Code 44984	Required rules for industrial accident and illness leave
Gov. Code 3543.2	Scope of representation
Lab. Code 132a	Workers' compensation; nondiscrimination
<u>Lab. Code 1139</u>	<u>Worker's rights in emergencies</u>

Lab. Code 3300	Definition of employer
Lab. Code 6305	Occupational safety and health standards; special order
Lab. Code 6310	Retaliation for filing complaint prohibited
Lab. Code 6325	Prohibition of entry into place of employment
Lab. Code 6400-6413.5	Responsibilities and duties of employers and employees
Lab. Code 6401.7	Injury and illness prevention program
Lab. Code 6401.9	Workplace violence prevention plans
Federal	Description
17 CFR 2508	Reporting of communicable diseases
29 CFR 1910.1030	Bloodborne pathogens
29 CFR 1910.95	Noise standards
29 CFR 651-678	Occupational safety and health
8 CFR 14000-14316	Occupational injury or illness reports and records
Management Resources	Description
CA Department of Industrial Relations Publication	Guide to Developing Your Workplace Injury and Illness Prevention Program, rev. August 2011 2005
Website	CSBA District and County Office of Education Legal Services
Website	National Institute for Occupational Safety and Health
Website	U.S. Department of Labor, Occupational Safety and Health Administration
Website	California Department of Industrial Relations, Occupational Safety and Health
Website	National Hearing Conservation Association
Website	Centers for Disease Control and Prevention
Website	CSBA

Cross References

Code	Description
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0470	COVID-19 Mitigation Plan
3514	Environmental Safety
3514	Environmental Safety

3514.1	Hazardous Substances
3514.1	Hazardous Substances
3516	Emergencies And Disaster Preparedness Plan
3516	Emergencies And Disaster Preparedness Plan
3516.5	Emergency Schedules
3530	Risk Management/Insurance
3530	Risk Management/Insurance
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4113.5	Working Remotely
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.41	Employees With Infectious Disease
4119.42	Exposure Control Plan For Bloodborne Pathogens
4119.42	Exposure Control Plan For Bloodborne Pathogens
4119.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4119.43	Universal Precautions
4119.43	Universal Precautions
4131	Staff Development
4156.2	Awards And Recognition
4157.1	Work-Related Injuries
4157.2	Ergonomics
4158	Employee Security
4158	Employee Security
4161.11	Industrial Accident/Illness Leave
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4213.5	Working Remotely
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.41	Employees With Infectious Disease

4219.42	Exposure Control Plan For Bloodborne Pathogens
4219.42	Exposure Control Plan For Bloodborne Pathogens
4219.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4219.43	Universal Precautions
4219.43	Universal Precautions
4231	Staff Development
4256.2	Awards And Recognition
4257.1	Work-Related Injuries
4257.2	Ergonomics
4258	Employee Security
4258	Employee Security
4261.11	Industrial Accident/Illness Leave
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4313.5	Working Remotely
4319.41	Employees With Infectious Disease
4319.42	Exposure Control Plan For Bloodborne Pathogens
4319.42	Exposure Control Plan For Bloodborne Pathogens
4319.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4319.43	Universal Precautions
4319.43	Universal Precautions
4331	Staff Development
4356.2	Awards And Recognition
4357.1	Work-Related Injuries
4357.2	Ergonomics
4358	Employee Security
4358	Employee Security
4361.11	Industrial Accident/Illness Leave
5141.22	Infectious Diseases
5141.22	Infectious Diseases
5141.6	School Health Services

5141.6

School Health Services

6142.93

Science Instruction

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Regulation 4157: Employee Safety**Status:** ADOPTED

Original Adopted Date: 06/01/1991 | **Last Revised Date:** 103/01/20202024 | **Last Reviewed Date:** 103/01/20202024

The Superintendent or designee shall provide safety devices and implement safeguards, methods, and processes that are reasonably necessary for the safety and health of employees in the workplace. (Labor Code 6401)

CSBA NOTE: Pursuant to Labor Code 6325, the Department of Industrial Relations Division of Occupational Safety and Health (Cal/OSHA) may prohibit entry into a place of employment when, in its opinion, the place of employment exposes employees to an imminent hazard. In such cases, Cal/OSHA will provide a notice that must be posted in a conspicuous place at the place of employment.

If the Department of Industrial Relations Division of Occupational Safety and Health (Cal/OSHA) prohibits entry into any district workplace or performance of a district operation or process based on a determination that the workplace exposes employees to the risk of an imminent hazard, including a machine, device, apparatus, or equipment that is in a dangerous condition or is dangerously placed, the Superintendent or designee shall post a notice of the hazard provided by Cal/OSHA in a conspicuous place at the work site. This notice shall not be removed except by an authorized representative of Cal/OSHA and only when the workplace, operation, or process is made safe, and the required safeguards, safety appliances, or devices are provided. (Labor Code 6325)

Injury and Illness Prevention Program

CSBA NOTE: The following section reflects the requirements of Labor Code 6401.7, as amended by SB 553 (Ch. 289, Statutes of 2023), and 8 CCR 3203 for a written injury and illness prevention program. -When developing such a program, districts are encouraged to review ~~the Department of Industrial Relations'~~ Cal/OSHA's, "Guide to Developing Your Workplace Injury and Illness Prevention Program."

The district's injury and illness prevention program shall cover all district employees and all other workers whom the district controls or directs and directly supervises on the job to the extent that the workers are exposed to hazards specific to their worksite and job assignment. The obligation of contractors or other employers who control or direct and supervise their own employees on the job shall not be affected by the district's injury and illness prevention program. (Labor Code 6401.7)

The district's injury and illness prevention program shall include: (Labor Code 6401.7; 8 CCR 3203)

1. The name/position of the person(s) with authority and responsibility for implementing the program:

2. A system for ensuring that employees comply with safe and healthful work practices, which may include, but are not be limited to:

- a. Recognition of employees who follow safe and healthful work practices
- b. Training and retraining programs
- c. Disciplinary actions

CSBA NOTE: Pursuant to 8 CCR 3203, districts with fewer than 10 employees may fulfill the communication requirements of ~~item~~Item #3 below by providing oral instruction in general safe work practices and the hazards unique to the employees' assignments.

- 3. A system for communicating with employees, in a form readily understandable by all employees on matters related to occupational health and safety, including provisions designed to encourage employees to report hazards at the worksite without fear of reprisal. The communications system may include, but is not ~~be~~-limited to:
 - a. Meetings
 - b. Training programs
 - c. Posting
 - d. Written communications
 - e. A system of anonymous notification by employees about hazards

CSBA NOTE: Districts may use a labor/management safety and health committee to communicate the contents of the injury and illness prevention program, as long as the committee satisfies the requirements specified below in the section on "Labor/Management Safety and Health Committee."
 - f. A labor/management safety and health committee
- 4. Procedures for identifying and evaluating workplace hazards, including scheduled periodic inspections to identify unsafe conditions and work practices. Such inspections shall be made:
 - a. Whenever new substances, processes, procedures, or equipment that represents a new occupational safety or health hazard is introduced into the workplace
 - b. Whenever the district is made aware of a new or previously unrecognized hazard
- 5. A procedure for investigating occupational injury or illness-
- 6. Methods and/or procedures for correcting unsafe or unhealthful conditions, work practices, and work procedures in a timely manner, based on the severity of the hazard, when the hazard is observed or discovered-

When an imminent hazard exists ~~which~~that cannot be immediately abated without endangering employee(s) and/or property, these procedures shall call for the removal of all exposed staff from the area except those necessary to correct the hazardous condition.

Employees needed to correct the condition shall be provided with the necessary safeguards.

7. Provision of training and instruction as follows:

- a. To all new employees
- b. To all employees given new job assignments for which training has not previously been received
- c. Whenever new substances, processes, procedures, or equipment isare introduced into the workplace and ~~represents~~represent a new hazard
- d. Whenever the district is made aware of a new or previously unrecognized hazard
- e. To supervisors, to familiarize them with the safety and health hazards to which employees under their immediate direction and control may be exposed

CSBA NOTE: Pursuant to Labor Code 6401.7, as amended by SB 553, districts are required to establish, implement, and maintain a workplace violence prevention plan as specified in Labor Code 6401.9, as added by AB 553.

8. A written workplace violence prevention plan developed and implemented in accordance with Labor Code 6401.9 (Labor Code 6401.7)

The plan, which shall be easily accessible to all employees at all times, shall be in effect at all times and in all work areas, and be specific to the hazards and corrective measures for each work area and operation. (Labor Code 6401.9)

The Superintendent or designee shall provide training to all employees when the plan is first established and annually thereafter in accordance with Labor Code 6401.9. Training materials shall be appropriate in content and vocabulary to employees' educational level, literacy, and language. (Labor Code 6401.9)

CSBA NOTE: Pursuant to 8 CCR 3203, ~~as amended by Register 2020, No. 10~~, employees or their designated representatives have the right to examine and receive a copy of the district's injury and illness prevention program, and districts are required to provide access as described below. 8 CCR 3203 defines "designated representative" as any individual or organization to whom an employee gives written authorization to exercise a right of access. A recognized or certified collective bargaining agent is, by definition, treated automatically as a designated representative.

Districts are not required to include records of steps taken to implement and maintain the injury and illness prevention program. However, access to such information, or any other information in addition to that required by 8 CCR 3203, may be subject to collective bargaining.

The Superintendent or designee shall provide employees, or their representative designated pursuant to 8 CCR 3203, with either of the following: (8 CCR 3203)

1. Access to the district's injury and illness prevention program in a reasonable time, place, and manner, but in no event later than five business days after the request for access is received from an employee or a designated representative of the employee.

When an employee or designated representative requests a copy of the district's injury and illness prevention program, the Superintendent or designee shall provide the requester a printed copy unless the employee or designated representative agrees to receive an electronic copy.

The Superintendent or designee shall provide one printed copy free of charge. If the employee or designated representative requests additional copies within one year of the previous request and the district's injury and illness prevention program has not been updated with new information since the prior copy was provided, the district may charge reasonable reproduction costs pursuant to 8 CCR 3204 for the additional copies.

CSBA NOTE: Pursuant to 8 CCR 3203, an employee has unobstructed access if, as part of the employee's regular work duties, the employee predictably and routinely uses the electronic means to communicate with management or coworkers.

2. Unobstructed access to the district's injury and illness prevention program through the district's server or ~~web site, which~~ website that allows an employee to review, print, and email the current version of the district's injury and illness prevention program.

The Superintendent or designee shall communicate the right and procedure to access the district's injury and illness prevention program to all employees. (8 CCR 3203)

Labor/Management Safety and Health Committee

CSBA NOTE: The following optional section is for use by districts that choose to use a labor/management safety and health committee to comply with the requirements of 8 CCR 3203 regarding communication with employees as specified in ~~item~~ Item #3 above in the section title "Injury and Illness Prevention Program." Pursuant to 8 CCR 3203, if the committee adheres to the following practices, the district shall be deemed to be in substantial compliance with the communications requirements of the law.

The district's labor/management safety and health committee shall: (8 CCR 3203)

1. Meet regularly, but not less than quarterly.
2. Prepare and make available to affected employees written records of the safety and health issues discussed at committee meetings and maintained for review by ~~the California Department of Industrial Relations' Division of Occupational Safety and Health (Cal/OSHA)~~ upon request.- These records shall be maintained for at least one year.
3. Review results of the periodic, scheduled worksite inspections.
4. Review investigations of occupational accidents and causes of incidents resulting in occupational injury or illness or exposure to hazardous substances. -As appropriate, the committee may submit suggestions to the Superintendent or designee regarding the prevention of future incidents.
5. Review investigations of alleged hazardous conditions brought to the attention of any committee member. When determined necessary by the committee, it may conduct its own inspection and investigation to assist in remedial solutions.

6. Submit recommendations to assist in the evaluation of employee safety suggestions.
7. Upon request of Cal/OSHA, verify abatement action taken by the district to abate citations issued by Cal/OSHA.

Hearing Protection

Whenever employee noise exposure equals or exceeds the standards specified ~~in~~by law, the Superintendent or designee shall implement a hearing conservation program in accordance with state and federal regulations, including, when required, monitoring of sound levels, audiogram evaluation and audiometric testing of affected employees, the provision of hearing protectors, and employee training. (8 CCR 5095-5100; 29 CFR 1910.95)

Eye Safety Devices

~~Eye~~Employees shall wear eye safety devices ~~shall be worn by employees~~ whenever they are engaged in or observing an activity involving hazards or hazardous substances likely to cause eye injury ~~to the eyes~~. (Education Code 32030-32034)

First Aid and Medical Services

The Superintendent or designee shall ensure the ready availability of medical personnel for advice and consultation on matters of industrial health or injury. ~~Whenever a district facility or district grounds are not in close proximity to an infirmary, clinic, or hospital where all injured employees may be treated, the Superintendent or designee shall ensure that at least one employee is adequately trained to provide first aid.~~ (8 CCR 3400)

CSBA NOTE: Pursuant to 8 CCR 3400, if ambulance service is not available within 30 minutes under normal conditions, the district may be required by ~~the California Department of Industrial Relations' Division of Occupational Safety and Health~~Cal/OSHA to provide stretchers, blankets, or other adequate warm covering.

The Superintendent or designee shall make adequate first aid materials readily available for employees at every worksite. Such materials shall be approved by a consulting physician and shall be kept in a sanitary and usable condition. ~~The Superintendent or designee shall frequently inspect all first aid materials and replenish them as necessary.~~ (8 CCR 3400)

The Superintendent or designee shall ensure that suitable facilities for quick drenching or flushing of the eyes and body are provided within the work area for immediate emergency use when the eyes or body or any person may be exposed to injurious corrosive materials. (8 CCR 3400)

CSBA NOTE: 8 CCR 3400 requires districts to make provisions in advance, using one or a combination of the provisions specified in ~~items~~Items #1-3 below, to ensure that employees receive prompt medical treatment for serious injury or illness. ~~Districts should select the provision(s) that reflect district practice.~~

To avoid unnecessary delay in medical treatment in the event of an employee's serious injury or illness, the Superintendent or designee shall use one or more of the following: (8 CCR 3400)

1. A communication system for contacting a physician or emergency medical service, such as access to 911 or equivalent telephone system. -The communication system or the employees using the system shall have the ability to direct emergency services to the location of the injured or ill employee.
2. Readily accessible and available on-site treatment facilities suitable for treatment of reasonably anticipated injury and illness.
3. Proper equipment for prompt medical transport when transportation of injured or ill employees is necessary and appropriate.

Protection from Communicable Diseases and Infections

CSBA NOTE: The following section contains general information in regard to bloodborne pathogens and infectious diseases as it relates to employee safety. For more information regarding bloodborne pathogens, see BP/AR 4119.42/4219.42/4319.42 - Exposure Control Plan for Bloodborne Pathogens and BP/AR 4119.43/4219.43/4319.43 - Universal Precautions. For more information regarding infectious diseases, see BP 4119.41/4219.41/4319.41 - Employees with Infectious Disease.

The Superintendent or designee shall develop an exposure control plan for bloodborne pathogens that is consistent with the district's injury and illness prevention program. -The plan shall include a determination of which job classifications have occupational exposure to blood or other potentially infectious materials; precautions to be implemented, including universal precautions, engineering and work practice controls, and personal protective equipment; availability of the hepatitis B vaccination; provision of information and training to employees; and follow-up actions to be taken if exposure occurs. -The district shall ensure that a copy of the exposure control plan is accessible to employees in accordance with law. (8 CCR 5193; 29 CFR 1910.1030)

Strategies to prevent and mitigate the outbreak or spread of infectious diseases shall be followed for diseases that are communicated through airborne transmission, skin-to-skin contact, foodborne transmission, or other casual or noncasual means. Such strategies shall include, but are not limited to, communication and training about the disease(s); campus closures and alternative means of instruction when necessary; preventative measures, such as social distancing, personal protective equipment, temperature checks, and/or any other health screening allowed by law; and cleaning and sanitization of district facilities and equipment.

The Superintendent ~~of~~^{or} designee shall immediately report to the local health officer the presence or suspected presence of any communicable disease. (17 CCR 2508)

COVID-19 Exposure

~~CSBA NOTE: Pursuant to Labor Code 6409.6, as added by AB 685 (Ch. 84, Statutes of 2020), the district is required to take the following actions whenever it receives notice of potential exposure to COVID-19. If the district receives notice of potential exposure to COVID-19, the Superintendent or designee shall, within one business day of the notice, take all of the following actions: (Labor Code 6409.6)~~

1. ~~Provide a written notice to all employees, and the employers of subcontracted employees, who were on the premises at the same worksite as the qualifying individual within the infectious period that they may have been exposed to COVID-19. The notice shall be provided in a manner normally used to communicate employment-related information, which may include, but is not limited to, personal service, email, or text message if it can reasonably be anticipated to be received by the employee within one business day of sending.~~
2. ~~Provide a written notice to the exclusive representative, if any, of employees who were on the premises within the infectious period~~
3. ~~Provide all employees who may have been exposed and the exclusive representative, if any, with information regarding:~~
 - a. ~~COVID-19-related benefits to which the employee may be entitled under applicable federal, state, or local laws, including, but not limited to, workers' compensation~~
 - b. ~~Available leave options for exposed employees~~
 - c. ~~Antiretaliation and antidiscrimination protections of the employee~~
4. ~~Notify all employees, and the employers of subcontracted employees and the exclusive representative, if any, of the disinfection and safety plan that the district plans to complete in accordance with Centers for Disease Control and Prevention guidelines~~

The above notifications shall be maintained for a period of at least three years. (Labor Code 6409.6)

~~CSBA NOTE: Labor Code 6409.6, as amended by AB 685, requires the district to provide specified information to the local health agency when a COVID-19 outbreak occurs, as provided below. This notice must contain the same information as would be required in an incident report to the California Department of Industrial Relations' Division of Occupational Safety and Health (Cal/OSHA) Form 300 injury and illness log unless inapplicable or unknown. If the district is notified of the number of cases that meet the definition of a COVID-19 outbreak, as defined by the California Department of Public Health, within 48 hours, the Superintendent or designee shall, within 48 hours of the notice, notify the local public health agency of the names, number, occupation, and worksite of employees who meet the definition of a qualifying individual. The Superintendent or designee shall continue to give notice to the local health department of any subsequent laboratory-confirmed cases of COVID-19 at the worksite. (Labor Code 6409.6)~~

~~CSBA NOTE: Pursuant to Labor Code 6325, as amended by AB 685, until January 1, 2023, Cal/OSHA may prohibit entry into a place of employment when, in its opinion, the place of employment exposes employees to the risk of COVID-19 infection and constitutes an imminent hazard to employees. In such cases, CalOSHA will provide a notice that must be posted in a conspicuous place at the place of employment.~~

~~In the event that Cal/OSHA prohibits entry into any district workplace or performance of a district operation or process based on a determination that the workplace exposes employees to the risk of COVID-19 infection and constitutes an imminent hazard to employees, the district shall post a notice thereof provided by Cal/OSHA in a conspicuous place at the work site. This notice shall not be removed except by an authorized representative of Cal/OSHA and only when the place of employment, operation, or process is made safe and the required safeguards or safety appliances or devices are provided.~~

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State	Description
17 CCR 2508	Reporting of communicable diseases
8 CCR 14000-14316	Occupational injury or illness reports and records
8 CCR 3203	Injury and illness prevention program
8 CCR 3204	Access to employee exposure and medical records
8 CCR 3400	Medical services and first aid
8 CCR 5095-5100	Control of noise exposure
8 CCR 5193	Bloodborne pathogens
Ed. Code 32030-32034	Eye safety
Ed. Code 32225-32226	Communications devices in classrooms
Ed. Code 32280-32289.5	School safety plans
Ed. Code 44984	Required rules for industrial accident and illness leave
Gov. Code 3543.2	Scope of representation
Lab. Code 132a	Workers' compensation; nondiscrimination
<u>Lab. Code 1139</u>	<u>Worker's rights in emergencies</u>
Lab. Code 3300	Definition of employer
Lab. Code 6305	Occupational safety and health standards; special order
Lab. Code 6310	Retaliation for filing complaint prohibited
<u>Lab. Code 6325</u>	<u>Prohibition of entry into place of employment</u>
Lab. Code 6400-6413.5	Responsibilities and duties of employers and employees
Lab. Code 6401.7	Injury and illness prevention program

Lab. Code 6401.9**Federal**

17 CFR 2508
 29 CFR 1910.1030
 29 CFR 1910.95
 29 CFR 651-678
 8 CFR 14000-14316

Management Resources

CA Department of Industrial Relations
 Publication
 Website
 Website
 Website
 Website
 Website
 Website
 Website
 Website

Workplace violence prevention plans**Description**

Reporting of communicable diseases
 Bloodborne pathogens
 Noise standards
 Occupational safety and health
 Occupational injury or illness reports and records

Description

Guide to Developing Your Workplace Injury and Illness
 Prevention Program, rev. August 2011~~2011~~2005
 CSBA District and County Office of Education Legal Services
 National Institute for Occupational Safety and Health
 U.S. Department of Labor, Occupational Safety and Health
 Administration
 California Department of Industrial Relations, Occupational
 Safety and Health
 National Hearing Conservation Association
 Centers for Disease Control and Prevention
 CSBA

Cross References**Code**

0450
 0450
~~0470~~
 3514
 3514
 3514.1
 3514.1
 3516
 3516
 3516.5
 3530

Description

Comprehensive Safety Plan
 Comprehensive Safety Plan
~~COVID-19 Mitigation Plan~~
 Environmental Safety
 Environmental Safety
 Hazardous Substances
 Hazardous Substances
 Emergencies And Disaster Preparedness Plan
 Emergencies And Disaster Preparedness Plan
 Emergency Schedules
 Risk Management/Insurance

3530	Risk Management/Insurance
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4113.5	Working Remotely
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.41	Employees With Infectious Disease
4119.42	Exposure Control Plan For Bloodborne Pathogens
4119.42	Exposure Control Plan For Bloodborne Pathogens
4119.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4119.43	Universal Precautions
4119.43	Universal Precautions
4131	Staff Development
4156.2	Awards And Recognition
4157.1	Work-Related Injuries
4157.2	Ergonomics
4158	Employee Security
4158	Employee Security
4161.11	Industrial Accident/Illness Leave
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4213.5	Working Remotely
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.41	Employees With Infectious Disease
4219.42	Exposure Control Plan For Bloodborne Pathogens
4219.42	Exposure Control Plan For Bloodborne Pathogens
4219.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4219.43	Universal Precautions
4219.43	Universal Precautions
4231	Staff Development

4256.2	Awards And Recognition
4257.1	Work-Related Injuries
4257.2	Ergonomics
4258	Employee Security
4258	Employee Security
4261.11	Industrial Accident/Illness Leave
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4313.5	Working Remotely
4319.41	Employees With Infectious Disease
4319.42	Exposure Control Plan For Bloodborne Pathogens
4319.42	Exposure Control Plan For Bloodborne Pathogens
4319.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4319.43	Universal Precautions
4319.43	Universal Precautions
4331	Staff Development
4356.2	Awards And Recognition
4357.1	Work-Related Injuries
4357.2	Ergonomics
4358	Employee Security
4358	Employee Security
4361.11	Industrial Accident/Illness Leave
5141.22	Infectious Diseases
5141.22	Infectious Diseases
5141.6	School Health Services
5141.6	School Health Services
6142.93	Science Instruction

Regulation 4157.1: Work-Related Injuries

Status: ADOPTED

Original Adopted Date: 10/01/1995 | **Last Revised Date:** ~~1003/01/2020~~2024 | **Last Reviewed Date:** ~~1003/01/2020~~2024

In order to provide medical benefits, temporary or permanent disability benefits, wage replacement, retraining or skill enhancement, and/or death benefits in the event that an employee becomes injured or ill in the course of employment, the district shall provide all employees with insurance and workers' compensation benefits in accordance with law. The Superintendent or designee shall develop an efficient claims handling process that reduces costs and facilitates employee recovery.

The Superintendent or designee shall notify every new employee, at the time of hire or by the end of the first pay period, of the employee's right to receive workers' compensation benefits if injured at work. (Labor Code 3551; 8 CCR 15596)

In addition, a notice regarding workers' compensation benefits shall be posted in a conspicuous location frequented by employees, where the notice may be easily read during the workday. (Labor Code 3550)

In the event that an employee is injured or becomes ill in the course of employment, the employee shall report the work-related injury or illness to the Superintendent or designee as soon as practicable. The employee and appropriate district staff shall also promptly document the date and time of any incident, a description of the incident, and any persons present.

Within one working day of receiving notice or knowledge of any injury to an employee in the course of employment, the Superintendent or designee shall provide a claim form and notice of potential eligibility for workers' compensation benefits to the employee or, in the case of the employee's death, to the employee's dependents. The claim form and notice shall be provided personally or by first class mail. (Labor Code 5401)

CSBA NOTE: Pursuant to Labor Code 3550, 3551, and 5401, all employee notices described above (i.e., the notice that must be posted in a conspicuous place, the notice provided to all employees at the time of hire, and the notice and claim form provided when an employee is injured) must be in a form prescribed by the California Department of Industrial Relations (DIR) Division of Workers' Compensation (DWC). These notices are available on the DWC's website or through the district's insurer. For districts that employ Spanish-speaking employees, the information must be made available in English and Spanish.

The Superintendent or designee shall ensure that all employee notices described above are in the form prescribed by the Department of Industrial Relations (DIR), Division of Workers Compensation.

The Superintendent or designee shall additionally ensure that any employee who is a victim of a crime that occurred at the place of employment is given written notice personally or by first class mail within one working day of the crime, or when the district reasonably should have known of the crime, that the employee is eligible for workers' compensation benefits for injuries, including psychiatric injuries, that may have resulted from the crime. (Labor Code 3553)

CSBA NOTE: Pursuant to Labor Code 3550, 3551, and 5401, all employee notices described above (i.e., the notice that must be posted in a conspicuous place, the notice provided to all employees at the time of hire, and the notice and claim form provided when an employee is injured) must be in a form prescribed by the California Department of Industrial Relations (DIR) Division of Workers' Compensation (DWC). These notices are available on the DWC's web site or through the district's insurer. For districts that employ Spanish-speaking employees, the information must be made available in English and Spanish. CSBA NOTE: Pursuant to Labor Code 6409.1, the district must file a report concerning any injury or illness which has, or is alleged to have, arisen out of and in the course of employment. The report is required to be filed with DIR, or, if the district is insured through a third party insurer, with the insurer. The following paragraph may be revised to reflect district practice.

The Superintendent or designee shall ensure that all employee notices described above are in the form prescribed by the Department of Industrial Relations (DIR), Division of Workers Compensation.

CSBA NOTE: Pursuant to Labor Code 6409.1, the district must file a report concerning any injury or illness which has, or is alleged to have, arisen out of and in the course of employment. The report is required to be filed with DIR or, if the district is insured through a third party insurer, with the insurer. The following paragraph may be revised to reflect district practice.

Upon learning of a work-related injury or illness, or injury or illness alleged to have arisen out of and in the course of employment, the Superintendent or designee shall report the incident to the district's insurance carrier or DIR, as applicable, within five days after obtaining knowledge of the injury or illness. If a subsequent death arises as a result of the reported injury or illness, an amended report indicating the death shall be filed within five days after being notified of or learning about the death. (Labor Code 6409.1)

CSBA NOTE: Pursuant to Labor Code 6409.1, as amended by AB 1804 (Ch. 199, Statutes of 2019), in addition to the report described above, a report of death or serious injury or illness is required to be immediately reported to the Division of Occupational Safety and Health (Cal/OSHA) by telephone or through an online mechanism established by Cal/OSHA. Labor Code 6409.1 permits districts to make the report by telephone or email until Cal/OSHA has an online mechanism available.

Labor Code 6302, as amended by AB 1805 (Ch. 200, Statutes of 2019), redefines "serious injury or illness" as provided below.

In addition, in every case involving death or serious injury or illness, the Superintendent or designee shall immediately make a report to the Division of Occupational Safety and Health (Cal/OSHA) by telephone or through an online mechanism made available by Cal/OSHA. (Labor Code 6409.1)

For the purpose of this report, serious injury or illness means any injury or illness occurring in a place of employment or in connection with any employment that requires inpatient hospitalization for other than medical observation or diagnostic testing, or in which an employee suffers an amputation, the loss of an eye, or any serious degree of permanent disfigurement. (Labor Code 6302)

Claims Related to COVID-19

CSBA NOTE: Until January 1, 2023, Labor Code 3212.86 and 3212.88, as added by SB 1159 (Ch. 85, Statutes of 2020), define "injury" for purposes of workers' compensation as including COVID-19 related illness or death when a positive COVID-19 diagnosis was made within 14 days after the employee performed labor or services at the district's place of employment. Labor Code 3212.86

applies when the diagnosis was made between March 19, 2020 and July 5, 2020, and confirmed by a COVID-19 test within 30 days of the diagnosis. Labor Code 3212.88 applies when the diagnosis was made after July 6, 2020, and the positive test occurred during a period of an outbreak, as defined, at the employee's specific place of employment. Pursuant to Labor Code 3212.86 and 3212.88, a positive diagnosis as specified above creates a presumption that the injury arose out of and in the course of employment. Unless disputed by the district within 30 or 45 days, as applicable, the Workers' Compensation Appeals Board is bound to find, in accordance with the presumption, that COVID-19 was contracted within the course and scope of employment.

Because of the large number of workers' compensation claims that districts may receive due to COVID-19 infection, districts are encouraged to consult legal counsel as appropriate to determine its impact on the district, including about the use of paid sick leave and eligibility for temporary disability benefits.

Until January 1, 2023, an employee is presumed to be entitled to workers' compensation benefits for illness or death resulting from COVID-19 if the diagnosis was made within 14 days after the employee performed labor or services at the place of employment and if the employee contracted COVID-19 during an outbreak at the employee's specific place of employment. (Labor Code 3212.86, 3212.88)

For this purpose, an outbreak means that, within 14 calendar days, one of the following occurs at a specific place of employment: (Labor Code 3212.88)

1. If a specific place of employment has 100 employees or fewer, four employees test positive for COVID-19.
2. If a specific place of employment has more than 100 employees, four percent of the number of employees who reported to the specific place of employment test positive for COVID-19.
3. A specific place of employment is ordered to close by a local public health department, the California Department of Public Health, Cal/OSHA, or the Superintendent due to a risk of infection with COVID-19.

The Superintendent or designee may rebut a presumption that COVID-19 was contracted during the course and scope of employment by offering evidence to the Workers' Compensation Appeals Board, such as the measures that were in place at the employee's specific place of employment to reduce potential transmission of COVID-19 and evidence of an employee's nonoccupational risk of contracting COVID-19. (Labor Code 3212.86, 3212.88)

Policy Reference UPDATE Service

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Policy Reference Disclaimer:

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

State	Description
8 CCR 15596	Notice of employee rights to workers' compensation benefits
Ed. Code 44984	Required rules for industrial accident and illness leave
Ed. Code 45192	Industrial accident and illness leave for classified employees

Lab. Code 3200-4856	Workers' compensation
Lab. Code 3212.86	<u>COVID-19: critical workers pre-July 5, 2020</u>
Lab. Code 3212.88	<u>COVID-19: critical workers post-July 5, 2020</u>
Lab. Code 3550-3553	Notifications re: <u>regarding</u> workers' compensation benefits
Lab. Code 3600-3605	Conditions of liability
Lab. Code 3760	Report of injury to insurer
Lab. Code 4600	Provision of medical and hospital treatment by employer
Lab. Code 4906	Disclosures and statements
Lab. Code 5400-5413	Notice of injury or death
Lab. Code 6302	Definition of serious injury or illness
Lab. Code 6409.1	Reports
Management Resources	Description
CA Department of Industrial Relations Publication	Workers' Compensation Claim Form (DWC 1) & Notice of Potential Eligibility
CA Department of Industrial Relations Publication	Workers' Compensation in California: A Guidebook for Injured Workers, 2016
CA Department of Industrial Relations Publication	Notice to Employees - Injuries Caused by Work
CA Department of Industrial Relations Publication	Time of Hire Pamphlet
Website	CSBA District and County Office of Education Legal Services
Website	California Department of Industrial Relations, Division of Workers Compensation
Website	California Department of Industrial Relations, Occupational Safety and Health
Website	California Department of Public Health
Website	CSBA

Cross References

Code	Description
1240	Volunteer Assistance
1240	Volunteer Assistance
3320	Claims And Actions Against The District
3320	Claims And Actions Against The District
3530	Risk Management/Insurance
3530	Risk Management/Insurance
4032	Reasonable Accommodation

4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4113.4	Temporary Modified/Light-Duty Assignment
4113.5	Working Remotely
4154	Health And Welfare Benefits
4154	Health And Welfare Benefits
4157	Employee Safety
4157	Employee Safety
4157.2	Ergonomics
4161.1	Personal Illness/Injury Leave
4161.11	Industrial Accident/Illness Leave
4161.9	Catastrophic Leave Program
4161.9	Catastrophic Leave Program
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4213.4	Temporary Modified/Light-Duty Assignment
4213.5	Working Remotely
4254	Health And Welfare Benefits
4254	Health And Welfare Benefits
4257	Employee Safety
4257	Employee Safety
4257.2	Ergonomics
4261.11	Industrial Accident/Illness Leave
4261.9	Catastrophic Leave Program
4261.9	Catastrophic Leave Program
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4313.4	Temporary Modified/Light-Duty Assignment
4313.5	Working Remotely
4354	Health And Welfare Benefits
4354	Health And Welfare Benefits
4357	Employee Safety
4357	Employee Safety

4357.2

Ergonomics

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4361.1

Personal Illness/Injury Leave

4361.11

Industrial Accident/Illness Leave

4361.9

Catastrophic Leave Program

4361.9

Catastrophic Leave Program

Policy 4211: Recruitment And Selection

Status: ADOPTED

Original Adopted Date: 07/01/2012 | Last Revised Date: 03/01/2018 2024 | Last Reviewed Date: 03/01/2018 2024

CSBA NOTE: The following optional policy may be revised to reflect district practice and related should be aligned with relevant collective bargaining agreement provisions of collective bargaining agreements.

The Additionally, the Governing Board should ensure that district hiring procedures are designed to avoid liability for negligent hiring aligned with law, Board policy, and collective bargaining agreements. In *C.A. v. William S. Hart Union High School District*, the California Supreme Court held that a district can be held vicariously liable for the negligence of its administrators and supervisors in the hiring, retention, and supervision of a counselor who sexually harassed and/or abused a student.

The following paragraph reflects concepts from the California Department of Education's (CDE) publication, "How to Increase the Diversity of California's Educator Workforce," and the California Commission on Teacher Credentialing's (CTC) publication, "Strategic Plan: Ensuring Educator Excellence," related to the benefits students receive when staff reflects the racial, ethnic, linguistic, and cultural diversity of the district.

The Governing Board is committed to employing suitable, qualified individuals to effectively carry out the district's vision, mission, and goals, and believes that students benefit when district staff reflects the racial, ethnic, linguistic, and cultural diversity of the district.

The Superintendent or designee shall develop equitable, fair, and transparent recruitment and selection processes and procedures that ensure individuals are selected for employment in the district based on demonstrated knowledge, skills, and competence and not on any bias, personal preference, or unlawful discrimination.

Additionally, the Superintendent or designee shall, through the recruitment and selection processes and procedures, seek to establish and maintain a diverse staff, including the active recruitment from institutions and organizations that serve populations underrepresented among district employees.

When a vacancy occurs, the Superintendent or designee shall review, as appropriate, the job description for the position to ensure that it accurately describes the major functions and duties of the position. ~~He/she~~ The Superintendent or designee shall also disseminate job announcements to ensure a wide range of candidates.

CSBA NOTE: Pursuant to Labor Code 432.3, an employer with 15 or more employees is required to include the pay scale for a position in any job posting.

The district's selection procedures When posting an employment opportunity, the Superintendent or designee shall include screening processes, interviews, recommendations from previous employers, the pay scale for the open position. (Labor Code 432.2)

The Superintendent shall develop and observations when maintain appropriate, as necessary hiring procedures to identify the best possible candidate candidates for a position.

The Superintendent or designee may establish In doing so, an interview committee may be established to rank candidates and recommend finalists. During job interviews, applicants may be asked to describe or demonstrate how they will be able to perform the duties of the job. All discussions and recommendations shall be confidential ~~in accordance with law~~.

~~No inquiry shall be made with regard to any information prohibited by state or federal nondiscrimination laws~~ and consistent with law.

No inquiry shall be made about any information prohibited by state or federal nondiscrimination laws.

CSBA NOTE: Pursuant to Government Code 12954, the district may not discriminate against a person in hiring based on the person's use of cannabis when off the job or away from the workplace. Additionally, Government Code 12954, as amended by SB 700 (Ch. 408, Statutes of 2023), prohibits the district from requesting information from an applicant related to the applicant's prior use of cannabis, apart from the person's criminal history, unless the district is otherwise legally permitted to consider or inquire about that information. However, Government Code 12954 does not interfere with the district's right to maintain drug-free schools or to prohibit employees from possessing, being impaired by, or using cannabis while at work. Government Code 12954 does not preempt state or federal laws requiring applicants to be tested for controlled substances as a condition of employment or to applicants in the building and construction trades or for positions requiring a federal background investigation. The district may utilize drug screenings that do not rely on nonpsychoactive cannabis metabolite results. Districts with questions about applicant cannabis use or screening should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

Unless otherwise provided for in law, the district may not discriminate against a person in hiring based on the person's use of cannabis off the job and away from the workplace, including that the district may not request information from an applicant related to the applicant's prior use of cannabis, apart from the applicant's criminal history, or penalize an applicant based on a drug screening which finds that the applicant has nonpsychoactive cannabis metabolites in the applicant's hair, blood, urine, or other bodily fluid. (Government Code 12954)

However, the district retains the right to maintain drug-free schools or prohibit employees from possessing, being impaired by, or using cannabis while on the job. (Government Code 12954)

CSBA NOTE: Labor Code 432.3; as added by AB 168 (Ch. 688, Statutes of 2017); prohibits districts from seeking a job applicant's salary history information and from relying on salary history as a factor in determining whether to offer employment to an applicant or the salary to offer. However, if the applicant discloses salary history information voluntarily and without prompting, the district is not prohibited from considering or relying on such information in determining the salary for that applicant. Labor Code 432.3 is not applicable to salary history information that is disclosable pursuant to the California Public Records Act (Government Code 7920.000 - 7930.170) or the Freedom of Information Act (5 USC 552).

The Superintendent or designee shall not inquire, orally or in writing, ~~in regard to~~ about an applicant's salary history information, including compensation and benefits. ~~He/she~~ Additionally, the Superintendent or designee shall ~~also~~ not rely on salary history information as a factor in determining whether to offer employment to an applicant or the salary to offer. However, the Superintendent or designee may consider salary information that is disclosable under state or federal law or that the applicant discloses voluntarily and without prompting. ~~Upon request, the~~

Superintendent or designee shall provide the applicant the pay scale for the position to which he/she is applying. (Labor Code 432.3)

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

For each position, the Superintendent or designee shall present to the Board one candidate who meets all qualifications established by law and the Board for the position. No person shall be employed by the Board without the recommendation or endorsement of the Superintendent or designee.

Incentives

CSBA NOTE: ~~The~~ Consistent with any applicable collective bargaining agreements, the district may offer incentives (e.g., signing bonuses, assistance with beginning teacher induction costs, assistance with the process of obtaining a clear credential including covering credential costs, a mentoring program, additional compensation, and/or subsidized housing) to recruit teachers, administrators, or other employees in accordance with district needs.

AB 99 ~~SB 114~~ (Ch. 1548, Statutes of 2017 ~~2023~~) establishes the California Educator Development (CalED) grant program Diverse Education Leaders Pipeline Initiative to assist districts with ~~attracting~~ train, place, and supporting the preparation retain culturally responsive school administrators to improve student outcomes and ~~continued learning~~ meet the needs of teachers, principals, and other school leaders California's education workforce.

Health and Safety Code 53573 permits districts to establish and implement programs that address the housing needs of teachers and other district employees who face challenges in securing affordable housing. Health and Safety Code 53574 enables housing projects on district property restricted to rentals for district employees to qualify for both federal and state low-income housing tax credits. For more information regarding housing for district employees, see the Center for Cities + Schools (UC Berkeley), cityLAB (UCLA), and the Turner Center for Housing Innovation's (UC Berkeley), "Education Workforce Housing Handbook."

The following optional section may be revised to reflect local incentive programs.

With Board approval and in accordance with district needs and any applicable collective bargaining agreements, the district may provide incentives to recruit teachers, administrators, or other employees, such as signing bonuses, assistance with beginning teacher induction and/or credential costs, mentoring, additional compensation, and/or subsidized housing.

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State	Description
Ed. Code 200-262.4	Prohibition of discrimination
Ed. Code 35035	Powers and duties of the superintendent; transfer authority
Ed. Code 44066	Limitations on certification requirements

Ed. Code 44259	Teaching credential, exception; designated subjects; minimum requirements
Ed. Code 44750	Teacher recruitment resource center
Ed. Code 44830-44831	Employment of certificated persons
Ed. Code 44858	Age or marital status in certificated positions
Ed. Code 44859	Prohibition against certain rules and regulations re: <u>regarding</u> residency
Ed. Code 45103-45139	Employment (; classified employees)
Ed. Code 49406	Examination for tuberculosis
Gov. Code 12900-12996	Fair Employment and Housing Act
Gov. Code 12940-12957	Discrimination prohibited; unlawful practices
Gov. Code 7920.000-7930.170 <u>215</u>	California Public Records Act
Gov. Code 815.2	Liability of public entities and public employees
H&S Code 53570-53574	Teacher Housing Act of 2016
Lab. Code 432.3	Salary information
Federal	Description
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
28 CFR 35.101-35.190	Americans with Disabilities Act
34 CFR 106.51-106.61	Nondiscrimination on the basis of sex in employment in education program or activities
42 USC 12101-12213	Americans with Disabilities Act
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended
5 USC 552	Freedom of Information Act
8 USC 1324a	Unlawful employment of aliens
8 USC 1324b	Unfair immigration related employment practices
Management Resources	Description
CCSESA <u>California County Superintendents</u> Publication	Teacher Recruitment in California: An Analysis of Effective Strategies, Research Brief, Veritas Research and Evaluation Group, October 2017
<u>California Department of Education Publication</u>	<u>How to Increase the Diversity of California's Educator Workforce, April 2022</u> (https://www.cde.ca.gov/pd/ee/documents/dtwcouncilreportapril22.pdf)
<u>California Commission on Teacher Credentialing Publication</u>	<u>Strategic Plan: Ensuring Educator Excellence, 2023</u> (https://www.ctc.ca.gov/docs/default-

	source/commission/files/ctc-strategic-plan.pdf?sfvrsn=baef20b1_12)
Center for Cities + Schools, cityLAB, and Turner Center for Housing Innovation Publication	Education Workforce Housing Handbook, 2022 (https://citylab.ucla.edu/education-workforce-housing-research-report)
Center for Cities + Schools, cityLAB, and Turner Center for Housing Innovation Publication	Education Workforce Housing in California: Developing the 21st Century Campus, 2021 (https://citylab.ucla.edu/education-workforce-housing-research-report)
Court Decision	C.A. v William S. Hart Union High School District et al., (2012) 138 Cal.Rptr.3d 1
Website	CSBA District and County Office of Education Legal Services
Website	California Department of Education (https://www.cde.ca.gov/)
Website	Commission on Teacher Credentialing
Website	Education Job Opportunities Information Network
Website	Teach USA
Website	California County Superintendents
Website	California Civil Rights Department
Website	U.S. Department of Education
Website	U.S. Equal Employment Opportunity Commission
Website	University of California Berkeley, Center for Cities + Schools (https://citiesandschools.berkeley.edu/)
Website	University of California Berkeley, Turner Center for Housing Innovation (https://turnercenter.berkeley.edu/)
Website	University of California Los Angeles, cityLAB (https://www.citylab.ucla.edu/)

Cross References

Code	Description
0000	Vision
0200	Goals For The School District
0410	Nondiscrimination In District Programs And Activities
2230	Representative And Deliberative Groups
3542	School Bus Drivers
4000	Concepts And Roles
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4032	Reasonable Accommodation

4100	Certificated Personnel
4111.2	Legal Status Requirement
4111.2	Legal Status Requirement
4112	Appointment And Conditions Of Employment
4112.2	Certification
4112.2	Certification
4112.21	Interns
4112.21	Interns
4112.22	Staff Teaching English Learners
4112.23	Special Education Staff
4112.61	Employment References
4112.8	Employment Of Relatives
4113	Assignment
4113	Assignment
4117.14	Postretirement Employment
4200	Classified Personnel
4200	Classified Personnel
4211.2	Legal Status Requirement
4211.2	Legal Status Requirement
4212	Appointment And Conditions Of Employment
4212.61	Employment References
4212.8	Employment Of Relatives
4300	Administrative And Supervisory Personnel
4300	Administrative And Supervisory Personnel
4311.2	Legal Status Requirement
4311.2	Legal Status Requirement
4312.1	Contracts
4312.61	Employment References
4312.8	Employment Of Relatives
4317.14	Postretirement Employment
4331	Staff Development
6141.4	International Baccalaureate Program
6141.5	Advanced Placement

6171

Title I Programs

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Title I Programs

9000

Role Of The Board

Regulation 4212.5: Criminal Record Check

Status: ADOPTED

Original Adopted Date: 10/01/1998 | **Last Revised Date:** 12/03/01/2014/2024 | **Last Reviewed Date:** 12/03/01/2014/2024

CSBA NOTE: Education Code 44830.1, 44836, 45122.1, and 45123 prohibit the district from hiring or retaining in employment, in a certificated or classified position, a person who has been convicted of or pleads no contest to a violent or serious felony, sex offense, or controlled substance offense, as defined. Exceptions specified in law are reflected in ~~items~~Items #1-5 below.

These requirements apply to job applicants, temporary employees, substitute employees, and probationary employees serving before March 15 of their second year. Employees with permanent status may only be suspended or dismissed in accordance with the grounds and procedures specified in BP/AR 4118 - Dismissal/Suspension/Disciplinary Action or BP/AR 4218 - Dismissal/Suspension/Disciplinary Action, as applicable.

However, pursuant to Government Code 12954, the district may not discriminate against a person in hiring, termination, or any term or condition of employment based on the person's use of cannabis when off the job or away from the workplace. Additionally, Government Code 12954, as amended by SB 700 (Ch. 408, Statutes of 2023), prohibits the district from requesting information from an applicant related to the applicant's prior use of cannabis, apart from the person's criminal history, unless the district is otherwise legally permitted to consider or inquire about that information. Certain employees may be subject to stricter laws related to drug testing. Districts with questions about drug testing employees should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

The Superintendent or designee shall not hire or retain in employment, in a certificated or classified position, a person who has been convicted of a violent or serious felony as defined in Penal Code 667.5(c) or 1192.7(c), a controlled substance offense as defined in Education Code 44011, or a sex offense as defined in Education Code 44010. However, the Superintendent or designee shall not deny or terminate employment if solely on the basis that the person has been: (Education Code 44830.1, 44836, 45122.1, 45123)

1. ~~The conviction for~~Convicted of a violent or serious felony, controlled substance offense, or sex offense, and the conviction is reversed and the person is acquitted of the offense in a new trial or the charges against the person are dismissed, unless the sex offense for which the conviction is dismissed pursuant to Penal Code 1203.4 involves a victim who was a minor;
2. ~~A person convicted~~Convicted of a violent or serious felony and has obtained a certificate of rehabilitation or a pardon;
3. ~~A person who has been convicted~~Convicted of a serious felony, that is not also a violent felony, proves and has proven to the sentencing court that ~~he/she has been rehabilitated~~rehabilitation for purposes of school employment has been attained for at least one year;
4. ~~A person who has been convicted~~Convicted of a controlled substance offense and is applying for or is employed in a certificated position and has a credential issued by the

5. ~~A person who has been convicted~~ **Convicted** of a controlled substance offense **and** is applying for or is employed in a classified position and has been determined by the Governing Board, from the evidence presented, to have been rehabilitated for at least five years.

A certificated employee may be hired by the district without obtaining a criminal record summary if that employee is employed as a certificated employee in another California school district and became a permanent employee of another California school district as of October 1, 1997. (Education Code 44830.1, 44836)

CSBA NOTE: The following optional paragraph is for use by districts that issue temporary certificates pursuant to Education Code 44332.5 to authorize salary payments while a certificated employee's credential application is being processed. If the issuance of temporary certificates is handled by the county office of education, the following paragraph should be deleted.

The Superintendent or designee shall not issue a temporary certificate of clearance to a person whose application for a credential, certificate, or permit is being processed by the Commission on Teacher Credentialing if that person has been convicted of a violent or serious felony, unless the person is otherwise exempt pursuant to Education Code 44332.6 or 44830.1. (Education Code 44332.5, 44332.6)

Pre-Employment Record Check

CSBA NOTE: The following section may be revised to reflect district practice. To fulfill the requirement for a criminal record check through the California Department of Justice (DOJ) and Federal Bureau of Investigation, the applicant ~~must~~ **is required to** submit fingerprints using the electronic Live Scan process. Locations offering the Live Scan service are listed on the DOJ's ~~web site~~ **website**. The DOJ provides the results to the district via email, or by U.S. mail if no email is available.

While the DOJ normally does not provide notice of a conviction for which relief has been granted, pursuant to Penal Code 11105, the Commission on Teacher Credentialing will receive every conviction rendered against an applicant, retroactive to January 1, 2020, regardless of relief granted. However, notwithstanding the above, pursuant to Penal Code 1203.425, information for a conviction for a controlled substance offense listed in Health and Safety Code 11350 or 11377, or former Health and Safety Code 11500 or 11500.5, that is more than five years old, for which relief is granted, is prohibited from being disseminated.

The Superintendent or designee shall require each person to be employed by the district to submit ~~his/her~~ fingerprints electronically through the Live Scan system so that a criminal record check may be conducted by the Department of Justice (DOJ). -The Superintendent or designee shall provide the applicant with a Live Scan request form and a list of nearby Live Scan locations.

When a person is applying for a classified position, the Superintendent or designee shall request that the DOJ also obtain a criminal record check through the Federal Bureau of Investigation whenever the applicant meets one of the following conditions: (Education Code 45125)

1. The applicant has not resided in California for at least one year immediately preceding the application for employment.

2. The applicant has resided in California for more than one year, but less than seven years, and the DOJ has ascertained that the person was convicted of a sex offense where -the victim was a minor or a drug offense where an element of the offense is either the distribution to or the use of a controlled substance by a minor.

The Superintendent or designee shall immediately notify the DOJ when an applicant who has submitted his/her fingerprints to the DOJ is not subsequently employed by the district. (Penal Code 11105.2)

Subsequent Arrest Notification

CSBA NOTE: Pursuant to Education Code 44830.1 and 45125, the district ~~must~~ is required to sign up for "subsequent arrest notification" from the DOJ in accordance with Penal Code 11105.2. Forms available for this purpose are available on DOJ's ~~web site~~ website.

The Superintendent or designee shall enter into a contract with the DOJ to receive notification of subsequent arrests resulting in conviction of any person whose fingerprints have been submitted to the DOJ. (Education Code 44830.1, 45125; Penal Code 11105.2)

Upon telephone or email notification by the DOJ that a current temporary employee, substitute employee, or probationary employee serving before March 15 of his/her the employee's second probationary year has been convicted of a violent or serious felony, the Superintendent or designee shall immediately place that employee on leave without pay. (Education Code 44830.1, 45122.1)

When the district receives written electronic notification by the DOJ of the fact of conviction, the temporary employee, substitute employee, or probationary employee serving before March 15 of his/her the employee's second probationary year shall be terminated automatically unless the employee challenges the DOJ record and the DOJ withdraws its notification in writing. Upon receipt of the written withdrawal of notification by the DOJ, the Superintendent or designee shall immediately reinstate ~~that~~ the employee with full restoration of salary and benefits for the period of time from the suspension without pay to the reinstatement if the employee is still employed by the district. (Education Code 44830.1, 45122.1)

The Superintendent or designee shall immediately notify the DOJ whenever a person whose fingerprints are maintained by the DOJ is terminated. (Penal Code 11105.2)

Notification of Applicant/Employee

The Superintendent or designee shall expeditiously furnish a copy of any DOJ notification to the applicant or employee to whom it relates if the information is a basis for an adverse employment decision. The copy shall be delivered in person or to the last contact information provided by the applicant or employee. (Penal Code 11105, 11105.2)

Maintenance of Records

CSBA NOTE: To be qualified to obtain Criminal Record Offender Information (CORI) for the purpose of employment decisions, the district ~~must~~ is required to apply to the DOJ for authorization and ~~must~~ is required to designate at least one custodian of records who is responsible for the security, storage, dissemination, and destruction of criminal records furnished to the district.

The Superintendent shall designate at least one custodian of records who shall be responsible for the security, storage, dissemination, and destruction of all Criminal Offender Record Information (CORI) furnished to the district and shall serve as the primary contact for the DOJ for any related

issues. (Penal Code 11102.2)

An employee designated as custodian of records shall receive a criminal background check clearance from the DOJ prior to serving in that capacity. (Penal Code 11102.2)

CSBA NOTE: The DOJ requires every person with access to CORI, including the custodian of records, to complete an Employee Statement Form acknowledging an understanding of the law governing CORI. The custodian of records is required to return ~~his/her own~~ such form to the DOJ and to retain any forms completed by other district staff. The Employee Statement Form is reproduced in the accompanying Exhibit.

The custodian of records shall sign and return to the DOJ the Employee Statement Form acknowledging ~~his/her~~ an understanding of the laws prohibiting misuse of CORI.- In addition, the custodian of records shall ensure that any individual with access to CORI has on file a signed Employee Statement Form.

To ensure its confidentiality, CORI shall be accessible only to the custodian of records and shall be kept in a locked file separate from other files. -CORI shall be used only for the purpose for which it is requested and its contents shall not be disclosed or reproduced. (Education Code 44830.1, 45125)

Once a hiring determination is made, the applicant's CORI shall be destroyed to the extent that the identity of the individual can no longer be reasonably ascertained. (Education Code 44830.1, 45125; 11 CCR 708)

CSBA NOTE: ~~SB 1461 (Ch. 54, Statutes of 2014) amended Penal Code 11102.2 to delete the requirement to annually notify DOJ of the district's custodian of records. Pursuant to Penal Code 11102.2, districts are now only required to notify the DOJ when the custodian of records ceases to serve in that capacity.~~

The Superintendent or designee shall immediately notify the DOJ whenever a designated custodian of records ceases to serve in that capacity. (Penal Code 11102.2)

Interagency Agreement

CSBA NOTE: The following optional section is for use by any district that has been designated to act on behalf of other school districts within the same county or in contiguous counties to share CORI as authorized by Education Code 44830.2 and 45125.01. Districts that have not entered into an agreement to share such information, or for whom another district or the County Superintendent of Schools has been designated to receive and share the information, should delete this section.

Pursuant to Education Code 45125.01, any district that participates in such an interagency agreement may use this arrangement to conduct criminal background checks for a noncertificated candidate for a paid or volunteer position in a student activity program pursuant to Education Code 49024; see BP/AR 1240 - Volunteer Assistance and BP/AR 4127/4227/4327 - Temporary Athletic Team Coaches.

Subject to an interagency agreement with other school districts, the district shall submit and receive CORI on behalf of all participating districts. (Education Code 44830.2, 45125.01)

Upon receipt from the DOJ of a report of conviction of a serious or violent felony, the district shall communicate that fact to participating districts and shall remove the affected employee from the common list of persons eligible for employment. (Education Code 44830.2, 45125.01)

In addition, upon receipt from the DOJ of a criminal history record or report of subsequent arrest for any person on a common list of persons eligible for employment, the district shall give notice to the superintendent of any participating district, or the person designated in writing by that superintendent, that the report is available for inspection on a confidential basis by the superintendent or the authorized designee. The report shall be made available at the district office for 30 days following the receipt of the notice. (Education Code 44830.2, 45125.01)

The district shall not release a copy of that information to any participating district or any other person. In addition, the district shall retain or dispose of the information in the manner specified in law and in this administrative regulation after all participating districts have had an opportunity to inspect it in accordance with law. (Education Code 44830.2, 45125.01)

The district shall maintain a record of all persons to whom the information has been shown and shall make this record available to the DOJ. (Education Code 44830.2, 45125.01)

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Policy Reference Disclaimer:

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State	Description
11 CCR 701-708	Criminal offender record information
11 CCR 720-724	Incomplete criminal history information
11 CCR 994-994.15	Certification of individuals who take fingerprint impressions
Ed. Code 44010	Sex offense; definitions
Ed. Code 44011	Controlled substance offense
Ed. Code 44332-44332.6	Temporary certificate of clearance
Ed. Code 44346.1	Applicants for credential; conviction of a violent or serious felony
Ed. Code 44830.1	Criminal record summary certificated employees
Ed. Code 44830.2	Certificated employees; interagency agreement for sharing criminal record information
Ed. Code 44836	Employment of certificated persons convicted of <u>sex offense or controlled substance offenses</u>
Ed. Code 44932	Grounds for dismissal of permanent employees
Ed. Code 45122.1	Classified employees; conviction of a violent or serious felony

Ed. Code 45125	Use of personal identification cards to ascertain conviction of crime
Ed. Code 45125.01	Interagency agreements for criminal record information
Ed. Code 45125.5	Automated records check
Ed. Code 45126	Duty of Department of Justice to furnish information
Ed. Code 49024	Activity Supervisor Clearance Certificate
Gov. Code 12954	Employment discrimination; cannabis use
H&S Code 11350	Offenses Involving Controlled Substances Formerly Classified as Narcotics
H&S Code 11377	Offenses Involving Controlled Substances Formerly Classified as Restricted Dangerous Drugs
Pen. Code 11075-11081	Criminal record dissemination
Pen. Code 11102.2	Maintenance of criminal offender records; custodian of records
Pen. Code 11105	Access to criminal history information
Pen. Code 11105.2	Subsequent arrest notification
Pen. Code 11105.3	Record of conviction involving sex crimes, drug crimes, or crimes of violence
Pen. Code 11140-11144	Furnishing of state criminal history information
Pen. Code 1192.7	Plea bargaining limitation
Pen. Code 1203.4	Dismissal of conviction
Pen. Code 1203.425	Conviction relief
Pen. Code 13300-13305	Local summary criminal history information
Pen. Code 667.5	Prior prison terms; enhancement of prison terms
Management Resources	Description
Court Decision	Central Valley Chapter of the 7th Step Foundation Inc. v. Evelle J. Younger; (1989) 214 Cal. App. 3d 145
Website	CSBA District and County Office of Education Legal Services
Website	Office of the Attorney General, Department of Justice, Background Checks
Website	CSBA

Cross References

Code	Description
1240	Volunteer Assistance
1240	Volunteer Assistance

1340	Access To District Records
1340	Access To District Records
2120	Superintendent Recruitment And Selection
3515.3	District Police/Security Department
3515.3	District Police/Security Department
3542	School Bus Drivers
3580	District Records
3580	District Records
4112	Appointment And Conditions Of Employment
4112.2	Certification
4112.2	Certification
4112.6	Personnel Files
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4116	Probationary/Permanent Status
4116	Probationary/Permanent Status
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.23	Unauthorized Release Of Confidential/Privileged Information
4121	Temporary/Substitute Personnel
4121	Temporary/Substitute Personnel
4127	Temporary Athletic Team Coaches
4127	Temporary Athletic Team Coaches
4200	Classified Personnel
4200	Classified Personnel
4212	Appointment And Conditions Of Employment
4212.6	Personnel Files
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4218.1	Dismissal/Suspension/Disciplinary Action (Merit System)
4219.23	Unauthorized Release Of Confidential/Privileged Information

4227	Temporary Athletic Team Coaches
4227	Temporary Athletic Team Coaches
4312.6	Personnel Files
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4319.23	Unauthorized Release Of Confidential/Privileged Information
4327	Temporary Athletic Team Coaches
4327	Temporary Athletic Team Coaches
5148	Child Care And Development
5148	Child Care And Development
5148.2	Before/After School Programs
5148.2	Before/After School Programs
5148.3	Preschool/Early Childhood Education
5148.3	Preschool/Early Childhood Education
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
9011	Disclosure Of Confidential/Privileged Information

Exhibit 4212.5-E(1): Criminal Record Check

Status: ADOPTED

Original Adopted Date: 10/01/1997 | **Last Revised Date:** 12/03/01/2014/2024 | **Last Reviewed Date:** 12/03/01/2014/2024

CSBA NOTE: The following is based on the sample Employee Statement Form provided by the California Department of Justice. Such a form must be signed by an employee designated as custodian of records of criminal history information and any other individual granted access to this information by the custodian of records; see the accompanying administrative regulation.

**SAMPLE EMPLOYEE STATEMENT FORM
USE OF CRIMINAL JUSTICE INFORMATION**

As an employee/volunteer of [REDACTED] School District, you may have access to confidential criminal record information which is controlled by state and federal statutes. Misuse of such information may adversely affect the individual's civil rights and violate constitutional rights of privacy. Penal Code 502 prescribes the penalties relating to computer crimes. Penal Code 11105 and 13300 identify who has access to criminal history information and under what circumstances it may be disseminated. Penal Code 11140-11144 and 13301-13305 prescribe penalties for misuse of criminal history information. Government Code 6200 prescribes felony penalties for misuse of public records. Penal Code 11142 and 13300 state:

"Any person authorized by law to receive a record or information obtained from a record who knowingly furnishes the record or information to a person not authorized by law to receive the record or information is guilty of a misdemeanor."

Civil Code 1798.53, Invasion of Privacy, states:

"Any person who intentionally discloses information, not otherwise public, which they know or should reasonably know was obtained from personal or confidential information maintained by a state agency or from records within a system of records maintained by a federal government agency, shall be subject to a civil action, for invasion of privacy, by the individual."

CIVIL, CRIMINAL, AND ADMINISTRATIVE PENALTIES:

- Penal Code 11141: DOJ furnishing to unauthorized person (misdemeanor)
- Penal Code 11142: Authorized person furnishing to other (misdemeanor)
- Penal Code 11143: Unauthorized person in possession (misdemeanor)
- California Constitution, Article I, Section 1 (Right to Privacy)
- Civil Code 1798.53, Invasion of Privacy

- Title 18 USC 641, 1030, 1951, and 1952

Any employee who is responsible for such misuse may be subject to immediate dismissal. Violations of this law may result in criminal and/or civil action.

I HAVE READ THE ABOVE AND UNDERSTAND THE POLICY REGARDING MISUSE OF CRIMINAL RECORD INFORMATION.

Signature _____ Date _____

Printed Name _____ Title _____

Name of District _____

PLEASE NOTE: Do not return this form to the DOJ. Your Custodian of Records should maintain these forms.

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Ed. Code 44836	Employment of certificated persons convicted of <u>sex offense</u> or controlled substance <u>offenses</u> offense
Ed. Code 44932	Grounds for dismissal of permanent employees
Ed. Code 45122.1	Classified employees; conviction of a violent or serious felony
Ed. Code 45125	Use of personal identification cards to ascertain conviction of crime
Ed. Code 45125.01	Interagency agreements for criminal record information

Ed. Code 45125.5	Automated records check
Ed. Code 45126	Duty of Department of Justice to furnish information
Ed. Code 49024	Activity Supervisor Clearance Certificate
Gov. Code 12954	Employment discrimination; cannabis use
H&S Code 11350	Offenses Involving Controlled Substances Formerly Classified as Narcotics
H&S Code 11377	Offenses Involving Controlled Substances Formerly Classified as Restricted Dangerous Drugs
Pen. Code 11075-11081	Criminal record dissemination
Pen. Code 11102.2	Maintenance of criminal offender records; custodian of records
Pen. Code 11105	Access to criminal history information
Pen. Code 11105.2	Subsequent arrest notification
Pen. Code 11105.3	Record of conviction involving sex crimes, drug crimes, or crimes of violence
Pen. Code 11140-11144	Furnishing of state criminal history information
Pen. Code 1192.7	Plea bargaining limitation
Pen. Code 1203.4	Dismissal of conviction
Pen. Code 1203.425	Conviction relief
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6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
9011	Disclosure Of Confidential/Privileged Information

CSBA Sample District Policy Manual
CSBA Sample Manual Site

Policy 4218: Dismissal/Suspension/Disciplinary Action**Status:** ADOPTED

Original Adopted Date: 07/01/2019 | **Last Revised Date:** 03/01/2023~~2024~~ | **Last Reviewed Date:** 03/01/2023~~2024~~

CSBA NOTE: The following optional policy ~~is~~ and accompanying administrative regulation are for use by districts that have not incorporated the merit system for classified employees pursuant to Education Code 45240-45320. For procedures applicable to districts that have incorporated the merit system, see BP/AR 4218.1 - Dismissal/Suspension/Disciplinary Action (Merit System).

The following optional policy ~~is~~ and accompanying administrative regulation are subject to collective bargaining and ~~may~~ should be ~~deleted or revised by~~ in accordance with any district whose applicable collective bargaining agreement ~~covers classified employee dismissal, suspension, and other disciplinary action.~~ To the extent that this policy is inconsistent with provisions of the collective bargaining agreement, the collective bargaining agreement would prevail, so long as the provision is consistent with law.

The Governing Board expects all employees to perform their jobs satisfactorily ~~and~~ to exhibit professional and appropriate conduct, and serve as positive role models both at school and in the community. A classified employee may be disciplined for unprofessional conduct or unsatisfactory performance in accordance with law or any applicable collective bargaining agreement, Board policy, or administrative regulation.

CSBA NOTE: When disciplining an employee, the district must ensure that all of the surrounding facts and circumstances are considered and analyzed within the parameters of any applicable constitutional or legal framework. ~~In Kennedy v. Bremerton School District, the U.S. Supreme Court held that the district violated the employee's protected free exercise and free speech rights when the district did not rehire the employee, a coach, for refusing to follow the district's direction to refrain from kneeling and praying at the 50-yard line immediately after each football game. The district's direction was based on a concern that the employee's prayer violated the district's religious practices policy and could subject the district to an Establishment Clause violation. Notwithstanding that the prayer occurred at a school event and in the presence of students, the court reasoned that the timing and circumstances indicated that the coach's prayers were offered as a private citizen rather than as a district employee. According to the Court, since the prayer, a religious activity, occurred during a period when employees would ordinarily be free to engage in personal secular activities such as speaking with friends, checking email, calling for restaurant reservations, etc., the district's concerns about a possible Establishment Clause violation did not justify restricting the employee's free exercise and free speech rights to engage in a personal religious activity such as offering a prayer.~~

Employee discipline, especially with respect to suspension and dismissal, involves complex legal considerations and districts are advised to consult CSBA's District and County Office of Education Legal Services or district legal counsel, accordingly.

Disciplinary actions shall be based on the particular facts and circumstances involved and the severity of the employee's conduct or performance. ~~An employee's private exercise of personal~~

beliefs and activities, including religious, political, cultural, social, or other beliefs or activities, or lack thereof, shall not be grounds for disciplinary action against the employee, provided that the beliefs or activities do not involve coercion of students or any other violation of law, Board policy, or administrative regulation.

CSBA NOTE: In *Kennedy v. Bremerton School District*, the U.S. Supreme Court held that the district could not discipline an employee for non-coercive religious conduct while the employee was acting as a private citizen. For more information, see the U.S. Department of Education's May 2023, "Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools." Also see BP/AR 4030 - Nondiscrimination in Employment and BP 4119.1 - Civil and Legal Rights.

In *Visalia Unified School District v. Public Employment Relations Board (PERB)*, the Fifth District Court of Appeal upheld PERB's determination that service as a union officer constitutes protected activity under the Educational Employment Relations Act for purposes of the employee's complaint of retaliation for union activities and that the district retaliated against the employee. However, the court ultimately held in favor of the district, finding that the district proved it would have terminated the employee for poor performance regardless of the protected union activity. Districts with questions about terminating an officer of an employee organization are encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel.

The Superintendent or designee shall ensure that disciplinary actions are taken in a consistent, nondiscriminatory manner. In addition, an employee shall not be suspended, disciplined, reassigned, transferred, dismissed, or otherwise retaliated against solely for engaging in protected activities, or for acting to protect a student engaged in exercising any free speech or press right authorized by, or for refusing to infringe upon a student's conduct protected pursuant to, Education Code 48907 or 48950.

Disciplinary actions may include, but are not limited to, verbal and written warnings, involuntary reassignment, demotion, suspension or leave without pay, reduction of pay step in class, compulsory leave, and wages, or dismissal.

~~The Superintendent or designee shall ensure that disciplinary actions are taken in a consistent, nondiscriminatory manner and are appropriately documented.~~

~~A probationary classified employee may be dismissed without cause at any time prior to the expiration of anytime before the probationary period expires.~~

CSBA NOTE: Education Code 45113 mandates districts not incorporating the merit system to prescribe, by written rule or regulation, causes and procedures for disciplinary action against permanent classified employees. Also, see the accompanying administrative regulation.

Permanent classified employees shall be subject to disciplinary action only for cause as specified in the accompanying administrative regulation. (Education Code 45113)

Procedures for Serious Disciplinary Proceedings

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

In *Skelly v. State Personnel Board*, the California Supreme Court held that permanent public employees have a right to certain due process protections prior to any punitive disciplinary action, such as termination, suspension, or demotion. These procedural rights include notice of the proposed materials upon which the action is based and the right to respond, either orally or in writing, to the individual recommending that discipline be imposed. These procedural rights are designed to protect an employee who may be wrongfully disciplined, without necessitating a full evidentiary hearing before the Governing Board. Therefore, CSBA recommends that the Superintendent or designee appoint a Skelly officer to evaluate whether there are reasonable grounds for believing that the employee engaged in the alleged misconduct and whether the proposed discipline is justified.

The Superintendent or designee shall develop disciplinary procedures for use when dismissal, suspension, demotion, involuntary reassignment, or other serious disciplinary action is contemplated against an employee. The procedures for such discipline shall include an opportunity for an employee for whom any such disciplinary action is recommended to meet with, or respond in writing to, a designated district official ("Skelly officer") who will determine whether the recommended discipline should proceed further or be modified or withdrawn.

CSBA NOTE: Pursuant to Education Code 45113 and 45116, a permanent classified employee must be given notice of any disciplinary action against the employee, including a time period during which the employee may request a Board hearing on the charges. See the section "Initiation and Notification of Charges" in the accompanying administrative regulation.

Pursuant to Education Code 45113, the Board may delegate its authority to determine whether sufficient cause exists for disciplinary action against classified employees, excluding peace officers as defined in Penal Code 830.32, to an impartial third-party hearing officer. Hearings conducted by the Board or a hearing officer are not subject to the procedures used by the Office of Administrative Hearings pursuant to Government Code 11500-11529. Districts that refer all serious disciplinary matters to a third-party hearing officer rather than holding Board hearings should revise the remainder of this section accordingly.

Education Code 45113 requires the Board to delegate its authority to an administrative law judge in cases involving allegations of egregious misconduct with a minor. Egregious misconduct is defined as immoral conduct leading to an allegation of a sex offense pursuant to Education Code 44010, a controlled substance offense pursuant to Education Code 44011, or child abuse or neglect pursuant to Penal Code 11165.2-11165.6.

After meeting with the employee or considering the employee's written response, if the Skelly officer determines that the recommended discipline should proceed, the Superintendent or designee shall send the employee a notice of the recommended disciplinary action, a statement of charges, and the results of the Skelly review process. The notice shall include a statement advising the employee of the right to request a Board hearing on the matter. [\(Education Code 45113, 45116\)](#)

If the employee fails to request a hearing within the time specified in the notice, the employee is deemed to have waived the right to do so, and the Board may order the recommended disciplinary action into effect immediately.

If a timely request is submitted, a hearing shall be conducted by the Board: or by a third-party hearing officer, in accordance with law. (Education Code 45113, 45312)

CSBA NOTE: ~~Subject to the exception described below, Education Code 45113, as amended by AB 2413 (Ch. 913, Statutes of 2022), prohibits a district from suspending without pay, suspending or demoting with a reduction in pay, or dismissing a permanent classified employee who timely requests a hearing pending discipline, unless excepted by law. To the extent Education Code 45113, as amended by AB 2413, conflicts with any collective bargaining agreement the district entered into before January 1, 2023, the new requirements described above would not apply until the expiration or renewal of the agreement. See the section "Employment Status Pending a Disciplinary Hearing" in the accompanying administrative regulation.~~

A classified employee who timely requests a hearing may only be suspended, demoted, or dismissed pending the outcome of the hearing in accordance with Education Code 45113; and as specified in the accompanying administrative regulation.

The hearing shall be held at the earliest convenient date, taking into consideration the established schedule of the Board and the availability of legal counsel and witnesses. The employee shall be notified of the time and place of the hearing.

The hearing shall be held in closed session; unless the employee requests that the matter be heard in an open session meeting. (Government Code 54957)

The employee shall be entitled to appear personally, produce evidence, and be represented by legal counsel.

The Board may use the services of its legal counsel in ruling upon procedural questions, objections to evidence, and issues of law. The Board may review and consider the records of any prior personnel action proceedings against the employee in which a disciplinary action was ultimately sustained, and any records contained in the employee's personnel files and introduced into evidence at the hearing. The Board shall not be bound by rules of evidence used in California courts. Informality in any such hearing shall not invalidate any order or decision made by the Board.

At any time before a matter is submitted to the Board for decision, the Superintendent or designee may, with the consent of the Board, serve on the employee and file with the Board an amended or supplemental recommendation of disciplinary action. If the amended or supplemental recommendation includes new causes or allegations, the employee shall be afforded a reasonable opportunity to prepare a defense. Any new causes or allegations shall be deemed controverted and any objections to the amended or supplemental causes or allegations may be made orally at the hearing and shall be noted on the record.

Following the hearing or, if the employee has not requested a hearing, after reviewing the Superintendent or designee's recommendation for disciplinary action, the Board shall affirm, modify, or reject the recommended disciplinary action. The decision of the Board shall be in writing and shall contain findings of fact and the disciplinary action approved, if any. The decision of the Board shall be final.

Within 10 working days of the Board's final decision, a copy of the decision shall be delivered to the employee and/or designated representative personally or by registered mail.

Except for an allegation of egregious misconduct in which a minor is involved, the Board may delegate the authority to determine whether sufficient cause exists for disciplinary action to an impartial third-party hearing officer. When a matter is heard by a third-party hearing officer, the Board shall review the determination and adopt or reject the recommended decision. (Education Code 45113)

CSBA NOTE: Pursuant to Education Code 44990, an administrative law judge in a suspension or dismissal hearing is required to preserve the integrity of the truth-finding function by balancing the right of a classified employee against the need to protect a minor witness.

When any matter involves an allegation of egregious misconduct as defined in Education Code 44932 and involves a witness who is a minor, the matter shall be referred to an administrative law judge to determine whether sufficient cause exists for disciplinary action against the employee. In such cases, the ruling of the administrative law judge shall be binding on the district and the employee. (Education Code 45113)

Compulsory Leave of Absence

CSBA NOTE: Pursuant to Education Code 44940, 44940.5 and 45304, the district is required to place an employee charged with a “mandatory leave of absence offense” on a compulsory leave of absence; see the accompanying administrative regulation.

Upon being informed that a classified employee has been charged with a mandatory leave of absence offense, the Superintendent or designee shall immediately place the employee on a compulsory leave of absence. (Education Code 44940, 44940.5, 45304)

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Ed. Code 35161	Board delegation of any powers or duties
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Ed. Code 44010	Sex offense; definitions
Ed. Code 44011	Controlled substance offense
Ed. Code 44940	Compulsory leave of absence for certificated persons
Ed. Code 44940.5	Procedures when employees are placed on compulsory leave of absence
Ed. Code 45101	Definitions; disciplinary action and cause

Ed. Code 45109	Fixing of duties
Ed. Code 45113	Notification of charges; classified employees
Ed. Code 45116	Notice of disciplinary action
Ed. Code 45123	Employment after conviction of controlled substance offense
Ed. Code 45302	Demotion and removal from permanent classified service
Ed. Code 45303	Additional cause for suspension or dismissal of employee charge charged with mandatory or optional leave of absence offense
Ed. Code 45304	Compulsory leave of absence for classified persons
Gov. Code 12954	Employment discrimination; cannabis use
Veh. Code 1808.8	School bus drivers; dismissal for safety-related cause
Federal	Description
42 USC 12101-12213	Americans with Disabilities Act
U.S. Constitution, First Amendment	Amendment 1 ; Free exercise, free speech, and establishment clauses
Management Resources	Description
Court Decision	Kennedy v. Bremerton (2022) 142 S.Ct. 2407
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Court Decision	Skelly v. California Personnel Board (1975) 15 Cal.3d 194
U.S. Department of Education Publication	Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023 (https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html)
Website	Office of the Attorney General
Website	Office of Administrative Hearings
Website	Department of General Services, About Teacher Dismissal Case Type
Website	CSBA District and County Office of Education Legal Services
Website	U.S. Department of Education (https://www.ed.gov/)

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Regulation 4218: Dismissal/Suspension/Disciplinary Action

Status: ADOPTED

Original Adopted Date: 06/01/1994 | **Last Revised Date:** 03/01/2023~~2024~~ | **Last Reviewed Date:** 03/01/2023~~2024~~

Causes for Disciplinary Action

~~CSBA NOTE: The following section should be revised to reflect district practice.~~ **CSBA NOTE: The following optional administrative regulation is subject to collective bargaining and should be revised in accordance with any applicable collective bargaining agreements. To the extent that this administrative regulation is inconsistent with provisions of the collective bargaining agreement, the collective bargaining agreement would prevail, so long as the provision is consistent with law.** Education Code 45113 mandates districts not incorporating the merit system to prescribe, by rule or regulation, causes for disciplinary action against permanent classified employees. Pursuant to Education Code 45101, such employees may be disciplined only for cause as so prescribed.

A permanent classified employee may be subject to suspension, demotion, involuntary reassignment, or dismissal for one or more of the following causes:

CSBA NOTE: Pursuant to Education Code 45122.1, 45123, and 45124, districts must not continue to employ anyone who has been convicted of a specified sex offense, controlled substance offense, or violent or serious offense as defined, except for employees who have been rehabilitated or had their conviction reversed or the charges dismissed. Also see AR 4112.5/4212.5/4312.5 - Criminal Record Check.

Pursuant to Government Code 12954, the district may not discriminate against a person in termination or any term or condition of employment, based on the person's use of cannabis when off the job or away from the workplace, and consequently, districts may be prohibited from disciplining employees in certain circumstances. However, certain employees may be subject to stricter laws related to drug testing. Districts with questions about drug testing employees should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

1. Immoral conduct, including, but not limited to, egregious misconduct that is the basis for a sex offense as defined in Education Code 44010, a controlled substance offense as defined in Education Code 44011, or child abuse and neglect as described in Penal Code 11165.2-11165.6
2. Conduct that constitutes a violent or serious felony as defined in Penal Code 667.5(c) or 1192.7(c)
3. Unlawful discrimination, including harassment, against any student or other employee
4. Violation of or refusal to obey state or federal law or regulation, Board policy, or district or school procedure

5. Falsification of any information supplied to the district, including, but not limited to, information supplied on application forms, employment records, or any other school district records
6. Unsatisfactory performance
7. Unprofessional conduct
8. Dishonesty
9. Neglect of duty or absence without leave
10. Insubordination
11. Use of alcohol or a controlled substance while on duty or in such close time proximity thereto as to affect the employee's performance
12. Destruction or misuse of district property
13. Failure to fulfill any ongoing condition of employment including, but not limited to, maintenance of any license, certificate, or other similar requirement specified in the employee's class specification or otherwise necessary for the employee to perform the duties of the position

CSBA NOTE: Pursuant to the federal Americans with Disabilities Act (42 USC 12101-12213) and the state's Fair Employment and Housing Act (Government Code 12900-12996), the district has a duty to reasonably accommodate qualified employees with known disabilities, except when such accommodation would cause an undue hardship to the district. This accommodation is not required for individuals who are not otherwise qualified for the job.

14. A physical or mental condition which precludes the employee from the proper performance of duties and responsibilities as determined by competent medical authority, except as otherwise provided by a contract or by law
15. Retaliation against any person who, in good faith, reports, discloses, divulges, or otherwise brings to the attention of any appropriate authority any information relative to an actual or suspected violation of state or federal law occurring on or directly related to the job
16. Violation of Education Code 45303 or Government Code 1028 prohibiting the advocacy or teaching of communism
17. Any other misconduct which is of such nature that it causes discredit or injury to the district or the employee's position

No disciplinary action shall be taken for any cause ~~which~~that arose before the employee became permanent, nor for any cause ~~which~~that arose more than two years before the date of the filing of the notice of cause unless this cause was concealed or not disclosed by the employee when it could be reasonably assumed that the employee would have disclosed the facts to the district. (Education Code 45113)

Initiation and Notification of Charges

CSBA NOTE: Pursuant to *Skelly v. State Personnel Board*, permanent public employees are entitled to due process before any punitive disciplinary action, such as termination, suspension, or demotion, may be taken against such employees. These procedural rights include ~~provision of~~ notice of the materials upon which the proposed action is based and the right to respond, either orally or in writing, to a district official ("Skelly officer") who is designated to decide whether the recommended discipline should be imposed.

The Superintendent or designee shall provide notice to the employee of a recommendation for discipline, which includes the charges and materials upon which the recommendation is based. The notification shall identify an impartial district official ("Skelly officer") with whom the employee may meet at a specified time and place or to whom the employee may provide a written response to the recommendation of discipline. After meeting with the employee or considering any response from the employee, the Skelly officer shall recommend to the Superintendent or designee whether to proceed with the recommendation for discipline.

CSBA NOTE: Education Code 45113 mandates districts to adopt disciplinary procedures ~~which~~that contain provisions for giving classified employees a written notice of specific charges, the employee's right to a hearing on those charges, the time within which the hearing may be requested, and a card or paper to complete to request a hearing.

The Superintendent or designee shall file any final recommendation for a disciplinary action in writing with the Governing Board. A copy of the recommendation shall be served upon the employee either personally or by registered or certified mail, return receipt requested, at the employee's last known address.

The notice shall, in ordinary and concise language, inform the employee of the specific charge(s) or cause(s) for the disciplinary action, the specific acts and omissions upon which the action is based, and, if applicable, the district rule or regulation that the employee has allegedly violated. In addition, the notice shall include the employee's right to a hearing on those charges, the time within which the hearing may be requested, which shall be not less than five days after service of the notice to the employee, and a card or paper which the employee may sign and file to deny the charges and request a hearing. (Education Code 45113, 45116)

Request for Board Hearing

CSBA NOTE: As provided in the section "Initiation and Notification of Charges" above, Education Code 45113 requires that the notice of disciplinary action include the time within which a hearing may be requested, which cannot be less than five days after service of the notice to the employee. In *California School Employees Association v. Livingston Union School District*, the appeals court ruled that the district failed to provide due process to an employee when it denied the employee the opportunity to request a hearing based on the employee's failure to respond within five days after service of the notice. The district's policy had established the date of "service of the notice" as the date of mailing, but the employee was a 10-month employee who was out of town when the notice was delivered. The court held that the notice was not "reasonably calculated" to provide an opportunity to timely request a hearing. Thus, it is recommended that districts use the date of the employee's receipt of the notice as the date upon which the five-day response period begins. For further information on the evidentiary hearing conducted by the Board or a hearing officer, see the accompanying Board policy.

Within the time specified in the notice of the recommendation of disciplinary action, the employee may request a hearing on the charges by signing and filing the card or paper included with the

notice. (Education Code 45113)

Any other written document signed and appropriately filed within the specified time limit by the employee shall constitute a sufficient notice of the request for a hearing. The request shall be delivered to the office of the Superintendent or designee during normal work hours of that office. If mailed to the office of the Superintendent or designee, it must be received or postmarked no later than the time limit specified by the district. In cases where an order of suspension without pay has been issued in conjunction with a recommendation of dismissal, any request for a hearing on the dismissal shall also constitute a request to hear the suspension order, and the necessity of the suspension order shall be an issue in the hearing.

Employment Status Pending a Disciplinary Hearing

CSBA NOTE: Education Code 45113, as amended by AB 2413 (Ch. 913, Statutes of 2022), prohibits a district from suspending without pay, suspending or demoting with a reduction in pay, or dismissing a permanent classified employee who timely requests a hearing pending discipline, unless excepted by law as reflected below. To the extent Education Code 45113, as amended by AB 2413, conflicts with any collective bargaining agreement the district entered into before January 1, 2023, the new requirements described above would not apply until the expiration or renewal of the agreement.

A classified employee against whom a recommendation for disciplinary action has been issued may remain on active duty or may be placed on paid leave pending a hearing on the charges. The employee shall not be suspended without pay, suspended or demoted with a reduction in pay, or dismissed pending the outcome of a timely requested hearing, except as specified below. (Education Code 45113)

However, the disciplinary action may be imposed prior to the decision if the Board, or an impartial third-party hearing officer provided pursuant to a collective bargaining agreement, finds by a preponderance of the evidence that at the time discipline was imposed, the employee (1) engaged in criminal misconduct, (2) engaged in misconduct that presents a risk of harm to students, staff, or property, or (3) committed habitual violations of the district's policies or regulations. Such finding(s) must be made at the conclusion of the Skelly review process. (Education Code 45113)

In such cases where the disciplinary action is imposed prior to the decision, the employee shall be given written notice of the disciplinary action and the findings made at the conclusion of the Skelly review process. Such written notice shall be served upon the employee personally.

In addition, the district may cease paying the employee if a decision has not been rendered by an impartial third-party hearing officer, pursuant to a collective bargaining agreement, or the Board within 30 days of the date the hearing was requested. (Education Code 45113)

Compulsory Leave of Absence

CSBA NOTE: State law requires that classified employees in merit system districts and certificated employees be immediately placed on compulsory leave of absence when the district has been informed that charges have been filed on a mandatory leave of absence offense specified in Education Code 44940 and 45304, and gives districts discretion to place such employees on leave

for other specified offenses. Existing law does not provide for application to classified employees in nonmerit system districts regarding compulsory leave of absence.

Upon being informed by law enforcement that a classified employee has been charged with a "mandatory leave of absence offense," the Superintendent or designee shall immediately place the employee on a leave of absence. A mandatory leave of absence offense includes: ([Education Code 44940, 45304](#))

1. Any sex offense as defined in Education Code 44010
2. Violation or attempted violation of Penal Code 187, prohibiting murder or attempted murder
3. Any offense involving the unlawful sale, use, or exchange to minors of controlled substances as listed in Health and Safety Code 11054, 11055, and 11056

The Superintendent or designee may place on an immediate compulsory leave of absence a classified employee who is charged with an "optional leave of absence offense," defined as a controlled substance offense specified in Education Code 44011 and Health and Safety Code 11357-11361, 11363, 11364, and 11370.1 except as it relates to marijuana, mescaline, peyote, or tetrahydrocannabinols:~~tetrahydrocannabinol~~. ([Education Code 44940, 44940.5, 45304](#))

An employee's compulsory leave for a mandatory or optional leave of absence offense may extend for not more than 10 days after the entry of judgment in the criminal proceedings. However, the compulsory leave may be extended if the Board gives notice, within 10 days after the entry of judgment in the proceedings, that the employee will be dismissed within 30 days from the date of service of the notice unless the employee demands a hearing on the dismissal. ([Education Code 44940, 44940.5](#))

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CSBA Sample District Policy Manual
CSBA Sample Manual Site

Policy 4240: Bargaining Units**Status:** ADOPTED

Original Adopted Date: 11/01/2011 | **Last Revised Date:** 06/03/01/2023~~2023~~2024 | **Last Reviewed Date:** 06/03/01/2023~~2023~~2024

CSBA NOTE: Pursuant to Government Code 3544, an employee organization may become the employees' employees' exclusive representative for negotiations by filing a request with the district providing proof that a majority of the specified employees in an appropriate unit wish to be represented by that organization. Notice of such request must be immediately posted conspicuously on all employee bulletin boards in each district facility in which ~~members of the unit~~ employees to be represented by that organization are employed. Government Code 3544.1 requires the district to grant the request for recognition unless (1) the district doubts the appropriateness of the ~~unit~~ organization, (2) another employee organization files a challenge to the appropriateness of the ~~unit~~ organization or submits a competing claim of representation within 15 work days of the posting of notice of the written request, or (3) the district currently has a lawful written agreement with another employee organization representing the same employees.

"Exclusive representative," as defined in Government Code 3540.1, While the terms "employee organization," "exclusive representative," "recognized employee organization," and "bargaining unit" are similar, the differences are important for purposes of understanding the rights and obligations of each one. As defined by Government 3540.1, "employee organization" means an organization that includes district employees that represents those employees in their relations with the district as one of its primary purposes; "exclusive representative" means an employee organization recognized or certified as the exclusive negotiating representative for all district employees other than management and confidential employees; and "recognized employee organization" means an employee organization that has been recognized by a district as the exclusive representative. "Bargaining unit" is not defined in statute but is used in this policy to referred to the entity with which the district is required to bargain regarding compensation and working conditions for a represented group of district employees.

Government Code 3543 provides that public school employees have the right to represent themselves individually in their employment relations with the district except that, once an exclusive representative has been recognized, an employee in that bargaining unit is prohibited from meeting and negotiating with the district.

The Governing Board recognizes the right of district employees to form a bargaining unit and to select an employee organization as the exclusive representative ~~to represent~~ for the employees in the employees' employment relationship with the district. The Board is committed to negotiating in good faith with ~~recognized employee organizations~~ the exclusive representative and respecting the rights of employees and employee organizations.

The district shall not dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it. (Government Code 3543.5)

CSBA NOTE: ~~In East Whittier School District, the~~ The Public Employment Relations Board (PERB) uses a case-by-case approach to determine whether a district's policy restricting the wearing of

union buttons, insignia, or other pictorial or written messages by employees is justified by special circumstances. In East Whittier School District, PERB found that the district's policy limiting the wearing of union buttons that favor or oppose any matter that is the subject of negotiations in the classroom or in other instructional areas in the presence of students violated the Educational Employment Relations Act (EERA), as there was no finding of special circumstances which would limit the established right of employees to wear union buttons in the workplace, nor was there a finding that wearing the union buttons was a political activity. ~~PERB continues to use a case-by-case approach to determine whether a district's policy restricting the wearing of union buttons by employees is justified by special circumstances, as seen in PERB's ruling in City of Sacramento with regard to union insignia on employees' hardhats.~~ Due to the legal uncertainty in this area, districts are encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to limiting the wearing of union buttons ~~that support the union's position in collective bargaining.~~ insignia, or other pictorial or written messages.

Employees shall not be prohibited from wearing union buttons, insignia, or other ~~items~~ pictorial or written messages that favor or oppose the formation of a bargaining unit or any matter that is the subject of negotiations.

Formation of Bargaining Units

CSBA NOTE: The following section contains legal requirements for the certification or recognition of bargaining units for different categories of employees.

Certificated and classified employees shall not be included in the same bargaining unit. (Government Code 3545)

A bargaining unit of certificated or classified supervisory employees may only be recognized if the bargaining unit includes all certificated or classified supervisory employees, respectively, and is not represented by ~~an~~ the same employee organization that represents district employees who are supervised by the supervisory employees. (Government Code 3545)

For this purpose, supervisory employee means any employee, regardless of job description, having authority, in the interest of the district, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to assign work to, direct, or adjust grievance of other employees, or effectively recommend that action, when the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment. (Government Code 3540.1)

CSBA NOTE: Pursuant to Government Code 3543.4, management (including senior management) and confidential employees, as defined in Government Code 3540.1, are excluded from the right to be represented in negotiations by an ~~employee organization.~~ exclusive representative. Certain management positions designated by the Board under state law such as Education Code 45100.5 may be subject to review by PERB ultimately determines, based upon the duties of the position. For questions regarding which positions qualify as "management" or "confidential," districts are encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel.

Employees serving in management, senior management, or confidential positions shall not be represented by an exclusive representative. In the employment relationship with the district, ~~such employees~~ employees who serve in a management, senior management, or confidential position may represent themselves or be represented by an employee organization whose membership is

composed entirely of employees designated as holding those positions. ~~An~~ However, an employee organization representing management, senior management, or confidential employees shall not be permitted to meet and negotiate with the district on behalf of the employees. (Education Code 45100.5, Government Code 3543.4)

Management employee means an employee in a position having significant responsibilities for formulating district policies or administering district programs. ~~Management positions shall be designated by the Board which may be subject to review by the Public Employment Relations Board.~~ (Government Code 3540.1)

Confidential employee means any employee who is required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information that is used to contribute significantly to the development of management positions. (Government Code 3540.1)

Membership

CSBA NOTE: Government Code 3550 prohibits districts from deterring or discouraging district employees or job applicants from becoming or remaining members of an employee organization, authorizing representation by an employee organization, or authorizing dues or fee deductions to an employee organization. Pursuant to Government Code 3551.5, as added by SB 931 (Ch. 823, Statutes of 2022), any district found by PERB to be in violation of this prohibition may be subject to civil penalties of \$1,000 for each affected employee, up to a maximum of \$100,000 in total, and may be ordered to pay attorney's fees and costs to the employee organization.

The district shall not deter or discourage employees or job applicants from becoming or remaining members of an employee organization, authorizing representation by an employee organization, or authorizing dues or fee deductions to an employee organization. In addition, the district shall not impose or threaten to impose reprisals on employees, discriminate or threaten to discriminate against employees, or otherwise interfere with, restrain, or coerce employees because of their membership or nonmembership in an employee organization. (Government Code 3543.5, 3550, 3551.5)

District Communications to Employees

CSBA NOTE: ~~The remainder of this~~ This section is optional and may be revised to reflect district practice. Government Code 3553 establishes requirements for districts that choose to disseminate a mass communication regarding employees' rights to join, support, or refrain from joining or supporting an employee organization. A "mass communication" means any written document, including a script for an oral or recorded presentation or message, intended for multiple employees.

Districts should exercise caution and consult with CSBA's District and County Office of Education Legal Services or district legal counsel before communicating with employees about their rights to join or not join an employee organization to avoid violating the law against unfair labor practices. When an employee approaches the district with questions specifically about the benefits of the membership in an employee organization, the employee should be referred to the employee organization.

The Superintendent or designee may communicate with district employees regarding their rights to

join and/or support an officially recognized employee organization or to refrain from joining or supporting an officially recognized employee organization. Such communications shall be factual and accurate, and may not promise a benefit, threaten a reprisal, or in any way deter or discourage employees from joining an employee organization or paying dues.

However, before disseminating

The district may disseminate written documents, recorded messages, or other mass communications to multiple actual or perspective employees any mass communication represented by an exclusive representative concerning employees' their rights under the law, such as a written document or script for oral or recorded presentation to join and/or message, support, or refrain from joining and/or supporting, an employee organization only after the Superintendent or designee shall meet meets and confer confers with the employees' exclusive representative regarding concerning the content of the mass communication. If the district and exclusive representative do not come to agreement on the content of the mass communication and the district still chooses to disseminate it, the Superintendent or designee may disseminate the district's mass communication, provided shall request that at the same time, copies of the exclusive representative's representative provide a communication, which shall be of reasonable length, are also distributed. to the district that shall be disseminated to the employees at the same time as the district's own mass communication. (Government Code ~~3553~~3556)

Access to New Employee Orientations

The district shall permit employee organizations each exclusive representative access to new employee orientation or onboarding process where newly hired employees represented by the exclusive representative are advised, whether in person, online, or through other means or mediums, of their employment status, rights, benefits, duties, responsibilities, or any other employment-related matters. The district shall provide employee organizations the exclusive representative at least 10 days' notice in advance of an orientation, except that a shorter notice may be provided if where there is an unforeseeable, urgent need critical to the district's operation prevents the required 10 days' notice. district's operations that was not reasonably foreseeable. (Government Code 3555.5, 3556)

Following a request to negotiate by either party, the structure, time, and manner of access to new employee orientations shall be determined by mutual agreement of the district and the exclusive representative. If the district and exclusive representative fail to reach an agreement, matters related to the structure, time, and manner of access to the new employee orientation shall be subject to compulsory interest arbitration. The district and employee organization the exclusive representative may mutually agree to submit any dispute to compulsory interest arbitration at any time. In addition, if any dispute arises during negotiations and is not resolved within 45 days after the first meeting or within 60 days after the initial request to negotiate, whichever is earlier, either party may make a demand for compulsory interest arbitration. The arbitrator selection process shall commence within 14 days of a party's demand for compulsory interest arbitration. When any such dispute arises during the summer when the district's administrative office is closed, the timeline shall commence on the first day the administrative office reopens. The arbitrator's decision of the arbitrator shall be issued within 10 days and shall be final and binding on the parties. (Government Code 3556, 3557)

The date, time, and place of a new employee orientation shall not be disclosed to anyone other than employees, the exclusive representative, or a vendor that is contracted to provide a service for purposes of the orientation. (Government Code 3556)

CSBA NOTE: The following paragraph applies until June 30, 2025; unless the date is extended by law. Government Code 3556, as amended by SB 191 (Ch. 67, Statutes of 2022), provides additional obligations for public employers under the conditions specified in the following paragraph.

Until June 30, 2025, in addition to above provisions regarding new employee orientations, unless the district shall ensure and the following: (Government Code 3556)

1. ~~When an inperson new employee orientation~~ exclusive representative have agreed otherwise, when the district has not been conducted an in-person orientation within 30 days of hiring ~~any~~ a new employee ~~who is working in person~~, the Superintendent or designee shall permit the exclusive representative to schedule an ~~inperson~~ in-person meeting which ~~newly hired employees shall have an opportunity to attend, at the employee's worksite and during employment hours. Each newly hired employee within the bargaining unit shall be provided at least 30 minutes of paid time to attend the meeting~~ at the new employee's worksite, during which the exclusive representative shall be permitted to communicate directly with the newly hired employees.

~~Within seven days of an exclusive representative's request to schedule such an inperson meeting, the Superintendent or designee~~ new employee shall have the opportunity to attend and shall be relieved of other duties for the purpose of attending the meeting. The district shall provide an appropriate on-site meeting space.

2. ~~When, by reason of a state or local public health order limiting the size of gatherings, at the district is prohibited~~ worksite within seven calendar days of receiving a request from organizing a new employee orientation, ~~an~~ the exclusive representative may schedule multiple meetings to ensure that newly hired employees have an opportunity to attend without exceeding the maximum allowable number of people. If such an order prohibits all gatherings, the exclusive representative may schedule a meeting(s) once the order is lifted or modified to permit gatherings.

Alternative access to these meetings shall be determined through mutual agreement between the district and the exclusive representative. (Government Code 3556, 3557)

CSBA NOTE: Pursuant to Government Code 3556, the district must provide at least 30 minutes of paid time for new employees to attend the meeting. However, nothing prohibits the district and the exclusive representative from providing more than 30 minutes of paid time.

During this meeting, the exclusive representative shall be permitted to communicate directly with the new employees for up to 30 minutes of paid time. (Government Code 3556)

Access to Employee Contact Information

CSBA NOTE: Pursuant to Government Code 3558, and 7928.300, which implemented the decision by the California Supreme Court in County of Los Angeles v. Los Angeles County Employee Relations Commission, districts are required to provide recognized employee organizations each exclusive representative with specified contact information for new employees in the bargaining unit, as provided below. The information required by Government Code 3558 must be provided in a manner consistent with Government Code 7928.300, which authorizes disclosure of an employee's the

home address, home telephone number(s), and personal cell phone number to ~~an~~ of every employee organization represented by the exclusive representative unless the district receives a written request by the employee to not disclose the information. Pursuant to Government Code 7928.300, the personal email address of an employee is not disclosable unless used by the employee to conduct public business. The following paragraph should be revised if districts have an agreement with their employee organization(s) requiring more frequent or more detailed contact lists.

In *County of Los Angeles v. Los Angeles County Employee Relations Commission*, the California Supreme Court held that (1) an employer has a duty to provide information relevant to collective bargaining to the applicable bargaining unit and failure to do so is a violation of the employer's obligation to bargain in good faith; (2) the disclosure of an employee's home address and phone number(s) by an employer to the union is presumptively relevant to the union's role as bargaining agent and does not violate the employee's constitutional right of privacy; and (3) other avenues for implementing privacy safeguards are available, such as bargaining for a notice and opt-out procedure or drafting employment contracts that will notify employees that their home contact information is subject to disclosure to the union and that they may request nondisclosure.

The Superintendent or designee shall provide an exclusive representative with the name, job title, department, work location, telephone numbers (work, home, and personal cell phone), ~~personal email address(es)~~ of all employees represented by the exclusive representative on file with the district; and home address of any newly hired. An employee's personal email address shall only be disclosed if it used by the employee within 30 days of hire or by the first pay period of the month following hire to conduct district business.

CSBA NOTE: Pursuant to Government Code 3558, specified contact information is required to be provided for all employees every 120 days and within 30 days of the date of hire or by the first pay period of the month following the date of hire for new employees. The following paragraph should be revised if districts have an agreement with an exclusive representative requiring more frequent disclosure.

Such information shall be provided within 30 days of hire or by the first pay period of the month following hire for all new employees represented by the exclusive representative, unless the exclusive representative has agreed to a different interval for the provision of the information. ~~In addition~~ Additionally, the Superintendent or designee shall provide the exclusive representative with the same information in regard to for all employees in the bargaining unit at least represented by the exclusive representative every 120 days, unless more frequent or detailed lists are disclosure is required by agreement with the exclusive representative. (Government Code 3558, 7928.300)

However, the Superintendent or designee shall not disclose: (Government Code 3558, ~~6207~~ 6205-6210, 6215; ~~6215.2~~ 6216, 7928.300)

1. The home address and any phone numbers on file for employees performing law enforcement-related functions

CSBA NOTE: The Safe at Home address confidentiality program has been in existence pursuant to Government Code ~~6207~~ 6205-6210 and 6215-6216 to protect victims of domestic violence, sexual assault, and stalking. This type of protection has been extended, pursuant to Government Code 6215, human trafficking, and ~~6215.2~~ elder or dependent adult abuse, and members of their households, as amended by SB 1131 (Ch. 554, Statutes of 2022); ~~to~~ well as district employees who face threats of violence, or violence or

harassment from the public because of the employee's work for the district. This type of protection has been extended, pursuant to Government Code 6205-6210, as amended by AB 243 (Ch. 642, Statutes of 2023), to victims of child abduction and members of their households.

2. The home address, home telephone or personal cell phone number(s), or personal email address(es) of any employee who is a participant in the Safe at Home address confidentiality program pursuant to Government Code ~~6207~~6205-6210 and 6215-16
3. The employee's home address, home telephone and personal cell phone numbers, and personal email address of an employee not performing law enforcement related functions if the employee has submitted a written request to the district to keep such information private. In such instances, the Superintendent or designee shall also remove the employee's home address, ~~and~~ home telephone number, and personal cell phone ~~numbers~~number from any mailing list maintained by the district unless the list is only used by the district to contact the employee.

CSBA NOTE: Pursuant to Government Code 3558, an employee organization is authorized, after notifying the district of a violation of the district's employee information disclosure obligations, to file a special unfair labor practice charge with PERB. If the alleged violation involves the provision of an inaccurate or incomplete list of employees, Government Code 3558 allows the district 20 calendar days to cure the alleged violation and to give the exclusive representative written notice of the actions taken. The opportunity to cure is limited to not more than three times in any 12-month period. If a violation is found, PERB is required to assess against the district a civil penalty of at most \$10,000 and payment of the exclusive representative's attorney's fees and costs in addition to any other remedy provided by law.

Within 20 calendar days after an exclusive representative notifies the Superintendent or designee that a list of employees provided by the district is inaccurate or incomplete, the Superintendent or designee shall take steps to correct the list and provide a new list of employees to the exclusive representative. (Government Code 3558)

CSBA NOTE: Government Code 3558 limits to three times within any 12-month period a district's opportunity to cure when an inaccurate or incomplete list has been provided to an exclusive representative. The following paragraph offers a way to avoid or minimize possible ~~violation~~violations and may be revised to reflect district practice.

~~To provide accurate information,~~ The Superintendent or designee shall review the list of contact information for district employees at the beginning of each school year, or more often as appropriate.

Communications with Employees by Employee Organizations

CSBA NOTE: Pursuant to Government Code 3543.1, districts are required, subject to "reasonable regulation" set forth by the district and at "reasonable times," to provide an employee organization with access to the work areas of employees represented by the employee organization and district facilities for the purpose of meetings with employees represented by the employee organization. Similarly, Government Code 3543.1 requires the district, subject to "reasonable regulation" by the district, to provide an employee organization with the use of institutional bulletin boards, mailboxes, and other means of communication to communicate with employees represented by the employee organization. In Desert Community College District, PERB held that the district must show that a

regulation is "reasonable" if it is (1) necessary to the efficient operation of the district's business and/or safety of its employees and others and (2) narrowly drawn to avoid overbroad, unnecessary interference with the exercise of statutory rights. Such regulation is also subject to bargaining with the exclusive representative, if applicable. Districts are encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to adopting or implementing such regulations.

Subject to reasonable regulation by the district, employee organizations may shall have access at reasonable times to areas in which employees work and may use district facilities, at reasonable times for the purpose of meetings. Subject to reasonable regulation, to the work areas of employees represented by the employee organization and to district facilities for the purpose of meeting with employees represented by the employee organization. Access may be limited in instances where it would be disruptive to district operations. (Government Code 3543.1)

Additionally, subject to reasonable regulation by the district, employee organizations may also shall have the ability to use institutional bulletin boards, mailboxes, and other means of communication to communicate with employees. represented by the employee organization. (Government Code 3543.1)

Access to district means of communication shall be limited in cases where such access would be disruptive to district operations.

Membership Dues or Other Payments to an Employee Organization

CSBA NOTE: Bargaining unit employees Employees who choose to join the become members of an employee organization pay membership dues, which are required to be deducted from the employee's salary or wage payment as provided below. Pursuant to the U.S. Supreme Court's decision in *Janus v. American Federation of State, County, and Municipal Employees*, bargaining unit employees who choose not to join become members of an employee organization cannot be required to pay any fees to the employee organization. However, pursuant to Education Code 45060 and 45168, an employee who chooses not to join an employee organization may be charged fees for applicable services, programs, or committees provided to the employee by the employee organization if that nonmember employee first affirmatively and voluntarily consents to pay those fees to the employee organization, as required by *Janus v. AFSCME*.

Education Code 45060 and 45168 set forth the process for handling authorizations, changes, and cancellations for dues or other payments, and provide safeguards for districts that rely on information provided by an employee organization concerning such payroll deductions (i.e., the employee organization's indemnification of the district against any employee's claim based on such reliance).

When drawing an order for the salary or wage payment of a bargaining unit employee of an employee organization, the district shall deduct any amount which that has been requested by the employee in a revocable written authorization for the purpose of paying dues or other payments for any service, program, or committee provided or sponsored by the employee organization. (Education Code 45060, 45168)

An When an employee organization that certifies has certified to the district that it has and will maintain individual employee authorizations shall handle and process employee written authorizations for payroll deductions. ~~When an employee organization provides such a certification~~

to the district, the district shall rely on information from the employee organization regarding the amounts of such payroll deductions and from which the employees. The to whom they apply and shall not handle or process employee written authorizations for the employees represented by such employee organization shall not be required to submit to the . The district also shall not require a copy of the written authorization in order for the payroll deductions to be effective. However, to be submitted by the employee organization, except when there is a dispute about the existence or terms of the written authorization; a copy of the employee's written authorization shall be submitted to the district. The employee organization shall indemnify the district for any employee claims regarding payroll deductions made by the district in reliance on notification from the employee organization. (Education Code 45060, 45168)

When an employee organization which has declined to certify that it will handle and process employee written authorizations makes a request for payroll deductions, the district shall request a copy of the employee's written authorization before making the payroll deductions. (Education Code 45060, 45168)

A written authorization shall remain in effect until expressly revoked in writing by the employee and pursuant to the terms of the written authorization. Employee requests to cancel or change authorizations for payroll deductions for employee organizations shall be directed to the employee organization that represents the employee rather than the district. The employee organization shall be responsible for processing these requests. The district shall rely on the information provided by the employee organization regarding whether deductions for an employee organization were properly canceled or changed. The employee organization shall be required to indemnify the district for any claims made by an employee for deductions made by the district in reliance on information from the employee organization. (Education Code 45060, 45168) (Education Code 45060, 45168)

When an employee organization has declined to certify that it will handle and process written authorizations from employee(s) represented by the employee organization and makes a request for payroll deductions, the district shall request a copy of the written authorization for an employee before making the payroll deductions for that employee. (Education Code 45060, 45168)

Policy Reference UPDATE Service

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Policy Reference Disclaimer:

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

State	Description
8 CCR 33015-33490	Recognition of exclusive representative; proceedings
8 CCR 33700-33710	Severance of established unit
Ed. Code 45060-45061.5	Deduction of fees from salary or wage payment; certificated employees
Ed. Code 45100.5	Senior classified management positions
Ed. Code 45104.5	Abolishment of senior classified management positions

Ed. Code 45108.5	Definition of senior classified management employees
Ed. Code 45108.7	Waiver of provisions of Education Code 45108.5
Ed. Code 45168	Deduction of fees from salary or wage payment; classified employees
Ed. Code 45220-45320	Merit system; classified employees
Gov. Code 3500-3511	Local public employee organizations
Gov. Code 3507.7	Representation of temporary employees
Gov. Code 3540-3549.3	Educational Employment Relations Act
Gov. Code 3540.1	Public employment; definitions
Gov. Code 3543.4	Management and confidential positions; representation
Gov. Code 3545	Appropriateness of unit; basis
Gov. Code 3550-3552	Prohibition on public employers deterring or discouraging union membership
Gov. Code 3555-3559	Public employee communication, information, and orientation
Gov. Code 53260-53264	Employment contracts
Gov. Code 6205-6210	Confidentiality of addresses for victims of domestic violence, sexual assault, or stalking, or child abduction
Gov. Code 6215-6216	Address confidentiality for individuals who face threats or violence because of work for a public entity
Gov. Code 6503.5	Joint powers agencies; agreement
Gov. Code 7928.300	Disclosure of employee contact information to employee organization
Management Resources	Description
Court Decision	County of Los Angeles v. Los Angeles County Employee Relations Commission (2013) 56 Cal. 4th 905
Court Decision	Friedrichs v. California Teachers Association, et al. (2016) 136 S.Ct. 1083
Court Decision	Janus v. American Federation of State, County and Municipal Employees, Council 31 (2018) 138 S.Ct. 2448
Public Employment Relations Board Ruling	East Whittier School District (2004) PERB Dec. No. 1727
Public Employment Relations Board Ruling	City of Sacramento (2019) PERB Dec. No. 2702m 2702
Public Employment Relations Board Ruling	Desert Community College District (2007) PERB Dec. No. 1921

[Public Employment Relations Board Ruling](#)[Regents of the University of California \(2004\) PERB Dec. No. 1700-H.](#)

Website	CSBA District and County Office of Education Legal Services
Website	California Federation of Teachers
Website	California Public Employment Relations Board
Website	California School Employees Association
Website	California Teachers Association
Website	Association of California School Administrators
Website	CSBA

Cross References

Code	Description
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CSBA Sample District Policy Manual
CSBA Sample Manual Site

Policy 4257: Employee Safety**Status:** ADOPTED

Original Adopted Date: 06/01/1991 | **Last Revised Date:** 10/03/01/2020 ~~2020~~ **2024** | **Last Reviewed Date:** 10/03/01/2020 ~~2020~~ **2024**

CSBA NOTE: The following optional policy and accompanying administrative regulation may be subject to collective bargaining agreements and should be modified to reflect district practice. Pursuant to Government Code 3543.2, safety conditions of employment are within the scope of bargaining.

The Governing Board is committed to maximizing employee safety and believes that workplace safety is the responsibility of every employee. -Working conditions and equipment shall comply with standards prescribed by federal, state, and local laws and regulations.

No employee shall be required or permitted to be in any place of employment which is unsafe or unhealthful. (Labor Code 6402)

The Superintendent or designee shall promote safety and correct any unsafe work practices through education and enforcement.

All employees are expected to use safe work practices and, to the extent possible, correct any unsafe conditions ~~which~~ **that** may occur. If an employee is unable to correct an unsafe condition, the employee shall immediately report the problem to the Superintendent or designee.

CSBA NOTE: Labor Code 6401.7, as amended by SB 553 (Ch. 289, Statutes of 2023), requires the district to establish, implement, and maintain an effective district's injury prevention program. ~~See the accompanying administrative regulation for required program elements.~~ to include a workplace violence prevention plan.

Additionally, 8 CCR 3203, ~~as amended by Register 2020, No. 10~~, requires the district to provide employees with access to the district's injury and illness prevention program.

See the accompanying administrative regulation for required injury prevention program elements and specific requirements related to employee access.

The Superintendent or designee shall establish and implement a written injury and illness prevention program; that includes a workplace violence prevention plan and ~~provide~~ that provides employees with access to such program; in accordance with law. (Labor Code 6401.7; 8 CCR 3203)

CSBA NOTE: 8 CCR 3400 requires districts to make provisions in advance to ensure that employees receive prompt medical treatment for serious injury or illness. -See the accompanying administrative regulation for specific requirements.

The Superintendent or designee shall make first aid materials readily available at district workplaces and shall make effective provisions to prepare for prompt medical treatment in the event of an employee's serious injury or illness. (8 CCR 3400)

No employee shall be discharged or discriminated against for exercising any right regarding employee safety or health specified in Labor Code 6310, including:

1. Making a report or complaint
2. Instituting proceedings or causing proceedings to be instituted
3. Testifying with regard to employee safety or health
4. Participating in any occupational health and safety committee established pursuant to Labor Code 6401.7
5. Requesting access to injury or illness reports and records
6. Exercising any other right protected by the Occupational Safety and Health Act

Policy Reference UPDATE Service

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Policy Reference Disclaimer:

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State	Description
17 CCR 2508	Reporting of communicable diseases
8 CCR 14000-14316	Occupational injury or illness reports and records
8 CCR 3203	Injury and illness prevention program
8 CCR 3204	Access to employee exposure and medical records
8 CCR 3400	Medical services and first aid
8 CCR 5095-5100	Control of noise exposure
8 CCR 5193	Bloodborne pathogens
Ed. Code 32030-32034	Eye safety
Ed. Code 32225-32226	Communications devices in classrooms
Ed. Code 32280-32289.5	School safety plans
Ed. Code 44984	Required rules for industrial accident and illness leave
Gov. Code 3543.2	Scope of representation
Lab. Code 132a	Workers' compensation; nondiscrimination
<u>Lab. Code 1139</u>	<u>Worker's rights in emergencies</u>

Lab. Code 3300	Definition of employer
Lab. Code 6305	Occupational safety and health standards; special order
Lab. Code 6310	Retaliation for filing complaint prohibited
Lab. Code 6325	Prohibition of entry into place of employment
Lab. Code 6400-6413.5	Responsibilities and duties of employers and employees
Lab. Code 6401.7	Injury and illness prevention program
Lab. Code 6401.9	Workplace violence prevention plans
Federal	Description
17 CFR 2508	Reporting of communicable diseases
29 CFR 1910.1030	Bloodborne pathogens
29 CFR 1910.95	Noise standards
29 CFR 651-678	Occupational safety and health
8 CFR 14000-14316	Occupational injury or illness reports and records
Management Resources	Description
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Website	CSBA District and County Office of Education Legal Services
Website	National Institute for Occupational Safety and Health
Website	U.S. Department of Labor, Occupational Safety and Health Administration
Website	California Department of Industrial Relations, Occupational Safety and Health
Website	National Hearing Conservation Association
Website	Centers for Disease Control and Prevention
Website	CSBA

Cross References

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0450	Comprehensive Safety Plan
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3514	Environmental Safety

3514.1	Hazardous Substances
3514.1	Hazardous Substances
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3516	Emergencies And Disaster Preparedness Plan
3516.5	Emergency Schedules
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3530	Risk Management/Insurance
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4112.9-E(1)	Employee Notifications
4113.5	Working Remotely
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4119.41	Employees With Infectious Disease
4119.42	Exposure Control Plan For Bloodborne Pathogens
4119.42	Exposure Control Plan For Bloodborne Pathogens
4119.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
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5141.22	Infectious Diseases
5141.22	Infectious Diseases
5141.6	School Health Services

5141.6

School Health Services

6142.93

Science Instruction

CSBA Sample District Policy Manual
CSBA Sample Manual Site

Regulation 4257: Employee Safety**Status:** ADOPTED

Original Adopted Date: 06/01/1991 | **Last Revised Date:** 103/01/20202024 | **Last Reviewed Date:** 103/01/20202024

The Superintendent or designee shall provide safety devices and implement safeguards, methods, and processes that are reasonably necessary for the safety and health of employees in the workplace. (Labor Code 6401)

CSBA NOTE: Pursuant to Labor Code 6325, the Department of Industrial Relations Division of Occupational Safety and Health (Cal/OSHA) may prohibit entry into a place of employment when, in its opinion, the place of employment exposes employees to an imminent hazard. In such cases, Cal/OSHA will provide a notice that must be posted in a conspicuous place at the place of employment.

If the Department of Industrial Relations Division of Occupational Safety and Health (Cal/OSHA) prohibits entry into any district workplace or performance of a district operation or process based on a determination that the workplace exposes employees to the risk of an imminent hazard, including a machine, device, apparatus, or equipment that is in a dangerous condition or is dangerously placed, the Superintendent or designee shall post a notice of the hazard provided by Cal/OSHA in a conspicuous place at the work site. This notice shall not be removed except by an authorized representative of Cal/OSHA and only when the workplace, operation, or process is made safe, and the required safeguards, safety appliances, or devices are provided. (Labor Code 6325)

Injury and Illness Prevention Program

CSBA NOTE: The following section reflects the requirements of Labor Code 6401.7, as amended by SB 553 (Ch. 289, Statutes of 2023), and 8 CCR 3203 for a written injury and illness prevention program. -When developing such a program, districts are encouraged to review ~~the Department of Industrial Relations'~~ Cal/OSHA's, "Guide to Developing Your Workplace Injury and Illness Prevention Program." The district's injury and illness prevention program shall cover all district employees and all other workers whom the district controls or directs and directly supervises on the job to the extent that the workers are exposed to hazards specific to their worksite and job assignment. The obligation of contractors or other employers who control or direct and supervise their own employees on the job shall not be affected by the district's injury and illness prevention program. (Labor Code 6401.7)

The district's injury and illness prevention program shall include: (Labor Code 6401.7; 8 CCR 3203)

1. The name/position of the person(s) with authority and responsibility for implementing the program.
2. A system for ensuring that employees comply with safe and healthful work practices, which may include, but are not be limited to:

- a. Recognition of employees who follow safe and healthful work practices
- b. Training and retraining programs
- c. Disciplinary actions

CSBA NOTE: Pursuant to 8 CCR 3203, districts with fewer than 10 employees may fulfill the communication requirements of ~~item~~Item #3 below by providing oral instruction in general safe work practices and the hazards unique to the employees' assignments.

3. A system for communicating with employees; in a form readily understandable by all employees on matters related to occupational health and safety, including provisions designed to encourage employees to report hazards at the worksite without fear of reprisal. The communications system may include, but is not ~~be~~ limited to:
 - a. Meetings
 - b. Training programs
 - c. Posting
 - d. Written communications
 - e. A system of anonymous notification by employees about hazards

CSBA NOTE: Districts may use a labor/management safety and health committee to communicate the contents of the injury and illness prevention program, as long as the committee satisfies the requirements specified below in the section on "Labor/Management Safety and Health Committee."
 - f. A labor/management safety and health committee
4. Procedures for identifying and evaluating workplace hazards, including scheduled periodic inspections to identify unsafe conditions and work practices. Such inspections shall be made:
 - a. Whenever new substances, processes, procedures, or equipment that represents a new occupational safety or health hazard is introduced into the workplace
 - b. Whenever the district is made aware of a new or previously unrecognized hazard
5. A procedure for investigating occupational injury or illness-
6. Methods and/or procedures for correcting unsafe or unhealthful conditions, work practices, and work procedures in a timely manner, based on the severity of the hazard, when the hazard is observed or discovered-

When an imminent hazard exists ~~which~~that cannot be immediately abated without endangering employee(s) and/or property, these procedures shall call for the removal of all exposed staff from the area except those necessary to correct the hazardous condition. Employees needed to correct the condition shall be provided with the necessary safeguards.

7. Provision of training and instruction as follows:

- a. To all new employees
- b. To all employees given new job assignments for which training has not previously been received
- c. Whenever new substances, processes, procedures, or equipment ~~is~~are introduced into the workplace and ~~represents~~represent a new hazard
- d. Whenever the district is made aware of a new or previously unrecognized hazard
- e. To supervisors, to familiarize them with the safety and health hazards to which employees under their immediate direction and control may be exposed

CSBA NOTE: Pursuant to Labor Code 6401.7, as amended by SB 553, districts are required to establish, implement, and maintain a workplace violence prevention plan as specified in Labor Code 6401.9, as added by AB 553.

8. A written workplace violence prevention plan developed and implemented in accordance with Labor Code 6401.9 (Labor Code 6401.7)

The plan, which shall be easily accessible to all employees at all times, shall be in effect at all times and in all work areas, and be specific to the hazards and corrective measures for each work area and operation. (Labor Code 6401.9)

The Superintendent or designee shall provide training to all employees when the plan is first established and annually thereafter in accordance with Labor Code 6401.9. Training materials shall be appropriate in content and vocabulary to employees' educational level, literacy, and language. (Labor Code 6401.9)

CSBA NOTE: Pursuant to 8 CCR 3203, ~~as amended by Register 2020, No. 10~~, employees or their designated representatives have the right to examine and receive a copy of the district's injury and illness prevention program, and districts are required to provide access as described below. 8 CCR 3203 defines "designated representative" as any individual or organization to whom an employee gives written authorization to exercise a right of access. A recognized or certified collective bargaining agent is, by definition, treated automatically as a designated representative.

Districts are not required to include records of steps taken to implement and maintain the injury and illness prevention program. However, access to such information, or any other information in addition to that required by 8 CCR 3203, may be subject to collective bargaining. The Superintendent or designee shall provide employees, or their representative designated pursuant to 8 CCR 3203, with either of the following: (8 CCR 3203)

1. Access to the district's injury and illness prevention program in a reasonable time, place, and manner, but in no event later than five business days after the request for access is received from an employee or a designated representative of the employee.

When an employee or designated representative requests a copy of the district's injury and illness prevention program, the Superintendent or designee shall provide the requester a

printed copy unless the employee or designated representative agrees to receive an electronic copy.

The Superintendent or designee shall provide one printed copy free of charge. If the employee or designated representative requests additional copies within one year of the previous request and the district's injury and illness prevention program has not been updated with new information since the prior copy was provided, the district may charge reasonable reproduction costs pursuant to 8 CCR 3204 for the additional copies.

CSBA NOTE: Pursuant to 8 CCR 3203, an employee has unobstructed access if, as part of the employee's regular work duties, the employee predictably and routinely uses the electronic means to communicate with management or coworkers.

2. Unobstructed access to the district's injury and illness prevention program through the district's server or ~~web site, which~~ website that allows an employee to review, print, and email the current version of the district's injury and illness prevention program.

The Superintendent or designee shall communicate the right and procedure to access the district's injury and illness prevention program to all employees. (8 CCR 3203)

Labor/Management Safety and Health Committee

CSBA NOTE: The following optional section is for use by districts that choose to use a labor/management safety and health committee to comply with the requirements of 8 CCR 3203 regarding communication with employees as specified in ~~item~~ Item #3 above in the section title "Injury and Illness Prevention Program."- Pursuant to 8 CCR 3203, if the committee adheres to the following practices, the district shall be deemed to be in substantial compliance with the communications requirements of the law. The district's labor/management safety and health committee shall: (8 CCR 3203)

1. Meet regularly, but not less than quarterly.
2. Prepare and make available to affected employees written records of the safety and health issues discussed at committee meetings and maintained for review by ~~the California Department of Industrial Relations' Division of Occupational Safety and Health (Cal/OSHA)~~ upon request.- These records shall be maintained for at least one year.
3. Review results of the periodic, scheduled worksite inspections.
4. Review investigations of occupational accidents and causes of incidents resulting in occupational injury or illness or exposure to hazardous substances. -As appropriate, the committee may submit suggestions to the Superintendent or designee regarding the prevention of future incidents.
5. Review investigations of alleged hazardous conditions brought to the attention of any committee member. When determined necessary by the committee, it may conduct its own inspection and investigation to assist in remedial solutions.
6. Submit recommendations to assist in the evaluation of employee safety suggestions.

7. Upon request of Cal/OSHA, verify abatement action taken by the district to abate citations issued by Cal/OSHA.

Hearing Protection

Whenever employee noise exposure equals or exceeds the standards specified ~~in~~by law, the Superintendent or designee shall implement a hearing conservation program in accordance with state and federal regulations, including, when required, monitoring of sound levels, audiogram evaluation and audiometric testing of affected employees, the provision of hearing protectors, and employee training. (8 CCR 5095-5100; 29 CFR 1910.95)

Eye Safety Devices

~~Eye~~Employees shall wear eye safety devices ~~shall be worn by employees~~ whenever they are engaged in or observing an activity involving hazards or hazardous substances likely to cause eye injury ~~to the eyes~~. (Education Code 32030-32034)

First Aid and Medical Services

The Superintendent or designee shall ensure the ready availability of medical personnel for advice and consultation on matters of industrial health or injury. ~~Whenever a district facility or district grounds are not in close proximity to an infirmary, clinic, or hospital where all injured employees may be treated, the Superintendent or designee shall ensure that at least one employee is adequately trained to provide first aid.~~ (8 CCR 3400)

CSBA NOTE: Pursuant to 8 CCR 3400, if ambulance service is not available within 30 minutes under normal conditions, the district may be required by ~~the California Department of Industrial Relations' Division of Occupational Safety and Health~~Cal/OSHA to provide stretchers, blankets, or other adequate warm covering.

The Superintendent or designee shall make adequate first aid materials readily available for employees at every worksite. Such materials shall be approved by a consulting physician and shall be kept in a sanitary and usable condition. ~~The Superintendent or designee shall frequently inspect all first aid materials and replenish them as necessary.~~ (8 CCR 3400)

The Superintendent or designee shall ensure that suitable facilities for quick drenching or flushing of the eyes and body are provided within the work area for immediate emergency use when the eyes or body or any person may be exposed to injurious corrosive materials. (8 CCR 3400)

CSBA NOTE: 8 CCR 3400 requires districts to make provisions in advance, using one or a combination of the provisions specified in ~~items~~Items #1-3 below, to ensure that employees receive prompt medical treatment for serious injury or illness. ~~Districts should select the provision(s) that reflect district practice.~~

To avoid unnecessary delay in medical treatment in the event of an employee's serious injury or illness, the Superintendent or designee shall use one or more of the following: (8 CCR 3400)

1. A communication system for contacting a physician or emergency medical service, such as access to 911 or equivalent telephone system. ~~The communication system or the~~

employees using the system shall have the ability to direct emergency services to the location of the injured or ill employee.

2. Readily accessible and available on-site treatment facilities suitable for treatment of reasonably anticipated injury and illness.
3. Proper equipment for prompt medical transport when transportation of injured or ill employees is necessary and appropriate.

Protection from Communicable Diseases and Infections

CSBA NOTE: The following section contains general information in regard to bloodborne pathogens and infectious diseases as it relates to employee safety. For more information regarding bloodborne pathogens, see BP/AR 4119.42/4219.42/4319.42 - Exposure Control Plan for Bloodborne Pathogens and BP/AR 4119.43/4219.43/4319.43 - Universal Precautions. For more information regarding infectious diseases, see BP 4119.41/4219.41/4319.41 - Employees with Infectious Disease.

The Superintendent or designee shall develop an exposure control plan for bloodborne pathogens that is consistent with the district's injury and illness prevention program. -The plan shall include a determination of which job classifications have occupational exposure to blood or other potentially infectious materials; precautions to be implemented, including universal precautions, engineering and work practice controls, and personal protective equipment; availability of the hepatitis B vaccination; provision of information and training to employees; and follow-up actions to be taken if exposure occurs. -The district shall ensure that a copy of the exposure control plan is accessible to employees in accordance with law. (8 CCR 5193; 29 CFR 1910.1030)

Strategies to prevent and mitigate the outbreak or spread of infectious diseases shall be followed for diseases that are communicated through airborne transmission, skin-to-skin contact, foodborne transmission, or other casual or noncasual means. Such strategies shall include, but are not limited to, communication and training about the disease(s); campus closures and alternative means of instruction when necessary; preventative measures, such as social distancing, personal protective equipment, temperature checks, and/or any other health screening allowed by law; and cleaning and sanitization of district facilities and equipment.

The Superintendent ~~of~~or designee shall immediately report to the local health officer the presence or suspected presence of any communicable disease. (17 CCR 2508)

COVID-19 Exposure

~~CSBA NOTE: Pursuant to Labor Code 6409.6, as added by AB 685 (Ch. 84, Statutes of 2020), the district is required to take the following actions whenever it receives notice of potential exposure to COVID-19. If the district receives notice of potential exposure to COVID-19, the Superintendent or designee shall, within one business day of the notice, take all of the following actions: (Labor Code 6409.6)~~

- ~~1. Provide a written notice to all employees, and the employers of subcontracted employees, who were on the premises at the same worksite as the qualifying individual within the infectious period that they may have been exposed to COVID-19. The notice shall be provided in a manner normally used to communicate employment-related information,~~

which may include, but is not limited to, personal service, email, or text message if it can reasonably be anticipated to be received by the employee within one business day of sending.

2. Provide a written notice to the exclusive representative, if any, of employees who were on the premises within the infectious period
3. Provide all employees who may have been exposed and the exclusive representative, if any, with information regarding:
 - a. COVID-19 related benefits to which the employee may be entitled under applicable federal, state, or local laws, including, but not limited to, workers' compensation
 - b. Available leave options for exposed employees
 - c. Antiretaliation and antidiscrimination protections of the employee
4. Notify all employees, and the employers of subcontracted employees and the exclusive representative, if any, of the disinfection and safety plan that the district plans to complete in accordance with Centers for Disease Control and Prevention guidelines

The above notifications shall be maintained for a period of at least three years. (Labor Code 6409.6)

CSBA NOTE: Labor Code 6409.6, as amended by AB 685, requires the district to provide specified information to the local health agency when a COVID-19 outbreak occurs, as provided below. This notice must contain the same information as would be required in an incident report to the California Department of Industrial Relations' Division of Occupational Safety and Health (Cal/OSHA) Form 300 injury and illness log unless inapplicable or unknown. If the district is notified of the number of cases that meet the definition of a COVID-19 outbreak, as defined by the California Department of Public Health, within 48 hours, the Superintendent or designee shall, within 48 hours of the notice, notify the local public health agency of the names, number, occupation, and worksite of employees who meet the definition of a qualifying individual. The Superintendent or designee shall continue to give notice to the local health department of any subsequent laboratory-confirmed cases of COVID-19 at the worksite. (Labor Code 6409.6)

CSBA NOTE: Pursuant to Labor Code 6325, as amended by AB 685, until January 1, 2023, Cal/OSHA may prohibit entry into a place of employment when, in its opinion, the place of employment exposes employees to the risk of COVID-19 infection and constitutes an imminent hazard to employees. In such cases, Cal/OSHA will provide a notice that must be posted in a conspicuous place at the place of employment.

In the event that Cal/OSHA prohibits entry into any district workplace or performance of a district operation or process based on a determination that the workplace exposes employees to the risk of COVID-19 infection and constitutes an imminent hazard to employees, the district shall post a notice thereof provided by Cal/OSHA in a conspicuous place at the work site. This notice shall not

~~be removed except by an authorized representative of Cal/OSHA and only when the place of employment, operation, or process is made safe and the required safeguards or safety appliances or devices are provided.~~

Policy Reference UPDATE Service

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Federal	Description

17 CFR 2508	Reporting of communicable diseases
29 CFR 1910.1030	Bloodborne pathogens
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29 CFR 651-678	Occupational safety and health
8 CFR 14000-14316	Occupational injury or illness reports and records
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4361.11	Industrial Accident/Illness Leave
5141.22	Infectious Diseases
5141.22	Infectious Diseases
5141.6	School Health Services
5141.6	School Health Services
6142.93	Science Instruction

Regulation 4257.1: Work-Related Injuries

Status: ADOPTED

Original Adopted Date: 10/01/1995 | **Last Revised Date:** ~~1003/01/2020~~2024 | **Last Reviewed Date:** ~~1003/01/2020~~2024

In order to provide medical benefits, temporary or permanent disability benefits, wage replacement, retraining or skill enhancement, and/or death benefits in the event that an employee becomes injured or ill in the course of employment, the district shall provide all employees with insurance and workers' compensation benefits in accordance with law. The Superintendent or designee shall develop an efficient claims handling process that reduces costs and facilitates employee recovery.

The Superintendent or designee shall notify every new employee, at the time of hire or by the end of the first pay period, of the employee's right to receive workers' compensation benefits if injured at work. (Labor Code 3551; 8 CCR 15596)

In addition, a notice regarding workers' compensation benefits shall be posted in a conspicuous location frequented by employees, where the notice may be easily read during the workday. (Labor Code 3550)

In the event that an employee is injured or becomes ill in the course of employment, the employee shall report the work-related injury or illness to the Superintendent or designee as soon as practicable. The employee and appropriate district staff shall also promptly document the date and time of any incident, a description of the incident, and any persons present.

Within one working day of receiving notice or knowledge of any injury to an employee in the course of employment, the Superintendent or designee shall provide a claim form and notice of potential eligibility for workers' compensation benefits to the employee or, in the case of the employee's death, to the employee's dependents. The claim form and notice shall be provided personally or by first class mail. (Labor Code 5401)

CSBA NOTE: Pursuant to Labor Code 3550, 3551, and 5401, all employee notices described above (i.e., the notice that must be posted in a conspicuous place, the notice provided to all employees at the time of hire, and the notice and claim form provided when an employee is injured) must be in a form prescribed by the California Department of Industrial Relations (DIR) Division of Workers' Compensation (DWC). These notices are available on the DWC's website or through the district's insurer. For districts that employ Spanish-speaking employees, the information must be made available in English and Spanish.

The Superintendent or designee shall ensure that all employee notices described above are in the form prescribed by the Department of Industrial Relations (DIR), Division of Workers' Compensation.

The Superintendent or designee shall additionally ensure that any employee who is a victim of a crime that occurred at the place of employment is given written notice personally or by first class mail within one working day of the crime, or when the district reasonably should have known of the crime, that the employee is eligible for workers' compensation benefits for injuries, including psychiatric injuries, that may have resulted from the crime. (Labor Code 3553)

CSBA NOTE: Pursuant to Labor Code 3550, 3551, and 5401, all employee notices described above (i.e., the notice that must be posted in a conspicuous place, the notice provided to all employees at the time of hire, and the notice and claim form provided when an employee is injured) must be in a form prescribed by the California Department of Industrial Relations (DIR) Division of Workers' Compensation (DWC). These notices are available on the DWC's web site or through the district's insurer. For districts that employ Spanish-speaking employees, the information must be made available in English and Spanish. CSBA NOTE: Pursuant to Labor Code 6409.1, the district must file a report concerning any injury or illness which has, or is alleged to have, arisen out of and in the course of employment. The report is required to be filed with DIR, or, if the district is insured through a third party insurer, with the insurer. The following paragraph may be revised to reflect district practice.

The Superintendent or designee shall ensure that all employee notices described above are in the form prescribed by the Department of Industrial Relations (DIR), Division of Workers Compensation.

CSBA NOTE: Pursuant to Labor Code 6409.1, the district must file a report concerning any injury or illness which has, or is alleged to have, arisen out of and in the course of employment. The report is required to be filed with DIR or, if the district is insured through a third party insurer, with the insurer. The following paragraph may be revised to reflect district practice:

Upon learning of a work-related injury or illness, or injury or illness alleged to have arisen out of and in the course of employment, the Superintendent or designee shall report the incident to the district's insurance carrier or DIR, as applicable, within five days after obtaining knowledge of the injury or illness. If a subsequent death arises as a result of the reported injury or illness, an amended report indicating the death shall be filed within five days after being notified of or learning about the death. (Labor Code 6409.1)

CSBA NOTE: Pursuant to Labor Code 6409.1, as amended by AB 1804 (Ch. 199, Statutes of 2019), in addition to the report described above, a report of death or serious injury or illness is required to be immediately reported to the Division of Occupational Safety and Health (Cal/OSHA) by telephone or through an online mechanism established by Cal/OSHA. Labor Code 6409.1 permits districts to make the report by telephone or email until Cal/OSHA has an online mechanism available.

Labor Code 6302, as amended by AB 1805 (Ch. 200, Statutes of 2019), redefines "serious injury or illness" as provided below.

In addition, in every case involving death or serious injury or illness, the Superintendent or designee shall immediately make a report to the Division of Occupational Safety and Health (Cal/OSHA) by telephone or through an online mechanism made available by Cal/OSHA. (Labor Code 6409.1)

For the purpose of this report, serious injury or illness means any injury or illness occurring in a place of employment or in connection with any employment that requires inpatient hospitalization for other than medical observation or diagnostic testing, or in which an employee suffers an amputation, the loss of an eye, or any serious degree of permanent disfigurement. (Labor Code 6302)

Claims Related to COVID-19

CSBA NOTE: Until January 1, 2023, Labor Code 3212.86 and 3212.88, as added by SB 1159 (Ch. 85, Statutes of 2020), define "injury" for purposes of workers' compensation as including COVID-19 related illness or death when a positive COVID-19 diagnosis was made within 14 days after the employee performed labor or services at the district's place of employment. Labor Code 3212.86

applies when the diagnosis was made between March 19, 2020 and July 5, 2020, and confirmed by a COVID-19 test within 30 days of the diagnosis. Labor Code 3212.88 applies when the diagnosis was made after July 6, 2020, and the positive test occurred during a period of an outbreak, as defined, at the employee's specific place of employment. Pursuant to Labor Code 3212.86 and 3212.88, a positive diagnosis as specified above creates a presumption that the injury arose out of and in the course of employment. Unless disputed by the district within 30 or 45 days, as applicable, the Workers' Compensation Appeals Board is bound to find, in accordance with the presumption, that COVID-19 was contracted within the course and scope of employment.

Because of the large number of workers' compensation claims that districts may receive due to COVID-19 infection, districts are encouraged to consult legal counsel as appropriate to determine its impact on the district, including about the use of paid sick leave and eligibility for temporary disability benefits.

Until January 1, 2023, an employee is presumed to be entitled to workers' compensation benefits for illness or death resulting from COVID-19 if the diagnosis was made within 14 days after the employee performed labor or services at the place of employment and if the employee contracted COVID-19 during an outbreak at the employee's specific place of employment. (Labor Code 3212.86, 3212.88)

For this purpose, an outbreak means that, within 14 calendar days, one of the following occurs at a specific place of employment: (Labor Code 3212.88)

1. If a specific place of employment has 100 employees or fewer, four employees test positive for COVID-19.
2. If a specific place of employment has more than 100 employees, four percent of the number of employees who reported to the specific place of employment test positive for COVID-19.
3. A specific place of employment is ordered to close by a local public health department, the California Department of Public Health, Cal/OSHA, or the Superintendent due to a risk of infection with COVID-19.

The Superintendent or designee may rebut a presumption that COVID-19 was contracted during the course and scope of employment by offering evidence to the Workers' Compensation Appeals Board, such as the measures that were in place at the employee's specific place of employment to reduce potential transmission of COVID-19 and evidence of an employee's nonoccupational risk of contracting COVID-19. (Labor Code 3212.86, 3212.88)

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Policy Reference Disclaimer:

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State	Description
8 CCR 15596	Notice of employee rights to workers' compensation benefits
Ed. Code 44984	Required rules for industrial accident and illness leave
Ed. Code 45192	Industrial accident and illness leave for classified employees
Lab. Code 3200-4856	Workers' compensation

Lab. Code 3212.86	COVID-19: critical workers pre-July 5, 2020
Lab. Code 3212.88	COVID-19: critical workers post-July 5, 2020
Lab. Code 3550-3553	Notifications re:regarding workers' compensation benefits
Lab. Code 3600-3605	Conditions of liability
Lab. Code 3760	Report of injury to insurer
Lab. Code 4600	Provision of medical and hospital treatment by employer
Lab. Code 4906	Disclosures and statements
Lab. Code 5400-5413	Notice of injury or death
Lab. Code 6302	Definition of serious injury or illness
Lab. Code 6409.1	Reports
Management Resources	Description
CA Department of Industrial Relations Publication	Workers' Compensation Claim Form (DWC 1) & Notice of Potential Eligibility
CA Department of Industrial Relations Publication	Workers' Compensation in California: A Guidebook for Injured Workers, 2016
CA Department of Industrial Relations Publication	Notice to Employees - Injuries Caused by Work
CA Department of Industrial Relations Publication	Time of Hire Pamphlet
Website	CSBA District and County Office of Education Legal Services
Website	California Department of Industrial Relations, Division of Workers Compensation
Website	California Department of Industrial Relations, Occupational Safety and Health
Website	California Department of Public Health
Website	CSBA

Cross References

Code	Description
1240	Volunteer Assistance
1240	Volunteer Assistance
3320	Claims And Actions Against The District
3320	Claims And Actions Against The District
3530	Risk Management/Insurance
3530	Risk Management/Insurance
4032	Reasonable Accommodation
4112.9	Employee Notifications

4112.9-E(1)	Employee Notifications
4113.4	Temporary Modified/Light-Duty Assignment
4113.5	Working Remotely
4154	Health And Welfare Benefits
4154	Health And Welfare Benefits
4157	Employee Safety
4157	Employee Safety
4157.2	Ergonomics
4161.1	Personal Illness/Injury Leave
4161.11	Industrial Accident/Illness Leave
4161.9	Catastrophic Leave Program
4161.9	Catastrophic Leave Program
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4213.4	Temporary Modified/Light-Duty Assignment
4213.5	Working Remotely
4254	Health And Welfare Benefits
4254	Health And Welfare Benefits
4257	Employee Safety
4257	Employee Safety
4257.2	Ergonomics
4261.11	Industrial Accident/Illness Leave
4261.9	Catastrophic Leave Program
4261.9	Catastrophic Leave Program
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4313.4	Temporary Modified/Light-Duty Assignment
4313.5	Working Remotely
4354	Health And Welfare Benefits
4354	Health And Welfare Benefits
4357	Employee Safety
4357	Employee Safety
4357.2	Ergonomics

4361.1

Personal Illness/Injury Leave

441/630

4361.11

Industrial Accident/Illness Leave

4361.9

Catastrophic Leave Program

4361.9

Catastrophic Leave Program

Policy 4311: Recruitment And Selection

Status: ADOPTED

Original Adopted Date: 07/01/2012 | Last Revised Date: 03/01/2018 2024 | Last Reviewed Date: 03/01/2018 2024

CSBA NOTE: The following optional policy may be revised to reflect district practice and related should be aligned with relevant collective bargaining agreement provisions of collective bargaining agreements.

The Additionally, the Governing Board should ensure that district hiring procedures are designed to avoid liability for negligent hiring aligned with law, Board policy, and collective bargaining agreements. In *C.A. v. William S. Hart Union High School District*, the California Supreme Court held that a district can be held vicariously liable for the negligence of its administrators and supervisors in the hiring, retention, and supervision of a counselor who sexually harassed and/or abused a student.

The following paragraph reflects concepts from the California Department of Education's (CDE) publication, "How to Increase the Diversity of California's Educator Workforce," and the California Commission on Teacher Credentialing's (CTC) publication, "Strategic Plan: Ensuring Educator Excellence," related to the benefits students receive when staff reflects the racial, ethnic, linguistic, and cultural diversity of the district.

The Governing Board is committed to employing suitable, qualified individuals to effectively carry out the district's vision, mission, and goals, and believes that students benefit when district staff reflects the racial, ethnic, linguistic, and cultural diversity of the district.

The Superintendent or designee shall develop equitable, fair, and transparent recruitment and selection processes and procedures that ensure individuals are selected for employment in the district based on demonstrated knowledge, skills, and competence and not on any bias, personal preference, or unlawful discrimination.

Additionally, the Superintendent or designee shall, through the recruitment and selection processes and procedures, seek to establish and maintain a diverse staff, including the active recruitment from institutions and organizations that serve populations underrepresented among district employees.

When a vacancy occurs, the Superintendent or designee shall review, as appropriate, the job description for the position to ensure that it accurately describes the major functions and duties of the position. ~~He/she~~ The Superintendent or designee shall also disseminate job announcements to ensure a wide range of candidates.

CSBA NOTE: Pursuant to Labor Code 432.3, an employer with 15 or more employees is required to include the pay scale for a position in any job posting.

The district's selection procedures When posting an employment opportunity, the Superintendent or designee shall include screening processes, interviews, recommendations from previous employers, the pay scale for the open position. (Labor Code 432.2)

The Superintendent shall develop and observations when maintain appropriate, as necessary hiring procedures to identify the best possible candidate candidates for a position.

The Superintendent or designee may establish In doing so, an interview committee may be established to rank candidates and recommend finalists. During job interviews, applicants may be

asked to describe or demonstrate how they will be able to perform the duties of the job. All discussions and recommendations shall be confidential in accordance with law.

No inquiry shall be made with regard to any information prohibited by state or federal nondiscrimination laws and consistent with law.

No inquiry shall be made about any information prohibited by state or federal nondiscrimination laws.

CSBA NOTE: Pursuant to Government Code 12954, the district may not discriminate against a person in hiring based on the person's use of cannabis when off the job or away from the workplace. Additionally, Government Code 12954, as amended by SB 700 (Ch. 408, Statutes of 2023), prohibits the district from requesting information from an applicant related to the applicant's prior use of cannabis, apart from the person's criminal history, unless the district is otherwise legally permitted to consider or inquire about that information. However, Government Code 12954 does not interfere with the district's right to maintain drug-free schools or to prohibit employees from possessing, being impaired by, or using cannabis while at work. Government Code 12954 does not preempt state or federal laws requiring applicants to be tested for controlled substances as a condition of employment or to applicants in the building and construction trades or for positions requiring a federal background investigation. The district may utilize drug screenings that do not rely on nonpsychoactive cannabis metabolite results. Districts with questions about applicant cannabis use or screening should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

Unless otherwise provided for in law, the district may not discriminate against a person in hiring based on the person's use of cannabis off the job and away from the workplace, including that the district may not request information from an applicant related to the applicant's prior use of cannabis, apart from the applicant's criminal history, or penalize an applicant based on a drug screening which finds that the applicant has nonpsychoactive cannabis metabolites in the applicant's hair, blood, urine, or other bodily fluid. (Government Code 12954)

However, the district retains the right to maintain drug-free schools or prohibit employees from possessing, being impaired by, or using cannabis while on the job. (Government Code 12954)

CSBA NOTE: Labor Code 432.3, as added by AB 168 (Ch. 688, Statutes of 2017), prohibits districts from seeking a job applicant's salary history information and from relying on salary history as a factor in determining whether to offer employment to an applicant or the salary to offer. However, if the applicant discloses salary history information voluntarily and without prompting, the district is not prohibited from considering or relying on such information in determining the salary for that applicant. Labor Code 432.3 is not applicable to salary history information that is disclosable pursuant to the California Public Records Act (Government Code 7920.000 - 7930.170) or the Freedom of Information Act (5 USC 552).

The Superintendent or designee shall not inquire, orally or in writing, ~~in regard to~~ about an applicant's salary history information, including compensation and benefits. ~~He/she~~ Additionally, the Superintendent or designee shall ~~also~~ not rely on salary history information as a factor in determining whether to offer employment to an applicant or the salary to offer. However, the Superintendent or designee may consider salary information that is disclosable under state or federal law or that the applicant discloses voluntarily and without prompting. ~~Upon request, the Superintendent or designee shall provide the applicant the pay scale for the position to which he/she is applying.~~ (Labor Code 432.3)

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

For each position, the Superintendent or designee shall present to the Board one candidate who meets all qualifications established by law and the Board for the position. No person shall be employed by the Board without the recommendation or endorsement of the Superintendent or designee.

Incentives

CSBA NOTE: The Consistent with any applicable collective bargaining agreements, the district may offer incentives (e.g., signing bonuses, assistance with beginning teacher induction costs, assistance with the process of obtaining a clear credential including covering credential costs, a mentoring program, additional compensation, and/or subsidized housing) to recruit teachers, administrators, or other employees in accordance with district needs.

AB 99 SB 114 (Ch. 1548, Statutes of 2017 2023) establishes the California Educator Development (CalED) grant program Diverse Education Leaders Pipeline Initiative to assist districts with attracting train, place, and supporting the preparation retain culturally responsive school administrators to improve student outcomes and continued learning meet the needs of teachers, principals, and other school leaders California's education workforce.

Health and Safety Code 53573 permits districts to establish and implement programs that address the housing needs of teachers and other district employees who face challenges in securing affordable housing. Health and Safety Code 53574 enables housing projects on district property restricted to rentals for district employees to qualify for both federal and state low-income housing tax credits. For more information regarding housing for district employees, see the Center for Cities + Schools (UC Berkeley), cityLAB (UCLA), and the Turner Center for Housing Innovation's (UC Berkeley), "Education Workforce Housing Handbook."

The following optional section may be revised to reflect local incentive programs.

With Board approval and in accordance with district needs and any applicable collective bargaining agreements, the district may provide incentives to recruit teachers, administrators, or other employees, such as signing bonuses, assistance with beginning teacher induction and/or credential costs, mentoring, additional compensation, and/or subsidized housing.

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State	Description
Ed. Code 200-262.4	Prohibition of discrimination
Ed. Code 35035	Powers and duties of the superintendent; transfer authority
Ed. Code 44066	Limitations on certification requirements
Ed. Code 44259	Teaching credential, exception; designated subjects; minimum requirements
Ed. Code 44750	Teacher recruitment resource center
Ed. Code 44830-44831	Employment of certificated persons

Ed. Code 44858	Age or marital status in certificated positions
Ed. Code 44859	Prohibition against certain rules and regulations re: <u>regarding</u> residency
Ed. Code 45103-45139	Employment (; classified employees)
Ed. Code 49406	Examination for tuberculosis
Gov. Code 12900-12996	Fair Employment and Housing Act
Gov. Code 12940-12957	Discrimination prohibited; unlawful practices
Gov. Code 7920.000-7930.170 <u>215</u>	California Public Records Act
Gov. Code 815.2	Liability of public entities and public employees
H&S Code 53570-53574	Teacher Housing Act of 2016
Lab. Code 432.3	Salary information
Federal	Description
20 USC 1681-1688	Title IX of the Education Amendments of 1972; discrimination based on sex
28 CFR 35.101-35.190	Americans with Disabilities Act
34 CFR 106.51-106.61	Nondiscrimination on the basis of sex in employment in education program or activities
42 USC 12101-12213	Americans with Disabilities Act
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended
5 USC 552	Freedom of Information Act
8 USC 1324a	Unlawful employment of aliens
8 USC 1324b	Unfair immigration related employment practices
Management Resources	Description
<u>CCSESA</u> <u>California County Superintendents</u> Publication	Teacher Recruitment in California: An Analysis of Effective Strategies, Research Brief, Veritas Research and Evaluation Group, October 2017
<u>California Department of Education</u> Publication	<u>How to Increase the Diversity of California's Educator Workforce, April 2022</u> (https://www.cde.ca.gov/pd/ee/documents/dtwcouncilreportapril22.pdf)
<u>California Commission on Teacher Credentialing</u> Publication	<u>Strategic Plan: Ensuring Educator Excellence, 2023</u> (https://www.ctc.ca.gov/docs/default-source/commission/files/ctc-strategic-plan.pdf?sfvrsn=baef20b1_12)
<u>Center for Cities + Schools, cityLAB, and Turner Center for Housing Innovation</u> Publication	<u>Education Workforce Housing Handbook, 2022</u> (https://citylab.ucla.edu/education-workforce-housing-research-report)

[Center for Cities + Schools, cityLAB, and Turner Center for Housing Innovation Publication](#)

[Education Workforce Housing in California: Developing the 21st Century Campus, 2021 \(https://citylab.ucla.edu/education-workforce-housing-research-report\)](#)

Court Decision

C.A. v William S. Hart Union High School District et al., (2012) 138 Cal.Rptr.3d 1

Website

CSBA District and County Office of Education Legal Services

[Website](#)

[California Department of Education \(https://www.cde.ca.gov/\)](#)

Website

Commission on Teacher Credentialing

Website

Education Job Opportunities Information Network

Website

Teach USA

Website

California County Superintendents

Website

California Civil Rights Department

Website

U.S. Department of Education

Website

U.S. Equal Employment Opportunity Commission

[Website](#)

[University of California Berkeley, Center for Cities + Schools \(https://citiesandschools.berkeley.edu/\)](#)

[Website](#)

[University of California Berkeley, Turner Center for Housing Innovation \(https://turnercenter.berkeley.edu/\)](#)

[Website](#)

[University of California Los Angeles, cityLAB \(https://www.citylab.ucla.edu/\)](#)

Cross References

Code

Description

0000

Vision

0200

Goals For The School District

0410

Nondiscrimination In District Programs And Activities

2230

Representative And Deliberative Groups

3542

School Bus Drivers

4000

Concepts And Roles

4030

Nondiscrimination In Employment

4030

Nondiscrimination In Employment

4032

Reasonable Accommodation

4100

Certificated Personnel

4111.2

Legal Status Requirement

4111.2

Legal Status Requirement

4112	Appointment And Conditions Of Employment
4112.2	Certification
4112.2	Certification
4112.21	Interns
4112.21	Interns
4112.22	Staff Teaching English Learners
4112.23	Special Education Staff
4112.61	Employment References
4112.8	Employment Of Relatives
4113	Assignment
4113	Assignment
4117.14	Postretirement Employment
4200	Classified Personnel
4200	Classified Personnel
4211.2	Legal Status Requirement
4211.2	Legal Status Requirement
4212	Appointment And Conditions Of Employment
4212.61	Employment References
4212.8	Employment Of Relatives
4300	Administrative And Supervisory Personnel
4300	Administrative And Supervisory Personnel
4311.2	Legal Status Requirement
4311.2	Legal Status Requirement
4312.1	Contracts
4312.61	Employment References
4312.8	Employment Of Relatives
4317.14	Postretirement Employment
4331	Staff Development
6141.4	International Baccalaureate Program
6141.5	Advanced Placement
6171	Title I Programs
6171	Title I Programs
9000	Role Of The Board

Regulation 4312.5: Criminal Record Check

Status: ADOPTED

Original Adopted Date: 10/01/1998 | **Last Revised Date:** 1203/01/20142024 | **Last Reviewed Date:** 1203/01/20142024

CSBA NOTE: Education Code 44830.1, 44836, 45122.1, and 45123 prohibit the district from hiring or retaining in employment, in a certificated or classified position, a person who has been convicted of or pleads no contest to a violent or serious felony, sex offense, or controlled substance offense, as defined. Exceptions specified in law are reflected in ~~items~~Items #1-5 below.

These requirements apply to job applicants, temporary employees, substitute employees, and probationary employees serving before March 15 of their second year. Employees with permanent status may only be suspended or dismissed in accordance with the grounds and procedures specified in BP/AR 4118 - Dismissal/Suspension/Disciplinary Action or BP/AR 4218 - Dismissal/Suspension/Disciplinary Action, as applicable.

However, pursuant to Government Code 12954, the district may not discriminate against a person in hiring, termination, or any term or condition of employment based on the person's use of cannabis when off the job or away from the workplace. Additionally, Government Code 12954, as amended by SB 700 (Ch. 408, Statutes of 2023), prohibits the district from requesting information from an applicant related to the applicant's prior use of cannabis, apart from the person's criminal history, unless the district is otherwise legally permitted to consider or inquire about that information. Certain employees may be subject to stricter laws related to drug testing. Districts with questions about drug testing employees should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

The Superintendent or designee shall not hire or retain in employment, in a certificated or classified position, a person who has been convicted of a violent or serious felony as defined in Penal Code 667.5(c) or 1192.7(c), a controlled substance offense as defined in Education Code 44011, or a sex offense as defined in Education Code 44010. However, the Superintendent or designee shall not deny or terminate employment if solely on the basis that the person has been: (Education Code 44830.1, 44836, 45122.1, 45123)

1. ~~The conviction for~~Convicted of a violent or serious felony, controlled substance offense, or sex offense, and the conviction is reversed and the person is acquitted of the offense in a new trial or the charges against the person are dismissed, unless the sex offense for which the conviction is dismissed pursuant to Penal Code 1203.4 involves a victim who was a minor;
2. ~~A person convicted~~Convicted of a violent or serious felony and has obtained a certificate of rehabilitation or a pardon;
3. ~~A person who has been convicted~~Convicted of a serious felony, that is not also a violent felony, proves and has proven to the sentencing court that ~~he/she has been~~ rehabilitated rehabilitation for purposes of school employment has been attained for at least one year;
4. ~~A person who has been convicted~~Convicted of a controlled substance offense and is applying for or is employed in a certificated position and has a credential issued by the

5. ~~A person who has been convicted~~ **Convicted** of a controlled substance offense **and** is applying for or is employed in a classified position and has been determined by the Governing Board, from the evidence presented, to have been rehabilitated for at least five years.

A certificated employee may be hired by the district without obtaining a criminal record summary if that employee is employed as a certificated employee in another California school district and became a permanent employee of another California school district as of October 1, 1997. (Education Code 44830.1, 44836)

CSBA NOTE: The following optional paragraph is for use by districts that issue temporary certificates pursuant to Education Code 44332.5 to authorize salary payments while a certificated employee's credential application is being processed. If the issuance of temporary certificates is handled by the county office of education, the following paragraph should be deleted.

The Superintendent or designee shall not issue a temporary certificate of clearance to a person whose application for a credential, certificate, or permit is being processed by the Commission on Teacher Credentialing if that person has been convicted of a violent or serious felony, unless the person is otherwise exempt pursuant to Education Code 44332.6 or 44830.1. (Education Code 44332.5, 44332.6)

Pre-Employment Record Check

CSBA NOTE: The following section may be revised to reflect district practice. To fulfill the requirement for a criminal record check through the California Department of Justice (DOJ) and Federal Bureau of Investigation, the applicant ~~must~~ **is required to** submit fingerprints using the electronic Live Scan process. Locations offering the Live Scan service are listed on the DOJ's ~~web site~~ **website**. The DOJ provides the results to the district via email, or by U.S. mail if no email is available.

While the DOJ normally does not provide notice of a conviction for which relief has been granted, pursuant to Penal Code 11105, the Commission on Teacher Credentialing will receive every conviction rendered against an applicant, retroactive to January 1, 2020, regardless of relief granted. However, notwithstanding the above, pursuant to Penal Code 1203.425, information for a conviction for a controlled substance offense listed in Health and Safety Code 11350 or 11377, or former Health and Safety Code 11500 or 11500.5, that is more than five years old, for which relief is granted, is prohibited from being disseminated.

The Superintendent or designee shall require each person to be employed by the district to submit ~~his/her~~ fingerprints electronically through the Live Scan system so that a criminal record check may be conducted by the Department of Justice (DOJ). -The Superintendent or designee shall provide the applicant with a Live Scan request form and a list of nearby Live Scan locations.

When a person is applying for a classified position, the Superintendent or designee shall request that the DOJ also obtain a criminal record check through the Federal Bureau of Investigation whenever the applicant meets one of the following conditions: (Education Code 45125)

1. The applicant has not resided in California for at least one year immediately preceding the application for employment.

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2. The applicant has resided in California for more than one year, but less than seven years, and the DOJ has ascertained that the person was convicted of a sex offense where -the victim was a minor or a drug offense where an element of the offense is either the distribution to or the use of a controlled substance by a minor.

The Superintendent or designee shall immediately notify the DOJ when an applicant who has submitted his/her fingerprints to the DOJ is not subsequently employed by the district. (Penal Code 11105.2)

Subsequent Arrest Notification

CSBA NOTE: Pursuant to Education Code 44830.1 and 45125, the district ~~must~~ is required to sign up for "subsequent arrest notification" from the DOJ in accordance with Penal Code 11105.2. Forms available for this purpose are available on DOJ's ~~web site~~ website.

The Superintendent or designee shall enter into a contract with the DOJ to receive notification of subsequent arrests resulting in conviction of any person whose fingerprints have been submitted to the DOJ. (Education Code 44830.1, 45125; Penal Code 11105.2)

Upon telephone or email notification by the DOJ that a current temporary employee, substitute employee, or probationary employee serving before March 15 of his/her the employee's second probationary year has been convicted of a violent or serious felony, the Superintendent or designee shall immediately place that employee on leave without pay. (Education Code 44830.1, 45122.1)

When the district receives written electronic notification by the DOJ of the fact of conviction, the temporary employee, substitute employee, or probationary employee serving before March 15 of his/her the employee's second probationary year shall be terminated automatically unless the employee challenges the DOJ record and the DOJ withdraws its notification in writing. Upon receipt of the written withdrawal of notification by the DOJ, the Superintendent or designee shall immediately reinstate ~~that~~ the employee with full restoration of salary and benefits for the period of time from the suspension without pay to the reinstatement if the employee is still employed by the district. (Education Code 44830.1, 45122.1)

The Superintendent or designee shall immediately notify the DOJ whenever a person whose fingerprints are maintained by the DOJ is terminated. (Penal Code 11105.2)

Notification of Applicant/Employee

The Superintendent or designee shall expeditiously furnish a copy of any DOJ notification to the applicant or employee to whom it relates if the information is a basis for an adverse employment decision. The copy shall be delivered in person or to the last contact information provided by the applicant or employee. (Penal Code 11105, 11105.2)

Maintenance of Records

CSBA NOTE: To be qualified to obtain Criminal Record Offender Information (CORI) for the purpose of employment decisions, the district ~~must~~ is required to apply to the DOJ for authorization and ~~must~~ is required to designate at least one custodian of records who is responsible for the security, storage, dissemination, and destruction of criminal records furnished to the district.

The Superintendent shall designate at least one custodian of records who shall be responsible for the security, storage, dissemination, and destruction of all Criminal Offender Record Information (CORI) furnished to the district and shall serve as the primary contact for the DOJ for any related

issues. (Penal Code 11102.2)

An employee designated as custodian of records shall receive a criminal background check clearance from the DOJ prior to serving in that capacity. (Penal Code 11102.2)

CSBA NOTE: The DOJ requires every person with access to CORI, including the custodian of records, to complete an Employee Statement Form acknowledging an understanding of the law governing CORI. The custodian of records is required to return ~~his/her own~~ such form to the DOJ and to retain any forms completed by other district staff. The Employee Statement Form is reproduced in the accompanying Exhibit.

The custodian of records shall sign and return to the DOJ the Employee Statement Form acknowledging ~~his/her~~ an understanding of the laws prohibiting misuse of CORI.- In addition, the custodian of records shall ensure that any individual with access to CORI has on file a signed Employee Statement Form.

To ensure its confidentiality, CORI shall be accessible only to the custodian of records and shall be kept in a locked file separate from other files. -CORI shall be used only for the purpose for which it is requested and its contents shall not be disclosed or reproduced. (Education Code 44830.1, 45125)

Once a hiring determination is made, the applicant's CORI shall be destroyed to the extent that the identity of the individual can no longer be reasonably ascertained. (Education Code 44830.1, 45125; 11 CCR 708)

CSBA NOTE: ~~SB 1461 (Ch. 54, Statutes of 2014) amended Penal Code 11102.2 to delete the requirement to annually notify DOJ of the district's custodian of records. Pursuant to Penal Code 11102.2, districts are now only required to notify the DOJ when the custodian of records ceases to serve in that capacity.~~

The Superintendent or designee shall immediately notify the DOJ whenever a designated custodian of records ceases to serve in that capacity. (Penal Code 11102.2)

Interagency Agreement

CSBA NOTE: The following optional section is for use by any district that has been designated to act on behalf of other school districts within the same county or in contiguous counties to share CORI as authorized by Education Code 44830.2 and 45125.01. Districts that have not entered into an agreement to share such information, or for whom another district or the County Superintendent of Schools has been designated to receive and share the information, should delete this section.

Pursuant to Education Code 45125.01, any district that participates in such an interagency agreement may use this arrangement to conduct criminal background checks for a noncertificated candidate for a paid or volunteer position in a student activity program pursuant to Education Code 49024; see BP/AR 1240 - Volunteer Assistance and BP/AR 4127/4227/4327 - Temporary Athletic Team Coaches.

Subject to an interagency agreement with other school districts, the district shall submit and receive CORI on behalf of all participating districts. (Education Code 44830.2, 45125.01)

Upon receipt from the DOJ of a report of conviction of a serious or violent felony, the district shall communicate that fact to participating districts and shall remove the affected employee from the common list of persons eligible for employment. (Education Code 44830.2, 45125.01)

In addition, upon receipt from the DOJ of a criminal history record or report of subsequent arrest for any person on a common list of persons eligible for employment, the district shall give notice to the superintendent of any participating district, or the person designated in writing by that superintendent, that the report is available for inspection on a confidential basis by the superintendent or the authorized designee. The report shall be made available at the district office for 30 days following the receipt of the notice. (Education Code 44830.2, 45125.01)

The district shall not release a copy of that information to any participating district or any other person. In addition, the district shall retain or dispose of the information in the manner specified in law and in this administrative regulation after all participating districts have had an opportunity to inspect it in accordance with law. (Education Code 44830.2, 45125.01)

The district shall maintain a record of all persons to whom the information has been shown and shall make this record available to the DOJ. (Education Code 44830.2, 45125.01)

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Policy Reference Disclaimer:

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State	Description
11 CCR 701-708	Criminal offender record information
11 CCR 720-724	Incomplete criminal history information
11 CCR 994-994.15	Certification of individuals who take fingerprint impressions
Ed. Code 44010	Sex offense; definitions
Ed. Code 44011	Controlled substance offense
Ed. Code 44332-44332.6	Temporary certificate of clearance
Ed. Code 44346.1	Applicants for credential; conviction of a violent or serious felony
Ed. Code 44830.1	Criminal record summary certificated employees
Ed. Code 44830.2	Certificated employees; interagency agreement for sharing criminal record information
Ed. Code 44836	Employment of certificated persons convicted of <u>sex offense or controlled substance offenses</u>
Ed. Code 44932	Grounds for dismissal of permanent employees
Ed. Code 45122.1	Classified employees; conviction of a violent or serious felony

Ed. Code 45125	Use of personal identification cards to ascertain conviction of crime
Ed. Code 45125.01	Interagency agreements for criminal record information
Ed. Code 45125.5	Automated records check
Ed. Code 45126	Duty of Department of Justice to furnish information
Ed. Code 49024	Activity Supervisor Clearance Certificate
Gov. Code 12954	Employment discrimination; cannabis use
H&S Code 11350	Offenses Involving Controlled Substances Formerly Classified as Narcotics
H&S Code 11377	Offenses Involving Controlled Substances Formerly Classified as Restricted Dangerous Drugs
Pen. Code 11075-11081	Criminal record dissemination
Pen. Code 11102.2	Maintenance of criminal offender records; custodian of records
Pen. Code 11105	Access to criminal history information
Pen. Code 11105.2	Subsequent arrest notification
Pen. Code 11105.3	Record of conviction involving sex crimes, drug crimes, or crimes of violence
Pen. Code 11140-11144	Furnishing of state criminal history information
Pen. Code 1192.7	Plea bargaining limitation
Pen. Code 1203.4	Dismissal of conviction
Pen. Code 1203.425	Conviction relief
Pen. Code 13300-13305	Local summary criminal history information
Pen. Code 667.5	Prior prison terms; enhancement of prison terms
Management Resources	Description
Court Decision	Central Valley Chapter of the 7th Step Foundation Inc. v. Evelle J. Younger; (1989) 214 Cal. App. 3d 145
Website	CSBA District and County Office of Education Legal Services
Website	Office of the Attorney General, Department of Justice, Background Checks
Website	CSBA

Cross References

Code	Description
1240	Volunteer Assistance
1240	Volunteer Assistance

1340	Access To District Records
1340	Access To District Records
2120	Superintendent Recruitment And Selection
3515.3	District Police/Security Department
3515.3	District Police/Security Department
3542	School Bus Drivers
3580	District Records
3580	District Records
4112	Appointment And Conditions Of Employment
4112.2	Certification
4112.2	Certification
4112.6	Personnel Files
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4116	Probationary/Permanent Status
4116	Probationary/Permanent Status
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.23	Unauthorized Release Of Confidential/Privileged Information
4121	Temporary/Substitute Personnel
4121	Temporary/Substitute Personnel
4127	Temporary Athletic Team Coaches
4127	Temporary Athletic Team Coaches
4200	Classified Personnel
4200	Classified Personnel
4212	Appointment And Conditions Of Employment
4212.6	Personnel Files
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4218.1	Dismissal/Suspension/Disciplinary Action (Merit System)
4219.23	Unauthorized Release Of Confidential/Privileged Information

4227	Temporary Athletic Team Coaches
4227	Temporary Athletic Team Coaches
4312.6	Personnel Files
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4319.23	Unauthorized Release Of Confidential/Privileged Information
4327	Temporary Athletic Team Coaches
4327	Temporary Athletic Team Coaches
5148	Child Care And Development
5148	Child Care And Development
5148.2	Before/After School Programs
5148.2	Before/After School Programs
5148.3	Preschool/Early Childhood Education
5148.3	Preschool/Early Childhood Education
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
9011	Disclosure Of Confidential/Privileged Information

Exhibit 4312.5-E(1): Criminal Record Check

Status: ADOPTED

Original Adopted Date: 10/01/1997 | **Last Revised Date:** 12/03/01/2014/2024 | **Last Reviewed Date:** 12/03/01/2014/2024

CSBA NOTE: The following is based on the sample Employee Statement Form provided by the California Department of Justice. Such a form must be signed by an employee designated as custodian of records of criminal history information and any other individual granted access to this information by the custodian of records; see the accompanying administrative regulation.

**SAMPLE EMPLOYEE STATEMENT FORM
USE OF CRIMINAL JUSTICE INFORMATION**

As an employee/volunteer of [REDACTED] School District, you may have access to confidential criminal record information which is controlled by state and federal statutes. Misuse of such information may adversely affect the individual's civil rights and violate constitutional rights of privacy. Penal Code 502 prescribes the penalties relating to computer crimes. Penal Code 11105 and 13300 identify who has access to criminal history information and under what circumstances it may be disseminated. Penal Code 11140-11144 and 13301-13305 prescribe penalties for misuse of criminal history information. Government Code 6200 prescribes felony penalties for misuse of public records. Penal Code 11142 and 13300 state:

"Any person authorized by law to receive a record or information obtained from a record who knowingly furnishes the record or information to a person not authorized by law to receive the record or information is guilty of a misdemeanor."

Civil Code 1798.53, Invasion of Privacy, states:

"Any person who intentionally discloses information, not otherwise public, which they know or should reasonably know was obtained from personal or confidential information maintained by a state agency or from records within a system of records maintained by a federal government agency, shall be subject to a civil action, for invasion of privacy, by the individual."

CIVIL, CRIMINAL, AND ADMINISTRATIVE PENALTIES:

- Penal Code 11141: DOJ furnishing to unauthorized person (misdemeanor)
- Penal Code 11142: Authorized person furnishing to other (misdemeanor)
- Penal Code 11143: Unauthorized person in possession (misdemeanor)
- California Constitution, Article I, Section 1 (Right to Privacy)
- Civil Code 1798.53, Invasion of Privacy

- Title 18 USC 641, 1030, 1951, and 1952

Any employee who is responsible for such misuse may be subject to immediate dismissal. Violations of this law may result in criminal and/or civil action.

I HAVE READ THE ABOVE AND UNDERSTAND THE POLICY REGARDING MISUSE OF CRIMINAL RECORD INFORMATION.

Signature _____ Date _____

Printed Name _____ Title _____

Name of District _____

PLEASE NOTE: Do not return this form to the DOJ. Your Custodian of Records should maintain these forms.

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Ed. Code 44836	Employment of certificated persons convicted of <u>sex offense</u> or controlled substance <u>offenses</u> <u>offense</u>
Ed. Code 44932	Grounds for dismissal of permanent employees
Ed. Code 45122.1	Classified employees; conviction of a violent or serious felony
Ed. Code 45125	Use of personal identification cards to ascertain conviction of crime
Ed. Code 45125.01	Interagency agreements for criminal record information

Ed. Code 45125.5	Automated records check
Ed. Code 45126	Duty of Department of Justice to furnish information
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H&S Code 11350	Offenses Involving Controlled Substances Formerly Classified as Narcotics
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Pen. Code 11105	Access to criminal history information
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Pen. Code 11140-11144	Furnishing of state criminal history information
Pen. Code 1192.7	Plea bargaining limitation
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5148.3	Preschool/Early Childhood Education
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
9011	Disclosure Of Confidential/Privileged Information

CSBA Sample District Policy Manual
CSBA Sample Manual Site

Policy 4340: Bargaining Units**Status:** ADOPTED

Original Adopted Date: 11/01/2011 | **Last Revised Date:** 06/03/01/2023~~2023~~2024 | **Last Reviewed Date:** 06/03/01/2023~~2023~~2024

CSBA NOTE: Pursuant to Government Code 3544, an employee organization may become the employees' employees' exclusive representative for negotiations by filing a request with the district providing proof that a majority of the specified employees in an appropriate unit wish to be represented by that organization. Notice of such request must be immediately posted conspicuously on all employee bulletin boards in each district facility in which ~~members of the unit~~ employees to be represented by that organization are employed. Government Code 3544.1 requires the district to grant the request for recognition unless (1) the district doubts the appropriateness of the ~~unit~~ organization, (2) another employee organization files a challenge to the appropriateness of the ~~unit~~ organization or submits a competing claim of representation within 15 work days of the posting of notice of the written request, or (3) the district currently has a lawful written agreement with another employee organization representing the same employees.

"Exclusive representative," as defined in Government Code 3540.1, While the terms "employee organization," "exclusive representative," "recognized employee organization," and "bargaining unit" are similar, the differences are important for purposes of understanding the rights and obligations of each one. As defined by Government 3540.1, "employee organization" means an organization that includes district employees that represents those employees in their relations with the district as one of its primary purposes; "exclusive representative" means an employee organization recognized or certified as the exclusive negotiating representative for all district employees other than management and confidential employees; and "recognized employee organization" means an employee organization that has been recognized by a district as the exclusive representative. "Bargaining unit" is not defined in statute but is used in this policy to referred to the entity with which the district is required to bargain regarding compensation and working conditions for a represented group of district employees.

Government Code 3543 provides that public school employees have the right to represent themselves individually in their employment relations with the district except that, once an exclusive representative has been recognized, an employee in that bargaining unit is prohibited from meeting and negotiating with the district.

The Governing Board recognizes the right of district employees to form a bargaining unit and to select an employee organization as the exclusive representative ~~to represent~~ for the employees in the employees' employment relationship with the district. The Board is committed to negotiating in good faith with ~~recognized employee organizations~~ the exclusive representative and respecting the rights of employees and employee organizations.

The district shall not dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it. (Government Code 3543.5)

CSBA NOTE: ~~In East Whittier School District, the~~ The Public Employment Relations Board (PERB) uses a case-by-case approach to determine whether a district's policy restricting the wearing of

union buttons, insignia, or other pictorial or written messages by employees is justified by special circumstances. In East Whittier School District, PERB found that the district's policy limiting the wearing of union buttons that favor or oppose any matter that is the subject of negotiations in the classroom or in other instructional areas in the presence of students violated the Educational Employment Relations Act (EERA), as there was no finding of special circumstances which would limit the established right of employees to wear union buttons in the workplace, nor was there a finding that wearing the union buttons was a political activity. ~~PERB continues to use a case-by-case approach to determine whether a district's policy restricting the wearing of union buttons by employees is justified by special circumstances, as seen in PERB's ruling in City of Sacramento with regard to union insignia on employees' hardhats.~~ Due to the legal uncertainty in this area, districts are encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to limiting the wearing of union buttons ~~that support the union's position in collective bargaining.~~ insignia, or other pictorial or written messages.

Employees shall not be prohibited from wearing union buttons, insignia, or other ~~items~~ pictorial or written messages that favor or oppose the formation of a bargaining unit or any matter that is the subject of negotiations.

Formation of Bargaining Units

CSBA NOTE: The following section contains legal requirements for the certification or recognition of bargaining units for different categories of employees.

Certificated and classified employees shall not be included in the same bargaining unit. (Government Code 3545)

A bargaining unit of certificated or classified supervisory employees may only be recognized if the bargaining unit includes all certificated or classified supervisory employees, respectively, and is not represented by ~~an~~ the same employee organization that represents district employees who are supervised by the supervisory employees. (Government Code 3545)

For this purpose, supervisory employee means any employee, regardless of job description, having authority, in the interest of the district, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to assign work to, direct, or adjust grievance of other employees, or effectively recommend that action, when the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment. (Government Code 3540.1)

CSBA NOTE: Pursuant to Government Code 3543.4, management (including senior management) and confidential employees, as defined in Government Code 3540.1, are excluded from the right to be represented in negotiations by an ~~employee organization.~~ exclusive representative. Certain management positions designated by the Board under state law such as Education Code 45100.5 may be subject to review by PERB ultimately determines, based upon the duties of the position. For questions regarding which positions qualify as "management" or "confidential," districts are encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel.

Employees serving in management, senior management, or confidential positions shall not be represented by an exclusive representative. In the employment relationship with the district, ~~such employees~~ employees who serve in a management, senior management, or confidential position may represent themselves or be represented by an employee organization whose membership is

composed entirely of employees designated as holding those positions. ~~An~~ However, an employee organization representing management, senior management, or confidential employees shall not be permitted to meet and negotiate with the district on behalf of the employees. (Education Code 45100.5, Government Code 3543.4)

Management employee means an employee in a position having significant responsibilities for formulating district policies or administering district programs. ~~Management positions shall be designated by the Board which may be subject to review by the Public Employment Relations Board.~~ (Government Code 3540.1)

Confidential employee means any employee who is required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information that is used to contribute significantly to the development of management positions. (Government Code 3540.1)

Membership

CSBA NOTE: Government Code 3550 prohibits districts from deterring or discouraging district employees or job applicants from becoming or remaining members of an employee organization, authorizing representation by an employee organization, or authorizing dues or fee deductions to an employee organization. Pursuant to Government Code 3551.5, as added by SB 931 (Ch. 823, Statutes of 2022), any district found by PERB to be in violation of this prohibition may be subject to civil penalties of \$1,000 for each affected employee, up to a maximum of \$100,000 in total, and may be ordered to pay attorney's fees and costs to the employee organization.

The district shall not deter or discourage employees or job applicants from becoming or remaining members of an employee organization, authorizing representation by an employee organization, or authorizing dues or fee deductions to an employee organization. In addition, the district shall not impose or threaten to impose reprisals on employees, discriminate or threaten to discriminate against employees, or otherwise interfere with, restrain, or coerce employees because of their membership or nonmembership in an employee organization. (Government Code 3543.5, 3550, 3551.5)

District Communications to Employees

CSBA NOTE: ~~The remainder of this~~ This section is optional and may be revised to reflect district practice. Government Code 3553 establishes requirements for districts that choose to disseminate a mass communication regarding employees' rights to join, support, or refrain from joining or supporting an employee organization. A "mass communication" means any written document, including a script for an oral or recorded presentation or message, intended for multiple employees.

Districts should exercise caution and consult with CSBA's District and County Office of Education Legal Services or district legal counsel before communicating with employees about their rights to join or not join an employee organization to avoid violating the law against unfair labor practices. When an employee approaches the district with questions specifically about the benefits of the membership in an employee organization, the employee should be referred to the employee organization.

The Superintendent or designee may communicate with district employees regarding their rights to

join and/or support an officially recognized employee organization or to refrain from joining or supporting an officially recognized employee organization. Such communications shall be factual and accurate, and may not promise a benefit, threaten a reprisal, or in any way deter or discourage employees from joining an employee organization or paying dues.

However, before disseminating

The district may disseminate written documents, recorded messages, or other mass communications to multiple actual or perspective employees any mass communication represented by an exclusive representative concerning employees' their rights under the law, such as a written document or script for oral or recorded presentation to join and/or message, support, or refrain from joining and/or supporting, an employee organization only after the Superintendent or designee shall meet meets and confer confers with the employees' exclusive representative regarding concerning the content of the mass communication. If the district and exclusive representative do not come to agreement on the content of the mass communication and the district still chooses to disseminate it, the Superintendent or designee may disseminate the district's mass communication, provided shall request that at the same time, copies of the exclusive representative's representative provide a communication, which shall be of reasonable length, are also distributed. to the district that shall be disseminated to the employees at the same time as the district's own mass communication. (Government Code ~~3553~~3556)

Access to New Employee Orientations

The district shall permit employee organizations each exclusive representative access to new employee orientation or onboarding process where newly hired employees represented by the exclusive representative are advised, whether in person, online, or through other means or mediums, of their employment status, rights, benefits, duties, responsibilities, or any other employment-related matters. The district shall provide employee organizations the exclusive representative at least 10 days' notice in advance of an orientation, except that a shorter notice may be provided if where there is an unforeseeable, urgent need critical to the district's operation prevents the required 10 days' notice. district's operations that was not reasonably foreseeable. (Government Code 3555.5, 3556)

Following a request to negotiate by either party, the structure, time, and manner of access to new employee orientations shall be determined by mutual agreement of the district and the exclusive representative. If the district and exclusive representative fail to reach an agreement, matters related to the structure, time, and manner of access to the new employee orientation shall be subject to compulsory interest arbitration. The district and employee organization the exclusive representative may mutually agree to submit any dispute to compulsory interest arbitration at any time. In addition, if any dispute arises during negotiations and is not resolved within 45 days after the first meeting or within 60 days after the initial request to negotiate, whichever is earlier, either party may make a demand for compulsory interest arbitration. The arbitrator selection process shall commence within 14 days of a party's demand for compulsory interest arbitration. When any such dispute arises during the summer when the district's administrative office is closed, the timeline shall commence on the first day the administrative office reopens. The arbitrator's decision of the arbitrator shall be issued within 10 days and shall be final and binding on the parties. (Government Code 3556, 3557)

The date, time, and place of a new employee orientation shall not be disclosed to anyone other than employees, the exclusive representative, or a vendor that is contracted to provide a service for purposes of the orientation. (Government Code 3556)

CSBA NOTE: The following paragraph applies until June 30, 2025; unless the date is extended by law. Government Code 3556, as amended by SB 191 (Ch. 67, Statutes of 2022), provides additional obligations for public employers under the conditions specified in the following paragraph.

Until June 30, 2025, in addition to above provisions regarding new employee orientations, unless the district shall ensure and the following: (Government Code 3556)

1. ~~When an inperson new employee orientation~~ exclusive representative have agreed otherwise, when the district has not been conducted an in-person orientation within 30 days of hiring ~~any~~ a new employee ~~who is working in person~~, the Superintendent or designee shall permit the exclusive representative to schedule an ~~inperson~~ in-person meeting which ~~newly hired employees shall have an opportunity to attend, at the employee's worksite and during employment hours. Each newly hired employee within the bargaining unit shall be provided at least 30 minutes of paid time to attend the meeting~~ at the new employee's worksite, during which the exclusive representative shall be permitted to communicate directly with the newly hired employees.

~~Within seven days of an exclusive representative's request to schedule such an inperson meeting, the Superintendent or designee~~ new employee shall have the opportunity to attend and shall be relieved of other duties for the purpose of attending the meeting. The district shall provide an appropriate on-site meeting space.

2. ~~When, by reason of a state or local public health order limiting the size of gatherings, at the district is prohibited~~ worksite within seven calendar days of receiving a request from organizing a new employee orientation, ~~an~~ the exclusive representative may schedule multiple meetings to ensure that newly hired employees have an opportunity to attend without exceeding the maximum allowable number of people. If such an order prohibits all gatherings, the exclusive representative may schedule a meeting(s) once the order is lifted or modified to permit gatherings.

Alternative access to these meetings shall be determined through mutual agreement between the district and the exclusive representative. (Government Code 3556, 3557)

CSBA NOTE: Pursuant to Government Code 3556, the district must provide at least 30 minutes of paid time for new employees to attend the meeting. However, nothing prohibits the district and the exclusive representative from providing more than 30 minutes of paid time.

During this meeting, the exclusive representative shall be permitted to communicate directly with the new employees for up to 30 minutes of paid time. (Government Code 3556)

Access to Employee Contact Information

CSBA NOTE: Pursuant to Government Code 3558, and 7928.300, which implemented the decision by the California Supreme Court in County of Los Angeles v. Los Angeles County Employee Relations Commission, districts are required to provide recognized employee organizations each exclusive representative with specified contact information for new employees in the bargaining unit, as provided below. The information required by Government Code 3558 must be provided in a manner consistent with Government Code 7928.300, which authorizes disclosure of an employee's the

home address, home telephone number(s), and personal cell phone number to ~~an~~ of every employee organization represented by the exclusive representative unless the district receives a written request by the employee to not disclose the information. Pursuant to Government Code 7928.300, the personal email address of an employee is not disclosable unless used by the employee to conduct public business. The following paragraph should be revised if districts have an agreement with their employee organization(s) requiring more frequent or more detailed contact lists.

In *County of Los Angeles v. Los Angeles County Employee Relations Commission*, the California Supreme Court held that (1) an employer has a duty to provide information relevant to collective bargaining to the applicable bargaining unit and failure to do so is a violation of the employer's obligation to bargain in good faith; (2) the disclosure of an employee's home address and phone number(s) by an employer to the union is presumptively relevant to the union's role as bargaining agent and does not violate the employee's constitutional right of privacy; and (3) other avenues for implementing privacy safeguards are available, such as bargaining for a notice and opt-out procedure or drafting employment contracts that will notify employees that their home contact information is subject to disclosure to the union and that they may request nondisclosure.

The Superintendent or designee shall provide an exclusive representative with the name, job title, department, work location, telephone numbers (work, home, and personal cell phone), ~~personal email address(es)~~ of all employees represented by the exclusive representative on file with the district; and home address of any newly hired. An employee's personal email address shall only be disclosed if it used by the employee within 30 days of hire or by the first pay period of the month following hire to conduct district business.

CSBA NOTE: Pursuant to Government Code 3558, specified contact information is required to be provided for all employees every 120 days and within 30 days of the date of hire or by the first pay period of the month following the date of hire for new employees. The following paragraph should be revised if districts have an agreement with an exclusive representative requiring more frequent disclosure.

Such information shall be provided within 30 days of hire or by the first pay period of the month following hire for all new employees represented by the exclusive representative, unless the exclusive representative has agreed to a different interval for the provision of the information. ~~In addition~~ Additionally, the Superintendent or designee shall provide the exclusive representative with the same information ~~in regard to~~ for all employees in the bargaining unit at least represented by the exclusive representative every 120 days, unless more frequent or detailed lists are disclosure is required by agreement with the exclusive representative. (Government Code 3558, 7928.300)

However, the Superintendent or designee shall not disclose: (Government Code 3558, ~~6207~~ 6205-6210, 6215; ~~6215.2-6216~~, 7928.300)

1. The home address and any phone numbers on file for employees performing law enforcement-related functions

CSBA NOTE: The Safe at Home address confidentiality program has been in existence pursuant to Government Code ~~6207~~ 6205-6210 and 6215-6216 to protect victims of domestic violence, sexual assault, and stalking. This type of protection has been extended, pursuant to Government Code 6215, human trafficking, and ~~6215.2~~ elder or dependent adult abuse, and members of their households, as amended by SB 1131 (Ch. 554, Statutes of 2022); ~~to~~ well as district employees who face threats of violence, or violence or

harassment from the public because of the employee's work for the district. This type of protection has been extended, pursuant to Government Code 6205-6210, as amended by AB 243 (Ch. 642, Statutes of 2023), to victims of child abduction and members of their households.

2. The home address, home telephone or personal cell phone number(s), or personal email address(es) of any employee who is a participant in the Safe at Home address confidentiality program pursuant to Government Code ~~6207~~6205-6210 and 6215-16
3. The employee's home address, home telephone and personal cell phone numbers, and personal email address of an employee not performing law enforcement related functions if the employee has submitted a written request to the district to keep such information private. In such instances, the Superintendent or designee shall also remove the employee's home address, ~~and~~ home telephone number, and personal cell phone ~~numbers~~number from any mailing list maintained by the district unless the list is only used by the district to contact the employee.

CSBA NOTE: Pursuant to Government Code 3558, an employee organization is authorized, after notifying the district of a violation of the district's employee information disclosure obligations, to file a special unfair labor practice charge with PERB. If the alleged violation involves the provision of an inaccurate or incomplete list of employees, Government Code 3558 allows the district 20 calendar days to cure the alleged violation and to give the exclusive representative written notice of the actions taken. The opportunity to cure is limited to not more than three times in any 12-month period. If a violation is found, PERB is required to assess against the district a civil penalty of at most \$10,000 and payment of the exclusive representative's attorney's fees and costs in addition to any other remedy provided by law.

Within 20 calendar days after an exclusive representative notifies the Superintendent or designee that a list of employees provided by the district is inaccurate or incomplete, the Superintendent or designee shall take steps to correct the list and provide a new list of employees to the exclusive representative. (Government Code 3558)

CSBA NOTE: Government Code 3558 limits to three times within any 12-month period a district's opportunity to cure when an inaccurate or incomplete list has been provided to an exclusive representative. The following paragraph offers a way to avoid or minimize possible ~~violation~~violations and may be revised to reflect district practice.

~~To provide accurate information,~~ The Superintendent or designee shall review the list of contact information for district employees at the beginning of each school year, or more often as appropriate.

Communications with Employees by Employee Organizations

CSBA NOTE: Pursuant to Government Code 3543.1, districts are required, subject to "reasonable regulation" set forth by the district and at "reasonable times," to provide an employee organization with access to the work areas of employees represented by the employee organization and district facilities for the purpose of meetings with employees represented by the employee organization. Similarly, Government Code 3543.1 requires the district, subject to "reasonable regulation" by the district, to provide an employee organization with the use of institutional bulletin boards, mailboxes, and other means of communication to communicate with employees represented by the employee organization. In Desert Community College District, PERB held that the district must show that a

regulation is "reasonable" if it is (1) necessary to the efficient operation of the district's business and/or safety of its employees and others and (2) narrowly drawn to avoid overbroad, unnecessary interference with the exercise of statutory rights. Such regulation is also subject to bargaining with the exclusive representative, if applicable. Districts are encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to adopting or implementing such regulations.

Subject to reasonable regulation by the district, employee organizations may shall have access at reasonable times to areas in which employees work and may use district facilities, at reasonable times for the purpose of meetings. Subject to reasonable regulation, to the work areas of employees represented by the employee organization and to district facilities for the purpose of meeting with employees represented by the employee organization. Access may be limited in instances where it would be disruptive to district operations. (Government Code 3543.1)

Additionally, subject to reasonable regulation by the district, employee organizations may also shall have the ability to use institutional bulletin boards, mailboxes, and other means of communication to communicate with employees. represented by the employee organization. (Government Code 3543.1)

Access to district means of communication shall be limited in cases where such access would be disruptive to district operations.

Membership Dues or Other Payments to an Employee Organization

CSBA NOTE: Bargaining unit employees Employees who choose to join the become members of an employee organization pay membership dues, which are required to be deducted from the employee's salary or wage payment as provided below. Pursuant to the U.S. Supreme Court's decision in *Janus v. American Federation of State, County, and Municipal Employees*, bargaining unit employees who choose not to join become members of an employee organization cannot be required to pay any fees to the employee organization. However, pursuant to Education Code 45060 and 45168, an employee who chooses not to join an employee organization may be charged fees for applicable services, programs, or committees provided to the employee by the employee organization if that nonmember employee first affirmatively and voluntarily consents to pay those fees to the employee organization, as required by *Janus v. AFSCME*.

Education Code 45060 and 45168 set forth the process for handling authorizations, changes, and cancellations for dues or other payments, and provide safeguards for districts that rely on information provided by an employee organization concerning such payroll deductions (i.e., the employee organization's indemnification of the district against any employee's claim based on such reliance).

When drawing an order for the salary or wage payment of a bargaining unit employee of an employee organization, the district shall deduct any amount which that has been requested by the employee in a revocable written authorization for the purpose of paying dues or other payments for any service, program, or committee provided or sponsored by the employee organization. (Education Code 45060, 45168)

An When an employee organization that certifies has certified to the district that it has and will maintain individual employee authorizations shall handle and process employee written authorizations for payroll deductions. ~~When an employee organization provides such a certification~~

to the district, the district shall rely on information from the employee organization regarding the amounts of such payroll deductions and from which the employees. The to whom they apply and shall not handle or process employee written authorizations for the employees represented by such employee organization shall not be required to submit to the . The district also shall not require a copy of the written authorization in order for the payroll deductions to be effective. However, to be submitted by the employee organization, except when there is a dispute about the existence or terms of the written authorization; a copy of the employee's written authorization shall be submitted to the district. The employee organization shall indemnify the district for any employee claims regarding payroll deductions made by the district in reliance on notification from the employee organization. (Education Code 45060, 45168)

When an employee organization which has declined to certify that it will handle and process employee written authorizations makes a request for payroll deductions, the district shall request a copy of the employee's written authorization before making the payroll deductions. (Education Code 45060, 45168)

A written authorization shall remain in effect until expressly revoked in writing by the employee and pursuant to the terms of the written authorization. Employee requests to cancel or change authorizations for payroll deductions for employee organizations shall be directed to the employee organization that represents the employee rather than the district. The employee organization shall be responsible for processing these requests. The district shall rely on the information provided by the employee organization regarding whether deductions for an employee organization were properly canceled or changed. The employee organization shall be required to indemnify the district for any claims made by an employee for deductions made by the district in reliance on information from the employee organization. (Education Code 45060, 45168) (Education Code 45060, 45168)

When an employee organization has declined to certify that it will handle and process written authorizations from employee(s) represented by the employee organization and makes a request for payroll deductions, the district shall request a copy of the written authorization for an employee before making the payroll deductions for that employee. (Education Code 45060, 45168)

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Policy Reference Disclaimer:

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

State	Description
8 CCR 33015-33490	Recognition of exclusive representative; proceedings
8 CCR 33700-33710	Severance of established unit
Ed. Code 45060-45061.5	Deduction of fees from salary or wage payment; certificated employees
Ed. Code 45100.5	Senior classified management positions
Ed. Code 45104.5	Abolishment of senior classified management positions

Ed. Code 45108.5	Definition of senior classified management employees
Ed. Code 45108.7	Waiver of provisions of Education Code 45108.5
Ed. Code 45168	Deduction of fees from salary or wage payment; classified employees
Ed. Code 45220-45320	Merit system; classified employees
Gov. Code 3500-3511	Local public employee organizations
Gov. Code 3507.7	Representation of temporary employees
Gov. Code 3540-3549.3	Educational Employment Relations Act
Gov. Code 3540.1	Public employment; definitions
Gov. Code 3543.4	Management and confidential positions; representation
Gov. Code 3545	Appropriateness of unit; basis
Gov. Code 3550-3552	Prohibition on public employers deterring or discouraging union membership
Gov. Code 3555-3559	Public employee communication, information, and orientation
Gov. Code 53260-53264	Employment contracts
Gov. Code 6205-6210	Confidentiality of addresses for victims of domestic violence, sexual assault, or stalking, or child abduction
Gov. Code 6215-6216	Address confidentiality for individuals who face threats or violence because of work for a public entity
Gov. Code 6503.5	Joint powers agencies; agreement
Gov. Code 7928.300	Disclosure of employee contact information to employee organization
Management Resources	Description
Court Decision	County of Los Angeles v. Los Angeles County Employee Relations Commission (2013) 56 Cal. 4th 905
Court Decision	Friedrichs v. California Teachers Association, et al. (2016) 136 S.Ct. 1083
Court Decision	Janus v. American Federation of State, County and Municipal Employees, Council 31 (2018) 138 S.Ct. 2448
Public Employment Relations Board Ruling	East Whittier School District (2004) PERB Dec. No. 1727
Public Employment Relations Board Ruling	City of Sacramento (2019) PERB Dec. No. 2702m 2702
Public Employment Relations Board Ruling	Desert Community College District (2007) PERB Dec. No. 1921

[Public Employment Relations Board Ruling](#)[Regents of the University of California \(2004\) PERB Dec. No. 1700-H.](#)

Website	CSBA District and County Office of Education Legal Services
Website	California Federation of Teachers
Website	California Public Employment Relations Board
Website	California School Employees Association
Website	California Teachers Association
Website	Association of California School Administrators
Website	CSBA

Cross References

Code	Description
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
1340	Access To District Records
1340	Access To District Records
1431	Waivers
4113	Assignment
4113	Assignment
4115	Evaluation/Supervision
4115	Evaluation/Supervision
4119.1	Civil And Legal Rights
4119.25	Political Activities Of Employees
4119.25	Political Activities Of Employees
4121	Temporary/Substitute Personnel
4121	Temporary/Substitute Personnel
4141	Collective Bargaining Agreement
4143	Negotiations/Consultation
4151	Employee Compensation

4154	Health And Welfare Benefits
4154	Health And Welfare Benefits
<u>4158</u>	<u>Employee Security</u>
4161.2	Personal Leaves
4219.1	Civil And Legal Rights
4219.25	Political Activities Of Employees
4219.25	Political Activities Of Employees
4241	Collective Bargaining Agreement
4243	Negotiations/Consultation
4251	Employee Compensation
4254	Health And Welfare Benefits
4254	Health And Welfare Benefits
4261.2	Personal Leaves
4300	Administrative And Supervisory Personnel
4300	Administrative And Supervisory Personnel
4301	Administrative Staff Organization
4312.1	Contracts
4315	Evaluation/Supervision
4319.1	Civil And Legal Rights
4319.25	Political Activities Of Employees
4319.25	Political Activities Of Employees
4351	Employee Compensation
4354	Health And Welfare Benefits
4354	Health And Welfare Benefits
4361.2	Personal Leaves
9000	Role Of The Board
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session

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CSBA Sample Manual Site

Policy 4357: Employee Safety**Status:** ADOPTED

Original Adopted Date: 06/01/1991 | **Last Revised Date:** 10/03/01/2020 ~~2024~~ | **Last Reviewed Date:** 10/03/01/2020 ~~2024~~

CSBA NOTE: The following optional policy and accompanying administrative regulation may be subject to collective bargaining agreements and should be modified to reflect district practice. Pursuant to Government Code 3543.2, safety conditions of employment are within the scope of bargaining.

The Governing Board is committed to maximizing employee safety and believes that workplace safety is the responsibility of every employee. -Working conditions and equipment shall comply with standards prescribed by federal, state, and local laws and regulations.

No employee shall be required or permitted to be in any place of employment which is unsafe or unhealthful. (Labor Code 6402)

The Superintendent or designee shall promote safety and correct any unsafe work practices through education and enforcement.

All employees are expected to use safe work practices and, to the extent possible, correct any unsafe conditions ~~which~~that may occur. If an employee is unable to correct an unsafe condition, the employee shall immediately report the problem to the Superintendent or designee.

CSBA NOTE: Labor Code 6401.7, as amended by SB 553 (Ch. 289, Statutes of 2023), requires the district to establish, implement, and maintain an effective district's injury prevention program. ~~See the accompanying administrative regulation for required program elements.~~ to include a workplace violence prevention plan.

Additionally, 8 CCR 3203, ~~as amended by Register 2020, No. 10~~, requires the district to provide employees with access to the district's injury and illness prevention program.

See the accompanying administrative regulation for required injury prevention program elements and specific requirements related to employee access.

The Superintendent or designee shall establish and implement a written injury and illness prevention program; that includes a workplace violence prevention plan and ~~provide~~that provides employees with access to such program; in accordance with law. (Labor Code 6401.7; 8 CCR 3203)

CSBA NOTE: 8 CCR 3400 requires districts to make provisions in advance to ensure that employees receive prompt medical treatment for serious injury or illness. -See the accompanying administrative regulation for specific requirements.

The Superintendent or designee shall make first aid materials readily available at district workplaces and shall make effective provisions to prepare for prompt medical treatment in the event of an employee's serious injury or illness. (8 CCR 3400)

No employee shall be discharged or discriminated against for exercising any right regarding employee safety or health specified in Labor Code 6310, including:

1. Making a report or complaint
2. Instituting proceedings or causing proceedings to be instituted
3. Testifying with regard to employee safety or health
4. Participating in any occupational health and safety committee established pursuant to Labor Code 6401.7
5. Requesting access to injury or illness reports and records
6. Exercising any other right protected by the Occupational Safety and Health Act

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Policy Reference Disclaimer:

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State	Description
17 CCR 2508	Reporting of communicable diseases
8 CCR 14000-14316	Occupational injury or illness reports and records
8 CCR 3203	Injury and illness prevention program
8 CCR 3204	Access to employee exposure and medical records
8 CCR 3400	Medical services and first aid
8 CCR 5095-5100	Control of noise exposure
8 CCR 5193	Bloodborne pathogens
Ed. Code 32030-32034	Eye safety
Ed. Code 32225-32226	Communications devices in classrooms
Ed. Code 32280-32289.5	School safety plans
Ed. Code 44984	Required rules for industrial accident and illness leave
Gov. Code 3543.2	Scope of representation
Lab. Code 132a	Workers' compensation; nondiscrimination
<u>Lab. Code 1139</u>	<u>Worker's rights in emergencies</u>

Lab. Code 3300	Definition of employer
Lab. Code 6305	Occupational safety and health standards; special order
Lab. Code 6310	Retaliation for filing complaint prohibited
Lab. Code 6325	Prohibition of entry into place of employment
Lab. Code 6400-6413.5	Responsibilities and duties of employers and employees
Lab. Code 6401.7	Injury and illness prevention program
Lab. Code 6401.9	Workplace violence prevention plans
Federal	Description
17 CFR 2508	Reporting of communicable diseases
29 CFR 1910.1030	Bloodborne pathogens
29 CFR 1910.95	Noise standards
29 CFR 651-678	Occupational safety and health
8 CFR 14000-14316	Occupational injury or illness reports and records
Management Resources	Description
CA Department of Industrial Relations Publication	Guide to Developing Your Workplace Injury and Illness Prevention Program, rev. August 2011 2005
Website	CSBA District and County Office of Education Legal Services
Website	National Institute for Occupational Safety and Health
Website	U.S. Department of Labor, Occupational Safety and Health Administration
Website	California Department of Industrial Relations, Occupational Safety and Health
Website	National Hearing Conservation Association
Website	Centers for Disease Control and Prevention
Website	CSBA

Cross References

Code	Description
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0470	COVID-19 Mitigation Plan
3514	Environmental Safety
3514	Environmental Safety

3514.1	Hazardous Substances
3514.1	Hazardous Substances
3516	Emergencies And Disaster Preparedness Plan
3516	Emergencies And Disaster Preparedness Plan
3516.5	Emergency Schedules
3530	Risk Management/Insurance
3530	Risk Management/Insurance
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4113.5	Working Remotely
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.41	Employees With Infectious Disease
4119.42	Exposure Control Plan For Bloodborne Pathogens
4119.42	Exposure Control Plan For Bloodborne Pathogens
4119.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4119.43	Universal Precautions
4119.43	Universal Precautions
4131	Staff Development
4156.2	Awards And Recognition
4157.1	Work-Related Injuries
4157.2	Ergonomics
4158	Employee Security
4158	Employee Security
4161.11	Industrial Accident/Illness Leave
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4213.5	Working Remotely
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.41	Employees With Infectious Disease

4219.42	Exposure Control Plan For Bloodborne Pathogens
4219.42	Exposure Control Plan For Bloodborne Pathogens
4219.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4219.43	Universal Precautions
4219.43	Universal Precautions
4231	Staff Development
4256.2	Awards And Recognition
4257.1	Work-Related Injuries
4257.2	Ergonomics
4258	Employee Security
4258	Employee Security
4261.11	Industrial Accident/Illness Leave
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4313.5	Working Remotely
4319.41	Employees With Infectious Disease
4319.42	Exposure Control Plan For Bloodborne Pathogens
4319.42	Exposure Control Plan For Bloodborne Pathogens
4319.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4319.43	Universal Precautions
4319.43	Universal Precautions
4331	Staff Development
4356.2	Awards And Recognition
4357.1	Work-Related Injuries
4357.2	Ergonomics
4358	Employee Security
4358	Employee Security
4361.11	Industrial Accident/Illness Leave
5141.22	Infectious Diseases
5141.22	Infectious Diseases
5141.6	School Health Services

5141.6

School Health Services

6142.93

Science Instruction

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Regulation 4357: Employee Safety**Status:** ADOPTED

Original Adopted Date: 06/01/1991 | **Last Revised Date:** 103/01/20202024 | **Last Reviewed Date:** 103/01/20202024

The Superintendent or designee shall provide safety devices and implement safeguards, methods, and processes that are reasonably necessary for the safety and health of employees in the workplace. (Labor Code 6401)

CSBA NOTE: Pursuant to Labor Code 6325, the Department of Industrial Relations Division of Occupational Safety and Health (Cal/OSHA) may prohibit entry into a place of employment when, in its opinion, the place of employment exposes employees to an imminent hazard. In such cases, Cal/OSHA will provide a notice that must be posted in a conspicuous place at the place of employment.

If the Department of Industrial Relations Division of Occupational Safety and Health (Cal/OSHA) prohibits entry into any district workplace or performance of a district operation or process based on a determination that the workplace exposes employees to the risk of an imminent hazard, including a machine, device, apparatus, or equipment that is in a dangerous condition or is dangerously placed, the Superintendent or designee shall post a notice of the hazard provided by Cal/OSHA in a conspicuous place at the work site. This notice shall not be removed except by an authorized representative of Cal/OSHA and only when the workplace, operation, or process is made safe, and the required safeguards, safety appliances, or devices are provided. (Labor Code 6325)

Injury and Illness Prevention Program

CSBA NOTE: The following section reflects the requirements of Labor Code 6401.7, as amended by SB 553 (Ch. 289, Statutes of 2023), and 8 CCR 3203 for a written injury and illness prevention program. -When developing such a program, districts are encouraged to review ~~the Department of Industrial Relations'~~ Cal/OSHA's, "Guide to Developing Your Workplace Injury and Illness Prevention Program." The district's injury and illness prevention program shall cover all district employees and all other workers whom the district controls or directs and directly supervises on the job to the extent that the workers are exposed to hazards specific to their worksite and job assignment. The obligation of contractors or other employers who control or direct and supervise their own employees on the job shall not be affected by the district's injury and illness prevention program. (Labor Code 6401.7)

The district's injury and illness prevention program shall include: (Labor Code 6401.7; 8 CCR 3203)

1. The name/position of the person(s) with authority and responsibility for implementing the program.
2. A system for ensuring that employees comply with safe and healthful work practices, which may include, but are not be limited to:

- a. Recognition of employees who follow safe and healthful work practices
- b. Training and retraining programs
- c. Disciplinary actions

CSBA NOTE: Pursuant to 8 CCR 3203, districts with fewer than 10 employees may fulfill the communication requirements of ~~item~~Item #3 below by providing oral instruction in general safe work practices and the hazards unique to the employees' assignments.

3. A system for communicating with employees; in a form readily understandable by all employees on matters related to occupational health and safety, including provisions designed to encourage employees to report hazards at the worksite without fear of reprisal. The communications system may include, but is not ~~be~~-limited to:
 - a. Meetings
 - b. Training programs
 - c. Posting
 - d. Written communications
 - e. A system of anonymous notification by employees about hazards

CSBA NOTE: Districts may use a labor/management safety and health committee to communicate the contents of the injury and illness prevention program, as long as the committee satisfies the requirements specified below in the section on "Labor/Management Safety and Health Committee."

- f. A labor/management safety and health committee
4. Procedures for identifying and evaluating workplace hazards, including scheduled periodic inspections to identify unsafe conditions and work practices. Such inspections shall be made:
 - a. Whenever new substances, processes, procedures, or equipment that represents a new occupational safety or health hazard is introduced into the workplace
 - b. Whenever the district is made aware of a new or previously unrecognized hazard
5. A procedure for investigating occupational injury or illness-
6. Methods and/or procedures for correcting unsafe or unhealthful conditions, work practices, and work procedures in a timely manner, based on the severity of the hazard, when the hazard is observed or discovered-

When an imminent hazard exists ~~which~~that cannot be immediately abated without endangering employee(s) and/or property, these procedures shall call for the removal of all exposed staff from the area except those necessary to correct the hazardous condition. Employees needed to correct the condition shall be provided with the necessary safeguards.

7. Provision of training and instruction as follows:
 - a. To all new employees
 - b. To all employees given new job assignments for which training has not previously been received
 - c. Whenever new substances, processes, procedures, or equipment ~~is~~are introduced into the workplace and ~~represents~~represent a new hazard
 - d. Whenever the district is made aware of a new or previously unrecognized hazard
 - e. To supervisors, to familiarize them with the safety and health hazards to which employees under their immediate direction and control may be exposed

CSBA NOTE: Pursuant to Labor Code 6401.7, as amended by SB 553, districts are required to establish, implement, and maintain a workplace violence prevention plan as specified in Labor Code 6401.9, as added by AB 553.

8. A written workplace violence prevention plan developed and implemented in accordance with Labor Code 6401.9 (Labor Code 6401.7)

The plan, which shall be easily accessible to all employees at all times, shall be in effect at all times and in all work areas, and be specific to the hazards and corrective measures for each work area and operation. (Labor Code 6401.9)

The Superintendent or designee shall provide training to all employees when the plan is first established and annually thereafter in accordance with Labor Code 6401.9. Training materials shall be appropriate in content and vocabulary to employees' educational level, literacy, and language. (Labor Code 6401.9)

CSBA NOTE: Pursuant to 8 CCR 3203, ~~as amended by Register 2020, No. 10~~, employees or their designated representatives have the right to examine and receive a copy of the district's injury and illness prevention program, and districts are required to provide access as described below. 8 CCR 3203 defines "designated representative" as any individual or organization to whom an employee gives written authorization to exercise a right of access. A recognized or certified collective bargaining agent is, by definition, treated automatically as a designated representative.

Districts are not required to include records of steps taken to implement and maintain the injury and illness prevention program. However, access to such information, or any other information in addition to that required by 8 CCR 3203, may be subject to collective bargaining. The Superintendent or designee shall provide employees, or their representative designated pursuant to 8 CCR 3203, with either of the following: (8 CCR 3203)

1. Access to the district's injury and illness prevention program in a reasonable time, place, and manner, but in no event later than five business days after the request for access is received from an employee or a designated representative of the employee.

When an employee or designated representative requests a copy of the district's injury and illness prevention program, the Superintendent or designee shall provide the requester a

printed copy unless the employee or designated representative agrees to receive an electronic copy.

The Superintendent or designee shall provide one printed copy free of charge. If the employee or designated representative requests additional copies within one year of the previous request and the district's injury and illness prevention program has not been updated with new information since the prior copy was provided, the district may charge reasonable reproduction costs pursuant to 8 CCR 3204 for the additional copies.

CSBA NOTE: Pursuant to 8 CCR 3203, an employee has unobstructed access if, as part of the employee's regular work duties, the employee predictably and routinely uses the electronic means to communicate with management or coworkers.

2. Unobstructed access to the district's injury and illness prevention program through the district's server or ~~web site, which~~ website that allows an employee to review, print, and email the current version of the district's injury and illness prevention program.

The Superintendent or designee shall communicate the right and procedure to access the district's injury and illness prevention program to all employees. (8 CCR 3203)

Labor/Management Safety and Health Committee

CSBA NOTE: The following optional section is for use by districts that choose to use a labor/management safety and health committee to comply with the requirements of 8 CCR 3203 regarding communication with employees as specified in ~~item~~ Item #3 above in the section title "Injury and Illness Prevention Program."- Pursuant to 8 CCR 3203, if the committee adheres to the following practices, the district shall be deemed to be in substantial compliance with the communications requirements of the law. The district's labor/management safety and health committee shall: (8 CCR 3203)

1. Meet regularly, but not less than quarterly.
2. Prepare and make available to affected employees written records of the safety and health issues discussed at committee meetings and maintained for review by ~~the California Department of Industrial Relations' Division of Occupational Safety and Health (Cal/OSHA)~~ upon request.- These records shall be maintained for at least one year.
3. Review results of the periodic, scheduled worksite inspections.
4. Review investigations of occupational accidents and causes of incidents resulting in occupational injury or illness or exposure to hazardous substances. -As appropriate, the committee may submit suggestions to the Superintendent or designee regarding the prevention of future incidents.
5. Review investigations of alleged hazardous conditions brought to the attention of any committee member. When determined necessary by the committee, it may conduct its own inspection and investigation to assist in remedial solutions.
6. Submit recommendations to assist in the evaluation of employee safety suggestions.

7. Upon request of Cal/OSHA, verify abatement action taken by the district to abate citations issued by Cal/OSHA.

Hearing Protection

Whenever employee noise exposure equals or exceeds the standards specified ~~in~~by law, the Superintendent or designee shall implement a hearing conservation program in accordance with state and federal regulations, including, when required, monitoring of sound levels, audiogram evaluation and audiometric testing of affected employees, the provision of hearing protectors, and employee training. (8 CCR 5095-5100; 29 CFR 1910.95)

Eye Safety Devices

~~Eye~~Employees shall wear eye safety devices ~~shall be worn by employees~~ whenever they are engaged in or observing an activity involving hazards or hazardous substances likely to cause eye injury ~~to the eyes~~. (Education Code 32030-32034)

First Aid and Medical Services

The Superintendent or designee shall ensure the ready availability of medical personnel for advice and consultation on matters of industrial health or injury. ~~Whenever a district facility or district grounds are not in close proximity to an infirmary, clinic, or hospital where all injured employees may be treated, the Superintendent or designee shall ensure that at least one employee is adequately trained to provide first aid.~~ (8 CCR 3400)

CSBA NOTE: Pursuant to 8 CCR 3400, if ambulance service is not available within 30 minutes under normal conditions, the district may be required by ~~the California Department of Industrial Relations' Division of Occupational Safety and Health~~Cal/OSHA to provide stretchers, blankets, or other adequate warm covering.

The Superintendent or designee shall make adequate first aid materials readily available for employees at every worksite. Such materials shall be approved by a consulting physician and shall be kept in a sanitary and usable condition. ~~The Superintendent or designee shall frequently inspect all first aid materials and replenish them as necessary.~~ (8 CCR 3400)

The Superintendent or designee shall ensure that suitable facilities for quick drenching or flushing of the eyes and body are provided within the work area for immediate emergency use when the eyes or body or any person may be exposed to injurious corrosive materials. (8 CCR 3400)

CSBA NOTE: 8 CCR 3400 requires districts to make provisions in advance, using one or a combination of the provisions specified in ~~items~~Items #1-3 below, to ensure that employees receive prompt medical treatment for serious injury or illness. ~~Districts should select the provision(s) that reflect district practice.~~

To avoid unnecessary delay in medical treatment in the event of an employee's serious injury or illness, the Superintendent or designee shall use one or more of the following: (8 CCR 3400)

1. A communication system for contacting a physician or emergency medical service, such as access to 911 or equivalent telephone system. ~~The communication system or the~~

employees using the system shall have the ability to direct emergency services to the location of the injured or ill employee.

2. Readily accessible and available on-site treatment facilities suitable for treatment of reasonably anticipated injury and illness.
3. Proper equipment for prompt medical transport when transportation of injured or ill employees is necessary and appropriate.

Protection from Communicable Diseases and Infections

CSBA NOTE: The following section contains general information in regard to bloodborne pathogens and infectious diseases as it relates to employee safety. For more information regarding bloodborne pathogens, see BP/AR 4119.42/4219.42/4319.42 - Exposure Control Plan for Bloodborne Pathogens and BP/AR 4119.43/4219.43/4319.43 - Universal Precautions. For more information regarding infectious diseases, see BP 4119.41/4219.41/4319.41 - Employees with Infectious Disease.

The Superintendent or designee shall develop an exposure control plan for bloodborne pathogens that is consistent with the district's injury and illness prevention program. -The plan shall include a determination of which job classifications have occupational exposure to blood or other potentially infectious materials; precautions to be implemented, including universal precautions, engineering and work practice controls, and personal protective equipment; availability of the hepatitis B vaccination; provision of information and training to employees; and follow-up actions to be taken if exposure occurs. -The district shall ensure that a copy of the exposure control plan is accessible to employees in accordance with law. (8 CCR 5193; 29 CFR 1910.1030)

Strategies to prevent and mitigate the outbreak or spread of infectious diseases shall be followed for diseases that are communicated through airborne transmission, skin-to-skin contact, foodborne transmission, or other casual or noncasual means. Such strategies shall include, but are not limited to, communication and training about the disease(s); campus closures and alternative means of instruction when necessary; preventative measures, such as social distancing, personal protective equipment, temperature checks, and/or any other health screening allowed by law; and cleaning and sanitization of district facilities and equipment.

The Superintendent ~~of~~or designee shall immediately report to the local health officer the presence or suspected presence of any communicable disease. (17 CCR 2508)

COVID-19 Exposure

~~CSBA NOTE: Pursuant to Labor Code 6409.6, as added by AB 685 (Ch. 84, Statutes of 2020), the district is required to take the following actions whenever it receives notice of potential exposure to COVID-19. If the district receives notice of potential exposure to COVID-19, the Superintendent or designee shall, within one business day of the notice, take all of the following actions: (Labor Code 6409.6)~~

- ~~1. Provide a written notice to all employees, and the employers of subcontracted employees, who were on the premises at the same worksite as the qualifying individual within the infectious period that they may have been exposed to COVID-19. The notice shall be provided in a manner normally used to communicate employment-related information,~~

which may include, but is not limited to, personal service, email, or text message if it can reasonably be anticipated to be received by the employee within one business day of sending.

2. Provide a written notice to the exclusive representative, if any, of employees who were on the premises within the infectious period
3. Provide all employees who may have been exposed and the exclusive representative, if any, with information regarding:
 - a. COVID-19 related benefits to which the employee may be entitled under applicable federal, state, or local laws, including, but not limited to, workers' compensation
 - b. Available leave options for exposed employees
 - c. Antiretaliation and antidiscrimination protections of the employee
4. Notify all employees, and the employers of subcontracted employees and the exclusive representative, if any, of the disinfection and safety plan that the district plans to complete in accordance with Centers for Disease Control and Prevention guidelines

The above notifications shall be maintained for a period of at least three years. (Labor Code 6409.6)

CSBA NOTE: Labor Code 6409.6, as amended by AB 685, requires the district to provide specified information to the local health agency when a COVID-19 outbreak occurs, as provided below. This notice must contain the same information as would be required in an incident report to the California Department of Industrial Relations' Division of Occupational Safety and Health (Cal/OSHA) Form 300 injury and illness log unless inapplicable or unknown. If the district is notified of the number of cases that meet the definition of a COVID-19 outbreak, as defined by the California Department of Public Health, within 48 hours, the Superintendent or designee shall, within 48 hours of the notice, notify the local public health agency of the names, number, occupation, and worksite of employees who meet the definition of a qualifying individual. The Superintendent or designee shall continue to give notice to the local health department of any subsequent laboratory-confirmed cases of COVID-19 at the worksite. (Labor Code 6409.6)

CSBA NOTE: Pursuant to Labor Code 6325, as amended by AB 685, until January 1, 2023, Cal/OSHA may prohibit entry into a place of employment when, in its opinion, the place of employment exposes employees to the risk of COVID-19 infection and constitutes an imminent hazard to employees. In such cases, Cal/OSHA will provide a notice that must be posted in a conspicuous place at the place of employment.

In the event that Cal/OSHA prohibits entry into any district workplace or performance of a district operation or process based on a determination that the workplace exposes employees to the risk of COVID-19 infection and constitutes an imminent hazard to employees, the district shall post a notice thereof provided by Cal/OSHA in a conspicuous place at the work site. This notice shall not

~~be removed except by an authorized representative of Cal/OSHA and only when the place of employment, operation, or process is made safe and the required safeguards or safety appliances or devices are provided.~~

Policy Reference UPDATE Service

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Policy Reference Disclaimer:

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

State	Description
17 CCR 2508	Reporting of communicable diseases
8 CCR 14000-14316	Occupational injury or illness reports and records
8 CCR 3203	Injury and illness prevention program
8 CCR 3204	Access to employee exposure and medical records
8 CCR 3400	Medical services and first aid
8 CCR 5095-5100	Control of noise exposure
8 CCR 5193	Bloodborne pathogens
Ed. Code 32030-32034	Eye safety
Ed. Code 32225-32226	Communications devices in classrooms
Ed. Code 32280-32289.5	School safety plans
Ed. Code 44984	Required rules for industrial accident and illness leave
Gov. Code 3543.2	Scope of representation
Lab. Code 132a	Workers' compensation; nondiscrimination
<u>Lab. Code 1139</u>	<u>Worker's rights in emergencies</u>
Lab. Code 3300	Definition of employer
Lab. Code 6305	Occupational safety and health standards; special order
Lab. Code 6310	Retaliation for filing complaint prohibited
<u>Lab. Code 6325</u>	<u>Prohibition of entry into place of employment</u>
Lab. Code 6400-6413.5	Responsibilities and duties of employers and employees
Lab. Code 6401.7	Injury and illness prevention program
<u>Lab. Code 6401.9</u>	<u>Workplace violence prevention plans</u>
Federal	Description

17 CFR 2508	Reporting of communicable diseases
29 CFR 1910.1030	Bloodborne pathogens
29 CFR 1910.95	Noise standards
29 CFR 651-678	Occupational safety and health
8 CFR 14000-14316	Occupational injury or illness reports and records
Management Resources	Description
CA Department of Industrial Relations Publication	Guide to Developing Your Workplace Injury and Illness Prevention Program, rev. August 2011 2011 2005
Website	CSBA District and County Office of Education Legal Services
Website	National Institute for Occupational Safety and Health
Website	U.S. Department of Labor, Occupational Safety and Health Administration
Website	California Department of Industrial Relations, Occupational Safety and Health
Website	National Hearing Conservation Association
Website	Centers for Disease Control and Prevention
Website	CSBA

Cross References

Code	Description
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0470	COVID-19 Mitigation Plan
3514	Environmental Safety
3514	Environmental Safety
3514.1	Hazardous Substances
3514.1	Hazardous Substances
3516	Emergencies And Disaster Preparedness Plan
3516	Emergencies And Disaster Preparedness Plan
3516.5	Emergency Schedules
3530	Risk Management/Insurance
3530	Risk Management/Insurance
4112.9	Employee Notifications

4112.9-E(1)	Employee Notifications
4113.5	Working Remotely
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.41	Employees With Infectious Disease
4119.42	Exposure Control Plan For Bloodborne Pathogens
4119.42	Exposure Control Plan For Bloodborne Pathogens
4119.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4119.43	Universal Precautions
4119.43	Universal Precautions
4131	Staff Development
4156.2	Awards And Recognition
4157.1	Work-Related Injuries
4157.2	Ergonomics
4158	Employee Security
4158	Employee Security
4161.11	Industrial Accident/Illness Leave
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4213.5	Working Remotely
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.41	Employees With Infectious Disease
4219.42	Exposure Control Plan For Bloodborne Pathogens
4219.42	Exposure Control Plan For Bloodborne Pathogens
4219.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4219.43	Universal Precautions
4219.43	Universal Precautions
4231	Staff Development
4256.2	Awards And Recognition
4257.1	Work-Related Injuries

4257.2	Ergonomics
4258	Employee Security
4258	Employee Security
4261.11	Industrial Accident/Illness Leave
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4313.5	Working Remotely
4319.41	Employees With Infectious Disease
4319.42	Exposure Control Plan For Bloodborne Pathogens
4319.42	Exposure Control Plan For Bloodborne Pathogens
4319.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4319.43	Universal Precautions
4319.43	Universal Precautions
4331	Staff Development
4356.2	Awards And Recognition
4357.1	Work-Related Injuries
4357.2	Ergonomics
4358	Employee Security
4358	Employee Security
4361.11	Industrial Accident/Illness Leave
5141.22	Infectious Diseases
5141.22	Infectious Diseases
5141.6	School Health Services
5141.6	School Health Services
6142.93	Science Instruction

Regulation 4357.1: Work-Related Injuries

Status: ADOPTED

Original Adopted Date: 10/01/1995 | **Last Revised Date:** ~~1003/01/2020~~2024 | **Last Reviewed Date:** ~~1003/01/2020~~2024

In order to provide medical benefits, temporary or permanent disability benefits, wage replacement, retraining or skill enhancement, and/or death benefits in the event that an employee becomes injured or ill in the course of employment, the district shall provide all employees with insurance and workers' compensation benefits in accordance with law. The Superintendent or designee shall develop an efficient claims handling process that reduces costs and facilitates employee recovery.

The Superintendent or designee shall notify every new employee, at the time of hire or by the end of the first pay period, of the employee's right to receive workers' compensation benefits if injured at work. (Labor Code 3551; 8 CCR 15596)

In addition, a notice regarding workers' compensation benefits shall be posted in a conspicuous location frequented by employees, where the notice may be easily read during the workday. (Labor Code 3550)

In the event that an employee is injured or becomes ill in the course of employment, the employee shall report the work-related injury or illness to the Superintendent or designee as soon as practicable. The employee and appropriate district staff shall also promptly document the date and time of any incident, a description of the incident, and any persons present.

Within one working day of receiving notice or knowledge of any injury to an employee in the course of employment, the Superintendent or designee shall provide a claim form and notice of potential eligibility for workers' compensation benefits to the employee or, in the case of the employee's death, to the employee's dependents. The claim form and notice shall be provided personally or by first class mail. (Labor Code 5401)

CSBA NOTE: Pursuant to Labor Code 3550, 3551, and 5401, all employee notices described above (i.e., the notice that must be posted in a conspicuous place, the notice provided to all employees at the time of hire, and the notice and claim form provided when an employee is injured) must be in a form prescribed by the California Department of Industrial Relations (DIR) Division of Workers' Compensation (DWC). These notices are available on the DWC's website or through the district's insurer. For districts that employ Spanish-speaking employees, the information must be made available in English and Spanish.

The Superintendent or designee shall ensure that all employee notices described above are in the form prescribed by the Department of Industrial Relations (DIR), Division of Workers' Compensation.

The Superintendent or designee shall additionally ensure that any employee who is a victim of a crime that occurred at the place of employment is given written notice personally or by first class mail within one working day of the crime, or when the district reasonably should have known of the crime, that the employee is eligible for workers' compensation benefits for injuries, including psychiatric injuries, that may have resulted from the crime. (Labor Code 3553)

CSBA NOTE: Pursuant to Labor Code 3550, 3551, and 5401, all employee notices described above (i.e., the notice that must be posted in a conspicuous place, the notice provided to all employees at the time of hire, and the notice and claim form provided when an employee is injured) must be in a form prescribed by the California Department of Industrial Relations (DIR) Division of Workers' Compensation (DWC). These notices are available on the DWC's web site or through the district's insurer. For districts that employ Spanish-speaking employees, the information must be made available in English and Spanish. CSBA NOTE: Pursuant to Labor Code 6409.1, the district must file a report concerning any injury or illness which has, or is alleged to have, arisen out of and in the course of employment. The report is required to be filed with DIR, or, if the district is insured through a third party insurer, with the insurer. The following paragraph may be revised to reflect district practice.

The Superintendent or designee shall ensure that all employee notices described above are in the form prescribed by the Department of Industrial Relations (DIR), Division of Workers Compensation.

CSBA NOTE: Pursuant to Labor Code 6409.1, the district must file a report concerning any injury or illness which has, or is alleged to have, arisen out of and in the course of employment. The report is required to be filed with DIR or, if the district is insured through a third party insurer, with the insurer. The following paragraph may be revised to reflect district practice:

Upon learning of a work-related injury or illness, or injury or illness alleged to have arisen out of and in the course of employment, the Superintendent or designee shall report the incident to the district's insurance carrier or DIR, as applicable, within five days after obtaining knowledge of the injury or illness. If a subsequent death arises as a result of the reported injury or illness, an amended report indicating the death shall be filed within five days after being notified of or learning about the death. (Labor Code 6409.1)

CSBA NOTE: Pursuant to Labor Code 6409.1, as amended by AB 1804 (Ch. 199, Statutes of 2019), in addition to the report described above, a report of death or serious injury or illness is required to be immediately reported to the Division of Occupational Safety and Health (Cal/OSHA) by telephone or through an online mechanism established by Cal/OSHA. Labor Code 6409.1 permits districts to make the report by telephone or email until Cal/OSHA has an online mechanism available.

Labor Code 6302, as amended by AB 1805 (Ch. 200, Statutes of 2019), redefines "serious injury or illness" as provided below.

In addition, in every case involving death or serious injury or illness, the Superintendent or designee shall immediately make a report to the Division of Occupational Safety and Health (Cal/OSHA) by telephone or through an online mechanism made available by Cal/OSHA. (Labor Code 6409.1)

For the purpose of this report, serious injury or illness means any injury or illness occurring in a place of employment or in connection with any employment that requires inpatient hospitalization for other than medical observation or diagnostic testing, or in which an employee suffers an amputation, the loss of an eye, or any serious degree of permanent disfigurement. (Labor Code 6302)

Claims Related to COVID-19

CSBA NOTE: Until January 1, 2023, Labor Code 3212.86 and 3212.88, as added by SB 1159 (Ch. 85, Statutes of 2020), define "injury" for purposes of workers' compensation as including COVID-19 related illness or death when a positive COVID-19 diagnosis was made within 14 days after the employee performed labor or services at the district's place of employment. Labor Code 3212.86

applies when the diagnosis was made between March 19, 2020 and July 5, 2020, and confirmed by a COVID-19 test within 30 days of the diagnosis. Labor Code 3212.88 applies when the diagnosis was made after July 6, 2020, and the positive test occurred during a period of an outbreak, as defined, at the employee's specific place of employment. Pursuant to Labor Code 3212.86 and 3212.88, a positive diagnosis as specified above creates a presumption that the injury arose out of and in the course of employment. Unless disputed by the district within 30 or 45 days, as applicable, the Workers' Compensation Appeals Board is bound to find, in accordance with the presumption, that COVID-19 was contracted within the course and scope of employment.

Because of the large number of workers' compensation claims that districts may receive due to COVID-19 infection, districts are encouraged to consult legal counsel as appropriate to determine its impact on the district, including about the use of paid sick leave and eligibility for temporary disability benefits.

Until January 1, 2023, an employee is presumed to be entitled to workers' compensation benefits for illness or death resulting from COVID-19 if the diagnosis was made within 14 days after the employee performed labor or services at the place of employment and if the employee contracted COVID-19 during an outbreak at the employee's specific place of employment. (Labor Code 3212.86, 3212.88)

For this purpose, an outbreak means that, within 14 calendar days, one of the following occurs at a specific place of employment: (Labor Code 3212.88)

1. If a specific place of employment has 100 employees or fewer, four employees test positive for COVID-19.
2. If a specific place of employment has more than 100 employees, four percent of the number of employees who reported to the specific place of employment test positive for COVID-19.
3. A specific place of employment is ordered to close by a local public health department, the California Department of Public Health, Cal/OSHA, or the Superintendent due to a risk of infection with COVID-19.

The Superintendent or designee may rebut a presumption that COVID-19 was contracted during the course and scope of employment by offering evidence to the Workers' Compensation Appeals Board, such as the measures that were in place at the employee's specific place of employment to reduce potential transmission of COVID-19 and evidence of an employee's nonoccupational risk of contracting COVID-19. (Labor Code 3212.86, 3212.88)

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Policy Reference Disclaimer:

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State	Description
8 CCR 15596	Notice of employee rights to workers' compensation benefits
Ed. Code 44984	Required rules for industrial accident and illness leave
Ed. Code 45192	Industrial accident and illness leave for classified employees
Lab. Code 3200-4856	Workers' compensation

Lab. Code 3212.86	COVID-19: critical workers pre-July 5, 2020
Lab. Code 3212.88	COVID-19: critical workers post-July 5, 2020
Lab. Code 3550-3553	Notifications re:regarding workers' compensation benefits
Lab. Code 3600-3605	Conditions of liability
Lab. Code 3760	Report of injury to insurer
Lab. Code 4600	Provision of medical and hospital treatment by employer
Lab. Code 4906	Disclosures and statements
Lab. Code 5400-5413	Notice of injury or death
Lab. Code 6302	Definition of serious injury or illness
Lab. Code 6409.1	Reports
Management Resources	Description
CA Department of Industrial Relations Publication	Workers' Compensation Claim Form (DWC 1) & Notice of Potential Eligibility
CA Department of Industrial Relations Publication	Workers' Compensation in California: A Guidebook for Injured Workers, 2016
CA Department of Industrial Relations Publication	Notice to Employees - Injuries Caused by Work
CA Department of Industrial Relations Publication	Time of Hire Pamphlet
Website	CSBA District and County Office of Education Legal Services
Website	California Department of Industrial Relations, Division of Workers Compensation
Website	California Department of Industrial Relations, Occupational Safety and Health
Website	California Department of Public Health
Website	CSBA

Cross References

Code	Description
1240	Volunteer Assistance
1240	Volunteer Assistance
3320	Claims And Actions Against The District
3320	Claims And Actions Against The District
3530	Risk Management/Insurance
3530	Risk Management/Insurance
4032	Reasonable Accommodation
4112.9	Employee Notifications

4112.9-E(1)	Employee Notifications
4113.4	Temporary Modified/Light-Duty Assignment
4113.5	Working Remotely
4154	Health And Welfare Benefits
4154	Health And Welfare Benefits
4157	Employee Safety
4157	Employee Safety
4157.2	Ergonomics
4161.1	Personal Illness/Injury Leave
4161.11	Industrial Accident/Illness Leave
4161.9	Catastrophic Leave Program
4161.9	Catastrophic Leave Program
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4213.4	Temporary Modified/Light-Duty Assignment
4213.5	Working Remotely
4254	Health And Welfare Benefits
4254	Health And Welfare Benefits
4257	Employee Safety
4257	Employee Safety
4257.2	Ergonomics
4261.11	Industrial Accident/Illness Leave
4261.9	Catastrophic Leave Program
4261.9	Catastrophic Leave Program
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4313.4	Temporary Modified/Light-Duty Assignment
4313.5	Working Remotely
4354	Health And Welfare Benefits
4354	Health And Welfare Benefits
4357	Employee Safety
4357	Employee Safety
4357.2	Ergonomics

4361.1

Personal Illness/Injury Leave

495/630

4361.11

Industrial Accident/Illness Leave

4361.9

Catastrophic Leave Program

4361.9

Catastrophic Leave Program

Policy 5126: Awards For Achievement

Status: ADOPTED

Original Adopted Date: 03/01/2009 | **Last Revised Date:** ~~12~~03/01/2020~~2024~~ | **Last Reviewed Date:** ~~12~~03/01/2020~~2024~~

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

CSBA NOTE: Generally, state law requires that the educational program be made available to all students, regardless of their socioeconomic background. For example, Education Code 51455 and 51464, prohibit districts from charging students a fee or other cost in relation to any requirements in qualifying for or receiving the Golden State Seal Merit Diploma or the State Seal of Biliteracy. Additionally, Education Code 51007 requires that all students enrolled in the state's public elementary and secondary schools, regardless of their socioeconomic background, have equitable access to educational programs designed to strengthen technological skills. The following paragraph reflects the intent of these laws. For more information regarding the promotion of equity in district programs and activities, see BP 0415 - Equity.

No fee or other cost shall be charged to any student in relation to any requirements in qualifying for or receiving any district achievement awards.

District/School Awards

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

Pursuant to Education Code 44015, when such an awards program is established in a district, the Board ~~must~~ is required to budget funds for this purpose, but may authorize awards from funds under its control regardless of whether ~~or not~~ budgeted funds have been provided or the budgeted funds are exhausted.

Student awards may include verbal recognition, a letter, a certificate, a Board resolution, public ceremony, trophy, gift, plaque, or monetary gift. The Board shall establish a budget for this purpose. (Education Code 44015)

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

Golden State Seal Merit Diploma

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

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

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

State Seal of Biliteracy

CSBA NOTE: The following optional section is for use by districts maintaining one or more high schools. Education Code 51460-51464 establish the State Seal of Biliteracy, a voluntary program which recognizes high school graduates who have attained a high level of proficiency in one or more languages in addition to English. The SPI ~~will provide~~ has created an insignia ~~that can~~ to be affixed to the diploma or transcript of eligible students: which can be obtained by completing a State Seal of Biliteracy insignia request form, available on the California Department of Education's (CDE) website. See the accompanying administrative regulation for eligibility criteria for the award. ~~Districts that choose to adopt their own criteria and present a district-level biliteracy award may revise the following paragraph accordingly.~~

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

District Awards for Biliteracy

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

In order to affirm the value of bilingualism and encourage students' enrollment in world language programs, the Superintendent or designee may present awards at appropriate grade levels to recognize the pursuit and/or attainment of grade-level proficiency in one or more languages in addition to English. The Superintendent or designee may also present awards to English learners who are reclassified as fluent English proficient to recognize proficiency in both English and the student's native language.

State Seal of Civic Engagement

CSBA NOTE: The following optional section is for use by districts that recognize students who have demonstrated excellence in civics education and participation and an understanding of the U.S. Constitution, the California Constitution, and the democratic system of government. Education Code 51470-51474 ~~51475~~ establish the State Seal of Civic Engagement, a voluntary program which encourages and creates pathways for students in elementary and secondary schools to become civically engaged in democratic governmental institutions at the local, state, and national levels.

The SPI ~~will provide~~ has created an insignia ~~that can~~ to be affixed to the diploma or transcript of eligible students: which can be obtained by completing a State Seal of Civic Engagement insignia request form, available on CDE's website. See the accompanying administrative regulation for eligibility criteria for the award.

Education Code 51475 established the California Serves program which provides grants to eligible districts with the goal of expanding access for students to obtain a State Seal of Civic Engagement through service learning.

The Superintendent or designee shall present the State Seal of Civic Engagement to each 11th or 12th grade student who demonstrates excellence in civics education and participation and has demonstrated an understanding of the U.S. Constitution, the California Constitution, and the democratic system of government. (Education Code 51470-~~51474~~51475)

CSBA NOTE: The following paragraph reflects information on the California Department of Education's web site CDE's website emphasizing that the criteria are written to ensure that no student is excluded from the opportunity to earn the State Seal of Civic Engagement based on academic ability, alternative school settings, or unique or unconventional expressions of civic engagement.

All district students shall be afforded the opportunity to earn the State Seal of Civic Engagement, regardless of their background, communities, or experiences. No student shall be denied such opportunity based on academic ability, alternative school setting, or unique or unconventional expression of civic engagement.

Scholarship and Loan Fund

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

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

CSBA NOTE: If the district establishes a committee to administer the scholarship and loan fund, or if the number of Board members who serve on the committee constitutes a majority of the Board, the committee is required to comply with open meeting laws pursuant to Government Code 54950-54963 (the Brown Act). See AR 1220 - Citizen Advisory Committees and BB 9130 - Board Committees.

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

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

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

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

fund's intents and purposes: [as specified in Board Policy 3290 – Gifts, Grants and Requests.](#)
(Education Code 35313)

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

Policy Reference UPDATE Service

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Policy Reference Disclaimer:

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

State

5 CCR 11517.6-11519.5

Description

English Language Proficiency Assessments for California

5 CCR 1632

Alternative credits toward graduation for foreign language instruction in private school

5 CCR 876

Golden State Seal Merit Diploma

Ed. Code 220

Prohibition of discrimination

Ed. Code 35160

Authority of governing boards

Ed. Code 35310-35319

Scholarship and loan funds

Ed. Code 44015

Awards to employees and students

[Ed. Code 51007](#)

[Equitable access to programs designed to strengthen technological skills](#)

Ed. Code 51243-51245

Credit for private school foreign language instruction

Ed. Code 51450-51455

Golden State Seal Merit Diploma

Ed. Code 51460-51464

State Seal of Biliteracy

Ed. Code 51470-~~51474~~[51475](#)

State Seal of Civic Engagement

Ed. Code 52164.1

Assessment of English language skills of English learners

Gov. Code 54950-54963

The Ralph M. Brown Act

Management Resources

Description

California Department of Education
Publication

SSCE Implementation Guidance

[California Department of Education
Publication](#)

[State Seal of Biliteracy FAQs](#)

Website

CSBA District and County Office of Education Legal Services

Website

Californians Together

Website

CSBA

Website

California Department of Education

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
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3460	Financial Reports And Accountability
4156.2	Awards And Recognition
4256.2	Awards And Recognition
4356.2	Awards And Recognition
5022	Student And Family Privacy Rights
5022	Student And Family Privacy Rights
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy
5113.11	Attendance Supervision
5113.12	District School Attendance Review Board
5113.12	District School Attendance Review Board
5121	Grades/Evaluation Of Student Achievement
5121	Grades/Evaluation Of Student Achievement
5125	Student Records
5125	Student Records
5127	Graduation Ceremonies And Activities
5137	Positive School Climate
6141.4	International Baccalaureate Program
6141.5	Advanced Placement
6142.2	World Language Instruction
6142.2	World Language Instruction
6142.4	Service Learning/Community Service Classes

6143	Courses Of Study
6143	Courses Of Study
6146.1	High School Graduation Requirements
6146.11	Alternative Credits Toward Graduation
6146.11	Alternative Credits Toward Graduation
6158	Independent Study
6158	Independent Study
6159	Individualized Education Program
6159	Individualized Education Program
6162.51	State Academic Achievement Tests
6162.51	State Academic Achievement Tests
6172	Gifted And Talented Student Program
6172	Gifted And Talented Student Program
6174	Education For English Learners
6174	Education For English Learners
6181	Alternative Schools/Programs Of Choice
6181	Alternative Schools/Programs Of Choice
6183	Home And Hospital Instruction
6184	Continuation Education
6184	Continuation Education
9140	Board Representatives

Regulation 5126: Awards For Achievement

Status: ADOPTED

Original Adopted Date: 03/01/2009 | **Last Revised Date:** ~~12/03/01/2020~~2024 | **Last Reviewed Date:** ~~12/03/01/2020~~2024

CSBA NOTE: Education Code 44015 authorizes the Governing Board to give district-level awards to students for "excellence." Before any awards are given under the authority of this law, the district is **mandated** to adopt rules and regulations implementing the awards program. The Board may delegate the authority to establish criteria for these awards to the Superintendent or designee, as well as a monetary award, except that pursuant to Education Code 44015 each monetary award of more than \$200 must be approved by the Board; see the accompanying Board policy. The following section should be revised to reflect any such rules and regulations adopted by the district.

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

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

Golden State Seal Merit Diploma

CSBA NOTE: The following optional section is for use by districts that maintain high schools. Education Code 51450-51455 require the State Board of Education (SBE) to determine the means and the performance standards or achievement levels that demonstrate mastery of the curriculum for the purpose of awarding the Golden State Seal Merit Diploma. Eligibility criteria are published on the California Department of Education (CDE) ~~web site~~[website](#) and described below.

To be eligible to receive the Golden State Seal Merit Diploma upon graduation from high school, a student shall complete all requirements for a high school diploma and shall demonstrate mastery of the curriculum in mathematics, English language arts, science, U.S. history, and two other subject matter areas selected by the student by meeting at least one of the following criteria for each subject: (Education Code 51451, 51452; 5 CCR 876)

1. Mathematics and English language arts
 - a. A grade of at least B+ or the numerical equivalent in a single course each semester completed in grade 9, 10, or 11
 - b. An achievement level of "Standard Met" or above for the high school Smarter Balanced Summative Assessment
2. Science
 - a. A grade of at least B+ or the numerical equivalent in a single course each semester completed in grade 9, 10, or 11

- b. An achievement level of "Standard Met" or above for the high school California Science Test taken in grade 10 or 11
3. U.S. history
 - a. A grade of at least B or the numerical equivalent in the required U.S. history course each semester
 - b. A qualifying score that demonstrates mastery of the subject as determined by the district for an exam produced by a private provider or the district
 4. Two additional subject areas of the student's choosing
 - a. Any additional qualifying grade or score listed above, earned for the subject of English language arts, mathematics, science, or U.S. history not already used to meet eligibility
 - b. A grade of at least B or the numerical equivalent upon completion of high school courses in other subjects
 - c. A qualifying score that demonstrates mastery of other subjects, as determined by the district, for an exam produced by a private provider or the district

The Superintendent or designee shall maintain appropriate records to identify students who have earned the Golden State Seal Merit Diploma and shall affix an insignia to the high school diploma and transcript of each such student. (Education Code 51454)

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

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

State Seal of Biliteracy

CSBA NOTE: The following optional section is for use by districts that maintain high schools and choose to recognize graduating students' bilingual/multilingual proficiency with the State Seal of Biliteracy pursuant to Education Code 51460-51464; see the accompanying Board policy. [The criteria for a student to be eligible for the State Seal of Biliteracy are specified in Education Code 51451, as amended by AB 370 \(Ch. 326, Statutes of 2023\), and are reflected below.](#) Districts that choose to present biliteracy awards to students at other grade levels may revise the following section to add eligibility criteria for those awards.

Pursuant to Education Code 51461, as amended by SB 98 (Ch. 24, Statutes of 2020), the Superintendent of Public Instruction (SPI) may provide alternative criteria for students on track to graduate in 2020 or 2021 who did not receive a letter grade in English language arts or were not able to take the English Language Proficiency Assessments for California (ELPAC) or due to COVID-19. The SPI has determined that students who were unable to take the ELPAC may meet the requirement based on their prior ELPAC score and consultation with the student's teachers. In addition, the requirement to take the California Assessment of Student Performance and Progress

is waived for students who were not able to take the exam, and students who completed all required English language arts courses through distance learning but did not receive a letter grade due to COVID-19 are eligible to earn the State Seal of Biliteracy if all other requirements are met. For further information, see CDE's State Seal of Biliteracy FAQs located on its web site.

For further information, see [CDE's State Seal of Biliteracy FAQs located on its website.](#)

To be eligible to receive the State Seal of Biliteracy upon graduation, a student shall demonstrate a high level of proficiency in English and at least one other language, which may include American Sign Language, by meeting all of the following state-established criteria: (Education Code 51461)

Proficiency in English shall be demonstrated by meeting one of the following state-established criteria: (Education Code 51461)

1. 1. Completion of all English language arts requirements for graduation with an overall grade point average of at least 2.0 in those classes 3.0 in those classes or completion of one or more English language arts courses at a public higher education institution or an independent institution of higher education, as described in Education Code 66010, with a grade equivalent to a grade point average of 3.0 or above
2. 2. Passage of the California Assessment of Student Performance and Progress for English language arts, or any successor test, administered in grade 11, at or above the "Standard Met" achievement level
3. Proficiency in one or more languages other than English, demonstrated through one of the following methods:
 - a. 3. Passage of a world language ~~an English~~ Advanced Placement (AP) exam with a score of 3 or higher or an English International Baccalaureate (IB) exam with a score of 4 or higher
4. Achievement of a score of 480 or higher on the Evidence-Based Reading and Writing section of the Scholastic Aptitude Test (SAT)

Proficiency in one or more languages other than English shall be demonstrated through one of the following requirements: (Education Code 51461)

1. Passage of a world language AP exam with a score of 3 or higher, a world language IB exam with a score of 4 or higher, or a world language American Council on the Teaching of Foreign Languages (ACTFL) Writing Proficiency Test (WPT) and an Oral Proficiency Interview (OPI) with scores of Intermediate Mid or higher
- b. 2. Successful completion of a four-year high school course of study of content in a world language at a high school or higher level, attaining an overall grade point average of at least 3.0 in that course of study, and oral proficiency in the language comparable to that required on an AP or IB exam in Item #1 above, successful completion of high school level courses completed in another country in a language other than English with the equivalent of an overall grade point average of 3.0 or above, as verified through a transcript, or completion of one or more world language courses at a public higher education institution or an independent institution of higher education as described in Education Code 66010, with a grade equivalent to a grade point average of at least 3.0 and oral proficiency in the language comparable to that specified in Item #1 above, as verified through a transcript

- c. 3. If no AP exam or off-the-shelf language test exists, passage of a district language exam that can be certified to meet the rigor of a four-year high school course of study in a given language, and that, at a minimum, assesses speaking, reading, and writing in a language other than English at the proficient level or higher
- d. 4. If a language is not characterized by listening, speaking, or reading, or for which there is no written system, passage of an assessment on the modalities that characterize communication in that language at the proficient level or higher
- e.—Passage of the SAT II world language exam with a score of 600 or higher

CSBA NOTE: Pursuant to Education Code 51461, as amended by AB 370, in order to be eligible for the State Seal of Biliteracy English learners are required to receive an Oral Language composite score of level 4 on the English Language Proficiency Assessments for California (ELPAC), rather than in all four domains of the test – reading, writing, listening, and speaking.

To be eligible to receive the State Seal of Biliteracy, a student whose primary language who is an English learner shall, in addition to demonstrating proficiency in English and one or more languages other than English shall also through one of the accomplishments specified above, attain the an Oral Language composite score of level which demonstrates English language proficiency 4 on the state's English Language Proficiency Assessments for California. , or any successor English oral language proficiency assessment. (Education Code 51461)

CSBA NOTE: CDE requires each district to submit one districtwide insignia request on a form provided by CDE. CDE recommends submitting the online form, which can be found on CDE's web site website, four weeks prior to the graduation date to allow sufficient time for CDE to mail the insignias and for the district to affix the insignias to the diplomas. CDE will mail the insignias within two weeks of receiving the online request.

The Superintendent or designee shall maintain appropriate records to identify high school students who have earned the State Seal of Biliteracy and shall affix the insignia to the high school diploma or transcript of each such student. (Education Code 51463)

State Seal of Civic Engagement

CSBA NOTE: The following optional section is for use by districts that choose to present the State Seal of Civic Engagement to students who have demonstrated excellence in civics education and participation and an understanding of the U.S. Constitution, the California Constitution, and the democratic system of government pursuant to Education Code 51470-51474; see the accompanying Board policy. The following criteria, adopted by SBE in September 2020, are intended to provide districts with a framework for making determinations of student qualifications based on local contexts.

CDE's “SSCE Implementation Guidance,” available on its web site website, offers ideas and considerations for districts in the implementation of the criteria.

To be eligible to receive the State Seal of Civic Engagement, a student shall meet district requirements for all of the following state-established criteria:

1. Be engaged in academic work in a productive way

2. Demonstrate a competent understanding of U.S. and California Constitutions, functions and governance of local governments, tribal government structures and organizations, the role of the citizen in a constitutional democracy, and democratic principles, concepts, and processes
3. Participate in one or more informed civic engagement project(s) that address real-world problems and require students to identify and inquire into civic needs or problems, consider varied responses, take action, and reflect on efforts
4. Demonstrate civic knowledge, skills, and dispositions through self-reflection
5. Exhibit character traits that reflect civic-mindedness and a commitment to positively impact the classroom, school, community and/or society

CSBA NOTE: CDE provides the insignias to be affixed to students' diplomas or transcripts indicating the award of the State Seal of Civic Engagement. When ordering the insignias, districts will self-certify that students earned the award based on locally created criteria.

The Superintendent or designee shall maintain appropriate records to identify students who have earned the State Seal of Civic Engagement and shall affix the insignia to the high school diploma or transcript of each such student. (Education Code 51473)

Scholarship and Loan Fund

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

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

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

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

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

Notifications

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

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

Policy Reference Disclaimer:

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State	Description
5 CCR 11517.6-11519.5	English Language Proficiency Assessments for California
5 CCR 1632	Alternative credits toward graduation for foreign language instruction in private school
5 CCR 876	Golden State Seal Merit Diploma
Ed. Code 220	Prohibition of discrimination
Ed. Code 35160	Authority of governing boards
Ed. Code 35310-35319	Scholarship and loan funds
Ed. Code 44015	Awards to employees and students
Ed. Code 51007	Equitable access to programs designed to strengthen technological skills
Ed. Code 51243-51245	Credit for private school foreign language instruction
Ed. Code 51450-51455	Golden State Seal Merit Diploma
Ed. Code 51460-51464	State Seal of Biliteracy
Ed. Code 51470-51474 51475	State Seal of Civic Engagement
Ed. Code 52164.1	Assessment of English language skills of English learners
Gov. Code 54950-54963	The Ralph M. Brown Act
Management Resources	Description
California Department of Education Publication	SSCE Implementation Guidance
California Department of Education Publication	State Seal of Biliteracy FAQs
Website	CSBA District and County Office of Education Legal Services
Website	Californians Together
Website	CSBA
Website	California Department of Education

Cross References

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0410	Nondiscrimination In District Programs And Activities
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6181	Alternative Schools/Programs Of Choice
6183	Home And Hospital Instruction
6184	Continuation Education
6184	Continuation Education
9140	Board Representatives

Policy 5141.21: Administering Medication And Monitoring Health Conditions Status: ADOPTED

Original Adopted Date: 11/01/2011 | **Last Revised Date:** 12/03/01/2019/2024 | **Last Reviewed Date:** 12/03/01/2019/2024

CSBA NOTE: The following optional policy and accompanying administrative regulation apply to the administration of medication to students pursuant to Education Code 49414, 49414.1, 49414.3, 49414.5, [49414.7](#), [49414.8](#), 49423, and 49423.1 and [49468-49468.5](#) and the permissive guidelines in 5 CCR 600-611.

~~Pursuant to the general authority in Education Code 49423 and 5 CCR 600-611, as interpreted by the California Supreme Court in American Nurses Association v. Torlakson, health providers may train unlicensed school personnel to administer medication, including emergency anti-seizure medication.~~

This policy and regulation do not address situations in which a district might be engaged in a collaborative arrangement with another entity for the provision of school health services to students; see BP/AR 5141.6 - School Health Services.

The Governing Board believes that regular school attendance is critical to student learning and that students who need to take medication prescribed or ordered for them by their authorized health care providers should be able to participate in the educational program.

Any medication prescribed for a student with a disability who is qualified to receive services under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973 shall be administered in accordance with the student's individualized education program or Section 504 services plan, as applicable.

CSBA NOTE: 5 CCR 604 authorizes a parent/guardian to administer medication to a child or designate an individual to administer the medication, as specified below. In addition, California law allows students to carry and self-administer medication needed for the treatment or management of certain medical conditions, when the district has received a written request from the student's parent/guardian and written authorization from the student's authorized health care provider, as specified in the accompanying administrative regulation. Students have legal authorization to self-administer diabetes medication pursuant to Education Code 49414.5, auto-injectable epinephrine for anaphylactic reactions pursuant to Education Code 49423, and inhaled asthma medication pursuant to Education Code 49423.1. Pursuant to 5 CCR 605, districts may choose to allow students to carry and self-administer other types of medication beyond those specifically authorized by the Education Code.

For the administration of medication to other students during school or school-related activities, the Superintendent or designee shall develop protocols which shall include options for allowing parents/guardians to administer medication to their child at school, designate other individuals to do so on their behalf, and, with the student's authorized health care provider's approval, request the district's permission for the student to self-administer a medication or self-monitor and/or self-test for a medical condition. Such processes shall be implemented in a manner that preserves campus security, minimizes instructional interruptions, and promotes student safety and privacy.

The Superintendent or designee shall make epinephrine auto-injectors available at each school for providing emergency medical aid to any person suffering, or reasonably believed to be suffering, from an anaphylactic reaction. (Education Code 49414)

CSBA NOTE: The following paragraph is optional. The district is authorized, but not required, to make certain medications available on its school sites for providing emergency medical aid to students. For example, pursuant to Education Code 49414.3 and, as added by AB 1283 (Ch. 574, Statutes of 2023), Education Code 49414.7, the district is permitted to make emergency naloxone hydrochloride or other opioid antagonist and emergency stock albuterol inhalers available at its schools, for providing emergency medical aid to any person suffering, or reasonably believed to be suffering, from opioid overdose or respiratory distress. The following paragraph may be revised to specify medications that the district, in its discretion, has chosen to stock for use on its school sites. In choosing to make such medications available, the district should be aware of the possibility of increased liability and should consult CSBA's District and County Office of Education Legal Services or district legal counsel accordingly.

In accordance with law, the Superintendent or designee may make naloxone hydrochloride or another opioid antagonist and stock albuterol inhalers available at each school for providing emergency medical aid to any person suffering or reasonably believed to be suffering from opioid overdose or respiratory distress. (Education Code 49414.3, 49414.7)

~~CSBA NOTE: The following optional paragraph is for use by any district that, at its discretion, chooses to make emergency naloxone hydrochloride or other opioid antagonist available at its schools for the purpose of providing emergency medical aid, pursuant to Education Code 49414.3. In choosing to make such medications available, the district should be aware of the possibility of increased liability and should consult legal counsel accordingly.~~
CSBA NOTE: Although federal law (21 USC 812, 844) prohibits the possession of cannabis, even by medical users, state law allows persons under the age of 18 to use and possess cannabis for medical use. Pursuant to Education Code 49414.1, the Governing Board is authorized to adopt a policy that allows parents/guardians to administer medicinal cannabis to their child at school. Education Code 49414.1 does not permit or require school personnel to administer medicinal cannabis.

Option 1 is for use by districts that choose to adopt a policy allowing parent/guardian administration of medicinal cannabis at school. Because of the conflict between state and federal law, districts considering adoption of such policy should consult CSBA's District and County Office of Education Legal Services or district legal counsel regarding possible ramifications. Education Code 49414.1 authorizes the Board to subsequently amend or rescind the policy for any reason, including, but not limited to, if the district is at risk of, or has lost, federal funding as a result of the policy.

Option 2 is for use by districts that choose to prohibit the administration of medicinal cannabis at school.

~~The Superintendent or designee shall make naloxone hydrochloride or another opioid antagonist available for emergency medical aid to any person suffering, or reasonably believed to be suffering, from an opioid overdose. (Education Code 49414.3)~~

~~CSBA NOTE: Although federal law (21 USC 812, 844) prohibits the possession of cannabis, even by medical users, state law allows persons under the age of 18 to use and possess cannabis for medical use. Pursuant to Education Code 49414.1, as added by SB 223 (Ch. 699, Statutes of 2019), the Governing Board is authorized to adopt a policy that allows parents/guardians to administer medicinal cannabis to their child at school. Education Code 49414.1 does not permit or require school personnel to administer medicinal cannabis.~~

~~Option 1 is for use by districts that choose to adopt a policy allowing parent/guardian administration of medicinal cannabis at school. Because of the conflict between state and federal law, districts considering adoption of such policy should consult legal counsel regarding possible ramifications. Education Code 49414.1 authorizes the Board to subsequently amend or rescind the policy for any reason, including, but not limited to, if the district is at risk of, or has lost, federal funding as a result of the policy.~~

~~Option 2 is for use by districts that choose to prohibit the administration of medicinal cannabis at school.~~

OPTION 1: The parent/guardian of a student who is a qualified patient pursuant to Health and Safety Code 11362.7-11362.85 may administer medicinal cannabis, excluding medicinal cannabis or cannabis products in a smokeable or vapeable form, to the student at a school site. -School personnel are not authorized to administer medicinal cannabis to a student. (Education Code 49414.1)

CSBA NOTE: If the Board chooses Option 1, Education Code 49414.1, ~~as added by SB 223,~~ mandates that the policy include the following requirements.

Before administering medicinal cannabis at a school site, the parent/guardian shall provide to the principal or designee a valid written medical recommendation for the student to be given medicinal cannabis, which shall be kept on file at the school. The parent/guardian shall sign in at the school site before administering the medication, and shall not administer the medication in a manner that disrupts the educational environment or exposes other students. -After the parent/guardian administers the medication, the parent/guardian shall remove any remaining medicinal cannabis from the school site. (Education Code 49414.1)

END OF OPTION 1

OPTION 2: Because of the conflict between state and federal law regarding the legality of medicinal cannabis, the Board prohibits the administration of medicinal cannabis to students on school grounds by parents/guardians or school personnel.

END OF OPTION 2

CSBA NOTE: The following optional paragraph applies to all districts and may be revised to reflect district practice. The U.S. Department of Health and Human Services and the Centers for Disease Control and Prevention recommend that a district's emergency and disaster preparedness plan include procedures for dealing with medical emergencies, such as a pandemic flu outbreak or public disaster. See BP/AR 3516 – Emergencies and Disaster Preparedness Plan and BP/AR 5141.22 – Infectious Diseases. The Superintendent or designee shall collaborate with city and county emergency responders, including local public health administrators, to design procedures or measures for addressing an emergency such as a public disaster or epidemic.

Administration of Medication by School Personnel

CSBA NOTE: Various provisions of state law allow districts to train nonmedical district employees (i.e., those who do not possess a medical license) to provide medical assistance to students at school when a credentialed school nurse or other licensed individual is unavailable. For example, Education Code 49414, 49414.3, 49414.5, 49414.7, 49414.8, 49423, ~~and~~ 49423.1, and 49468.2 specifically authorize the use of trained, unlicensed school employees to administer medications to students suffering from allergic reactions, opioid overdose, severe hypoglycemia, ~~or~~ respiratory distress, asthma, or seizures. Moreover, in *American Nurses Association v. Torlakson*, the California Supreme Court held that, as with other prescription medications, state law permits trained,

unlicensed school personnel to administer insulin to students where a physician has determined that unlicensed school personnel may safely and appropriately administer the medication. The medication must be administered in accordance with a written health care provider statement and parental consent.

Education Code 49426.5, as added by AB 1722 (Ch. 853, Statutes of 2023), authorizes the district to hire a licensed vocational nurse following Board approval that a diligent search was conducted for a credentialed school nurse. Upon hiring a licensed vocational nurse, the district is required to certify to the California Department of Education that a search was properly conducted. A hired vocational nurse is required to be supervised by a credentialed school nurse employed as a school nurse at the district or at another local educational agency.

When allowed by law, medication prescribed to a student by an authorized health care provider may be administered by a school nurse or, when a school nurse or other medically licensed person is unavailable and the physician has authorized administration of medication by unlicensed personnel for a particular student, by other designated school personnel with appropriate training. School nurses and other designated school personnel shall administer medications to students in accordance with law, Board policy, administrative regulation, and, as applicable, the written statement provided by the student's parent/guardian and authorized health care provider. Such personnel shall be afforded appropriate liability protection.

The Superintendent or designee shall ensure that school personnel designated to administer any medication receive appropriate training and, as necessary, retraining from qualified medical personnel before any medication is administered. At a minimum, the training shall cover how and when such medication should be administered, the recognition of symptoms and treatment, emergency follow-up procedures, and the proper documentation and storage of medication. Such trained, unlicensed designated school personnel shall be supervised by, and provided with immediate communication access to, a school nurse, physician, or other appropriate individual.

The Superintendent or designee shall maintain documentation of the training and ongoing supervision, as well as annual written verification of competency of other designated school personnel.

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Policy Reference Disclaimer:

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

State	Description
5 CCR 600-611	Administering medication to students
Bus. Code 2700-2837	Nursing
Bus. Code 3500-3546	Physician assistants
Bus. Code 4119.2	Acquisition of epinephrine auto-injectors
Bus. Code 4119.8	Acquisition of naloxone hydrochloride or another opioid antagonist

Ed. Code 48980	Parent/Guardian notifications
Ed. Code 49407	Liability for treatment
Ed. Code 49408	Student emergency information
Ed. Code 49414	Emergency epinephrine auto-injectors
Ed. Code 49414.3	Emergency medical assistance; administration of medication for opioid overdose
Ed. Code 49414.4	Opioid Misuse
Ed. Code 49414.5	Providing school personnel with voluntary emergency training
Ed. Code 49414.7	Emergency Albuterol Inhalers albuterol inhalers
Ed. Code 49414.8	Funding for emergency opioid antagonists; requirements
Ed. Code 49422-49427	Employment of medical personnel
Ed. Code 49423	Administration of prescribed medication for student
Ed. Code 49423.1	Inhaled asthma medication
Ed. Code 49426.5	Licensed vocational nurses
Ed. Code 49468-49468.5	The Seizure Safe Schools Act
Ed. Code 49480	Continuing medication regimen; notice
H&S 1799.113	Opioid overdose treatment
H&S Code 11362.7-11362.85	Medicinal cannabis
Federal	Description
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 1400-1482	Individuals with Disabilities Education Act
21 USC 812	Schedule of controlled substances
21 USC 844	Penalties for possession of controlled substance
29 USC 794	Rehabilitation Act of 1973; Section 504
34 CFR 99.30	Conditions under which prior written consent is required to disclose information
Management Resources	Description
American Diabetes Association Publication	Legal Advisory on Rights of Students with Diabetes in California's K-12 Public Schools, August 2007
American Diabetes Association Publication	Program Advisory on Medication Administration, 2005
American Diabetes Association Publication	Training Standards for the Administration of Epinephrine Auto-Injectors, rev. 2015
American Diabetes Association Publication	Glucagon Training Standards for School Personnel: -Providing Emergency Medical Assistance to Pupils with Diabetes, May 2006

Court Decision	American Nurses Association v. Torlakson, (2013) 57 Cal.4th 570
National Diabetes Education Program Publication	Helping the Student with Diabetes Succeed: -A Guide for School Personnel, June 2003
Website	CSBA District and County Office of Education Legal Services
Website	National Diabetes Education Program
Website	<u>U.S. Department of Health and Human Services, National Institutes of Health, Heart, Lung, and Blood Institute, asthma information</u>
Website	American Diabetes Association
Website	California Department of Education, Health Services and School Nursing
Website	CSBA
Website	California Department of Public Health

Cross References

Code	Description
3513.4	Drug And Alcohol Free Schools
3516	Emergencies And Disaster Preparedness Plan
3516	Emergencies And Disaster Preparedness Plan
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4119.43	Universal Precautions
4119.43	Universal Precautions
4131	Staff Development
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4219.43	Universal Precautions
4219.43	Universal Precautions
4231	Staff Development
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4319.43	Universal Precautions
4319.43	Universal Precautions
5022	Student And Family Privacy Rights

5022	Student And Family Privacy Rights
5113	Absences And Excuses
5113	Absences And Excuses
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy
5125	Student Records
5125	Student Records
5131.62	Tobacco
5131.62	Tobacco
5141	Health Care And Emergencies
5141	Health Care And Emergencies
5141.22	Infectious Diseases
5141.22	Infectious Diseases
5141.23	Asthma Management
5141.23	Asthma Management
5141.24	Specialized Health Care Services
5141.27	Food Allergies/Special Dietary Needs
5141.27	Food Allergies/Special Dietary Needs
5141.6	School Health Services
5141.6	School Health Services
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5148.2	Before/After School Programs
5148.2	Before/After School Programs
6142.8	Comprehensive Health Education
6142.8	Comprehensive Health Education
6145.2	Athletic Competition
6145.2	Athletic Competition
6163.2	Animals At School
6163.2	Animals At School
6164.6	Identification And Education Under Section 504
6164.6	Identification And Education Under Section 504

Policy 5144: Discipline**Status:** ADOPTED

Original Adopted Date: 04/01/2014 | **Last Revised Date:** 12/03/01/20182024 | **Last Reviewed Date:** 12/03/01/20182024

~~CSBA NOTE: The following policy is optional. Pursuant to Education Code 52060–52077, the Governing Board is required to adopt a local control and accountability plan (LCAP) that includes a description of the specific actions that the district intends to take in order to achieve its annual goals in specific priority areas, including student engagement and school climate. See BP/AR 0460 – Local Control and Accountability Plan.~~

~~Since a district's ability to meet its goals around these priorities is impacted by its student discipline policies and practices, the Board must be careful to enact rules that are effective in maintaining safety and order on campus and in correcting student's with behavioral problems without unnecessarily excluding students from school or participation in instruction.~~ **CSBA NOTE: The following policy is optional.** State law specifies behaviors for which a student may be suspended and/or recommended for expulsion (see BP/AR 5144.1 - Suspension and Expulsion/Due Process) and State law also authorizes the use of age-appropriate alternatives designed to address a student's specific misbehavior to suspension, including those listed in Education Code 48900.5 and 48900.6.

~~In addition~~ Since a district's ability to meet its goals is impacted by its student discipline policies and practices, the Governing Board must be careful to enact rules that are effective in providing interventions and supports as well as maintaining safety and order on campus.

The U.S. Department of Justice's Civil Rights Division (DOJ) and the U.S. Department of Education's Office for Civil Rights (OCR), in their joint January 2014 Dear Colleague Letter ~~on the~~, “Nondiscriminatory Administration of School Discipline” (which has been under review by DOJ and OCR since July 30, 2021), states that studies have suggested a correlation between exclusionary discipline policies and practices (such as suspension and expulsion) and an array of serious educational, economic, and social problems, including school avoidance, diminished educational engagement, decreased academic achievement, increased behavior problems, and increased likelihood of dropping out, substance abuse, and involvement with the juvenile justice system. Consequently, they recommend that districts adopt alternative disciplinary measures that provide students with appropriate interventions and supports as a means for preventing and addressing student misbehavior. OCR's publication, “Resource on Confronting Racial Discrimination in Student Discipline,” provides additional resources and findings.

The Governing Board is committed to providing a safe, supportive, and positive school environment which is conducive to student learning and achievement and desires to prepare students for responsible citizenship by fostering self-discipline and personal responsibility. The Board believes that high expectations for student behavior, use of effective school and classroom management strategies, provision of appropriate intervention and support, and parent/guardian involvement can minimize the need for disciplinary measures that exclude students from instruction as a means for correcting student misbehavior.

The Superintendent or designee shall develop effective, age-appropriate strategies for maintaining a positive school climate and ~~correcting~~responding appropriately to student misbehavior at district schools. The strategies shall focus on providing students with needed supports; communicating clear, appropriate, and consistent expectations and consequences for student conduct; and ensuring equity and continuous improvement in the implementation of district discipline policies and practices.

In addition, the Superintendent or designee's strategies for ~~correcting~~responding to student misconduct shall reflect the Board's preference for the use of positive interventions and alternative disciplinary measures over exclusionary discipline measures.

Disciplinary measures that may result in loss of instructional time or cause students to be disengaged from school, such as detention, suspension, and expulsion, shall be imposed only when required or permitted by law or when other means of correction have been documented to have failed. (Education Code 48900.5)

School personnel and volunteers shall not allow any disciplinary action taken against a student to result in the denial or delay of a school meal. (Education Code 49557.5)

CSBA NOTE: Pursuant to Education Code 49056, as added by SB 291 (Ch. 863, Statutes of 2023), beginning with the 2024-2025 school year, a student may not be denied recess unless the student's participation poses an immediate threat to the physical safety of the student or to the physical safety of one or more of the student's peers. Education Code 44807.5, which authorized the Board to permit the use of recess restriction for disciplinary purposes, was repealed by SB 291.

A student shall not be denied recess unless the student's participation poses an immediate threat to the physical safety of the student or to the physical safety of one or more of the student's peers. If, due to such immediate threat, a student is denied recess, staff shall make all reasonable efforts to resolve the threat and minimize the student's exclusion from recess, to the greatest extent practicable. (Education Code 49056)

CSBA NOTE: Pursuant to Education Code 49005.2, use of seclusion and behavioral restraint as a means of discipline is prohibited. Education Code 49005.4, provides that seclusion or behavioral restraint may only be used to control behavior that poses a clear and present danger of serious physical harm to a student or others that cannot be immediately prevented by a less restrictive response. See AR 5131.41 - Use of Seclusion and Restraint.

Seclusion and behavioral restraint are prohibited as a means of discipline and shall not be used to correct student behavior except as permitted pursuant to Education Code 49005.4 and in accordance with district regulations. (Education Code 49005.2)

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. According to Public Counsel's model policy issued as part of the Fix School Discipline Project, a discipline matrix that lists violations and consequences could be a useful guide to school site administrators with regard to when suspension or expulsion referrals should be utilized.

The Superintendent or designee shall create a model discipline matrix that lists violations and the consequences for each as allowed by law.

CSBA NOTE: Education Code 35291.5 authorizes, but does not require, school sites to adopt rules and procedures for student discipline. Pursuant to Education Code 32282, any adopted site-level

discipline rules must be included in the comprehensive safety plan; see BP/AR 0450 - Comprehensive Safety Plan. The following paragraph is optional.

The administrative staff The principal or designee at each school may develop disciplinary rules to meet the school's particular needs consistent with law, Board policy, and district administrative regulations. The Board, at an open meeting, ~~shall~~may review the approved school discipline rules for consistency with Board policy and state law. Site-level disciplinary rules shall be included in the district's comprehensive safety plan. (Education Code 32282, 35291.5)

At all times, the safety of students and staff, providing interventions and supports to students, as well as the maintenance of an orderly school environment, shall be priorities in determining appropriate discipline. When misconduct occurs, staff shall attempt to identify the causes of the student's behavior and implement appropriate support and/or discipline. When choosing between different disciplinary strategies, staff shall consider the effect of each option on the student's health, well-being, and opportunity to learn.

Staff shall enforce disciplinary rules fairly, consistently, and in accordance with the district's nondiscrimination policies.

The Superintendent or designee shall provide professional development as necessary to assist staff in developing the skills needed to effectively and equitably implement the disciplinary strategies adopted for district schools, including, but not limited to, knowledge of school and classroom management skills and their consistent application, effective accountability and positive intervention techniques, and the tools to form strong, cooperative relationships with parents/guardians.

CSBA NOTE: Pursuant to Education Code 52060, the district must annually adopt an LCAP a local control and accountability plan that includes a description of district goals for improving school climate, as provided in the following paragraph.

District goals for improving school climate, based on suspension and expulsion rates, surveys of students, staff, and parents/guardians regarding their sense of school safety and connectedness to the school community, and other local measures, shall be included in the district's local control and accountability plan, as required by law.

At the beginning of each school year, the Superintendent or designee ~~shall~~may report to the Board regarding disciplinary strategies used in district schools in the immediately preceding school year and their effect on student learning.

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State

5 CCR 307

Description

Participation in school activities until departure of bus

5 CCR 353	Detention after school
Civ. Code 1714.1	Liability of parent or guardian for act of willful misconduct by a minor
Ed. Code 32280-32289.5	School safety plans
Ed. Code 35146	Closed sessions
Ed. Code 35291-35291.5	School discipline rules Rules
Ed. Code 35291.5	School-adopted discipline rules
Ed. Code 37223	Weekend classes
Ed. Code 44807.5	Restriction from recess
Ed. Code 48900-48926	Suspension and expulsion
Ed. Code 48980-48985	Parent/Guardian notifications
Ed. Code 49055	Restorative justice practices
Ed. Code 49056	Recess restriction
Ed. Code 49005-49006.4	Seclusion and restraint
Ed. Code 49414.4	Opioid misuse; alternative to referral to law enforcement
Ed. Code 49330-49335	Injurious objects
Ed. Code 49550-49564.5	Meals for needy students
Ed. Code 52060-52077	Local control and accountability plan
Federal	Description
20 USC 1400-1482	Individuals with Disabilities Education Act
29 USC 794	Rehabilitation Act of 1973; Section 504
42 USC 1751-1769j	School Lunch Program
42 USC 1773	School Breakfast Program
Management Resources	Description
California Dept of Education Program Advisories	Classroom Management:- A California Resource Guide for Teachers and Administrators of Elementary and Secondary Schools, 2000
CSBA Publication	Recent Legislation on Discipline: -AB 240, Fact Sheet, March 2015
CSBA Publication	The Case for Reducing Out-of-School Suspensions and Expulsions, Fact Sheet, April 2014
CSBA Publication	Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011

CSBA Publication	Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014
CSBA Publication	Maximizing Opportunities for Physical Activity During the School Day, Fact Sheet, November 2009
Fix School Discipline Project	Sample alternative discipline policy (http://fixschooldiscipline.org/wp-content/uploads/2014/12/Sample-Alternative-Discipline-Policy.docx)
U.S. Dept of Education, Office for Civil Rights Publication	Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973
U.S. DOE Dept of Education , Office for Civil Rights Publication	Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014
U.S. Department of Education, Office for Civil Rights Publication	Resource on Confronting Racial Discrimination in Student Discipline
Website	CSBA District and County Office of Education Legal Services
Website	Public Counsel
Website	U.S. Department of Education, Office for Civil Rights
Website	California Department of Education
Website	CSBA

Cross References

Code	Description
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures

1313	Civility
3512	Equipment
3512-E(1)	Equipment
3513.3	Tobacco-Free Schools
3513.3	Tobacco-Free Schools
3513.4	Drug And Alcohol Free Schools
3515	Campus Security
3515	Campus Security
3515.21	Unmanned Aircraft Systems (Drones)
3515.3	District Police/Security Department
3515.3	District Police/Security Department
3515.31	School Resource Officers
3515.4	Recovery For Property Loss Or Damage
3515.4	Recovery For Property Loss Or Damage
3543	Transportation Safety And Emergencies
4131	Staff Development
4158	Employee Security
4158	Employee Security
4258	Employee Security
4258	Employee Security
4358	Employee Security
4358	Employee Security
5000	Concepts And Roles
5020	Parent Rights And Responsibilities
5020	Parent Rights And Responsibilities
5030	Student Wellness
5112.1	Exemptions From Attendance
5112.1	Exemptions From Attendance
5112.5	Open/Closed Campus
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy

5116.2	Involuntary Student Transfers
5125	Student Records
5125	Student Records
5127	Graduation Ceremonies And Activities
5131	Conduct
5131.1	Bus Conduct
5131.1	Bus Conduct
5131.2	Bullying
5131.2	Bullying
5131.4	Student Disturbances
5131.4	Student Disturbances
5131.41	Use Of Seclusion And Restraint
5131.5	Vandalism And Graffiti
5131.6	Alcohol And Other Drugs
5131.6	Alcohol And Other Drugs
5131.62	Tobacco
5131.62	Tobacco
5131.63	Steroids
5131.63	Steroids
5131.7	Weapons And Dangerous Instruments
5131.7	Weapons And Dangerous Instruments
5131.9	Academic Honesty
5132	Dress And Grooming
5132	Dress And Grooming
5137	Positive School Climate
5138	Conflict Resolution/Peer Mediation
5141.4	Child Abuse Prevention And Reporting
5141.4	Child Abuse Prevention And Reporting
5142	Safety
5142	Safety
5144.1	Suspension And Expulsion/Due Process

5144.1	Suspension And Expulsion/Due Process
5144.2	Suspension And Expulsion/Due Process (Students With Disabilities)
5144.4	Required Parental Attendance
5144.4	Required Parental Attendance
5145.2	Freedom Of Speech/Expression
5145.2	Freedom Of Speech/Expression
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5145.7	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
5148.2	Before/After School Programs
5148.2	Before/After School Programs
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
6145.2	Athletic Competition
6145.2	Athletic Competition
6145.8	Assemblies And Special Events
6153	School-Sponsored Trips
6153	School-Sponsored Trips
6159.4	Behavioral Interventions For Special Education Students
6162.54	Test Integrity/Test Preparation
6163.4	Student Use Of Technology
6163.4-E(1)	Student Use Of Technology
6164.2	Guidance/Counseling Services
6164.5	Student Success Teams

6164.5	Student Success Teams
6184	Continuation Education
6184	Continuation Education
6185	Community Day School
6185	Community Day School
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session

CSBA Sample District Policy Manual
CSBA Sample Manual Site

Regulation 5144: Discipline**Status:** ADOPTED

Original Adopted Date: 11/01/2012 | **Last Revised Date:** 03/01/2023~~2024~~ | **Last Reviewed Date:** 03/01/2023~~2024~~

Site-Level Rules

CSBA NOTE: The following section is optional. Pursuant to Education Code 35291.5, schools are authorized, but not required, to adopt site-level student discipline rules and procedures. Schools that choose to adopt student discipline rules, or that are directed by the Governing Board to do so, must solicit input from groups specified in Items #1-5 below. Such site-level rules must be consistent with law, Board policy, and district regulations. If the school develops student discipline rules, Education Code 32282 requires that they be included in the comprehensive safety plan; see BP/AR 0450 -- Comprehensive Safety Plan.

In addition, pursuant to Education Code 52060, the district is required to adopt a local control and accountability plan (LCAP) that includes a description of the specific actions that it intends to take to achieve its annual goals in specified priority areas, including student engagement and school climate. In the development of the LCAP, the district is required to involve and/or consult with parents/guardians, employees, employee organizations, and students in accordance with law. See BP/AR 0460 -- Local Control and Accountability Plan.

Site-level rules shall be consistent with state law and Board policies and administrative regulations. In developing site-level disciplinary rules, the principal or designee shall solicit the participation, views, and advice of one representative selected by each of the following groups: (Education Code 35291.5)

1. Parents/guardians
2. Teachers
3. School administrators
4. School security personnel, if any

CSBA NOTE: Education Code 35291.5 references students in junior high and high school, which has been interpreted to mean students in grades 7-12. Item #5 below may be deleted by elementary districts.

~~5. For junior high and high schools, students enrolled in the school~~

5. Students in grades seven through twelve

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. Education Code 35291.5 authorizes, but does not require, each school site to adopt school rules every four years. However, it is recommended that the timelines for the review of school rules be aligned with those for the review and updating of the comprehensive safety plan, since the school

rules must, by law, be included in the plan. Pursuant to Education Code 32286, the comprehensive safety plan must be reviewed and updated every year by March 1; see BP/AR 0450 -- Comprehensive Safety Plan.

Annually, site-level discipline rules shall be reviewed and, if necessary, updated to align with any changes in state law, district discipline policies and regulations, and/or goals for school safety and climate as specified in the district's district's local control and accountability plan. A copy of the rules shall be filed with the Superintendent or designee for inclusion in the comprehensive safety plan.

School rules shall be communicated to students clearly and in an age-appropriate manner.

It shall be the duty of each employee of the school to enforce the school rules on student discipline. (Education Code 35291.5)

Disciplinary Strategies

CSBA NOTE: Education Code 48900.5 lists means of correction of student behavior that a district may use as an alternative to suspension. The district should select those strategies that are appropriate for its student population. The following strategies may be modified or expanded to reflect district practice.

To the extent possible, staff shall use disciplinary strategies that keep students in school and participating in the instructional program. Except when ~~students'~~ students' presence causes a danger to themselves or others or they commit a single act of a grave nature or an offense for which suspension or expulsion is required by law, suspension, supervised suspension, or expulsion shall be used only when other means of correction have failed to bring about proper conduct. Disciplinary strategies may include, but are not limited to:

1. Discussion or conference between school staff, the student, and the ~~student's~~ student's parents/guardians
2. Referral of the student to the school counselor or other school support service personnel for case management and counseling
3. Convening of a study team, guidance team, resource panel, or other intervention-related team to assess the behavior and develop and implement an individual plan to address the behavior in partnership with the student and the ~~student's~~ student's parents/guardians
4. When applicable, referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program (IEP) or a Section 504 plan
5. Enrollment in a program for teaching prosocial behavior or anger management

CSBA NOTE: Pursuant to Education Code 49414.4, as added by SB 10 (Ch. 856, Statutes of 2023), as part of a restorative justice framework, the district may use alternatives to a referral to a law enforcement agency in response to an incident involving a student's misuse of an opioid, to the extent the alternatives are not in conflict with any other law requiring that referral. Items #6-9 below reflect these alternative approaches.

6. Participation in a restorative justice program

7. A positive behavior support approach with tiered interventions that occur during the school day on campus
8. Participation in a social and emotional learning program that teaches students the ability to understand and manage emotions, develop caring and concern for others, make responsible decisions, establish positive relationships, and handle challenging situations capably

CSBA NOTE: The Public Counsel's Counsel's Fix School Discipline Project recognizes that exposure to chronic violence and other family or community traumas, such as serious accidents and life-threatening illnesses involving loved ones, and to conditions such as homelessness, may affect ~~students'~~students' ability to learn and function well in school, and urges schools to adopt policies that recognize those factors and provide appropriate support to students.

9. Participation in a program that is sensitive to the traumas experienced by students, focuses on ~~students'~~students' behavioral health needs, and addresses those needs in a proactive manner
10. After-school programs that address specific behavioral issues or expose students to positive activities and behaviors, including, but not limited to, those operated in collaboration with local parent and community groups

~~11. Recess restriction as provided in the section below entitled "Recess Restriction"~~

~~12~~11. Detention after school hours as provided in the section below entitled "Detention After School"

~~13~~12. Community service as provided in the section below entitled "Community Service"

~~14~~13. In accordance with Board policy and administrative regulation, restriction or disqualification from participation in extracurricular activities

~~15~~14. Reassignment to an alternative educational environment

~~16~~15. Suspension and expulsion in accordance with law, Board policy, and administrative regulation

CSBA NOTE: Pursuant to Education Code 48900.5, when a ~~student's~~student's misbehavior may result in a referral for suspension or expulsion after other means of correction have failed, the district may document and place in the ~~student's~~student's record any other means of correction used to address the behavior. The following optional paragraph may be revised to reflect district practice.

When, by law or district policy, other means of correction are required to be implemented before a student could be suspended or expelled, any other means of correction implemented shall be documented and retained in the ~~student's~~student's records. (Education Code 48900.5)

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

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

CSBA NOTE: On July 19, 2022, The United States Department of Education's Office for Civil Rights and Office of Special Education and Rehabilitative Services issued new guidance, "Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973," to help schools support students with disabilities and avoid discriminatory discipline practices.

Staff shall enforce disciplinary rules fairly, consistently, and in accordance with the district's nondiscrimination policies.

When disciplining a student who has been identified for special education and related services, the procedures specified in Administrative Regulation 5144.2 - Suspension And Expulsion/Due Process (Students With Disabilities) shall be applied. If a student has not been identified as a student with a disability and the district suspects the behavior that resulted in discipline may be based in an unidentified disability, the district shall conduct an evaluation to determine if the student has a disability which requires an IEP or 504 plan. (U.S.C. 1412(a)(3))

Recess Restriction

~~CSBA NOTE: The following optional section should be revised to reflect district practice. Although Education Code 44807.5 authorizes the district to adopt reasonable regulations allowing a teacher to restrict recess time for disciplinary purposes, it is recommended that districts discourage its use since it could limit students' opportunity to engage in physical activity which is inconsistent with district goals for student wellness. Studies have shown that, apart from its multiple health benefits, physical activity can help students improve their academic performance, attention, and behavior.~~

~~In addition, Education Code 44807.5 may conflict with 5 CCR 352, which states "A pupil shall not be required to remain in school during the intermission at noon, or during any recess." Districts that plan to restrict recess are encouraged to consult with CSBA's District and County Office Legal Services or district legal counsel.~~

~~Teachers may restrict a student's recess time only when they believe that this action is the most effective way to bring about improved behavior. When recess restriction involves the withholding of physical activity from a student, teachers shall try other disciplinary measures before imposing the restriction. Recess restriction shall be subject to the following conditions:~~

- ~~1. The student shall be given adequate time to use the restroom and get a drink or eat lunch, as appropriate.~~
- ~~2. The student shall remain under a certificated employee's supervision during the period of restriction.~~

~~3. The student's teacher shall inform the principal of any recess restrictions imposed.~~

Detention After School

Students may be detained for disciplinary reasons for up to one hour after the close of the maximum school day, or until the departure of the school bus to which they have been assigned if applicable. (5 CCR 307, 353)

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

The student shall not be detained unless the principal or designee notifies the parent/guardian.

Students shall remain under the supervision of a certificated employee during the period of detention.

CSBA NOTE: The following optional paragraph is offered for districts that use Saturday classes for purposes of detention. Education Code 37223 authorizes the use of Saturday classes; however, except in the case of truants, attendance at such classes must be at the election of the student, or parent/guardian when the student is a minor.

Students may be offered the choice of serving their detention on Saturday rather than after school.

Community Service

As part of or instead of disciplinary action, the Board, Superintendent, principal, or principal's designee may require a student to perform community service during nonschool hours on school grounds or, with written permission of the student's parent/guardian, off school grounds. -Such service may include, but is not limited to, community or school outdoor beautification, community or campus betterment, and teacher, peer, or youth assistance programs. (Education Code 48900.6)

CSBA NOTE: Education Code 48900.6 provides that the community service option is not available for those students who have been suspended, pending expulsion, for acts qualifying for either "mandatory recommendation for expulsion" or "mandatory expulsion" pursuant to Education Code 48915. See BP 5144.1 - Suspension and Expulsion/Due Process.

This community service option is not available for a student who has been suspended, pending expulsion, pursuant to Education Code 48915. -However, if the recommended expulsion is not implemented or the expulsion itself is suspended, then the student may be required to perform community service for the resulting suspension. (Education Code 48900.6)

Notice to Parents/Guardians and Students

At the beginning of the school year, the Superintendent or designee shall notify parents/guardians, in writing, about the availability of district rules related to discipline. (Education Code 35291, 48980)

The Superintendent or designee shall also provide written notice of disciplinary rules to [parents/guardians of](#) transfer students at the time of their enrollment in the district.

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State	Description
5 CCR 307	Participation in school activities until departure of bus
5 CCR 353	Detention after school
Civ. Code 1714.1	Liability of parent or guardian for act of willful misconduct by a minor
Ed. Code 32280-32289.5	School safety plans
Ed. Code 35146	Closed sessions
Ed. Code 35291-35291.5	School discipline rules Rules
Ed. Code 35291.5	School-adopted discipline rules
Ed. Code 37223	Weekend classes
Ed. Code 44807.5	Restriction from recess
Ed. Code 48900-48926	Suspension and expulsion
Ed. Code 48980-48985	Parent/Guardian notifications
Ed. Code 49055	Restorative justice practices
Ed. Code 49056	Recess restriction
Ed. Code 49005-49006.4	Seclusion and restraint
Ed. Code 49414.4	Opioid misuse; alternative to referral to law enforcement
Ed. Code 49330-49335	Injurious objects
Ed. Code 49550-49564.5	Meals for needy students
Ed. Code 52060-52077	Local control and accountability plan
Federal	Description
20 USC 1400-1482	Individuals with Disabilities Education Act
29 USC 794	Rehabilitation Act of 1973; Section 504
42 USC 1751-1769j	School Lunch Program
42 USC 1773	School Breakfast Program
Management Resources	Description
California Dept of Education Program Advisories	Classroom Management:- A California Resource Guide for Teachers and Administrators of Elementary and Secondary Schools, 2000

CSBA Publication	Recent Legislation on Discipline: -AB 240, Fact Sheet, March 2015
CSBA Publication	The Case for Reducing Out-of-School Suspensions and Expulsions, Fact Sheet, April 2014
CSBA Publication	Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011
CSBA Publication	Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014
CSBA Publication	Maximizing Opportunities for Physical Activity During the School Day, Fact Sheet, November 2009
<u>Fix School Discipline Project</u>	<u>Sample alternative discipline policy</u> <u>(http://fixschooldiscipline.org/wp-content/uploads/2014/12/Sample-Alternative-Discipline-Policy.docx)</u>
U.S. Dept of Education, Office for Civil Rights <u>Publication</u>	Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973
U.S. DOE <u>Dept of Education</u> , Office for Civil Rights <u>Publication</u>	Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014
<u>U.S. Department of Education, Office for Civil Rights Publication</u>	<u>Resource on Confronting Racial Discrimination in Student Discipline</u>
Website	CSBA District and County Office of Education Legal Services
Website	Public Counsel
Website	U.S. Department of Education, Office for Civil Rights
Website	California Department of Education
Website	CSBA

Cross References

Code	Description
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
1114	District-Sponsored Social Media

1114	District-Sponsored Social Media
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1313	Civility
3512	Equipment
3512-E(1)	Equipment
3513.3	Tobacco-Free Schools
3513.3	Tobacco-Free Schools
3513.4	Drug And Alcohol Free Schools
3515	Campus Security
3515	Campus Security
3515.21	Unmanned Aircraft Systems (Drones)
3515.3	District Police/Security Department
3515.3	District Police/Security Department
3515.31	School Resource Officers
3515.4	Recovery For Property Loss Or Damage
3515.4	Recovery For Property Loss Or Damage
3543	Transportation Safety And Emergencies
4131	Staff Development
4158	Employee Security
4158	Employee Security
4258	Employee Security
4258	Employee Security
4358	Employee Security
4358	Employee Security
5000	Concepts And Roles
5020	Parent Rights And Responsibilities
5020	Parent Rights And Responsibilities
5030	Student Wellness

5112.1	Exemptions From Attendance
5112.1	Exemptions From Attendance
5112.5	Open/Closed Campus
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy
5116.2	Involuntary Student Transfers
5125	Student Records
5125	Student Records
5127	Graduation Ceremonies And Activities
5131	Conduct
5131.1	Bus Conduct
5131.1	Bus Conduct
5131.2	Bullying
5131.2	Bullying
5131.4	Student Disturbances
5131.4	Student Disturbances
5131.41	Use Of Seclusion And Restraint
5131.5	Vandalism And Graffiti
5131.6	Alcohol And Other Drugs
5131.6	Alcohol And Other Drugs
5131.62	Tobacco
5131.62	Tobacco
5131.63	Steroids
5131.63	Steroids
5131.7	Weapons And Dangerous Instruments
5131.7	Weapons And Dangerous Instruments
5131.9	Academic Honesty
5132	Dress And Grooming
5132	Dress And Grooming
5137	Positive School Climate
5138	Conflict Resolution/Peer Mediation

5141.4	Child Abuse Prevention And Reporting
5141.4	Child Abuse Prevention And Reporting
5142	Safety
5142	Safety
5144.1	Suspension And Expulsion/Due Process
5144.1	Suspension And Expulsion/Due Process
5144.2	Suspension And Expulsion/Due Process (Students With Disabilities)
5144.4	Required Parental Attendance
5144.4	Required Parental Attendance
5145.2	Freedom Of Speech/Expression
5145.2	Freedom Of Speech/Expression
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5145.7	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
5148.2	Before/After School Programs
5148.2	Before/After School Programs
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
6145.2	Athletic Competition
6145.2	Athletic Competition
6145.8	Assemblies And Special Events
6153	School-Sponsored Trips
6153	School-Sponsored Trips
6159.4	Behavioral Interventions For Special Education Students

6162.54	Test Integrity/Test Preparation
6163.4	Student Use Of Technology
6163.4-E(1)	Student Use Of Technology
6164.2	Guidance/Counseling Services
6164.5	Student Success Teams
6164.5	Student Success Teams
6184	Continuation Education
6184	Continuation Education
6185	Community Day School
6185	Community Day School
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session

Policy 6115: Ceremonies And Observances

Status: ADOPTED

Original Adopted Date: 10/01/1994 | **Last Revised Date:** 0503/01/20202024 | **Last Reviewed Date:** 0503/01/20202024

The Governing Board recognizes the importance of having students observe holidays, celebrate events of cultural or historical, or present day significance, and acknowledge the contributions of outstanding individuals in society. On days designated by the Board, and as required by law, staff shall provide students with appropriate commemorative exercises and educational experiences so that they may acquire the knowledge, skills, and principles essential for informed, responsible citizenship in a democratic society.

CSBA NOTE: Education Code 37220 lists holidays on which district schools must be closed. See the accompanying administrative regulation. Pursuant to Education Code 37220, the Governing Board may designate any other day as a holiday.

District schools shall be closed on the holidays specified in Education Code 37220 and on any other day designated as a holiday by the Board. The Board may, by adoption of a resolution, revise the date upon which schools close in observance of any holiday except Veterans Day, which shall be celebrated on its actual date. (Education Code 37220)

In addition, the Board may, through the adoption of a resolution, authorize the display of symbolic flags or banners in support of specific awareness months.

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State	Description
Ed. Code 37220-37222.21	Holidays and commemorative events
Ed. Code 44015.1	Week of the School Administrator
Ed. Code 45203	Paid holidays
Ed. Code 45460	Classified School Employee Week
<u>Ed. Code 49110.5</u>	<u>Workplace Readiness Week</u>
Ed. Code 52720-52730	Patriotic exercises and instruction
Gov. Code 3540-3549.3	Public education employer-employee relations
Gov. Code 430-439	Display of flags
Federal	Description
36 USC 106	Constitution Day and Citizenship Day
4 USC 6	Time and occasion for display of flag
4 USC 7	Position and manner of display of flag

Management Resources

	Description
Court Decision	Newdow v. Rio Linda Union School District (9th Cir. 2010) 597 F.3d 1007
Court Decision	West Virginia State Board of Education et al. v. Barnette et al. (1943) 319 U.S. 624
Website	CSBA District and County Office of Education Legal Services
Website	California Department of Education, History/Social Science Instructional Materials
Website	CSBA

Cross References

Code	Description
1330	Use Of School Facilities
1330	Use Of School Facilities
4156.2	Awards And Recognition
4256.2	Awards And Recognition
4356.2	Awards And Recognition
5113.2	Work Permits
6111	School Calendar
6117	Year-Round Schedules
6141.2	Recognition Of Religious Beliefs And Customs
6141.2	Recognition Of Religious Beliefs And Customs
6142.3	Civic Education
6142.4	Service Learning/Community Service Classes
6142.94	History-Social Science Instruction
6143	Courses of Study
6144	Controversial Issues
6145.8	Assemblies And Special Events
6178.1	Work-Based Learning

Regulation 6115: Ceremonies And Observances

Status: ADOPTED

Original Adopted Date: 11/01/1999 | **Last Revised Date:** 03/01/2023~~2024~~ | **Last Reviewed Date:** 03/01/2023~~2024~~

Holidays

CSBA NOTE: The following list may be expanded to reflect district practice. Education Code 37220 specifies holidays on which public schools must be closed and allows the Governing Board to designate any other day as a holiday. See the accompanying Board policy. Education Code 37220, ~~as amended by AB 1655 (Ch. 753, Statutes of 2022)~~, incorporates June 19, "Juneteenth National Independence Day," to this list by way of presidential appointment. In addition, Education Code 37220 provides that the Board, by adoption of a resolution, may revise the date upon which district schools close in observance of any of these holidays except Veterans Day, which must be celebrated on its actual date.

Education Code 37220.5 and 37220.7, ~~as amended by AB 1801 (Ch. 761, Statutes of 2022)~~, authorize the closing of school on March 31 in observance of Cesar Chavez Day, on April 24 in observance of Genocide Remembrance Day, and/or on the fourth Friday in September for Native American Day, provided that the Board agrees to do so in a memorandum of understanding reached with employee bargaining units pursuant to Government Code 3540-3549.3. If the district has such an agreement, the holiday(s) should be added to the following list.

District schools shall be closed on the following holidays: (Education Code 37220)

New Year's Day - January 1

Dr. Martin Luther King, Jr. Day - Third Monday in January or the Monday or Friday of the week in which January 15 occurs

Lincoln Day - The Monday or Friday of the week in which February 12 occurs

Washington Day - Third Monday in February

Memorial Day - Last Monday in May

Juneteenth National Independence Day - June 19

Independence Day - July 4

Labor Day - First Monday in September

Veterans Day - November 11

Thanksgiving Day - The Thursday in November designated by the President

Christmas Day - December 25

CSBA NOTE: Pursuant to Education Code 37220, ~~as amended by AB 1655~~, districts are not required to close on Columbus Day, the second Monday in October. ~~Governing~~ Boards may designate Columbus Day as a holiday ~~in~~on which schools shall close.

In addition, schools shall be closed on: (Education Code 37220)

1. Any day appointed by the Governor as a holiday or as a special or limited holiday on which the Governor provides that schools shall close
2. Any day appointed by the President as a holiday, including by executive order or by signing into law legislation that creates a nationwide federal holiday
3. Any other day designated as a holiday by the Governing Board and/or negotiated with employee organizations

Holidays which fall on a Sunday shall be observed the following Monday. Holidays which fall on a Saturday shall be observed the preceding Friday. If any of the above holidays ~~occurs~~occur under federal law on a date different from that indicated above, the ~~Governing~~ Board may close the schools on the date recognized by federal law instead of on the date above. (Education Code 37220)

Commemorative Exercises

CSBA NOTE: The following section lists special days that schools are required by state and/or federal law to observe with suitable commemorative exercises.

Pursuant to Education Code 49110.5, as added by AB 800 (Ch. 271, Statutes of 2023), districts are required to observe, during the week that includes April 28, "Workplace Readiness Week," by providing high school students with specified information on their rights as workers, and, for students in grades 11 and 12, for the observances to be integrated into the regular school program consistent with the history-social science framework.

In addition to commemorative exercises that are required by law, Education Code 37220.7, ~~as amended by AB 1801~~, and ~~51109~~51009, as well as various legislative resolutions, have designated other days of special significance on which schools are encouraged, but not required, to conduct appropriate commemorative exercises, including, but not limited to: (1) School Board Recognition Month in January; (2) Ed Roberts Day on January 23; (3) Fred Korematsu Day of Civil Liberties and the Constitution on January 30; (4) Ronald Reagan Day on February 6; (5) Lunar New Year on the date corresponding with the second new moon following the winter solstice, or the third new moon following the winter solstice if an intercalary month intervenes; (6) Week of the School Administrator ~~on~~in the ~~first~~second full week of ~~March~~October; (7) California Agriculture Day on the first day of spring each year; (8) Welcome Home Vietnam Veterans Day on March 29 or 30; (9) Cesar Chavez on March 31; (10) California Poppy Day on April 6; (11) Dolores Huerta Day on April 10; (12) John Muir Day on April 21; (13) Genocide Remembrance Day on April 24; (14) Labor History Month in May; (15) the Day of the Teacher on the second Wednesday in May; (16) Harvey Milk Day on May 22; (17) September 11th Remembrance Day on September 11; (18) Native American Day on the fourth Friday in September; (19) Larry Itliong Day on October 25; and (20) Bill of Rights Day on December 15. The California Department of Education's ~~web~~website includes a calendar of events listing other days for which special recognition is encouraged. The list below may be modified to include any optional days of special significance so designated by the Board.

District schools shall hold exercises in accordance with law to commemorate the following special days: (Education Code 37220, 37221, 45460, [49110.5](#))

Dr. Martin Luther King, Jr. Day - The Friday before the day schools are closed for this holiday

Abraham Lincoln's Birthday - The school day before the day schools are closed for this holiday

Susan B. Anthony Day - February 15

George Washington's Birthday - The Friday preceding the third Monday in February

Black American Day - March 5

Conservation, Bird, and Arbor Day - March 7

[Workplace Readiness Week - The week that includes April 28](#)

Classified Employee Week - Third week in May

U.S. Constitution and Citizenship Day - On or near September 17

Commemorative exercises shall be integrated into the regular educational program to the extent feasible, [as required by law.](#)

Patriotic Exercises

CSBA NOTE: Education Code 52720 requires all schools to conduct patriotic exercises daily. Pursuant to Education Code 52720 and 52730, this requirement may be satisfied by reciting the Pledge of Allegiance and/or through the instruction described below.

Each school shall conduct patriotic exercises daily, which may include the Pledge of Allegiance to the Flag of the United States and/or instruction that promotes understanding of the concepts of "pledge," "allegiance," "republic," and "indivisible" and understanding of the importance of the pledge as an expression of patriotism, love of country, and pride in the United States. (Education Code 52720, 52730)

CSBA NOTE: The following paragraph is for use by districts maintaining elementary schools.

At elementary schools, such exercises shall be conducted at the beginning of each school day. (Education Code 52720)

CSBA NOTE: The following paragraph is for use by districts maintaining secondary schools. Education Code 52720 **mandates** that the Board adopt regulations pertaining to the conduct of patriotic exercises in secondary schools. The following paragraph should be revised to reflect district practice.

At secondary schools, such exercises shall be conducted during the homeroom period.

CSBA NOTE: In *Newdow v. Rio Linda Union School District*, the Ninth Circuit Court of Appeals upheld a school policy permitting teacher-led recitation of the Pledge of Allegiance pursuant to Education Code 52720 where students were permitted by policy to decline participation for personal reasons. In *West Virginia State Board of Education et al. v. Barnette et al.*, the court held that individuals may not be compelled to salute the flag or to stand during the salute.

A student may choose not to participate in the flag salute or Pledge of Allegiance for personal reasons.

Display of Flag

The flag of the United States and the flag of California shall be displayed during business hours at the entrance or on the grounds of every district school and on or near the district office. At all times, the national flag shall be placed in the position of first honor. (Government Code 431, 436; 4 USC 6)

When displayed on a building or on a flagstaff in the open, the national flag shall be displayed only from sunrise to sunset unless properly illuminated during the hours of darkness. The flag should not be displayed during inclement weather unless an all-weather flag is used. (4 USC 6)

The national flag shall fly at half-staff on the following occasions: (4 USC 7)

1. For 30 days from the death of the President or a former President
2. For 10 days from the death of the Vice President, the Chief Justice or a retired Chief Justice, or the Speaker of the House of Representatives
3. From the day of death until interment of an Associate Justice of the Supreme Court, a secretary of an executive or military department, former Vice President, or the Governor of a state
4. On the day of death and the following day for a Member of Congress
5. On Memorial Day, until noon only
6. On Peace Officers Memorial Day (May 15), unless it falls on Armed Forces Day
7. Upon a proclamation from the Governor in the event of the death of a present or former official of the state government ~~or~~, a member of the Armed Forces from the state who has died while serving on active duty, or the death of a first responder working in the state who dies while serving in the line of duty
8. On other occasions by order of the President and in accordance with presidential instructions or orders

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State	Description
Ed. Code 37220-37222.21	Holidays and commemorative events
Ed. Code 44015.1	Week of the School Administrator
Ed. Code 45203	Paid holidays

Ed. Code 45460

Classified School Employee Week

[Ed. Code 49110.5](#)[Workplace Readiness Week](#)

Ed. Code 52720-52730

Patriotic exercises and instruction

Gov. Code 3540-3549.3

Public education employer-employee relations

Gov. Code 430-439

Display of flags

Federal**Description**

36 USC 106

Constitution Day and Citizenship Day

4 USC 6

Time and occasion for display of flag

4 USC 7

Position and manner of display of flag

Management Resources**Description**

Court Decision

Newdow v. Rio Linda Union School District (9th Cir. 2010)
597 F.3d 1007

Court Decision

West Virginia State Board of Education et al. v. Barnette et al.
(1943) 319 U.S. 624

Website

CSBA District and County Office of Education Legal Services

Website

California Department of Education, History/Social Science
Instructional Materials

Website

CSBA

Cross References**Code****Description**

1330

Use Of School Facilities

1330

Use Of School Facilities

4156.2

Awards And Recognition

4256.2

Awards And Recognition

4356.2

Awards And Recognition

[5113.2](#)[Work Permits](#)

6111

School Calendar

6117

Year-Round Schedules

6141.2

Recognition Of Religious Beliefs And Customs

6141.2

Recognition Of Religious Beliefs And Customs

6142.3

Civic Education

6142.4

Service Learning/Community Service Classes

6142.94

History-Social Science Instruction

[6143](#)[Courses of Study](#)

6144

Controversial Issues

544/630

6145.8

Assemblies And Special Events

6178.1

Work-Based Learning

CSBA Sample District Policy Manual
CSBA Sample Manual Site

Policy 6141.2: Recognition Of Religious Beliefs And Customs**Status:** ADOPTED

Original Adopted Date: 12/01/1988 | **Last Revised Date:** 03/01/2004 **2024** | **Last Reviewed Date:** 03/01/2004 **2024**

CSBA NOTE: In ~~February 2003~~ **May 2023**, the U.S. Department of Education issued guidance on constitutionally protected prayer and religious expression in public schools. Pursuant, which includes the extent to which prayer in public schools is legally protected, constitutional principles that relate to religious expression in general, and requirements under federal and state laws relevant to prayer and religious expression. The guidance reaffirms that, pursuant to 20 USC 7904, districts must annually certify to the California Department of Education (CDE) that they do not have a policy that prevents, or otherwise denies participation in, constitutionally protected school prayer. While the guidance may provide some provides general direction to school districts regarding issues surrounding religion in public schools, certain provisions it may not give a complete picture of the state of the law for school districts in California. Because decisions of the reflect 9th Circuit Court of Appeal Appeals (of which California is a part) and state court decisions reflecting which are based on the California Constitution may not be reflected in the.

Additionally, Appendix F of CDE's History and Social Science Framework, adopted in July 2016, offers guidance, districts with questions and support for educators regarding the recognition of religious issues in schools should consult legal counsel.

beliefs and customs with concepts from the Appendix reflected below.

Use of school facilities by student religious clubs and other religious groups is governed by the Equal Access Act (20 USC 4071-4074) and Civic Center Act (Education Code 38130-38138), respectively; see BP/AR 1330 - Use of School Facilities and BP/AR 6145.5 - Student Organizations and Equal Access and BP/AR 1330 - Use of School Facilities. For policy regarding distribution of flyers, including flyers containing religious materials, see BP/AR 1325 - Advertising and Promotion. For policy regarding absences for religious instruction or exercises pursuant to Education Code 46014, see BP/AR 5113 - Absences and Excuses. For policy regarding invocation at graduation ceremonies, see BP 5127 - Graduation Ceremonies and Activities. For policy regarding religious attire in relation to school dress codes, see BP 5132 - Dress and Grooming.

The following optional policy should be carefully reviewed and modified to reflect district practice. Because constitutionally protected prayer and religious expression in schools can involve complex legal issues, districts are advised to consult CSBA's District and County Office of Education Legal Services or district legal counsel, accordingly.

The Governing Board recognizes that students' education would be incomplete without an understanding of the role of religion in society. As appropriate for a particular course, teachers may objectively discuss the influences of various religions, using religious works and symbols to illustrate their relationship with culture, literature, or the arts. The Board expects that such instruction will identify principles common to all religions and foster respect for the diversity of religions and customs in the world: and be consistent with the adopted instructional materials and state

standards, as applicable.

In order to respect each student's individual right to freedom of religious practice, religious indoctrination is clearly forbidden in the public schools. ~~Instruction~~The Superintendent or designee shall ensure that instruction about religion ~~shall~~does not promote or denigrate the beliefs or customs of any particular religion or sect, nor ~~should~~that a preference be shown for one religious viewpoint over another. Staff members shall be highly sensitive to their obligation not to interfere with the religious development of any student in whatever tradition the student embraces, and treat all religions and religious conviction, including nonbelief, with fairness and respect.

Staff shall not endorse, encourage, or solicit religious or anti-religious expression or activities among students during class time. ~~As part of their official duties,~~ staff

CSBA NOTE: In *Kennedy v. Bremerton School District*, the U.S. Supreme Court found that the employee, a football coach, did not coerce students to pray when the employee knelt at midfield after games to offer a quiet personal prayer and rejected the district's argument that any visible religious conduct by a teacher or coach amounted to impermissible coercion on students. The court concluded that the coach was acting in a private capacity and not in the capacity of an employee of the district when the prayer was offered during a time when school employees were free to attend to personal matters.

~~Staff shall not lead~~coerce students in prayer or other religious activities- as part of their official duties. However, Staff are not prohibited, when acting in their private capacity, from encouraging students' participation in personal prayer or other religious activity. Additionally, staff shall not prohibit or discourage any student from praying or otherwise expressing ~~his/her~~the student's religious belief ~~as~~so long as this does not disrupt the classroom- or other school sponsored activity.

Students may express their beliefs about religion in their homework, artwork, and other class work if the expression is germane to the assignment. Such work shall be judged by ordinary academic standards, relevance, and other legitimate pedagogical objectives.

While teaching about religious holidays is a permissible part of the educational program, celebrating religious holidays is not allowed in the ~~public schools.~~ district. School-sponsored programs shall not be, nor have the effect of being, religiously oriented or a religious celebration. School and classroom decorations may express seasonal themes that are not religious in nature.

~~Music, art, literature or drama programs having religious themes are permitted as part of the curriculum for school-sponsored activities and programs if presented in an objective manner and as a traditional part of the cultural and religious heritage.~~ The use of religious symbols that are part of a religious holiday is permitted as a teaching aid or resource provided that such symbols are displayed as an example of cultural and religious heritage of the holiday and ~~are~~ temporary in nature.

Classroom methods in instruction about religion shall not include religious role-playing activities or simulated religious devotional acts.

Music, art, literature or drama programs having religious themes are permitted as part of the curriculum for school-sponsored activities and programs if presented in an objective manner and as a traditional part of cultural and religious heritage.

CSBA NOTE: In *Fellowship of Christian Athletes v. San Jose Unified School District*, the Ninth Circuit U.S. Court of Appeals held that it would be discrimination for a district to fail to recognize a student club with religiously based leadership requirements. The court found that multiple student clubs imposed certain requirements for membership or leadership positions—i.e., discriminated against certain students—but that the district only objected to the Fellowship of Christian Athletes' requirements because of the religious basis of the requirements.

District schools shall not prohibit religious activities if the same or similar non-religious activities are permitted.

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State

Ed. Code 38130-38139

Description

Civic Center Act

Ed. Code 46014

Absences for religious purposes

Ed. Code 51511

Religious matters properly included in courses of study

Ed. Code 51938

Right of parent/guardian to excuse from sexual health instruction

Federal

20 USC 4071-4074

Description

Equal Access Act

20 USC 6061

School prayer

20 USC 7904

School prayer

Management Resources

Court Decision

Description

Cole v. Oroville Union High School District, (2000, 9th Cir.) 228 F.3d 1092

[Court Decision](#)

[Fellowship of Christian Athletes v. San Jose Unified School District Board of Education \(2023\) 82 F.4th 664](#)

[Court Decision](#)

[Florey v. Sioux Falls \(1980\) 619 F.2d 1311](#)

[Court Decision](#)

[Kennedy v. Bremerton \(2022\) 142 S.Ct. 2407](#)

Court Decision

Lassonde v. Pleasanton Unified School District, (2003, 9th Cir.) 320 F.3d 979

Court Decision

Lemon v. Kurtzman, (1971) 403 U.S. 602

[California Department of Education](#)

[Appendix F history social science framework for California public schools](#)

www.cde.ca.gov/ci/hs/cf/documents/hssappendixf.pdf

U.S. Department of Education Publication	Guidance on Constitutionally Protected Prayer <u>and Religious Expression</u> in Public Elementary and Secondary Schools, February 2003 <u>May 2023</u> (https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html)
Website	CSBA District and County Office of Education Legal Services
Website	California Department of Education
Website	CSBA
Website	U.S. Department of Education

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
1325	Advertising And Promotion
1330	Use Of School Facilities
1330	Use Of School Facilities
5113	Absences And Excuses
5113	Absences And Excuses
5121	Grades/Evaluation Of Student Achievement
5121	Grades/Evaluation Of Student Achievement
5127	Graduation Ceremonies And Activities
<u>5132</u>	<u>Dress and Grooming</u>
5141.31	Immunizations
5141.31	Immunizations
5145.2	Freedom Of Speech/Expression
5145.2	Freedom Of Speech/Expression
6111	School Calendar
6115	Ceremonies And Observances
6115	Ceremonies And Observances
6142.8	Comprehensive Health Education
6142.8	Comprehensive Health Education

6142.93	Science Instruction
6142.94	History-Social Science Instruction
6143	Courses Of Study
6143	Courses Of Study
6144	Controversial Issues
6145.5	Student Organizations And Equal Access
6145.5	Student Organizations And Equal Access
6145.8	Assemblies And Special Events
6154	Homework/Makeup Work
6161.11	Supplementary Instructional Materials
6176	Weekend/Saturday Classes

CSBA Sample District Policy Manual
CSBA Sample Manual Site

Regulation 6141.2: Recognition Of Religious Beliefs And Customs**Status:** ADOPTED

Original Adopted Date: 05/01/1985 | **Last Revised Date:** 03/01/2004~~2024~~ | **Last Reviewed Date:** 03/01/2004~~2024~~

CSBA NOTE: The following administrative regulation is optional and should be modified to reflect district practice:

Education Code 51938 specifies that a parent/guardian may request that his/her child be excused from sexual health and HIV/AIDS prevention education; see BP/AR 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction for language implementing this requirement.

CSBA NOTE: The following administrative regulation is optional and should be modified to reflect district practice. Appendix F of the California Department of Education's History and Social Science Framework, adopted in July 2016, offers guidance and support for educators regarding the recognition of religious beliefs and customs; concepts from the Appendix are reflected below.

The Superintendent or designee shall ensure the following for the recognition of religious beliefs and customs in district schools:

1. The approach to religion is academic and not devotional
2. The goal is for student awareness of religion in historical and contemporary societies
3. The students may not be pressed to accept any one religion
4. The school may include the study of religion as part of the history-social science curriculum, but the practice of religions may not be sponsored
5. The students may be exposed to and educated about a diversity of religious views and beliefs, but a particular view or belief may not be imposed, nor may any one religion be promoted or denigrated

Staff shall make every effort to schedule one-time events, such as examinations, school-sponsored trips, special laboratories, picture-taking days, and class parties, to minimize conflicts with major religious holidays of all faiths: such that no one faith is disproportionately impacted.

Programs and Exhibits

When school programs and exhibits are in any way related to instruction about religion or religious holidays, the following guidelines shall be observed:

1. The principal or designee shall ensure that school-sponsored programs are presented in an objective manner, consistent with Board policy.

2. The principal or designee shall be kept informed of the program's development.
3. Program or exhibit planners shall take into consideration the diverse religious faiths represented in the community, student body and staff.

Policy Reference UPDATE Service

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Policy Reference Disclaimer:

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

State

Ed. Code 38130-38139

Description

Civic Center Act

Ed. Code 46014

Absences for religious purposes

Ed. Code 51511

Religious matters properly included in courses of study

Ed. Code 51938

Right of parent/guardian to excuse from sexual health instruction

Federal

20 USC 4071-4074

Description

Equal Access Act

20 USC 6061

School prayer

20 USC 7904

School prayer

Management Resources

Court Decision

Description

Cole v. Oroville Union High School District; (2000, 9th Cir.) 228 F.3d 1092

[Court Decision](#)

[Fellowship of Christian Athletes v. San Jose Unified School District Board of Education \(2023\) 82 F.4th 664](#)

[Court Decision](#)

[Florey v. Sioux Falls \(1980\) 619 F.2d 1311](#)

[Court Decision](#)

[Kennedy v. Bremerton \(2022\) 142 S.Ct. 2407](#)

Court Decision

Lassonde v. Pleasanton Unified School District; (2003, 9th Cir.) 320 F.3d 979

Court Decision

Lemon v. Kurtzman; (1971) 403 U.S. 602

[California Department of Education](#)

[Appendix F history social science framework for California public schools](#)

[\(www.cde.ca.gov/ci/hs/cf/documents/hssappendixf.pdf\)](http://www.cde.ca.gov/ci/hs/cf/documents/hssappendixf.pdf)

U.S. Department of Education Publication Guidance on Constitutionally Protected Prayer [and Religious Expression](#) in Public Elementary and Secondary Schools, ~~February 2003~~ [May 2023](#)
(https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html)

Website	CSBA District and County Office of Education Legal Services
Website	California Department of Education
Website	CSBA
Website	U.S. Department of Education

Cross References

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0410	Nondiscrimination In District Programs And Activities
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0450	Comprehensive Safety Plan
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1330	Use Of School Facilities
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5113	Absences And Excuses
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5121	Grades/Evaluation Of Student Achievement
5127	Graduation Ceremonies And Activities
<u>5132</u>	<u>Dress and Grooming</u>
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5141.31	Immunizations
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6143	Courses Of Study
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6145.5	Student Organizations And Equal Access
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6145.8	Assemblies And Special Events
6154	Homework/Makeup Work
6161.11	Supplementary Instructional Materials
6176	Weekend/Saturday Classes

CSBA Sample District Policy Manual
CSBA Sample Manual Site

Policy 6175: Migrant Education Program**Status:** ADOPTED

Original Adopted Date: 07/01/2003 | **Last Revised Date:** ~~12/03/01/2018~~2024 | **Last Reviewed Date:** ~~12/03/01/2018~~2024

CSBA NOTE: The following optional policy is for use by districts that have established migrant education programs pursuant to federal Title I, Part C (20 USC 6391-6399) and Education Code 54440-54445. In California, most districts that provide migrant education services operate pursuant to service agreements with regional service centers pursuant to Education Code 54444.1. The district submits a service application to the regional center, which then submits a regional application to the California Department of Education (CDE). The following policy and accompanying administrative regulation should be revised as necessary to reflect the district's agreement with its regional service center.

During the Federal Program Monitoring ([FPM](#)) process, CDE will review whether the district is fulfilling the major legal requirements for implementation of the program. [Education Code 51225.2 describes this group of highly mobile students as “a pupil who is a migratory child” and CDE’s Uniform Complaint Procedures 2023-24 FPM instrument describes this group as “pupils who are migratory”, which is reflected in the use of this description throughout the policy. The following policy may be revised to reflect terminology preferred by the district and local community.](#)

[Pursuant to Education Code 41601.6, up to two local educational agencies may request authorization from CDE to provide an extended school year program to specified students who are migratory, which includes average daily attendance funding for such students; see the accompanying administrative regulation.](#)

The Governing Board desires to provide a comprehensive program for ~~migrant~~ students [who are migratory](#) that attempts to mitigate the impact of educational disruption, cultural and language barriers, social isolation, health-related problems, and other factors that may inhibit their ability to succeed in school. The district shall make use of available funds to provide supplementary services for ~~migrant~~ students: [who are migratory](#).

The Superintendent or designee shall cooperate with the regional migrant service center in outreach and identification of eligible ~~migrant~~ students [who are migratory](#) and in the provision of migrant education services. The Superintendent or designee shall also coordinate migrant education services with other programs within the district and with other public agencies that serve migrant workers and their families.

CSBA NOTE: 20 USC 6394, as amended by the Every Student Succeeds Act (P.L. 114-95), establishes priority for services for ~~migrant~~ students [who are migratory](#) who are failing or at risk of failing to meet state standards or have dropped out of school. According to CDE’s 2017 [“State Service Delivery Plan,”](#) for purposes of establishing priority for services, students are considered to be failing or at risk of failing to achieve state standards if they (1) score at Level 1-2 (standard not met or standard nearly met) on the English language or mathematics summative assessments of the California Assessment of Student Performance and Progress, or (2) score at Levels 1-3

(beginning to moderately developed English skills) on the English Language Proficiency Assessments for California.

The district shall give first priority for services to migrant students who are migratory who are failing, or are most at risk of failing, to meet state academic standards or have dropped out of school. (20 USC 6394)

CSBA NOTE: 20 USC 7881 requires that eligible private school students residing within the district be provided an opportunity to receive services on an equitable basis with public school students, as provided below. See AR 6171 - Title I Programs for further information about requirements pertaining to such participation.

The district shall provide services to eligible private school students residing within the district on an equitable basis with participating public school students. (20 USC 7881; 34 CFR 200.87)

CSBA NOTE: Education Code 54443.1 requires that local migrant education programs conduct an individual assessment of the educational and health needs of each migrant student who is migratory and prepare a brief individual learning plan listing the services to be provided to each student; see the accompanying administrative regulation. These duties may be performed by either the district or the regional service center depending on their agreement.

The Superintendent or designee shall ensure that each migrant student who is migratory is placed at the appropriate grade level upon enrollment and is provided services in accordance with an individual needs assessment and learning plan.

CSBA NOTE: The following optional paragraph may be revised to reflect district practice, including specific indicators that the Governing Board and Superintendent or designee agree to use in evaluating program effectiveness.

The Superintendent or designee shall annually report to the Board regarding student performance on statewide assessments of core academic subjects and English language development, as appropriate, for students enrolled in the district's migrant education program. In addition, the Superintendent or designee shall periodically report to the Board regarding the alignment of district services with the needs of students as identified in student needs assessments conducted pursuant to Education Code 54443.1. As necessary, the Board shall seek technical assistance from the migrant education regional service center and/or make changes in the services provided by the district in order to improve student achievement.

Policy Reference UPDATE Service

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Policy Reference Disclaimer:

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State

5 CCR 3080

Description

Applicability of uniform complaint procedures to complaints regarding students with disabilities

5 CCR 4600-4670

Uniform complaint procedures

Ed. Code 200	Equal rights and opportunities in state educational institutions
Ed. Code 220	Prohibition of discrimination
Ed. Code 234.7	Student protections relating to immigration and citizenship status
Ed. Code 37220	School calendar
Ed. Code 41601.6	Extended school year program for migratory students
Ed. Code 48204.7	Enrollment
Ed. Code 51225.1	Exemption from district graduation requirements
Ed. Code 51225.2	Transfer of Coursework and Credit
Ed. Code 51225.3	High school graduation requirements
Ed. Code 54440-54445	Migrant children
Federal	Description
20 USC 6311	State plan
20 USC 6381-6381k	Even Start Family Literacy Program
20 USC 6391-6399	Education of migratory children
20 USC 7881	Participation of private school students
34 CFR 200.81-200.89	Migrant education program
Management Resources	Description
California Department of Education Publication	2017 State Service Delivery Plan
U.S. Department of Education Publication	Education of Migratory Children Under Title I, Part C of the Elementary and Secondary Education Act of 1965, Non-Regulatory Guidance, rev. March 2017
California Child Welfare Council Publication	Partial Credit Model Policy and Practice Recommendations, September 2013 (https://www.chhs.ca.gov/wp-content/uploads/2017/06/Committees/California-Child-Welfare-Council/Council-Meeting-Information/Council-Meeting-Info-Archive/Partial-Credit-Model-Policy-and-Practice-Recommendations.pdf)
Website	CSBA District and County Office of Education Legal Services
Website	California Department of Education, Migrant Education Office
Website	U.S. Department of Education, Office of Migrant Education
Website	West Ed, Migrant Student Information Network

Website

CSBA

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
0415	Equity
0500	Accountability
1220	Citizen Advisory Committees
1220	Citizen Advisory Committees
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1400	Relations Between Other Governmental Agencies And The Schools
3553	Free And Reduced Price Meals
3553	Free And Reduced Price Meals
4121	Temporary/Substitute Personnel
4121	Temporary/Substitute Personnel
4131	Staff Development
4231	Staff Development
4331	Staff Development
5111.1	District Residency
5111.1	District Residency
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy
5113.11	Attendance Supervision
5125	Student Records
5125	Student Records
5125.2	Withholding Grades, Diploma Or Transcripts
5132	Dress And Grooming

5132	Dress And Grooming
5141.26	Tuberculosis Testing
5141.31	Immunizations
5141.31	Immunizations
5141.32	Health Screening For School Entry
5141.6	School Health Services
5141.6	School Health Services
5145.13	Response To Immigration Enforcement
5145.13	Response To Immigration Enforcement
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
5148.3	Preschool/Early Childhood Education
5148.3	Preschool/Early Childhood Education
6000	Concepts And Roles
6011	Academic Standards
6020	Parent Involvement
6020	Parent Involvement
6115	Ceremonies and Observances
6146.1	High School Graduation Requirements
6162.51	State Academic Achievement Tests
6162.51	State Academic Achievement Tests
6164.2	Guidance/Counseling Services
6164.5	Student Success Teams
6164.5	Student Success Teams
6171	Title I Programs
6171	Title I Programs
6174	Education For English Learners

6174	Education For English Learners
6177	Summer Learning Programs
6178	Career Technical Education
6178	Career Technical Education

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CSBA Sample Manual Site

Regulation 6175: Migrant Education Program**Status:** ADOPTED

Original Adopted Date: 07/01/2003 | **Last Revised Date:** ~~12/03/01/2019~~2024 | **Last Reviewed Date:** ~~12/03/01/2019~~2024

CSBA NOTE: The following optional administrative regulation reflects requirements of the migrant education program established pursuant to federal Title I, Part C (20 USC 6391-6399) and Education Code 54440-54445 and should be revised to reflect the district's agreement with the regional service center.

Education Code 51225.2 describes this group of highly mobile students as “a pupil who is a migratory child” and the California Department of Education’s (CDE) Uniform Complaint Procedures 2023-24 Federal Program Monitoring (FPM) instrument describes this group as “students who are migratory,” which is reflected in the use of this description throughout the administrative regulation. The following administrative regulation may be revised to reflect terminology preferred by the district and local community.

Eligibility

CSBA NOTE: Student eligibility for migrant education services is based on criteria delineated in 20 USC 6399 and 34 CFR 200.81. Eligibility is established through an interview conducted by a migrant education recruiter, who is employed by either the regional service center or district and has received specialized training and authorization to identify and recruit families for the migrant education program. Recruitment and identification procedures are detailed in the ~~California Department of Education’s (CDE)~~CDE’s 2017 , “State Service Delivery Plan.”

Pursuant to 34 CFR 200.89, regional service centers are required to annually validate eligibility through the re-interview of parents/guardians of a randomly selected sample of students previously identified as ~~migrant~~migratory.

Students age 3 to 21 years shall be eligible for the district's migrant education program if they, their parents/guardians, or their spouses are migratory agricultural workers or fishers who, in the preceding 36 months, moved into the district due to economic necessity and engaged in new temporary or seasonal employment or personal subsistence in agriculture or fishing. If such employment was not secured soon after the move, students may be considered ~~migrant~~ students who are migratory if ~~they, their~~the student, the student's parents/guardians, or ~~their spouses~~the student's spouse actively sought such new employment and have a recent history of moves for temporary or seasonal agricultural or fishing employment. (20 USC 6399; 34 CFR 200.81)

CSBA NOTE: The last sentence of the following paragraph should be deleted by districts that do not offer classes at the secondary level.

A student who ceases to be a ~~migrant~~ student who is migratory during a school term shall be eligible for services until the end of the term. If comparable services are not available through other programs, a student who is no longer migratory may continue to receive services for one additional school year. Students who were eligible for services in secondary school may continue to be served

through credit accrual programs until graduation. (20 USC 6394)

Enrollment

CSBA NOTE: The following section reflects enrollment rights granted to migrant students pursuant to Education Code 48204.7, as added by AB 1319 (Ch. 458, Statutes of 2019).

A ~~migrant~~ student who is migratory shall be immediately enrolled in the district even if the student: (Education Code 48204.7)

1. Has outstanding fees, fines, textbooks, or other items or monies due to the school last attended
2. Does not have clothing normally required by the school, such as school uniforms
3. Is unable to produce records normally required for enrollment, such as previous academic records, proof of residency, medical records, including, but not limited to, records or other proof of immunization history, or other documentation

If a ~~migrant~~ student who is migratory experiences a change in residence, the student may remain enrolled in the school of origin for the duration of the student's status as a ~~migrant~~ student: who is migratory. (Education Code 48204.7)

If a student's status as a ~~migrant~~ student who is migratory changes during a school year, the Superintendent or designee shall allow the student to continue at the school of origin through the duration of that school year or, if the student is enrolled in a high school, through graduation. (Education Code 48204.7)

A ~~migrant~~ student who is migratory and is transitioning between school grade levels shall be allowed to continue in the district of origin in the same attendance area to provide the student the benefit of matriculating with peers in accordance with the established feeder patterns of school districts. A ~~migrant~~ student who is migratory and is transitioning to a middle school or high school designated for matriculation in another school district shall be allowed to enroll in that school. (Education Code 48204.7)

The Superintendent or designee shall inform a ~~migrant~~ student who is migratory and the student's parent/guardian of the impact of remaining in the school of origin on the student's eligibility to receive migrant education services pursuant to Education Code 54440-54445. (Education Code 48204.7)

The Superintendent or designee may, but is not required to, provide transportation to enable a ~~migrant~~ student who is migratory to attend the school of origin, unless otherwise required by federal law, or provide programs for online instruction as a substitute for physical attendance. (Education Code 48204.7)

Student Records

CSBA NOTE: Pursuant to 34 CFR 200.89, CDE and agencies operating migrant education programs must maintain a Certificate of Eligibility form and any additional documentation needed to confirm

each student's eligibility.

Education Code 234.7 prohibits the collection of information or documents regarding the citizenship or immigration status of students or their family members, except as required by law or to administer a state or federally supported educational program. If the district becomes aware of the citizenship or immigration status of any student, it is prohibited from disclosing that information to U.S. Immigration and Customs Enforcement. See BP/AR 5145.13 - Response to Immigration Enforcement.

The Superintendent or designee shall maintain records documenting the eligibility of students enrolled in the district's migrant education program. However, the district shall not collect information or documents regarding the citizenship or immigration status of students or their family members for the purpose of determining eligibility for migrant education services.

CSBA NOTE: 20 USC 6398 requires districts receiving migrant education funds to make student records available at no cost to another district that requests the records, if the request is made to meet the needs of a migrant student who is migratory. State law requiring the transfer of records for all students is reflected in BP/AR 5125 - Student Records. In California, the Migrant Student Information Network, developed and maintained by WestEd, assists CDE and each regional center with migrant student data collection and reporting regarding students who are migratory. See the section "Transfer of Coursework and Credits" below for the transfer of the transcript of a high school student who is migratory.

The Superintendent or designee shall acquire education and health records from migrant students the previous school districts of a student who is migratory, as appropriate.

When a migrant student who is migratory transfers to another district, the student's records shall be provided to the receiving district upon request at no cost in order to assist that district in meeting the needs of the student. (20 USC 6398)

Program Components

CSBA NOTE: The following section may be revised to reflect the district's service agreement with the regional service center.

The migrant education program shall include all of the following components: (Education Code 54443.1)

1. A general needs assessment summarizing the needs of the population to be served
2. A comprehensive program to meet the educational, health, and related needs of participating students which supplements the district program and includes, but is not limited to:
 - a. Instructional services, including academic, remedial and compensatory, bilingual-crosscultural, and career technical instruction
 - b. Counseling and career education services
 - c. Preschool services in accordance with Education Code 54443

- d. Other educational services that are not otherwise available in sufficient quantity or quality to eligible migrant students who are migratory
 - e. The acquisition of instructional materials and equipment necessary to adequately provide the appropriate services
 - f. Other related services to meet the special needs of eligible migrant students who are migratory to enable them to participate effectively in instructional services
 - g. The coordination and teaming of existing resources serving migrant students who are migratory, such as bilingual-crosscultural education, health screening, and compensatory education
3. Individual assessment of the educational and relevant health needs of each participating student, within 30 days of enrollment, including assessments concurrently provided pursuant to compensatory education, bilingual-crosscultural education, school improvement programs, and other programs serving the student
 4. A brief individual learning plan listing the services to be provided to each student, which shall be given to the parent/guardian in writing or at a parent/guardian conference, annually and when the student moves to a new district
 5. Staffing and staff development plans and practices to meet the needs of students and implement the program
 6. Parent/guardian and community involvement as specified in Education Code 54444.2, including, but not necessarily limited to, the establishment of a parent/guardian advisory council to actively involve parents/guardians in planning, operating, and evaluating the district's migrant education program

CSBA NOTE: 20 USC 6394 requires "the same" parent involvement in migrant education programs as is required for Title I programs for disadvantaged students (see BP/AR 6020 - Parent Involvement), unless extraordinary circumstances make such provision impractical.

7. The migrant education program shall provide for the same opportunities for parent/guardian involvement that are provided to parents/guardians for federal Title I programs. (20 USC 6394)
8. Evaluations which include annual student progress and overall program effectiveness and quality control reports

CSBA NOTE: The following optional paragraph is for use by districts that offer a Migrant Education Even Start family literacy program pursuant to 20 USC 6381-6381k and 34 CFR 200.80 and may be revised to reflect district practice.

Contingent upon funding, the district shall provide home-based and/or school-based family literacy services to migrant families to enhance literacy levels, parenting skills, and English language skills of parents/guardians.

Summer School and Extended School Year Program

CSBA NOTE: Pursuant to Education Code 54444.3, each district receiving federal migrant education funding is required to conduct summer school programs for eligible students who are migratory. Before establishing the program, the district must submit an application for approval to the Superintendent of Public Instruction. The following section may be revised to reflect the grade levels offered by the district.

The district shall conduct summer school program(s) for eligible ~~migrant~~ students who are migratory. The summer school program shall respond to the individual needs of participating students and shall build on and be consistent with the instructional programs offered to these students during the regular school year. Coursework shall be of the same level of difficulty in each subject as that provided to students enrolled in regular classes of instruction within the district in the preceding year. (Education Code 54444.3)

Teachers in the summer school program shall have cultural training or background and understanding of the special needs of ~~migrant~~ students who are migratory and possess the proper credential for the subjects and grade levels to which they are assigned. (Education Code 54444.3)

The program shall comply with the following requirements for instructional time: (Education Code 54444.3)

1. For kindergarten class, a minimum of 180 minutes per day, including recesses, for not less than 20 instructional days
2. For grades 1-8, a minimum of 200 minutes per day, including recesses and passing time but excluding noon intermissions, for not less than 20 instructional days
3. For grades 7-12, a minimum of 240 minutes per day, including passing time but excluding noon intermissions, for not less than 30 instructional days

CSBA NOTE: Pursuant to Education Code 54444.3, holidays on which schools are required to be closed, as specified in Education Code 37220, may be deducted from the required number of teaching days. For more information regarding holidays on which schools are required to be closed, see AR 6115 – Ceremonies and Observances.

The number of instructional days may be less than as described above if, during the summer school program, there is a holiday for which schools are required to be closed. (Education Code 37220, 54444.3).

When district facilities that are suitable for the summer climate are available, the district shall make facilities available at cost to other agencies that request facilities for the operation of migrant summer school programs, unless just cause for denial exists. When approved by the Superintendent of Public Instruction, the district may jointly offer facilities with a neighboring district to meet the needs of the migrant summer school program for the entire area. (Education Code 54444.3)

CSBA NOTE: Pursuant to Education Code 41601.6, to mitigate lost instructional time due to family movement related to migratory agricultural employment, up to two local educational agencies may request authorization from CDE to provide an extended school year program to students who are migratory who, due to family movement, enroll in transitional kindergarten, kindergarten, or any of grades 1-6, on or after March 1 of the school year and depart on or before December 1 of the next

school year, which includes the receipt of specified average daily attendance funding for such students.

If the district receives authorization and average daily attendance funding from the California Department of Education to provide an extended school year program to students who are migratory who, due to family movement, enroll in transitional kindergarten, kindergarten, or any of grades 1-6, on or after March 1 of the school year and depart on or before December 1 of the next school year, the Superintendent or designee shall operate the program in accordance with Education Code 41601.6. (Education Code 41601.6)

Transfer of Coursework and Credits

CSBA NOTE: The following section is for use by districts maintaining high schools. Education Code 51225.2 addresses the transferability of coursework and credits completed by a student enrolled in a migrant education program, as provided below.

Education Code 51225.2 requires the transferring school to include in the student's educational record a determination of days of enrollment and/or seat time and an official transcript with full and partial credits earned, or any measure of full or partial coursework being satisfactorily completed.

When a student enrolled in a migrant education program transfers into a district school, the district will receive an official transcript from the transferring school or district which reflects full and partial credits and grades earned by the student and includes: (Education Code 51225.2)

1. A determination of the days of enrollment and/or seat time, if applicable, for all full and partial credits earned based on any measure of full or partial coursework being satisfactorily completed

Partial coursework satisfactorily completed includes any portion of an individual course, even if the student did not complete the entire course

2. Separate listings for credits and grades earned at each school and local educational agency so it is clear where credits and grades were earned
3. A complete record of the student's seat time, including both period attendance and days of enrollment

The district shall transfer the credits and grades from the transferring school's transcript onto an official district transcript in the same manner as described in Item #2, above. (Education Code 51225.2)

If the Principal or designee has knowledge that the transcript from the transferring school may not include certain credits or grades, the Principal or designee shall contact the prior school within two business days to request that the full or partial credits be issued, which shall then be issued and provided by the prior school along with all academic and other records within two business days of the request. (Education Code 51225.2)

The district shall accept and issue full credit for any coursework that the student who is migratory

has satisfactorily completed while attending another public school, a juvenile court school, a charter school, a school in a country other than the United States, or a nonpublic, nonsectarian school.

CSBA NOTE: Pursuant to Education Code 51225.2, districts are not authorized to require a student who is migratory who has completed an entire course to retake the course.

If the entire course was completed, the district shall not require the student who is migratory to retake the course. (Education Code 51225.2)

If the entire course was not completed at the previous school, the student who is migratory shall be issued partial credit for the coursework completed and shall be required to take the uncompleted portion of the course. However, the district may require the student who is migratory to retake the portion of the course completed if, in consultation with the educational rights holder for the student who is migratory, the district finds that the student who is migratory is reasonably able to complete the requirements in time to graduate from high school. Whenever partial credit is issued to a student who is migratory in any particular course, the student who is migratory shall be enrolled in the same or equivalent course, if applicable, to enable the completion of the entire course. (Education Code 51225.2)

CSBA NOTE: Although Education Code 51225.2 requires districts to award partial credits to students who are migratory who transfer from school to school, there is no uniform system for calculating and awarding partial credits. To ensure consistency in the treatment of foster youth, the California Child Welfare Council, in its, "Partial Credit Model Policy and Practice Recommendations," available on its website, recommends the approach specified in the following optional paragraph, which may be revised to reflect district practice.

Partial credits shall be awarded on the basis of 0.5 credits for every seven class periods attended per subject. If the school is on a block schedule, each block schedule class period attended shall be equal to two regular class periods per subject. Partial credits and grades earned by a student shall be included on the student's official transcript within two business days of the district's notification of the student's transfer, as required under Education Code 49069.5.

In no event shall the district prevent a student who is migratory from taking or retaking a course to meet the eligibility requirements for admission to the California State University or the University of California. (Education Code 51225.2)

Applicability of Graduation Requirements

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

To obtain a high school diploma, ~~migrant students~~ a student who is migratory shall complete all courses required by Education Code 51225.3 and shall generally fulfill any additional local graduation requirements prescribed by the Board.

CSBA NOTE: Whenever a migrant student transfers between districts or schools in grades 11-12, Education Code 51225.1 exempts such students from the requirement to complete district-established graduation requirements that are in addition to the state requirements, under the conditions described below. Also see BP 6146.1 - High School Graduation Requirements.

However, when a ~~migrant student~~ who is migratory has completed the second year of high school and transfers into ~~the~~ a district or transfers between high schools within the district's school, the

student shall be exempted from all district-adopted coursework and other district-established graduation requirements, unless the district makes a finding that the student is reasonably able to complete the additional requirements in time to graduate from high school by the end of the student's fourth year of high school. Within 30 calendar days of the student's transfer, the Superintendent or designee shall notify the student and the ~~student's~~student's parent/guardian of the availability of the exemption and whether the student qualifies for it. If the Superintendent or designee fails to provide this notification, the student shall be eligible for the exemption once notified, even if the notification occurs after the termination of the court's jurisdiction over the student no longer meets the definition of a migrant student. (Education Code 51225.1)

CSBA NOTE: Pursuant to Education Code 51225.1, to determine whether a student with significant gaps in school attendance is in the third or fourth year of high school, the student's age as compared to the average age of students in the third or fourth year of high school may be used.

To determine whether a ~~migrant~~ student is in the third or fourth year of high school, the district shall use either the number of credits the student has earned as of the date of the transfer or the length of school enrollment, whichever qualifies the student for the exemption. (Education Code 51225.1) , the length of school enrollment, or, for a student with significant gaps in school attendance, the student's age as compared to the average age of students in the third or fourth year of high school, whichever qualifies the student for the exemption. (Education Code 51225.1)

The Superintendent or designee shall notify any migrant student who is granted an exemption and the student's parent/guardian how any requirements that are waived will affect the student's ability to gain admission to a postsecondary educational institution and shall provide information about transfer opportunities available through the California Community Colleges. (Education Code 51225.1)

The district shall not require or request a migrant student to transfer schools in order to qualify for an exemption, and no request for a transfer solely to qualify for an exemption shall be made by a migrant student or parent/guardian. (Education Code 51225.1)

If a migrant student is exempted from local graduation requirements, the exemption shall continue to apply after the student no longer meets the definition of a migrant student if the student is still enrolled in school or transfers to another school or district. (Education Code 51225.1)

Upon making a finding that a migrant student is reasonably able to complete district graduation requirements within a fifth year of high school, the Superintendent or designee shall: (Education Code 51225.1)

CSBA NOTE: Education Code 51225.1 requires the district to exempt a student who qualifies for an exemption from district-established graduation requirements, under the circumstances described below.

If a student who is migratory was not properly notified of an exemption, declined the exemption, or was not previously exempted, the student or the student's educational rights holder may request the exemption and parent/guardian of the the Superintendent or designee shall exempt the student within 30 days of the request. A student may request the exemption even if the student is no longer a student who is migratory. (Education Code 51225.1)

CSBA NOTE: Pursuant to Education Code 51225.1 the district is required to reevaluate a student's eligibility for an exemption from district-established graduation requirements, as described below.

When the Superintendent or designee determines that a student who transferred into a district school is reasonably able to complete district-established graduation requirements by the end of the student's fourth year of high school, the student shall not be exempted from those requirements. Within 30 calendar days of the following academic year, the student shall be reevaluated based on the student's course completion status at the time, to determine if the student continues to be reasonably able to complete the district-established graduation requirements in time to graduate by the end of the student's fourth year of high school. Written notice as to whether the student then qualifies for exemption shall be provided to the student, the student's educational rights holder, and if applicable, to the student's social worker or probation officer. (Education Code 51225.1)

If, upon reevaluation, it is determined that the student who is migratory is not reasonably able to complete the district-established graduation requirements in time to graduate from high school by the end of the student's fourth year of high school, the Superintendent or designee shall provide the student with the option to remain in receive an exemption from district-established graduation requirements or stay in school for a fifth year to complete the district's district-established graduation requirements upon agreement with the student, or if under 18 years of age, the student's educational rights holder, and shall provide notifications in accordance with Education Code 51225.1. (Education Code 51225.1)

CSBA NOTE: Pursuant to Education Code 51225.1, the district is required to consult with a student who is migratory who is granted an exemption from district-established graduation requirements and the student's educational rights holder, as described below.

When a student who is migratory is exempted from district-established graduation requirements, the Superintendent or designee shall consult with the student and the student's educational rights holder about the following: (Education Code 51225.1)

1. Discussion of how any requirements that are waived may affect the student's postsecondary education or vocation plans, including the ability to gain admission to a postsecondary educational institution
2. Discussion and information about other options available to the student, including, but not limited to, a fifth year of high school, possible credit recovery, and any transfer opportunities available through the California Community Colleges
3. Consideration of the student's academic data and any other information relevant to making an informed decision on whether to accept the exemption

The district shall not require or request a student who is migratory to transfer schools in order to qualify for an exemption and shall not grant any request made by a student who is migratory or the student's parent/guardian for a transfer solely to qualify for an exemption. (Education Code 51225.1)

CSBA NOTE: Education Code 51225.1 prohibits the district from requiring a student who is eligible for an exemption from district-established graduation requirements from accepting the exemption or being denied enrollment, as described below.

The Superintendent or designee shall not require a student who is migratory who is eligible for an exemption from district-established graduation requirements and would otherwise be entitled to remain in attendance at the school, to accept the exemption or be denied enrollment in, or the ability to complete, courses for which the student is otherwise eligible, including courses necessary to attend an institution of higher education, regardless of whether such courses are required for statewide graduation requirements. (Education Code 51225.1)

CSBA NOTE: Education Code 51225.1 prohibits the district from revoking a student's exemption from district-established graduation requirements.

If a student who is migratory is exempted from district-established graduation requirements, the exemption shall not be revoked. Additionally, the exemption shall continue to apply after the student no longer meets the definition of a student who is migratory while still enrolled in the school or if the student transfers to another school, including a charter school, or school district. (Education Code 51225.1)

CSBA NOTE: Pursuant to Education Code 51225.1, the district may not require or request a student who is exempted from district-established graduation requirements and completes statewide coursework requirements before the end of the student's fourth year of high school to graduate early, as described below.

The Superintendent or designee shall not require or request that an eligible student who is exempted from district-established graduation requirements and who completes the statewide coursework requirements before the end of the fourth year of high school, and would otherwise be entitled to remain in school, to graduate before the end of the student's fourth year of high school. (Education Code 51225.1)

CSBA NOTE: Pursuant to Education Code 51225.1, if the district determines that a student who is eligible for the exemption from district-established graduation requirements is reasonably able to complete those requirements in time to graduate from high school by the end of the student's fifth year, the district is required to provide the following.

Upon making a finding that a student who is migratory is reasonably able to complete district-established graduation requirements within the fifth year of high school, the Superintendent or designee shall: (Education Code 51225.1)

1. ~~Inform~~ Consult with the student and, if under 18 years of age, the student's educational rights holder, of the option to remain in school for a fifth year to complete the district-established graduation requirements and how that will affect the student's ability to gain admission to a postsecondary educational institution
2. ~~Provide~~ Consult with and provide information to the student about transfer opportunities available through the California Community Colleges
3. Upon agreement with the student or ~~parent/guardian~~ with the student's educational rights holder if under 18 years of age, permit the student to stay in school for a fifth year to complete the ~~district's~~ district-established graduation requirements

CSBA NOTE: Pursuant to Education Code 51225.1, until January 1, 2028, when a student who is migratory has completed the second year of high school transfers into the district or transfers between high schools within the district, and is not reasonably able to complete the district-established graduation requirements, but is reasonably able to complete the statewide coursework requirements, within the student's fifth year of high school, the district is required to exempt the student from the district-established graduation requirements and provide the student with the option to remain in school for a fifth year to complete the statewide requirements. In such situations, consultation with the student and the student's educational rights holder is required, as provided below.

When a student who is migratory has completed the second year of high school transfers into the district or between high schools within the district, and the Superintendent or designee determines that the student is not reasonably able to complete the district-established graduation requirements within the student's fifth year of high school but is reasonably able to complete the statewide coursework requirements within the fifth year of high school, the student shall be exempted from all district-established graduation requirements and be provided with the option to remain in school for a fifth year to complete the statewide requirements. In such situations, the Superintendent or designee shall consult with the student and the student's educational rights holder, regarding the following: (Education Code 51225.1)

1. The student's option to remain in school for a fifth year to complete statewide coursework requirements
2. The effect of waiving the district-established requirements and remaining in school for a fifth year on the student's postsecondary education or vocation plans, including the ability to gain admission to an institution of higher education
3. Other options available to the student, including, but not limited to, possible credit recovery, and any transfer opportunities available through the California Community Colleges
4. The student's academic data and any other information relevant to making an informed decision on whether to accept the exemption and option to remain in school for a fifth year to complete the statewide coursework requirements

Parent Advisory Council

The parent advisory council shall be comprised of members who are knowledgeable of the needs of ~~migrant~~ students who are migratory and shall be elected by the parents/guardians of students enrolled in the district's migrant education program. The composition of the council shall be determined by the parents/guardians at a general meeting to which all parents/guardians of participating students shall be invited. The parents/guardians shall be informed, in a language they understand, that they have the sole authority to decide on the composition of the council. (Education Code 54444.2)

At least two-thirds of the advisory council shall consist of parents/guardians of ~~migrant~~ students who are migratory. (Education Code 54444.2)

All parent/guardian candidates for the council shall be nominated by parents/guardians. Nonparent

candidates, such as teachers, administrators, other school personnel, or students, shall be nominated by the groups they represent. All other community candidates shall be nominated by the parents/guardians. (Education Code 54444.2)

The parent/guardian advisory council shall meet at least six times during the year and shall: (Education Code 54444.4)

1. Establish program goals, objectives, and priorities
2. Review annual needs assessments, program activities for each school, and individual learning plans
3. Advise on the selection, development, and reassignment of migrant education program staff
4. Participate actively in planning and negotiating program applications and service agreements
5. Perform all other responsibilities required under state and federal laws or regulations

The Superintendent or designee shall establish and implement a training program for advisory council members to enable them to carry out their responsibilities. The training program shall be developed in consultation with the council and shall include appropriate training materials in a language understandable to each member. (Education Code 54444.2)

The Superintendent or designee shall provide the council, without charge, a copy of all applicable state and federal migrant education statutes, rules, regulations, guidelines, audits, monitoring reports, and evaluations. Upon request, these materials also shall be provided without charge to each member of the council. (Education Code 54444.2)

Notification and Complaints

CSBA NOTE: Education Code 51225.1 and 51225.2 provide that complaints of noncompliance with specified requirements related to the educational rights of ~~migrant~~ students who are migratory may be filed in accordance with the uniform complaint procedures specified in 5 CCR 4600-4670. As with other complaints covered under the uniform complaint procedures, a complainant may appeal the district's decision to CDE and, if the district or CDE finds any merit in the complaint, the district must provide a remedy to the affected student. See BP/AR 1312.3 - Uniform Complaint Procedures.

Information regarding the educational rights of ~~migrant~~ students who are migratory, as specified in Education Code 51225.1 and 51225.2, shall be included in the annual uniform complaint procedures notification distributed to students, parents/guardians, employees, and other interested parties pursuant to 5 CCR 4622. (Education Code 51225.1, 51225.2)

Any complaint that the district has not complied with requirements regarding the education of ~~migrant~~ students who are migratory, as specified in Education Code 51225.1 or 51225.2, may be filed in accordance with the district's procedures in ~~AR~~ Administrative Regulation 1312.3 - Uniform Complaint Procedures.

Policy Reference UPDATE Service

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Policy Reference Disclaimer:

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

State

5 CCR 3080

Description

Applicability of uniform complaint procedures to complaints regarding students with disabilities

5 CCR 4600-4670

Uniform complaint procedures

Ed. Code 200

Equal rights and opportunities in state educational institutions

Ed. Code 220

Prohibition of discrimination

Ed. Code 234.7

Student protections relating to immigration and citizenship status

[Ed. Code 37220](#)[School calendar](#)[Ed. Code 41601.6](#)[Extended school year program for migratory students](#)[Ed. Code 48204.7](#)[Enrollment](#)

Ed. Code 51225.1

Exemption from district graduation requirements

[Ed. Code 51225.2](#)[Transfer of Coursework and Credit](#)

Ed. Code 51225.3

High school graduation requirements

Ed. Code 54440-54445

Migrant children

Federal**Description**

20 USC 6311

State plan

20 USC 6381-6381k

~~Even Start Family Literacy Program~~

20 USC 6391-6399

Education of migratory children

20 USC 7881

Participation of private school students

34 CFR 200.81-200.89

Migrant education program

Management Resources**Description**

California Department of Education
Publication

2017 State Service Delivery Plan

U.S. Department of Education
Publication

Education of Migratory Children Under Title I, Part C of the
Elementary and Secondary Education Act of 1965, Non-
Regulatory Guidance, rev. March 2017

[California Child Welfare Council
Publication](#)

[Partial Credit Model Policy and Practice Recommendations,
September 2013
\(](#)

Website	Meeting-Info-Archive/Partial-Credit-Model-Policy-and-Practice-Recommendations.pdf CSBA District and County Office of Education Legal Services
Website	California Department of Education, Migrant Education Office
Website	U.S. Department of Education, Office of Migrant Education
Website	West Ed, Migrant Student Information Network
Website	CSBA

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
0415	Equity
0500	Accountability
1220	Citizen Advisory Committees
1220	Citizen Advisory Committees
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1400	Relations Between Other Governmental Agencies And The Schools
3553	Free And Reduced Price Meals
3553	Free And Reduced Price Meals
4121	Temporary/Substitute Personnel
4121	Temporary/Substitute Personnel
4131	Staff Development
4231	Staff Development
4331	Staff Development
5111.1	District Residency
5111.1	District Residency
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy

5113.11	Attendance Supervision
5125	Student Records
5125	Student Records
5125.2	Withholding Grades, Diploma Or Transcripts
5132	Dress And Grooming
5132	Dress And Grooming
5141.26	Tuberculosis Testing
5141.31	Immunizations
5141.31	Immunizations
5141.32	Health Screening For School Entry
5141.6	School Health Services
5141.6	School Health Services
5145.13	Response To Immigration Enforcement
5145.13	Response To Immigration Enforcement
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
5148.3	Preschool/Early Childhood Education
5148.3	Preschool/Early Childhood Education
6000	Concepts And Roles
6011	Academic Standards
6020	Parent Involvement
6020	Parent Involvement
<u>6115</u>	<u>Ceremonies and Observances</u>
6146.1	High School Graduation Requirements
6162.51	State Academic Achievement Tests
6162.51	State Academic Achievement Tests
6164.2	Guidance/Counseling Services

6164.5	Student Success Teams
6164.5	Student Success Teams
6171	Title I Programs
6171	Title I Programs
6174	Education For English Learners
6174	Education For English Learners
6177	Summer Learning Programs
6178	Career Technical Education
6178	Career Technical Education

Bylaw 9320: Meetings And Notices**Status: ADOPTED**

Original Adopted Date: 03/01/2008 | Last Revised Date: 03/01/2023~~2023~~²⁰²⁴ | Last Reviewed Date: 03/01/2023~~2023~~²⁰²⁴

Meetings of the Governing Board are conducted for the purpose of accomplishing district business. In accordance with ~~state~~^{state}~~applicable~~^{applicable} open meeting laws (Brown Act), the Board shall hold its meetings in public and shall conduct closed sessions during such meetings only as authorized by law. To encourage community involvement in the schools, Board meetings shall provide ~~opportunities~~^{the} ~~opportunity~~^{opportunity} for ~~questions and comments by~~ members of the public ~~to directly address the Board~~. All meetings shall be conducted in accordance with law and the Board's bylaws, policies, and administrative regulations.

A Board meeting exists whenever a majority of Board members gather at the same time and location, including teleconference location as permitted by Government Code 54953, to hear, discuss, deliberate, or take action upon any item within the subject matter jurisdiction of the Board. (Government Code 54952.2)

CSBA NOTE: The Brown Act prohibits serial meetings, defined under Government Code 54952.2 as a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of district business.

This prohibition against serial meetings also applies to communications via technology. Email exchanges, text/chat threads, or comments posted on a blog or social media account that result in a majority of the Governing Board "discussing among themselves" an item within the subject matter jurisdiction of the Board could result in a Brown Act violation. Pursuant to Government Code 54952.2, Board members may engage in separate conversations or communications with members of the public on an Internet-based social media platform that is open and accessible to the public as long as a majority of the Board does not use the platform to discuss among themselves business within the subject matter jurisdiction of the Board and members do not comment on or use digital icons (e.g., "likes" or emojis) to express reactions to communications made by other Board members. ~~Consequently~~^{Additionally}, a Board member is prohibited from responding directly to any communication from other members of the Board on a social media platform regarding matters that are within the subject matter jurisdiction of the Board. See BB 9012 - Board Member Electronic Communications.

In 84 Ops.Cal.Atty.Gen. 30 (2001), the Attorney General opined that Government Code 54952.2 prohibits a majority of the Board from sending emails to each other to develop a collective concurrence as to action to be taken by the Board even if the emails are (1) sent to the secretary and chairperson, (2) posted on the district's ~~web site~~^{website}, and (3) distributed (in a printed version) at the next meeting. Although the Attorney General recognized that those three conditions would allow the deliberations to be conducted, to some extent, "in public," the emails were prohibited by the Brown Act because all debate would be completed before the meeting and members of the public who did not have Internet access would be excluded from the debate.

In accordance with law and as specified in Board Bylaw 9012 – Board Member Electronic Communications,

a majority of the Board shall not, outside of an authorized meeting, use a series of communications of any kind, directly or through intermediaries, including social media and other electronic communications, to discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the Board. (Government Code 54952.2)

CSBA NOTE: Government Code 54952.2 specifies that briefings between staff and Board members are permissible in order to answer questions or to provide information, as long as the briefing is not used to communicate the comments or position of any other Board member.

However, an employee the Superintendent or district official designee may engage in separate conversations or communications with Board members in order to answer questions or provide information regarding an item within the subject matter jurisdiction of the Board, as long as that employee or district official does not communicate the comments or position of any Board members to other Board members. (Government Code 54952.2)

CSBA NOTE: Government Code 54953.2 requires that all Board meetings meet the protections of the Americans with Disabilities Act (ADA) (42 USC 12132) and implementing regulations (~~28 CFR 35.160, 36.303~~). Such protections require the district to ensure that the meeting is accessible to persons with disabilities and, upon request, to provide disability-related accommodations, such as auxiliary aids and services. Auxiliary aids and services may include accommodations at the actual meeting, such as a sign-language interpreter, or accommodations to the supporting documentation, such as Braille translation of the agenda packet. Government Code 54954.2 requires that the agenda specify how, when, and to whom a request for accommodation should be made; see BB 9322 - Agenda/Meeting Materials.

Government Code 54953, as amended by AB 2449 (Ch. 285, Statutes of 2022), requires boards the Board 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.

In order to help ensure the participation of individuals with disabilities at Board meetings, the Superintendent or designee shall provide appropriate disability-related accommodations or modifications upon request in accordance with the Americans with Disabilities Act. Any doubt about a request for accommodation shall be resolved in favor of accessibility. (~~Government Code 54953, 54953.2, 54954.1, 54954.2~~) Notice of the procedure for receiving and resolving such requests for accommodation ~~described above~~ shall be given in each instance in which notice of the time of a meeting is otherwise given or the agenda for the meeting is otherwise posted. (Government Code 54953, 54953.2, 54954.1, 54954.2)

Regular Meetings

CSBA NOTE: Education Code 35140 and Government Code 54954 **mandate** the Board to fix the time and ~~place~~ location for its regular meetings by rule and regulation.

The Board shall hold _____ regular meeting(s) each month. Regular meetings shall be held at _____ p.m. on the _____ (day) at the _____.

Unless otherwise determined by the Board, the Board shall hold _____ regular meeting(s) each month starting at _____ p.m. on the _____ (day(s)) of the month at _____ (name of facility and address).

CSBA NOTE: Pursuant to Government Code 54954.2, the agenda for a regular meeting must be posted at least 72 hours prior to the meeting, at a location that is freely accessible to the public. Government Code 54954.2 also requires that the agenda be posted on the district's web site, if it has one. ~~Any district that does not have a web site should delete the reference to it in the following paragraph.~~ website. Other posting requirements may apply where Board members are participating by teleconference as specified below.

The Attorney General has determined in 78 Ops.Cal.Atty.Gen. 327 (1995) that weekend hours may be counted as part of the 72-hour period for posting of the agenda prior to a regular meeting. In the same opinion, the Attorney General found that the term "freely accessible" requires that the agenda be posted in a location where it can be read by the public at any time during the 72 hours immediately preceding the meeting. For example, if a building where the agenda is posted is closed during the evening hours, the agenda must also be posted in a location accessible during evening hours, such as a lighted display case outside of the building. The Attorney General also opined in 88 Ops.Cal.Atty.Gen. 218 (2005) that the agenda may be posted on a touch screen electronic kiosk, in lieu of a paper copy on a bulletin board, as long as the kiosk is accessible without charge to the public 24 hours a day, seven days a week.

At least 72 hours prior to a regular meeting, the agenda shall be posted at one or more locations freely accessible to members of the public and on the district's web site website. (Government Code 54954.2)

CSBA NOTE: Pursuant to Government Code 54957.5, the agenda must list the address where the public can inspect agenda materials that are distributed to Board members less than 72 hours before a regular meeting. Pursuant to Government Code 54957.5, as amended by AB 2647 (Ch. 971, Statutes of 2022), when agenda materials are distributed to all or a majority of the Board less than 72 hours before a regular meeting and outside of regular business hours, the materials may be posted on the district's web site website in satisfaction of the Brown Act if specified requirements are met. Districts with questions regarding this exception are encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel. Also see BB 9322 - Agenda/Meeting Materials.

In addition, pursuant to the California Public Records Act (Government Code 7920.000 - 7930.170 215), agenda materials related to an open session of a Board's regular meeting are "public records" and are subject to the inspection ~~of~~ by any member of the public. ~~For a list of documents subject to disclosure by the district, see~~ as specified in BP/AR 1340 - Access to District Records.

~~Whenever~~ Consistent with Government Code 54957.5 and Board Bylaw 9322 - Agenda/Meeting Materials, whenever agenda materials relating to an open session of a regular meeting are distributed to the Board less than 72 hours before the meeting, the Superintendent or designee shall make the materials available for public inspection at a public office or location designated for that purpose ~~or~~ The records shall be posted on the district web site, consistent with Government Code 54957.5, website at the time the materials are distributed to all or a majority of the Board. (Government Code 54957.5) if distributed outside of business hours.

Special Meetings

CSBA NOTE: Education Code 35144 and Government Code 54956 allow the Board to hold special meetings to address any matter that requires timely action. For example, the Board may hold a special meeting to discuss the need for an emergency state apportionment when the district is in financial distress; see BP 3460 - Financial Reports and Accountability. However, pursuant to Government Code 54956, certain specified matters, as described below, may not be addressed in a special meeting. CSBA NOTE: Government Code 54956 permits the Board president or a majority of the Board to call a special meeting. When a majority of the Board has requested a special meeting on the same specific topic, the Superintendent or designee shall inform the Board and the meeting shall be organized and called. If an individual Board member desires a special meeting on a specific topic that has not been called by the Board president, the Board member should inform the Superintendent or designee rather than other Board members in order to comply with the Brown Act.

Special meetings of the Board may be called at any time by the presiding officer or a majority of the Board members. However, a special meeting shall not be called regarding on any topic within the salary, salary schedule, or other compensation subject matter jurisdiction of the Superintendent, assistant superintendent, or other management employee Board unless otherwise prohibited by law or as described specified in Government Code 3511.1. BB 9323.2 - Actions by the Board. (Government Code 54956)

CSBA NOTE: Pursuant to Government Code 54956, written notice of a special meeting may be delivered personally or by other means, including email or fax. Government Code 54956 requires any district that has its own web site to also post the notice on its web site. Any district that does not have its own web site should delete reference to it in the following paragraph.

~~Written~~ At least 24 hours before the time of the meeting, written notice of special meetings shall be delivered personally or by any other means to all Board members and the local media who have requested such notice in writing. The notice also shall be posted on the district's ~~web site~~. The notice shall be received website, and, at least 24 hours before the time of the meeting. ~~The notice shall also be posted at least 24 hours before the meeting,~~ in a location freely accessible to the public. The notice shall specify the time and location of the meeting and the business to be transacted or discussed. No other business shall be considered at this meeting. (Education Code 35144; Government Code 54956)

Any Board member may waive the 24-hour written notice requirement prior to the time of the meeting by filing a written waiver of notice with the clerk or secretary of the Board or by being present at the meeting at the time it convenes. (Education Code 35144; Government Code 54956)

Every notice of a special meeting shall provide an opportunity for members of the public to directly address the Board concerning any item that has been described in the meeting notice, before or during the item's consideration. (Government Code 54954.3)

Emergency Meetings

CSBA NOTE: Government Code 54956.5 authorizes a closed session during emergency meetings, as long as two-thirds of the members present at the meeting agree on the need for the closed session or, if less than two-thirds of the members are present, by unanimous vote of the members present. See BB 9321 - Closed Session and E(1) 9323.2 - Actions by the Board.

In the case of an emergency situation for which prompt action is necessary due to the disruption or threatened disruption of public facilities, the Board may hold an emergency meeting without complying with the 24-hour notice and/or 24-hour posting requirement for special meetings pursuant to Government Code 54956. (Government Code 54956.5)

An emergency situation means either of the following: (Government Code 54956.5)

- 1.—An emergency, which shall be defined as a work stoppage, crippling activity, or other activity that severely impairs public health and/or safety as determined by a majority of the members of the Board
- 2.—A dire emergency, which shall be defined as a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring the Board to provide one-hour notice before holding an emergency meeting may endanger the public health and/or safety as determined by a majority of the members of the Board

The Board may meet in closed session during emergency meetings so long as two-thirds of the members present at the meeting agree or, if less than two-thirds of the members are present, by unanimous vote of the members present. (Government Code 54956.5)

The Board shall comply with all other requirements for special meetings during an emergency meeting. (Government Code 54956.5)

Except in the case of a dire emergency, the Board president or designee shall give notice of the emergency meeting by telephone at least one hour before the meeting to the local media that have requested notice of special meetings. All telephone numbers provided by the media in the most recent request for notification shall be exhausted. If telephone services are not functioning, the notice requirement of one hour is waived and, as soon after the meeting as possible, the Board shall notify those media representatives of the meeting and shall describe the purpose of the meeting and any action taken by the Board. In the case of a dire emergency, the Board president or designee shall give such notice at or near the time notification is given to the other members of the Board ~~about the meeting.~~ (Government Code 54956.5)

The minutes of the meeting, a list of persons the Board president or designee notified or attempted to notify, a copy of the roll call vote, and any actions taken at the meeting shall be posted for at least 10 days in a public place as soon after the meeting as possible. (Government Code 54956.5)

An emergency means a work stoppage, crippling activity, or other activity that severely impairs public health and/or safety as determined by a majority of the members of the Board. (Government Code 54956.5)

A dire emergency means a crippling disaster, mass destruction, terrorist act, or threatened terrorist activity that poses peril so immediate and significant that requiring the Board to provide one-hour notice before holding an emergency meeting may endanger the public health and/or safety as determined by a majority of the members of the Board. (Government Code 54956.5)

Adjourned/Continued Meetings

The Board may adjourn/continue any regular or special meeting to a later time and location that shall be specified in the order of adjournment. Less than a quorum of the Board may adjourn/continue such a meeting. If no Board members are present, the secretary or the clerk may declare the meeting adjourned/continued to a later time and ~~place~~location and shall give notice in the same manner required for special meetings. (Government Code 54955)

Within 24 hours after the time of adjournment/continuance, a copy of the order or notice of adjournment/continuance shall be conspicuously posted on or near the door of the ~~place~~location where the meeting was held. (Government Code 54955)

Study Sessions, Retreats, Public Forums, and Discussion Meetings

CSBA NOTE: The following section is optional and may be revised to reflect district practice. Pursuant to Government Code 54954.2, the Board must still comply with the public notice requirements when holding a study session, retreat, public forum or other such meeting.

The Board may ~~occasionally~~ convene a study session or public forum to study an issue in more detail or to receive information from staff or feedback from members of the public. The Board may also convene a retreat or discussion meeting to discuss Board roles and relationships. ~~Public notice shall be given in accordance with law when a quorum of the Board is attending a study session, retreat, public forum, or discussion.~~ Any such meeting. All such meetings shall , regardless of title or topic, shall be held as a regular or special meeting, as appropriate, and shall comply with the Brown Act and shall be held in open session and within district boundaries. Action items shall not be included on the agenda all other requirements for these regular or special meetings. (Government Code 54956)

Other Gatherings

Attendance by a majority of Board members at any of the following events is not subject to the Brown Act provided that a majority of the Board members do not discuss specific district business among themselves other than as part of the scheduled program: (Government Code 54952.2)

1. A conference or similar public gathering open to the public that involves a discussion of issues of general interest to the public or to school board members
2. An open, publicized meeting organized by a person or organization other than the district to address a topic of local community concern
3. An open and noticed meeting of another body of the district
4. An open and noticed meeting of a legislative body of another local agency
5. A purely social or ceremonial occasion
6. An open and noticed meeting of a standing committee of the Board established pursuant to Board Bylaw 9130 - Board Committees, provided that the Board members who are not members of the standing committee attend only as observers

Individual contacts or conversations between a Board member and any other person that are not subject to part of a series of communications prohibited by the Brown Act: are permitted.

(Government Code 54952.2)

Location of Meetings

~~Meetings shall not be held in a facility that prohibits the admittance of any person on the basis of ancestry or any characteristic listed in Government Code 11135. In addition, meetings shall not be held in a facility which is inaccessible to individuals with disabilities or where members of the public must make a payment or purchase in order to be admitted. (Government Code 54961)~~

~~Meetings shall be held within district boundaries, except to do any of the following: (Government Code 54954)~~

Unless the Board is holding a teleconference meeting during a proclaimed state of emergency, all meetings shall be held within district boundaries, except to do any of the following: (Government Code 54954)

1. Comply with state or federal law or court order or attend a judicial or administrative proceeding to which the district is a party
2. Inspect real or personal property which cannot conveniently be brought into the district, provided that the topic of the meeting is limited to items directly related to the property
3. Participate in meetings or discussions of multiagency significance, provided these meetings are held within one of the other agencies' boundaries, with all participating agencies giving the notice required by law
4. Meet in the closest meeting facility if the district has no meeting facility within its boundaries or if its principal office is located outside the district
5. Meet with elected or appointed state or federal officials when a local meeting would be impractical, solely to discuss legislative or regulatory issues affecting the district over which the state or federal officials have jurisdiction
6. Meet in or near a facility owned by the district but located outside the district, provided the meeting agenda is limited to items directly related to that facility
7. Visit the office of the district's legal counsel for a closed session on pending litigation, when doing so would reduce legal fees or costs
8. Attend conferences on nonadversarial collective bargaining techniques
9. Interview residents of another district regarding the Board's potential employment of an applicant for Superintendent of the district
10. Interview a potential employee from another district

~~Meetings exempted from the boundary requirements, as specified in Items #1-10 above~~All meetings, regardless of location, shall still be subject to comply with the applicable notice and open meeting requirements for regular and special meetings when a quorum of . Additionally, no such

meeting may be held in a facility that prohibits the admittance of any person on the Board attends the meeting, basis of ancestry or any characteristic listed in Government Code 11135, which is inaccessible to individuals with disabilities, or where members of the public must make a payment or purchase in order to be admitted. (Government Code 54961)

If a fire, flood, earthquake, or other emergency renders the posted regular or special meeting place location unsafe, meetings and the deadline for posting the location has passed, the meeting shall be held for the duration of the emergency at a location designated by the Board president or designee, who shall so inform all news media who have requested notice of special meetings pursuant to Government Code 54956 by the most rapid available means of communication. (Government Code 54954)

Traditional Teleconferencing

A Board member may participate in any meeting by teleconference is a meeting of the Board in which Board members are in different locations, connected by electronic means through, which includes both audio and/or video: /audio so long as the following conditions are met: (Government Code 54953)

All teleconferenced meetings shall be

1. All votes taken during the meeting are by rollcall
2. The meeting is conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the Board. (Government Code 54953)
legislative body of a local agency

The Board may use teleconferences for all purposes in connection with any meeting within the Board's subject matter jurisdiction.

All votes taken during a teleconference meeting shall be by roll call. (Government Code 54953)

3. The location of the Board member participating by teleconference is open and accessible to the public during the meeting, except during closed session, such that members of the public may observe in person the Board member participating by teleconference, at may hear/listen to the meeting to the same extent as the Board member participating by teleconference, and may make public comment during the same portion of the agenda as others members of the public from the same location as the Board member participating by teleconference
4. The location of the Board member participating by teleconference is noted in the agenda and the agenda is posted at the location of the Board member participating by teleconference in advance of the meeting as statutorily required based on the type of meeting
5. During the At least a quorum of the members of the Board shall participate from locations is within the district boundaries. (Government Code 54953)

Unless a Board member participates by teleconference pursuant to the provisions described in the sections "Teleconferencing During a Personal Emergency," "Teleconferencing For 'Just Cause'" or "Teleconferencing During a Proclaimed State of Emergency" below, agendas shall be posted at all teleconference locations and shall list all teleconference locations whenever they are posted elsewhere.

All teleconference locations shall be accessible to the public and the public shall have the right to address the Board directly at each teleconference location. Additional teleconference locations may be provided to the public. (Government Code 54953)

Teleconferencing During a Personal Emergency

Teleconferencing by Individual Board Member Due to Just Cause

CSBA NOTE: Government Code 54953, as amended by AB 2449, [557 \(Ch. 534, Statutes of 2023\)](#), authorizes a Board member, from January 1, 2023 until January 1, 2026, to attend meetings participate in a meeting by teleconference for just cause, as described below. Districts should be aware that the choice to participate in a meeting by teleconference due to emergency circumstances, as described below, just cause is at the sole discretion of the Board member and can be exercised at any time. Therefore, it is recommended that districts consider including teleconference access, as described below, as part of every meeting. Districts are also encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel to determine the best means of complying with Government Code 54953.

Until January 1, 2026, with approval from when there is "just cause" preventing a Board member from attending a Board meeting in person, that Board member may participate in that meeting by teleconference without: (Government Code 54953)

1. Including the majority location of the Board; a Board member may be permitted to participate in a meeting remotely when a physical or family medical emergency prevents the Board member from attending in person. The Board member requesting to appear remotely shall notify the Board member participating by teleconference in the agenda
2. Making the location of the emergency situation as soon as possible, Board member participating by teleconference open and provide a concise accessible to the public
3. Posting the agenda at the location of the Board member participating by teleconference

A Board member may not appear remotely under emergency circumstances for more than 20 percent of the Board's regular meetings or for more than three consecutive months. If the Board meets less than 10 times in a calendar year, a Board member may not appear remotely under emergency circumstances for more than two meetings. (Government Code 54953)

A Board member needing to participate by teleconference for just cause shall notify the Board at the earliest possible opportunity, including at the start of a regular meeting, of the need to do so and include a general description of the circumstances relating to the need to appear by teleconference at the given meeting. (Government Code 54953)

When a Board member is approved to participate remotely due to emergency circumstances, the

Board member is not required to participate from a location which is accessible to the public and the location does not need to be identified on the agenda. (Government Code 54953)

For the Board member to participate by teleconference under this section, all of the following are required: (Government Code 54953)

1. All votes taken during the meeting are by rollcall
2. At least a quorum of the Board participates in person from a singular physical location which is accessible to the public and the location does not need to be clearly identified on the agenda. (Government Code 54953)
3. If permitted to participate remotely, the The Board member shall utilize participating by teleconference utilizes both audio and visual technology and publicly disclose, before any action is taken, whether to participate in the meeting

CSBA NOTE: Government Code 54953 requires Board members participating by teleconference due to just cause to publicly disclose whether any individual 18 years of age or older is present at the Board member's location and, if so, the general nature of the member's relationship with each such individual before "any" Board action is taken, but does not specify the frequency of such disclosures. One option is for the Board member to make the initial disclosure at the start of the meeting and then make additional disclosures, if needed, each time an individual 18 years of age or older enters or exits the Board member's location. Another option is for the Board member to make separate disclosures before each Board action. Districts are encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel to determine the best means of complying with this requirement.

4. The Board member participating by teleconference publicly discloses, before any other individuals action is taken, whether any individual 18 years of age or older are is present in the remote location with at the Board member, member's location and the general nature of the member's relationship with such individuals. (Government Code 54953) each such individual
5. The district shall also provide public is able to access to the meeting via a two-way audiovisual platform or a two-way audio service and a live webcast, with real-time public comment being allowed via the remote platform as well as or service, in person and the addition to public shall be able to offer comment being available in person

The platform or service may require members of the public to register in order to make public comments in real time. so long as the platform or service is not controlled by the district.

6. The agenda shall include for the meeting includes information describing how members of the public can access the platform or service. (Government Code 54953)

If a disruption prevents broadcasting the meeting to members of the public using the call-in option or internet-based service option, or a disruption that is within the Board's control prevents

members of the public from offering public comments using the call-in option or internet-based service option, the Board shall not take action on agenda items until public access to the meeting is restored. (Government Code 54953)

If the platform or service is disrupted such that the public cannot access the meeting or give real-time public comment, the meeting may continue but the Board may not take action on any agenda item until the disruption is resolved. (Government Code 54953)

Teleconferencing for "Just Cause"

CSBA NOTE: Government Code 54953, as amended by AB 2449, authorizes a Board member, from January 1, 2023 until January 1, 2026, to attend meetings by teleconference for just cause, as described below.

A Board member may be permitted to appear remotely, pursuant to the provisions below, A Board member shall be permitted to participate by teleconference for just cause for no more than two meetings per calendar year. A Board member appearing for just cause shall notify the Board at the earliest possible opportunity of the need to participate in the meeting remotely, including at the start of a regular meeting. (Government Code 54953)

Just Cause For purposes of this section, "just cause" may exist for any of the following: (Government Code 54953)

1. A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires a Board member to participate remotely
2. A contagious illness prevents a Board member from attending in person
3. A Board member has a need related to a physical or mental disability not otherwise reasonably accommodated
4. A Board member is traveling while on official business of the Board or another state or local agency

When a Board member participates remotely for just cause, the Board member is not required to participate from a location which is accessible to the public and the location does not need to be identified on the agenda. (Government Code 54953)

If the Board member participates remotely, the Board member shall utilize both audio and visual technology and publicly disclose, before any action is taken, whether any other individuals 18 years or older are present in the remote location with the Board member, and the general nature of the member's relationship with such individuals. (Government Code 54953)

The district shall also provide public access to the meeting via a two-way audiovisual platform or a two-way audio service and a live webcast, with public comment being allowed via the remote platform as well as in person and the public shall be able to offer comments in real time. The agenda shall include information describing how members of the public can access the platform. (Government Code 54953)

If a disruption prevents broadcasting the meeting to members of the public using the call-in option

or internet-based service option, or a disruption that is within the Board's control prevents members of the public from offering public comments using the call-in option or internet-based service option, the Board shall not take action on agenda items until public access to the meeting is restored. (Government Code 54953)

Teleconferencing During a Proclaimed State of Emergency

CSBA NOTE: Pursuant to Government Code 54953, boards are authorized, until January 1, 2024, to conduct board meetings by teleconference as specified below when holding a board meeting during a proclaimed state of emergency pursuant to Government Code 8625-8629 when any of the following circumstance exist: (1) state or local officials have imposed or recommended measures to promote social distancing; (2) to determine whether, as a result of an emergency, meeting in person would present imminent risks to the health or safety of attendees; or (3) when it has been determined, as a result of an emergency, that meeting in person would impose such risks.

California's COVID-19 State of Emergency ended on February 28, 2023. However, a Board may continue to conduct Board meetings by teleconference until January 1, 2024 if there is a proclaimed state of emergency (e.g. a natural disaster) and it meets all of the necessary requirements of Government Code 54953.

While a resolution is not required by law to make findings required by Government Code 54953, CSBA offers sample resolutions available on its web site for (1) recognizing a state of emergency and authorizing teleconferenced meetings and (2) recognizing a state of emergency and re-authorizing teleconferenced meetings. CSBA recommends that if resolutions are not utilized, the motion and findings to authorize or reauthorize emergency teleconferenced meetings are included in the meeting minutes.

Until January 1, 2024, the Board may conduct Board meetings by teleconference without posting agendas at all teleconference locations, identifying teleconference locations in meeting notices and agendas, allowing public access to each teleconference location, providing an opportunity for members of the public to address the Board directly at each teleconference location, and ensuring that at least a quorum of the Board participate from locations within district boundaries, during a proclaimed state of emergency pursuant to Government Code 8625-8629 in any of the following circumstances: (Government Code 54953)

1. State or local officials have imposed or recommended measures to promote social distancing
2. For the purpose of determining, by majority vote, whether as the result of the emergency meeting in person would present imminent risks to the health or safety of attendees
3. When it has been determined, by majority vote as described in Item #2 above, that as a result of the emergency meeting in person would present imminent risks to the health or safety of attendees

To conduct a teleconference meeting for these purposes the following requirements shall be satisfied: (Government Code 54953)

1. The notice and agenda shall be given and posted as otherwise required by the Brown Act

2. ~~The notice and agenda of the meeting shall specify the means by which members of the public may access the meeting and offer public comments, including via a call-in or internet-based service option~~

~~Members of the public may be required to register to log in to a meeting when making public comments through an internet web site or other online platform that is operated by a third party and not under the control of the Board.~~

3. ~~Members of the public shall be allowed to access the meeting, and the agenda shall provide an opportunity for members of the public to address the Board directly pursuant to Government Code 54954.3~~
4. ~~Members of the public shall not be required to submit public comments in advance of a Board meeting and shall be provided an opportunity to address the Board and offer comments in real time~~
5. ~~Public comment periods shall not be closed until the timed public comment period, if such is offered by the Board, has elapsed or, if not timed, until a reasonable amount of time per agenda item has been allowed~~
6. ~~If during a Board meeting a disruption occurs which prevents the district from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the district's control that prevents members of the public from offering public comments, the Board shall take no further action on any agenda item until public access via the call-in or internet-based service option to the meeting is restored~~

~~The district may, in its discretion, provide a physical location from which the public may attend or comment. (Government Code 54953)~~

~~The Board may continue to conduct meetings by teleconference, as specified above for teleconferencing during proclaimed states of emergency, by a majority vote finding within 30 days after teleconferencing for the first time, and every 30 days thereafter, that either: (Government Code 54953)~~

1. ~~The state of emergency continues to directly impact the ability of the Board to meet safely in person~~
2. ~~State or local officials continue to impose or recommend measures to promote social distancing~~

Teleconferencing by Individual Board Member Due to Emergency Circumstances

CSBA NOTE: Government Code 54953, as amended by AB 557 (Ch. 534, Statutes of 2023), authorizes a Board member, until January 1, 2026, to participate in a meeting by teleconference due to emergency circumstances, as described below.

Until January 1, 2026, when a physical or family medical emergency would prevent a Board member from attending a Board meeting in person, that Board member may request to participate in such

meeting by teleconference. The Board member requesting to appear remotely shall submit the request as soon as possible and include a concise general description of the emergency that necessitated the request. The Board member shall not be required to disclose any disability, medical diagnosis, or personal medical information exempt under existing law. (Government Code 54953)

If the request is received timely, it shall be added to the agenda as the first item of business at the meeting, even before any closed session items. If the request is not received timely, it shall be taken up by the Board before the first item of business at the meeting. The request shall only be granted upon a vote by the majority of the Board. (Government Code 54953, 54954.2)

If the request is granted by the Board, the Board member may participate by teleconference without: (Government Code 54953)

1. Including the location of the Board member participating by teleconference in the agenda
2. Making the location of the Board member participating by teleconference open and accessible to the public
3. Posting the agenda at the location of the Board member participating by teleconference

For the Board member to participate by teleconference due to emergency circumstances, all of the following are required: (Government Code 54953)

1. All votes taken during the meeting are by rollcall
2. At least a quorum of the Board participates in person from a singular physical location clearly identified on the agenda
3. The Board member participating by teleconference utilizes both audio and visual technology to participate in the meeting

CSBA NOTE: Government Code 54953 requires Board members participating by teleconference due to emergency circumstances to publicly disclose whether any individual 18 years of age or older is present at the Board member's location and, if so, the general nature of the member's relationship with each such individual before "any" Board action is taken, but does not specify the frequency of such disclosures. One option is for the Board member to make the initial disclosure at the start of the meeting and then make additional disclosures, if needed, each time an individual 18 years of age or older enters or exits the Board member's location. Another option is for the Board member to make separate disclosures before each Board action. Districts are encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel to determine the best means of complying with this requirement.

4. The Board member participating by teleconference publicly discloses, before any action is taken, whether any individual 18 years of age or older is present at the Board member's location and the general nature of the member's relationship with each such individual

5. The public is able to access the meeting via a two-way audiovisual platform or a two-way audio service and a live webcast, with real-time public comment being allowed via the platform or service, in addition to public comment being available in person

The platform or service may require members of the public to register in order to make public comments so long as the platform or service is not controlled by the district.

6. The agenda for the meeting includes information describing how members of the public can access the platform or service

If the platform or service is disrupted such that the public cannot access the meeting or give real-time public comment, the meeting may continue but the Board shall not take action on any agenda item until the disruption is resolved. (Government Code 54953)

In total, a Board member may not participate by teleconference due to emergency circumstances alone, or together with teleconference due to just cause, as specified above, for more than 20 percent of the Board's regular meetings or for more than three consecutive months. If the Board meets less than 10 times in a calendar year, a Board member may not appear remotely due to emergency circumstances for more than two meetings. (Government Code 54953)

Teleconference Meetings During a Proclaimed State of Emergency

CSBA NOTE: Pursuant to Government Code 54953, as amended by AB 557 (Ch. 534, Statutes of 2023), boards are authorized to conduct board meetings by teleconference as specified below when holding a board meeting during a proclaimed state of emergency.

The Board may conduct a Board meeting entirely by teleconference during a proclaimed state of emergency pursuant to Government Code 8625-8629 in any of the following circumstances: (Government Code 54953)

1. For the purpose of determining whether meeting in person would present imminent risks to the health or safety of attendees due to the emergency
2. When the Board has been determined, pursuant to Item #1 above, that meeting in person would present imminent risks to the health or safety of attendees due to the emergency

The Board may hold a meeting by teleconference during a proclaimed state of emergency without: (Government Code 54953):

1. Including the location of the Board members in the agenda
2. Making the locations of Board members open and accessible to the public
3. Posting the agenda at the locations of Board members

For the Board to hold such meeting, all of the following are required: (Government Code 54953)

1. All votes taken during the meeting are by rollcall
2. The public is able to access the meeting via a call-in service or an internet-based platform or service, with real-time public comment being allowed via the platform or service

If an internet-based platform or service is utilized, it may require members of the public to register in order to make public comments so long as the platform or service is not controlled by the district.

3. The agenda for the meeting includes information describing how members of the public can access the platform or service

If the platform or service is disrupted such that the public cannot access the meeting or give real-time public comment, the meeting may continue but the Board may not take action on any agenda item until the disruption is resolved. (Government Code 54953)

For any public comment period with a time limit, the Board may not close that public comment period or the opportunity to register until the full time for public comment has elapsed. For any other public comment period, the Board shall allow a reasonable amount of time to allow members of the public to provide public comment and to register to do so. (Government Code 54953)

The Board may continue to conduct all meetings by teleconference throughout one or more 45-day periods so long as, prior to the beginning of each 45-day period, the Board has reconsidered the circumstances of the state of emergency and determines that it continues to directly impact the ability of the Board to meet safely in person. (Government Code 54953)

Policy Reference UPDATE Service

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Policy Reference Disclaimer:

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

State	Description
Ed. Code 35140	Time and place of meetings
Ed. Code 35143	Annual organizational meetings; date and notice
Ed. Code 35144	Special meeting
Ed. Code 35145	Public meetings
Ed. Code 35145.5	Agenda; public participation and regulations
Ed. Code 35146	Closed sessions; student matters
Ed. Code 35147	Open meeting laws exceptions
Gov. Code 11135	Prohibition of discrimination
Gov. Code 3511.1	Local agency executives
Gov. Code 54950-54963	The Ralph M. Brown Act
Gov. Code 54953	Oral summary of recommended salary and benefits of superintendent
Gov. Code 54954	Time and place of regular meetings

Gov. Code 54954.2	Agenda posting requirements; board actions
Gov. Code 54956	Special Meetings
Gov. Code 54956.5	Emergency meetings
Gov. Code 7920.000-7930.215	California Public Records Act
Gov. Code 8625-8629	California Emergency Services Act
Federal	Description
28 CFR 35.160	Effective communications for individuals with disabilities
28 CFR 36.303	Nondiscrimination on the basis of disability, public accommodations, auxiliary aids, and services
42 USC 12101-12213	Americans with Disabilities Act
Management Resources	Description
Attorney General Opinion	78 Ops.Cal.Atty.Gen. 327 (1995)
Attorney General Opinion	79 Ops.Cal.Atty.Gen. 69 (1996)
Attorney General Opinion	84 Ops.Cal.Atty.Gen. 181 (2001)
Attorney General Opinion	84 Ops.Cal.Atty.Gen. 30 (2001)
Attorney General Opinion	88 Ops.Cal.Atty.Gen. 218 (2005)
Court Decision	Knight First Amendment Institute at Columbia University v. Trump; (2019) 928 F.3d 226
Court Decision	Garnier v. Poway Unified School District; (S.D. Cal. September 26, 2019) No. 17-cv-2215-W (JLB), 2019 WL 4736208
Court Decision	Wolfe v. City of Fremont; (2006) 144 Cal.App. 4th 533
CSBA Publication	The Brown Act: School Boards and Open Meeting Laws, rev. 2019
Institute for Local Government Publication	The ABCs of Open Government Laws
League of California Cities Publication	Open and Public V: A Guide to the Ralph M. Brown Act, 2016
Website	CSBA District and County Office of Education Legal Services
Website	CSBA, GAMUT Meetings
Website	Institute for Local Government
Website	League of California Cities
Website	California Attorney General's Office
Website	CSBA

Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
0420.4	Charter School Authorization
0420.4	Charter School Authorization
0420.43	Charter School Revocation
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1160	Political Processes
1220	Citizen Advisory Committees
1220	Citizen Advisory Committees
1330	Use Of School Facilities
1330	Use Of School Facilities
1340	Access To District Records
1340	Access To District Records
1431	Waivers
2000	Concepts And Roles
2111	Superintendent Governance Standards
2121	Superintendent's Contract
2210	Administrative Discretion Regarding Board Policy
3100	Budget
3100	Budget
3280	Sale Or Lease Of District-Owned Real Property
3280	Sale Or Lease Of District-Owned Real Property
3311	Bids
3311	Bids
3312	Contracts

3314	Payment For Goods And Services
3314	Payment For Goods And Services
3516	Emergencies And Disaster Preparedness Plan
3516	Emergencies And Disaster Preparedness Plan
4117.14	Postretirement Employment
4141.6	Concerted Action/Work Stoppage
4141.6	Concerted Action/Work Stoppage
4241.6	Concerted Action/Work Stoppage
4241.6	Concerted Action/Work Stoppage
4312.1	Contracts
4317.14	Postretirement Employment
6112	School Day
6112	School Day
6117	Year-Round Schedules
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
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7150	Site Selection And Development
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7214	General Obligation Bonds
7310	Naming Of Facility
9000	Role Of The Board
9005	Governance Standards
9012	Board Member Electronic Communications
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9130	Board Committees
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9220	Governing Board Elections
9230	Orientation
9270	Conflict Of Interest

9270-E(1)	Conflict Of Interest
9310	Board Policies
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session
9322	Agenda/Meeting Materials
9323	Meeting Conduct
9323.2	Actions By The Board
9323.2-E(1)	Actions By The Board
9323.2-E(2)	Actions By The Board
9324	Minutes And Recordings
9400	Board Self-Evaluation

Bylaw 9323.2: Actions By The Board**Status:** ADOPTED**Original Adopted Date:** 03/01/2011 | **Last Revised Date:** 03/01/2019~~2024~~ | **Last Reviewed Date:** 03/01/2019~~2024~~

CSBA NOTE: Pursuant to Education Code 35164 and Government Code 54952.6, a simple majority vote of ~~all members~~ the membership of the Governing Board is necessary for an item to carry, even in those cases where some members are absent. ~~Thus~~ or seats are vacant. For instance, for districts with a five-member board, an item will pass with three votes, even if only three members are present or there is a vacancy. Education Code 35165 details the effect of a vacancy in districts with a seven-member board. For language regarding vote requirements when a board member abstains, see BB 9323 - Meeting Conduct.

The law specifies However, there are certain board actions as ~~requiring~~ by the Board that require more than a simple majority vote, or that are required to occur, or may not occur, at a certain meeting or type of meeting; see E(1) 9323.2 for a non-exhaustive list of such actions.

The Governing Board shall act by a majority vote of all of the membership constituting the Board, unless otherwise required by law. (Education Code 35164, 35165)

An "action" by the Board means: (Government Code 54952.6)

1. A collective decision by a majority of the Board members
2. A collective commitment or promise by a majority of the Board members to make a positive or negative decision
3. A vote by a majority of the Board members when sitting as the Board upon a motion, proposal, resolution, order, or ordinance

The Board shall not take action by secret ballot, whether preliminary or final. (Government Code 54953)

Actions taken by the Board in open session shall be recorded in the Board minutes. (Education Code 35145)

Action on Non-Agenda Items

CSBA NOTE: The Brown Act (Government Code 54950-54963) generally prohibits any action or discussion of items not on the posted agenda. However, Government Code 54954.2 provides for ~~three~~ four specific and narrow situations in which the Board can act on an item not on the agenda, as specified below. Board members may also briefly respond to questions raised by members of the public concerning items not on the agenda; see BB 9323 - Meeting Conduct.

~~After publicly identifying the item, the~~ The Board may take action on a subject not appearing on the posted meeting agenda ~~under~~ only after publicly identifying the item and if any one of the following conditions are met: (Government Code 54954.2)

1. When a majority of the Board determines that an emergency situation exists, as defined for emergency meetings pursuant to Government Code 54956.5
2. When two-thirds of the members present, or if less than two-thirds of the members are present then by a unanimous vote of all members present, determine that the need to take immediate action came to the district's attention after the agenda was posted
3. When an item appeared on the agenda of, and was continued from, a meeting that occurred not more than five days earlier

CSBA NOTE: Government Code 54954.2 provides that the Board may take action on a request by a Board member to participate by teleconference due to emergency circumstances pursuant to Government Code 54953 so long as the timing of the request did not allow for sufficient time to place it on the agenda. If the timing of the request did allow for sufficient time to place it on the agenda, it cannot be acted upon unless it was agendized. For more information regarding Board meetings by teleconference, see Board Bylaw 9320 - Meetings And Notices.

4. Until December 31, 2025, when a Board member requests to participate by teleconference due to emergency circumstances pursuant to Government Code 54953 so long as the timing of the request did not allow for sufficient time to place it on the agenda

Challenging Board Actions

CSBA NOTE: Government Code 54960-~~54960.5~~ grants authority to the district attorney or any interested person to file a civil action asking the court to order the Board to stop or prevent ~~Brown Act~~ violations specified below. The Board should respond to legal challenges to its actions and consult legal counsel when necessary. a Brown Act violation or to invalidate a prior action taken by the Board. Pursuant to Government Code 54960.5, a court may award court costs and reasonable attorney's fees to a plaintiff who successfully invalidates a Board action in violation of the Brown Act or successfully enforces one of the Brown Act's civil remedies provided in Government Code ~~54960-54960.2~~. successful plaintiff. Prior to filing a civil action, the district attorney or interested party must send a written demand to the Board to "cure and correct" the alleged violation or prior action. The Board should consult with CSBA's District and County Office of Education Legal Services or district legal counsel as appropriate.

~~The~~ Before seeking to file a civil action to stop or prevent a Brown Act violation or to invalidate a prior action taken by the Board, the district attorney's office or interested person shall first present a demand to "cure and correct" the alleged violation to the district. If the district receives a proper demand from the district attorney's office or any interested person may file to "cure and correct" an action in court for the purpose of: alleged violation of the Brown Act, the Board shall consult with legal counsel on if and how to respond as provided by law. (Government Code 54960; ~~-54960.2~~)

1. ~~Stopping or preventing the Board's violation or threatened violation of the Brown Act~~
2. ~~Determining the applicability of the Brown Act to ongoing or future threatened Board actions~~

3.—Determining the applicability of the Brown Act to a past action of the Board that is not specified in Government Code 54960.1, provided that:

a.—Within nine months of the alleged violation, a cease and desist letter is submitted to the Board, clearly describing the past Board action and the nature of the alleged violation.

CSBA NOTE: Pursuant to Government Code 54960.2, the Board may respond within 30 days of receiving the cease and desist letter. If the Board decides to respond to the letter with an unconditional commitment to desist from repeating the past action, the unconditional commitment is required to be substantially in the same form provided in Government Code 54960.2 and to be approved in an open session of the Board's regular or special meeting. For a sample unconditional commitment letter, see E(2) 9323.2.

b.—The time for the Board to respond has expired and the Board has not provided an unconditional commitment to cease and desist from and not repeat the past action alleged to have violated the Brown Act.

c.—The action is brought within the time required by Government Code 54960.2.

4.—Determining the validity, under state or federal law, of any Board rule or action which penalizes any of its members or otherwise discourages their expression

5.—Compelling the Board to audio record its closed sessions because of a court's finding of the Board's violation of any applicable Government Code provision

CSBA NOTE: Pursuant to Government Code 54960.1, the district attorney's office or any interested person may file a lawsuit to invalidate (i.e., declare null and void) actions that violate specific provisions of the Brown Act listed in Government Code 54960.1 and specified below. However, even when the action may normally be subject to invalidation, Government Code 54960.1 provides that in certain circumstances (e.g., when there has been substantial compliance with the Brown Act or the Board action resulted in a contract with a party who detrimentally relied on the action in good faith and without notice of a challenge to its validity), the action may not be invalidated.

Before seeking court action, the person who believes a violation occurred must send a written demand to the Board to "cure or correct" the action as specified below. Because the laws regarding these provisions are complex, it is recommended that the district consult with legal counsel upon receipt of a "cure and correct" demand.

The district attorney or any interested person may file an action in court to nullify a Board action which is alleged to be in violation of law regarding any of the following: (Government Code 54960.1)

1.—Open meeting and teleconferencing (Government Code 54953)

2.—Agenda posting (Government Code 54954.2)

3. ~~Closed session item descriptions (Government Code 54954.5)~~
4. ~~New or increased tax assessments (Government Code 54954.6)~~
5. ~~Special meetings (Government Code 54956)~~
6. ~~Emergency meetings (Government Code 54956.5)~~

Prior to bringing any action to nullify a Board action, the district attorney or other interested person shall present a demand to "cure and correct" the alleged violation. The demand shall clearly describe the challenged action and the nature of the alleged violation and shall be presented to the Board in writing within 90 days of the date when the action was taken. If the alleged violation concerns action taken in an open session but in violation of Government Code 54954.2 (agenda posting), the written demand must be made within 30 days of the date when the alleged action took place. (Government Code 54960.1)

Within 30 days of receiving the demand, the Board shall do one of the following: (Government Code 54960.1)

1. ~~Cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct.~~
2. ~~Determine not to cure or correct the alleged violation and inform the demanding party in writing of its decision to not cure or correct.~~
3. ~~Take no action. If the Board takes no action within the 30-day period, its inaction shall be considered a decision not to cure or correct the challenged action.~~

Policy Reference UPDATE Service

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Policy Reference Disclaimer:

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Ed. Code 17481	Lease of property with residence for nondistrict purposes

Ed. Code 17510-17512	Leasing for production of gas; resolution requiring unanimous vote
Ed. Code 17546	Private sale of personal property
Ed. Code 17556-17561	Dedication of real property
Ed. Code 35140-35149	Meetings
<u>Ed. Code 35150</u>	<u>Prohibition to terminate superintendent or assistant superintendent at specified meetings or times</u>
Ed. Code 35160-35178.4	Powers and duties
Ed. Code 48660-48661	Community day schools; establishment and restrictions
Gov. Code 53090-53097.5	Regulation of local agencies by counties and cities
Gov. Code 53724	Parcel tax resolution requirements
Gov. Code 53790-53792	Exceeding the budget
Gov. Code 53820-53833	Temporary borrowing
Gov. Code 53850-53858	Temporary borrowing
<u>Gov. Code 54230.5</u>	<u>Disposal of surplus land and receipt of notice of violation</u>
<u>Gov. Code 54230.7</u>	<u>Disposal of surplus land and receipt of notice of violation</u>
Gov. Code 54950-54963	The Ralph M. Brown Act
Gov. Code 54952.6	Action taken; definition
Gov. Code 54953	Meetings to be open and public; attendance
Gov. Code 54960-54960.5	Actions to prevent violations
Gov. Code 65352.2	Communicating and coordinating of school sites
Pub. Cont. Code 20110-20118.44	School district contracts
Pub. Cont. Code 20113	Emergencies; award of contracts without bids
Pub. Cont. Code 20114	Repairs, maintenance, and improvements to district facilities by day labor or force account
Pub. Cont. Code 22034	Uniform Public Construction Cost Accounting Act informal bidding ordinance
Pub. Cont. Code 22035	Repair or replacement of facilities in case of emergency
Pub. Cont. Code 22050	Emergency contracting procedures
Pub. Cont. Code 3400	Bid specifications
Management Resources	Description
Attorney General Publication	The Brown Act: Open Meetings for Legislative Bodies, rev. 2003

Court Decision	Bell v. Vista Unified School District (2002) 82 Cal.App.4th 672
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3260	Fees And Charges
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3270	Sale And Disposal Of Books, Equipment And Supplies
3280	Sale Or Lease Of District-Owned Real Property
3280	Sale Or Lease Of District-Owned Real Property
3311	Bids
3311	Bids
3311.1	Uniform Public Construction Cost Accounting Procedures
3311.1	Uniform Public Construction Cost Accounting Procedures
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9200	Limits Of Board Member Authority
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9310	Board Policies
9320	Meetings And Notices
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session
9322	Agenda/Meeting Materials
9323	Meeting Conduct
9324	Minutes And Recordings

Exhibit 9323.2-E(1): Actions By The Board**Status:** ADOPTED**Original Adopted Date:** 10/01/2016 | **Last Revised Date:** 10/03/01/20202024 | **Last Reviewed Date:** 10/03/01/20202024**RESTRICTIONS ON BOARD ACTIONS REQUIRING A SUPER MAJORITY VOTE**

This exhibit is a non-exhaustive list of the Governing Board actions that require more than a majority vote as well as restrictions and prohibitions on when the Board may take certain actions. Other such actions may exist and may be identified in the future.

Actions Requiring a Two-Thirds Vote of the Membership of the Board

CSBA NOTE: The following exhibit lists some of the Governing Board actions that require more than a simple majority vote. Other such actions may exist and may be identified in the future. CSBA NOTE: For an action requiring a two-thirds vote to pass, a three-member governing board will need two board members to vote in favor of the item and a five-member board will need four board members to vote in favor of the item. For a seven-member board, five board members will constitute two-thirds of the board except, pursuant to Education Code 35165, if there are one or two vacancies, in which case four board members will constitute two-thirds of the board.

Actions Requiring a Two-Thirds Vote of the Board

CSBA NOTE: For an action requiring a two-thirds vote to pass, a three-member board will need two board members to vote in favor of the item, a five-member board will need four board members to vote in favor of the item, and a seven-member board will need five board members to vote in favor of the item.

1. Resolution declaring the ~~Governing Board's~~Board's intention to sell or lease real property (Education Code 17466)
2. Resolution declaring the ~~Board's~~Board's intent to convey or dedicate property to the state or any political subdivision for the purposes specified in Education Code 17556 (Education Code 17557)
3. Resolution authorizing and directing the Board president, or any other presiding officer, secretary, or member, to execute a deed of dedication or conveyance of property to the state or a political subdivision (Education Code 17559)
4. Lease, for up to three months, of school property which has a residence on it and which cannot be developed for district purposes because funds are unavailable (Education Code 17481)

CSBA NOTE: Item #5 below is different from temporary borrowing pursuant to Government Code 53850-53858, which requires only a simple majority vote of the Board.

5. Request for temporary borrowing of funds needed for immediate requirements of the district to pay district obligations incurred before the receipt of district income for the fiscal

year sufficient to meet the payment(s) (Government Code 53821)

6. Upon complying with Government Code 65352.2 and Public Resources Code 21151.2, action to render city or county zoning ordinances inapplicable to a proposed use of the property by the district so long the proposed use of property is not for nonclassroom facilities (Government Code 53094)
7. When the district is organized to serve only grades K-8, action to establish a community day school for any of grades K-8 (Education Code 48660)
8. When the district is organized to serve only grades K-8, has an average daily attendance (ADA) of 2,500 or less, or desires to operate a community day school to serve any of grades K-6 (and no higher grades) and seeks to situate a community day school on an existing school site, certification that satisfactory alternative facilities are not available for a community day school (Education Code 48661)
9. Resolution of intent Decision to issue pursue the authorization and issuance of general obligation bonds ~~with the approval~~ pursuant to paragraph (3) of 55 percent subdivision (b) of Section 1 of Article XIII A of the voters California Constitution and subdivision (b) of Section 18 of Article XVI of the district California Constitution (Education Code 15266)
10. Resolution of intent to issue bonds within a school facilities improvement district with the approval of 55 percent of the voters of the school facilities improvement district (Education Code 15266)
11. Resolution to place a parcel tax on the ballot (Government Code 53724)

CSBA NOTE: Code of Civil Procedure 1245.240 requires that, prior to commencing an eminent domain action, the Board adopt a resolution of necessity approved by a two-thirds vote of the Board unless a greater vote is required by statute, charter, or ordinance. In addition, if the Board desires to use the property for a different purpose than stated in the resolution of necessity, then pursuant to Code of Civil Procedure 1245.245, the Board must adopt, by two-thirds vote, another resolution authorizing the different use unless a greater vote is required by statute, charter, or ordinance.

10. Resolution of necessity to proceed with an eminent domain action and, if the Board subsequently desires to use the property for a different use than stated in the resolution of necessity, a subsequent resolution so authorizing the different use (Code of Civil Procedure 1245.240, 1245.245)

CSBA NOTE: Item ~~#13~~11 is for use by districts governed by a three-member board that have elected to use an alternative procedure for awarding contracts for public works projects pursuant to the Uniform Public Construction Cost Accounting Act (UPCCAA) (Public Contract Code 22000-22045), which establishes a higher bid limit and a more informal bidding process for certain projects. For further information, see BP 3311.1 - Uniform Public Construction Cost Accounting Procedures. Districts with a five- or seven-member board should delete Item #11 below. See Item #4 in the section "Actions Requiring a Four-Fifths Vote of the Board" below for the corresponding language for a district with a five- or seven-member board.

11. When the district has a three-member Board and has adopted the procedures set forth in the Uniform Public Construction Cost Accounting Act (UPCCAA), action to respond to an

emergency facilities condition without giving notice for bids to let award contracts, including the repair or replacement of district facilities, the taking of any other action that is directly related to and immediately required by that emergency, the procurement of the necessary equipment, services, and supplies for those purposes, the delegation of authority to the Superintendent or designee to take such action, and the determination during a regular Board meeting of the need to continue the action (Public Contract Code 22035, 22050)

Actions Requiring a Two-Thirds Vote of the Board Members Present at the Meeting

1. Determination that there is a need to take immediate action and that the need for action came to the district's attention after the posting of the agenda. If less than two-thirds of the Board members are present at the meeting, a unanimous vote of all members present is required. (Government Code 54954.2)
2. Determination that a closed session is necessary during an emergency meeting. If less than two-thirds of the Board members are present, a unanimous vote of all members present is required. (Government Code 54956.5)

Actions Requiring a Four-Fifths Vote of the Membership of the Board

CSBA NOTE: For an action requiring a four-fifths vote to pass, a three-member board will need a unanimous vote in favor of the item; and a five-member board will need four board members to vote in favor of the item; and For a seven-member board will need, six board members to vote in favor will constitute fourth-fifths of the item board except, pursuant to Government Code 35165, if there is one or two vacancies, in which case five or four board members, respectively, will constitute fourth-fifths of the board.

Items #1 and #2 below are different from borrowing pursuant to Government Code 53850-53858, which requires only a simple majority vote of the Board.

1. Resolution for district borrowing based on issuance of notes, tax anticipation warrants, or other evidences of indebtedness, in an amount up to 50 percent of the district's estimated income and revenue for the fiscal year or the portion not yet collected at the time of the borrowing (Government Code 53822, 53824)
2. Resolution for district borrowing, between July 15 and August 30 of any fiscal year, of up to 25 percent of the estimated income and revenue to be received by the district during that fiscal year from apportionments based on ADA for the preceding school year (Government Code 53823-, 53824)
3. Declaration of an emergency in order to authorize the district to include a particular brand name or product in a bid specification (Public Contract Code 3400)

CSBA NOTE: Item #4 is for use by districts governed by a five-member or seven-member board. Districts with a three -member board should delete Item #4 below. See Item #11 in Section "Actions Requiring a Two-Thirds Vote of the Membership of the Board" above for the corresponding language for a district with a three-member board.

Items #4-5 are for use by districts that have elected to use an alternative procedure for awarding contracts for public works projects pursuant to the UPCCAA. For further information, see BP 3311.1 - Uniform Public Construction Cost Accounting Procedures.

4. When the district has a five-member or seven-member Board and has adopted the procedures set forth in UPCCAA, action to respond to an emergency facilities condition without giving notice for bids to ~~let~~ award contracts, including the repair or replacement of district facilities, the taking of any other action that is directly related to and immediately required by that emergency, the procurement of the necessary equipment, services, and supplies for those purposes, the delegation of authority to the Superintendent or designee to take such action, and the determination during a regular Board meeting of the need to continue the action (Public Contract Code 22035, 22050)
5. Resolution to award a contract for a public works project at \$212,500 or less to the lowest responsible bidder, when the district is using the informal process authorized under the UPCCAA for projects of \$200,000 or less, all bids received are in excess of \$200,000, and the Board determines that the district's cost estimate was reasonable (Public Contract Code 22034)

Action Actions Requiring a Four-Fifths Vote of the Board Members Present at the Meeting

1. Approval ~~A four-fifths vote of the Board members present at the meeting shall be required to approve~~ the expenditure and transfer of necessary funds and use of district property or personnel to meet a national or local emergency created by war, military, naval, or air attack, or sabotage, or to provide for adequate national or local defense. (Government Code 53790-53792)

Actions Requiring a Unanimous Vote of the Board ~~Actions Requiring a Unanimous Vote of the Membership of the Board~~

1. Resolution authorizing and prescribing the terms of a lease of district property for extraction and taking of gas not associated with oil (Education Code 17510-, 17511)
2. Authorization of the use of day labor or force account, or waiver of the competitive bid process pursuant to Public Contract Code 20111, when the Board determines that an emergency exists requiring the repair, alteration, work, or improvement to any facility to permit the continuance of existing classes or to avoid danger to life or property, and upon approval of the County Superintendent of Schools (Public Contract Code 20113)

Action Actions Requiring a Unanimous Vote of the Board Members Present at the Meeting

1. Private sale of surplus property without advertisement in order to establish that such property is not worth more than \$2,500. Disposal of surplus property or donation to a charitable organization requires the unanimous vote of the Board members present to establish that the value of such property would not defray the cost of arranging its sale. (Education Code 17546)

Actions Required to Occur During a Regular Board Meeting

1. Termination of the Superintendent or an assistant superintendent without cause (Education Code 35150)
2. Discussion or action regarding the contract, salary, salary schedule, or other compensation of the Superintendent, assistant superintendent, or other management employee as described in Government Code 3511.1 (Government Code 54956)

Prohibitions on Certain Board Actions

CSBA NOTE: Pursuant to Education Code 35150, as added by SB 494 (Ch. 875, Statutes of 2023), the Board is prohibited from taking action to terminate the Superintendent or Assistant Superintendent as specified in the following paragraph.

1. Termination of the Superintendent or an assistant superintendent without cause within 30 days after the first convening of the Board after an election at which one or more Board members are elected or recalled (Education Code 35150)

CSBA NOTE: Pursuant to Government Code 54230.7, as added by SB 229 (Ch. 774, Statutes of 2023), districts disposing of surplus land that received a notification of violation from the Department of Housing and Community Development are required to hold an open and public meeting to review and consider the substance of the notice of violation and may not take final action to ratify or approve the proposed disposal until a public meeting is held.

2. When the District is disposing of surplus land and has received a notification from the Department of Housing and Community Development pursuant to Government Code 54230.5 with regard to the surplus land, final action to ratify or approve the proposed disposal of surplus land unless the district holds an open and public meeting in compliance with Government Code 54230.7 to review and consider the substance of the notice

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Exhibit 9323.2-E(1): Actions By The Board**Status:** ADOPTED**Original Adopted Date:** 10/01/2016 | **Last Revised Date:** 10/03/01/20202024 | **Last Reviewed Date:** 10/03/01/20202024**RESTRICTIONS ON BOARD ACTIONS REQUIRING A SUPER MAJORITY VOTE**

This exhibit is a non-exhaustive list of the Governing Board actions that require more than a majority vote as well as restrictions and prohibitions on when the Board may take certain actions. Other such actions may exist and may be identified in the future.

Actions Requiring a Two-Thirds Vote of the Membership of the Board

CSBA NOTE: The following exhibit lists some of the Governing Board actions that require more than a simple majority vote. Other such actions may exist and may be identified in the future. CSBA NOTE: For an action requiring a two-thirds vote to pass, a three-member governing board will need two board members to vote in favor of the item and a five-member board will need four board members to vote in favor of the item. For a seven-member board, five board members will constitute two-thirds of the board except, pursuant to Education Code 35165, if there are one or two vacancies, in which case four board members will constitute two-thirds of the board.

Actions Requiring a Two-Thirds Vote of the Board

CSBA NOTE: For an action requiring a two-thirds vote to pass, a three-member board will need two board members to vote in favor of the item, a five-member board will need four board members to vote in favor of the item, and a seven-member board will need five board members to vote in favor of the item.

1. Resolution declaring the ~~Governing Board's~~Board's intention to sell or lease real property (Education Code 17466)
2. Resolution declaring the ~~Board's~~Board's intent to convey or dedicate property to the state or any political subdivision for the purposes specified in Education Code 17556 (Education Code 17557)
3. Resolution authorizing and directing the Board president, or any other presiding officer, secretary, or member, to execute a deed of dedication or conveyance of property to the state or a political subdivision (Education Code 17559)
4. Lease, for up to three months, of school property which has a residence on it and which cannot be developed for district purposes because funds are unavailable (Education Code 17481)

CSBA NOTE: Item #5 below is different from temporary borrowing pursuant to Government Code 53850-53858, which requires only a simple majority vote of the Board.

5. Request for temporary borrowing of funds needed for immediate requirements of the district to pay district obligations incurred before the receipt of district income for the fiscal year sufficient to meet the payment(s) (Government Code 53821)
6. Upon complying with Government Code 65352.2 and Public Resources Code 21151.2, action to render city or county zoning ordinances inapplicable to a proposed use of the property by the district so long the proposed use of property is not for nonclassroom facilities (Government Code 53094)
7. When the district is organized to serve only grades K-8, action to establish a community day school for any of grades K-8 (Education Code 48660)
8. When the district is organized to serve only grades K-8, has an average daily attendance (ADA) of 2,500 or less, or desires to operate a community day school to serve any of grades K-6 (and no higher grades) and seeks to situate a community day school on an existing school site, certification that satisfactory alternative facilities are not available for a community day school (Education Code 48661)
9. ~~Resolution of intent~~ Decision to ~~issue~~ pursue the authorization and issuance of general obligation bonds ~~with the approval~~ pursuant to paragraph (3) of 55 percent subdivision (b) of Section 1 of Article XIII A of the voters California Constitution and subdivision (b) of Section 18 of Article XVI of the district California Constitution (Education Code 15266)
10. ~~Resolution of intent to issue bonds within a school facilities improvement district with the approval of 55 percent of the voters of the school facilities improvement district (Education Code 15266)~~
11. ~~Resolution to place a parcel tax on the ballot (Government Code 53724)~~

CSBA NOTE: Code of Civil Procedure 1245.240 requires that, prior to commencing an eminent domain action, the Board adopt a resolution of necessity approved by a two-thirds vote of the Board unless a greater vote is required by statute, charter, or ordinance. In addition, if the Board desires to use the property for a different purpose than stated in the resolution of necessity, then pursuant to Code of Civil Procedure 1245.245, the Board must adopt, by two-thirds vote, another resolution authorizing the different use unless a greater vote is required by statute, charter, or ordinance.

10. Resolution of necessity to proceed with an eminent domain action and, if the Board subsequently desires to use the property for a different use than stated in the resolution of necessity, a subsequent resolution so authorizing the different use (Code of Civil Procedure 1245.240, 1245.245)

CSBA NOTE: Item #~~13~~11 is for use by districts governed by a three-member board that have elected to use an alternative procedure for awarding contracts for public works projects pursuant to the Uniform Public Construction Cost Accounting Act (UPCCAA) (Public Contract Code 22000-22045), which establishes a higher bid limit and a more informal bidding process for certain projects. For further information, see BP 3311.1 - Uniform Public Construction Cost Accounting Procedures. Districts with a five- or seven-member board should delete Item #11 below. See Item #4 in the section "Actions Requiring a Four-Fifths Vote of the Board" below for the corresponding language for a district with a five- or seven-member board.

11. When the district has a three-member Board and has adopted the procedures set forth in the Uniform Public Construction Cost Accounting Act (UPCCAA), action to respond to an emergency facilities condition without giving notice for bids to ~~let~~award contracts, including the repair or replacement of district facilities, the taking of any other action that is directly related to and immediately required by that emergency, the procurement of the necessary equipment, services, and supplies for those purposes, the delegation of authority to the Superintendent or designee to take such action, and the determination during a regular Board meeting of the need to continue the action (Public Contract Code 22035, 22050)

Actions Requiring a Two-Thirds Vote of the Board Members Present at the Meeting

1. Determination that there is a need to take immediate action and that the need for action came to the district's attention after the posting of the agenda. If less than two-thirds of the Board members are present at the meeting, a unanimous vote of all members present is required. (Government Code 54954.2)
2. Determination that a closed session is necessary during an emergency meeting. If less than two-thirds of the Board members are present, a unanimous vote of all members present is required. (Government Code 54956.5)

Actions Requiring a Four-Fifths Vote of the Membership of the Board

CSBA NOTE: For an action requiring a four-fifths vote to pass, a three-member board will need a unanimous vote in favor of the item; and a five-member board will need four board members to vote in favor of the item; and. For a seven-member board will need, six board members to vote in favor will constitute fourth-fifths of the item board except, pursuant to Government Code 35165, if there is one or two vacancies, in which case five or four board members, respectively, will constitute fourth-fifths of the board.

Items #1 and #2 below are different from borrowing pursuant to Government Code 53850-53858, which requires only a simple majority vote of the Board.

1. Resolution for district borrowing based on issuance of notes, tax anticipation warrants, or other evidences of indebtedness, in an amount up to 50 percent of the district's estimated income and revenue for the fiscal year or the portion not yet collected at the time of the borrowing (Government Code 53822, 53824)
2. Resolution for district borrowing, between July 15 and August 30 of any fiscal year, of up to 25 percent of the estimated income and revenue to be received by the district during that fiscal year from apportionments based on ADA for the preceding school year (Government Code 53823-, 53824)
3. Declaration of an emergency in order to authorize the district to include a particular brand name or product in a bid specification (Public Contract Code 3400)

CSBA NOTE: Item #4 is for use by districts governed by a five-member or seven-member board. Districts with a three -member board should delete Item #4 below. See Item #11 in Section "Actions Requiring a Two-Thirds Vote of the Membership of the Board" above for the corresponding language for a district with a three-member board.

Items #4-5 are for use by districts that have elected to use an alternative procedure for awarding contracts for public works projects pursuant to the UPCCAA. For further information, see BP 3311.1 - Uniform Public Construction Cost Accounting Procedures.

4. When the district has a five-member or seven-member Board and has adopted the procedures set forth in UPCCAA, action to respond to an emergency facilities condition without giving notice for bids to ~~let~~ award contracts, including the repair or replacement of district facilities, the taking of any other action that is directly related to and immediately required by that emergency, the procurement of the necessary equipment, services, and supplies for those purposes, the delegation of authority to the Superintendent or designee to take such action, and the determination during a regular Board meeting of the need to continue the action (Public Contract Code 22035, 22050)
5. Resolution to award a contract for a public works project at \$212,500 or less to the lowest responsible bidder, when the district is using the informal process authorized under the UPCCAA for projects of \$200,000 or less, all bids received are in excess of \$200,000, and the Board determines that the district's cost estimate was reasonable (Public Contract Code 22034)

~~Action~~ **Actions Requiring a Four-Fifths Vote of the Board Members Present at the Meeting**

1. Approval ~~A four-fifths vote of the Board members present at the meeting shall be required to approve the expenditure and transfer of necessary funds and use of district property or personnel to meet a national or local emergency created by war, military, naval, or air attack, or sabotage, or to provide for adequate national or local defense-~~ (Government Code 53790-53792)

~~Actions Requiring a Unanimous Vote of the Board~~ **Actions Requiring a Unanimous Vote of the Membership of the Board**

1. Resolution authorizing and prescribing the terms of a lease of district property for extraction and taking of gas not associated with oil (Education Code 17510-, 17511)
2. Authorization of the use of day labor or force account, or waiver of the competitive bid process pursuant to Public Contract Code 20111, when the Board determines that an emergency exists requiring the repair, alteration, work, or improvement to any facility to permit the continuance of existing classes or to avoid danger to life or property, and upon approval of the County Superintendent of Schools (Public Contract Code 20113)

~~Action~~ **Actions Requiring a Unanimous Vote of the Board Members Present at the Meeting**

1. Private sale of surplus property without advertisement in order to establish that such property is not worth more than \$2,500. Disposal of surplus property or donation to a charitable organization requires the unanimous vote of the Board members present to establish that the value of such property would not defray the cost of arranging its sale. (Education Code 17546)

Actions Required to Occur During a Regular Board Meeting

1. Termination of the Superintendent or an assistant superintendent without cause (Education Code 35150)

2. Discussion or action regarding the contract, salary, salary schedule, or other compensation of the Superintendent, assistant superintendent, or other management employee as described in Government Code 3511.1 (Government Code 54956)

Prohibitions on Certain Board Actions

CSBA NOTE: Pursuant to Education Code 35150, as added by SB 494 (Ch. 875, Statutes of 2023), the Board is prohibited from taking action to terminate the Superintendent or Assistant Superintendent as specified in the following paragraph.

1. Termination of the Superintendent or an assistant superintendent without cause within 30 days after the first convening of the Board after an election at which one or more Board members are elected or recalled (Education Code 35150)

CSBA NOTE: Pursuant to Government Code 54230.7, as added by SB 229 (Ch. 774, Statutes of 2023), districts disposing of surplus land that received a notification of violation from the Department of Housing and Community Development are required to hold an open and public meeting to review and consider the substance of the notice of violation and may not take final action to ratify or approve the proposed disposal until a public meeting is held.

2. When the District is disposing of surplus land and has received a notification from the Department of Housing and Community Development pursuant to Government Code 54230.5 with regard to the surplus land, final action to ratify or approve the proposed disposal of surplus land unless the district holds an open and public meeting in compliance with Government Code 54230.7 to review and consider the substance of the notice

Policy Reference UPDATE Service

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Policy Reference Disclaimer:

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

State	Description
Code of Civil Procedure 1245.240	Eminent domain vote requirements
Code of Civil Procedure 1245.245	Eminent domain; resolution adopting different use
Code of Civil Procedure 425.16	Special motion to strike in connection with a public issue
Ed. Code 15266	School construction bonds
Ed. Code 17466	Declaration of intent to sell or lease real property
Ed. Code 17481	Lease of property with residence for nondistrict purposes

Ed. Code 17510-17512	Leasing for production of gas; resolution requiring unanimous vote
Ed. Code 17546	Private sale of personal property
Ed. Code 17556-17561	Dedication of real property
Ed. Code 35140-35149	Meetings
<u>Ed. Code 35150</u>	<u>Prohibition to terminate superintendent or assistant superintendent at specified meetings or times</u>
Ed. Code 35160-35178.4	Powers and duties
Ed. Code 48660-48661	Community day schools; establishment and restrictions
Gov. Code 53090-53097.5	Regulation of local agencies by counties and cities
Gov. Code 53724	Parcel tax resolution requirements
Gov. Code 53790-53792	Exceeding the budget
Gov. Code 53820-53833	Temporary borrowing
Gov. Code 53850-53858	Temporary borrowing
<u>Gov. Code 54230.5</u>	<u>Disposal of surplus land and receipt of notice of violation</u>
<u>Gov. Code 54230.7</u>	<u>Disposal of surplus land and receipt of notice of violation</u>
Gov. Code 54950-54963	The Ralph M. Brown Act
Gov. Code 54952.6	Action taken; definition
Gov. Code 54953	Meetings to be open and public; attendance
Gov. Code 54960-54960.5	Actions to prevent violations
Gov. Code 65352.2	Communicating and coordinating of school sites
Pub. Cont. Code 20110-20118.44	School district contracts
Pub. Cont. Code 20113	Emergencies; award of contracts without bids
Pub. Cont. Code 20114	Repairs, maintenance, and improvements to district facilities by day labor or force account
Pub. Cont. Code 22034	Uniform Public Construction Cost Accounting Act informal bidding ordinance
Pub. Cont. Code 22035	Repair or replacement of facilities in case of emergency
Pub. Cont. Code 22050	Emergency contracting procedures
Pub. Cont. Code 3400	Bid specifications
Management Resources	Description
Attorney General Publication	The Brown Act: Open Meetings for Legislative Bodies, rev. 2003

Court Decision	Bell v. Vista Unified School District (2002) 82 Cal.App.4th 672
Court Decision	Boyle v. City of Redondo Beach (1999) 70 Cal.App.4th 1109
Court Decision	Los Angeles Times Communications LLC v. Los Angeles County Board of Supervisors (2003) 112 Cal.App.4th 1313
Court Decision	McKee v. Orange Unified School District (2003) 110 Cal.App.4th 1310
CSBA Publication	The Brown Act: School Boards and Open Meeting Laws, rev. 2019
League of California Cities Publication	Open and Public IV: A Guide to the Ralph M. Brown Act 2nd Edition, rev. July 2010
Website	CSBA District and County Office of Education Legal Services
Website	Institute for Local Government
Website	California Office of the Attorney General
Website	CSBA

Cross References

Code	Description
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
3280	Sale Or Lease Of District-Owned Real Property
3280	Sale Or Lease Of District-Owned Real Property
3311	Bids
3311	Bids
3311.1	Uniform Public Construction Cost Accounting Procedures
3311.1	Uniform Public Construction Cost Accounting Procedures
3471	Parcel Taxes
6185	Community Day School
6185	Community Day School
7131	Relations With Local Agencies
7150	Site Selection And Development

7150	Site Selection And Development
7160	Charter School Facilities
7160	Charter School Facilities
7213	School Facilities Improvement Districts
7214	General Obligation Bonds
7214	General Obligation Bonds
9000	Role Of The Board
9005	Governance Standards
9012	Board Member Electronic Communications
9150	Student Board Members
9200	Limits Of Board Member Authority
9223	Filling Vacancies
9310	Board Policies
9320	Meetings And Notices
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session
9322	Agenda/Meeting Materials
9323	Meeting Conduct
9324	Minutes And Recordings

Exhibit 9323.2-E(2): Actions By The Board

Status: ADOPTED

Original Adopted Date: 11/01/2012 | **Last Revised Date:** 03/01/2019 | **Last Reviewed Date:** 03/01/2019

UNCONDITIONAL COMMITMENT LETTER

CSBA NOTE: Government Code 54960 authorizes the district attorney or other interested person to file an action in court to determine the applicability of the Ralph M. Brown Act to any past Governing Board action which is not specified in Government Code 54960.1; see the accompanying board bylaw. Pursuant to Government Code 54960.2, prior to commencing such an action the district attorney or other interested person must send a cease and desist letter to the Board within nine months of the alleged violation. Within 30 days of receiving the cease and desist letter, the Board may respond by sending an unconditional commitment, substantially in the same form provided in Government Code 54960.2, to desist from repeating the past action. If the Board so responds, the district attorney or other interested person may not file an action in court. The following exhibit presents a sample unconditional commitment letter.

To: (Name of district attorney or any interested person)

The Governing Board of (name of school district) has received your cease and desist letter dated (date) alleging that the following past action taken by the Board violates the Ralph M. Brown Act: (Describe alleged past action as set forth in the cease and desist letter.)

In order to avoid unnecessary litigation and without admitting any violation of the Ralph M. Brown Act, the Board hereby unconditionally commits that it will cease, desist from, and not repeat the challenged past action described above. The Board may rescind this commitment only by a majority vote of its membership taken in open session at a regular meeting and noticed on its posted agenda as "Rescission of Brown Act Commitment." You will be provided with written notice, sent by any means or media you provide in response to this message, to whatever address(es) you specify, of any intention to consider rescinding this commitment at least 30 days before any such regular meeting. In the event that this commitment is rescinded, a notice will be delivered to you by the same means as this commitment, or by mail to an address that you have designated in writing, and you will have the right to commence legal action pursuant to Government Code 54960(a).

Sincerely,

(Name)

(Title of Board President or other designee)

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Board Policy Manual | Policy 0415: Equity

Original Adopted Date: 09/12/2019 | Last Reviewed Date: 09/12/2019

Status: ADOPTED

The ~~Board of Trustees~~~~Governing Board~~ believes that the diversity that exists among the district's community of students, staff, parents/guardians, and community members is integral to the district's vision, mission, and goals. Addressing the needs of the most ~~marginalized~~ learners requires recognition of the inherent value of diversity and acknowledgement that educational excellence requires a commitment to equity in the opportunities provided to students and the resulting outcomes.

Commented [1]: maybe another word, this is deficit language

In order to ~~remove~~ ~~eradicate~~ ~~institutional~~ bias of any kind within our schools, including implicit or unintentional biases and prejudices that affect student achievement, and to eliminate disparities in educational outcomes for students from historically underserved and underrepresented populations, the district shall proactively identify class and cultural biases as well as practices, policies, and institutional barriers that negatively influence student learning, perpetuate achievement gaps, and impede equal access to opportunities for all students.

By fostering an inclusive and equitable learning environment for students of diverse backgrounds, the District will be better ~~be~~ equipped to navigate cultural differences, dismantle biases, and create a learning environment where all students know they are valued and supported.

The Board of Trustees shall make decisions with a deliberate awareness of impediments to learning faced by students of color and/or diverse cultural, linguistic, or socio-economic backgrounds. To ensure that equity is the intentional result of district decisions, the Board shall consider whether its decisions address the needs of students from racial, ethnic, and indigent communities and remedy the inequities that such communities experienced in the context of a history of exclusion, discrimination, and segregation. Board decisions shall not rely on biased or stereotypical assumptions about any particular group of students.

The Board of Trustees and the Superintendent or designee shall develop and implement policies and administrative regulations that~~strategies to~~ promote equity in district programs and activities, through measures such as the following:

1. Routinely assessing student needs based on data disaggregated by race, ethnicity, and socio-economic and cultural backgrounds in order to enable equity-focused policy, planning, and resource development decisions
2. Analyzing expenditures and allocating financial and human resources in a manner that provides all students with equitable access to district programs,

Commented [2]: Embed LCAP language and process into this bullet?

support services, and opportunities for success and promotes equity and inclusion in the district. Such resources include access to high-quality administrators, teachers, and other school personnel; funding; technology, equipment, textbooks, and other instructional materials; facilities; and community resources or partnerships.

3. Enabling and encouraging students to enroll in, participate in, and complete curricular and extracurricular courses, advanced college preparation programs, and other student activities
4. Building a positive school climate that promotes student engagement, places a high priority on safety, and fosters current and relevant academic and other supports for students
5. Adopting curriculum and instructional materials that accurately reflect the diversity among the Districts student populationgroups
6. Providing and/or collaborating with local agencies and community groups to ensure the availability of necessary support services for students in-need
7. Promoting the employment and retention of a diverse staff that reflects the student demographics of our the-community
8. Providing district staff with ongoing, researched-based, professional learning and professional development on culturally responsive instructional practices
9. Conducting program evaluations that focus on equity and address the academic outcomes and performance of all students on all indicators

The Board of Trustees shall regularly monitor the intent and impact of District policies and practicesdecisions in order to safeguard against disproportionate or unintentional impact on access to district programs and achievement goals for specific student populations in need of services.

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|---|--|
| <input type="checkbox"/> Student Learning and Achievement | <input type="checkbox"/> Consent |
| <input type="checkbox"/> Health and Safety of Students and Schools | <input type="checkbox"/> Action/Discussion |
| <input type="checkbox"/> Credibility and Communication | <input checked="" type="checkbox"/> Information/Discussion |
| <input checked="" type="checkbox"/> Fiscal Solvency, Accountability and Integrity | <input type="checkbox"/> Public Hearing |

SUBJECT: 2024-25 Prequalified Vendors List

DATE: May 9, 2024

PERSON(S) RESPONSIBLE: Joshua Jorn, Assistant Superintendent Business Services

RECOMMENDATION:

The District Administration recommends that the Board review the attached list of PGUSD prequalified vendors for the 2024-25 fiscal year.

BACKGROUND:

The District regularly grants contracts to vendors through consent and action procedures outlined in the Board Agenda. To streamline the process and minimize the number of small contracts presented to the Board, as well as to establish a prequalified vendor system, staff have devised the attached vendor list for the 2024-25 period, which requires Board review and approval.

Highlighted vendors on the list include those with existing annual contracts with the District, those who regularly update their employee staffing for fingerprinting purposes, and those with whom PGUSD has a well-established relationship at our school sites.

The primary goal of the prequalification list is to simplify paperwork associated with minor contracts for the school sites.

FISCAL IMPACT:

No Fiscal impact.

2024/25 PGUSD APPROVED VENDOR LIST

Mtg Date	Vendor	Site	Notes
4/20/2023	National Lacrosse Referees Association	HS	Lacrosse Referee Services
4/20/2023	Agile Technologies (HUDL)	HS	filming of sports teams to strategize team play
4/20/2023	Josten's Inc	HS	Yearbook services
4/20/2023	Adriana San Millan Psychology & Special Education Services, LLC	DO-Stu Svc.	independent education evaluations per IDEA
4/20/2023	Monterey Children's Therapy LLC	DO-Stu Svc.	therapy assessments
5/4/2023	Shake it Up Bartending Services	HS	food/beverage vendor (school dances)
5/4/2023	WAVE Lease Agreement	DO-Bus Svc	facility use agreement
5/4/2023	David Sonderegger	DO-Bus Svc	E-Rate filing services
5/4/2023	Monterey Bay Face Painting	FG/RHD	PTA events-entertainment
5/4/2023	MTH Photo Booth	FG/RHD	PTA events-entertainment
5/4/2023	Monterey Bay Equestrian Center	FG	PTA events-entertainment (petting zoo)
5/4/2023	City of Pacific Grove SRO Contract	DO-Bus Svc	SRO
5/18/2023	Peninsula Sports	MS	Referee Scheduling for Sports
5/18/2023	Premier Studios	MS	photography services
5/18/2023	Parchment Services	HS	digital student transcript services
5/18/2023	MOU-North Monterey County Unified	DO-Bus Svc	MOU for independent study program
5/18/2023	MOU with City of PG for ELOP Summer Camp	DO-Bus Svc	MOU for ELOP program
5/18/2023	ASL Works Interpretation	DO-Curr.	sign language interpreter services
5/18/2023	Laura Keen, Sign Language Interpreter	DO-Curr.	sign language interpreter services
5/18/2023	Document Tracking Services (DTS)	DO-Curr.	document tracking services & translation
5/18/2023	FAST Translation Services	DO-Curr. / Stu. Svc	translation services for in person and virtual meetings/phone calls
5/18/2023	Language Line	DO-Curr.	translation services for in person and virtual meetings/phone calls
5/18/2023	MCOE Agreement for ROP program	DO-Stu Svc.	ROP program
5/18/2023	MOU with Carmel USD	DO-Stu Svc.	for placement of students with disabilities/IEP
5/18/2023	SNS Interpreting	DO-Stu Svc.	sign language interpreter services
5/18/2023	Lozano Smith	DO-Bus Svc	legal services
6/1/2023	Jose del Rio	HS	Athletic trainer at PGHS
6/1/2023	eSpark	DO-Curr.	student learning
6/1/2023	IXL	DO-Curr.	student learning
6/1/2023	MOU with Monterey Bay Swim	DO-Bus Svc	MOU for facility use
6/1/2023	The Bay School	DO-Stu Svc.	student services
6/1/2023	Medical Billing Technologies	DO-Stu Svc.	student services; MediCal
8/3/2023	Beem Video & Photography	MS	Video MS musicals
8/3/2023	Ben Katz Photography	MS	MS Student/Staff photos
8/3/2023	Dan Deegan	MS	Set Design for MS productions
8/3/2023	MCOE	MS	Staff Training for Implementing Equitable Grading in the classroom
8/3/2023	Valerie Rhoades	MS	Costume Design for MS productions
8/3/2023	CSBA	DO-Bus Svc	PGUSD Annual membership
8/3/2023	CDBA GAMUT	DO-Bus Svc	PGUSD Annual membership for online services and GAMUT policy plus
8/3/2023	Schoolworks	DO-Bus Svc	2022 Developer Fee Justification Services
8/3/2023	Gateway Center of Monterey County	Adult Ed	MOU between Adult Ed for services
8/3/2023	Southern Bleacher	DO-Facilities	CUPCCA
8/3/2023	Waxie Sanitary Supply	DO-Facilities	Districtwide Sanitary Supplies
8/3/2023	Positive Behavior Supports Corp	DO-Stu Svc.	Districtwide contract-student services
8/3/2023	Santa Clara Office of Ed	MS	MS restorative conversations staff training
8/3/2023	Positive Coaching Alliance	DO-Curr.	registered Behavior Techs and behavior analysts
8/3/2023	Newsela Inc	DO-Curr.	providing licenses and conducting teacher training for the program
8/17/2023	Fusion Global Academy	DO-Stu Svc.	tuition for student settlement agreement
8/17/2023	Monterey County Behavioral Health (MCBH)	DO-Stu Svc.	SELPA mental health services
8/17/2023	Dan Marquez (DJ Dan Uticia)	HS	DJ for School dances
8/17/2023	Nicholas Gonzalez	HS	HS Basketball conditioning
8/17/2023	Docusign	DO-Bus Svc	annual subscription
8/17/2023	Tacos Don Beto	RHD, MS	PTA Events-Food truck
8/17/2023	Bratwurst USA	RHD, MS, FG	PTA Events-Food truck
8/17/2023	Positive Coaching Alliance	DO-Curr.	
9/7/2023	Kona Ice	RHD, FG	PTA Events-Food truck
9/7/2023	Play-Well TEKologies	DO-Curr.	ASE STEM Lego Class
9/7/2023	Chartwell School, Non-Public School	DO-Stu Svc.	tuition for student settlement agreement
10/5/2023	Miss Party Mama	RHD	PTA Events-Party Rentals
10/5/2023	Poptopia	RHD	PTA Events-Party Rentals
10/5/2023	Gram Photo Booth	RHD	PTA Events-Party Rentals
10/5/2023	MM Jumpers and Party Rentals	RHD	PTA Events-Party Rentals
10/5/2023	Gavin Hunter	HS	Lifeguard for HS events
11/2/2023	Herff Jones	MS	Yearbook printing
11/2/2023	Santa Cruz Office of Education	MS	6th Grade Outdoor Science School
11/16/2023	Plimoth Patuxet	FG/RHD	Virtual Presentations for classes
11/16/2023	National Coalition Building Institute-Monterey Chapter	DO-Curr.	cultural proficiency professional development sessions
11/16/2023	Leadership Associates	DO-Superintendent	executive advisement to Superintendent
12/7/2023	Bryan Gage	DO-Facilities	MS Gym Mural
12/7/2023	Kim Kasner	DO-Facilities	FG Storage Container Mural
12/7/2023	Dale Scott & Company (DS&C)	DO-Bus Svc	Financial Advisory Services FY 23/24-27/28
12/14/2023	Robert Half Inc.	DO-HR	Recruitment services/temp employees
12/14/2023	Psyched Services	DO-Stu Svc.	psychoeducational evaluations required by IDEA
12/14/2023	Entrevision	Adult Ed	marketing services for Monterey Adult Ed Consortium
12/14/2023	Sandy Hook Promise	DO-Bus Svc	Say Something Anonymous Reporting Tool MOU
1/11/2024	California College Guidance Initiative	HS	college preparedness support
1/11/2024	EL Education	DO-Curr.	professional development services to ESL pilot team
1/11/2024	ABM Building Solution LLC	DO-Bus Svc	facilities improvements
1/25/2024	Steve Vaden	CHS	Welder consultant
1/25/2024	Mearth	HS	garden collaboration
2/8/2024	Positive Behavior Supports Corp	DO-Stu Svc.	student services

2024/25 PGUSD APPROVED VENDOR LIST

Mtg Date	Vendor	Site	Notes
2/8/2024	DJ Upshaw	HS	DJ for school dances
2/8/2024	Top Youth Speakers	HS	speaker for HS students
2/8/2024	Jill Trahan	HS	choreographer for student plays
2/8/2024	Center for Developing Minds	DO-Curr.	parent education class
2/8/2024	Monterey County Workforce Development Board	Adult Ed	garden project at Adult School
2/8/2024	MOU with Monterey Peninsula Soccer	DO-Bus Svc	MOU for facility use
3/7/2024	Leadership Associates LLC	DO-Superintendent	executive coaching and mentorship for the Superintendent
3/7/2024	Ann Jealous & Caroline Haskell	Adult Ed	cultural proficiency classes for District
3/7/2024	OHANA Prevention Services Collaboration	MS	mental health support services
3/21/2024	Office of Administrative Hearings	DO-HR	assistance with hearings, medications and dispute resolution
4/4/2024	Monterey County Behavioral Health (MCBH) MOU	DO-Stu Svc.	MOU between County of Monterey Behavioral Health & SELPA
4/4/2024	Peninsula Messenger	DO-Bus Svc	Delivery services
4/4/2024	Uretsky Investigation Security	DO-Bus Svc	residency investigations
4/4/2024	David Sonderegger	DO-IT	E-rate filing services
4/4/2024	DJ John Upshaw	MS/ HS	DJ for school events/dances
4/4/2024	MY Museum Wheelie Mobile	RHD	educational vendor promoting STEM focused exhibits for school events
4/4/2024	Carmen Ferguson-Heartbank Deposits Photography	MS	school photography for events/dances
4/4/2024	Santa Cruz Beach & Boardwalk	MS	end of year Field Trips
4/4/2024	Paul Contos	MS	adjudicator at PGMS Music Festival
4/4/2024	Robert Klevan	MS	adjudicator at PGMS Music Festival
4/4/2024	Don Betos Taco Truck	all	food truck for school/PTA events
4/18/2024	Agreement Between University of Massachusetts Global	DO-HR	HR recruitment
4/18/2024	Agreement Between California State University	DO-HR	HR recruitment
4/18/2024	Psyched Services	DO-Stu Svc.	psychoeducational Evaluations required by IDEA
4/18/2024	Qualtrics (Isobar Inc)	DO-Superintendent	design individualized dashboards for PGUSD website
4/18/2024	Law Firm of Atkinson, Andelson, Loya, Ruud & Romo	DO-Superintendent	legal counsel

- | | |
|---|--|
| <input type="checkbox"/> Student Learning and Achievement | <input type="checkbox"/> Consent |
| <input type="checkbox"/> Health and Safety of Students and Schools | <input type="checkbox"/> Action/Discussion |
| <input checked="" type="checkbox"/> Credibility and Communication | <input checked="" type="checkbox"/> Information/Discussion |
| <input checked="" type="checkbox"/> Fiscal Solvency, Accountability and Integrity | <input type="checkbox"/> Public Hearing |

SUBJECT: Update on PGUSD Threat and Risk Assessment Board Study Session

DATE: May 9, 2024

PERSON(S) RESPONSIBLE: Joshua Jorn, Assistant Superintendent Business

RECOMMENDATION:

The District Administration recommends the Board review and consider the following information on school safety assessment as presented by staff.

BACKGROUND:

As part of the District's long term plan to develop safer and healthier school environments, PGUSD contracted with M.C. Kimball and Associates for a districtwide Site Safety and Security Threat Vulnerability Risk Assessment for the 2023-24 school year.

The districtwide Site Safety and Security Threat Vulnerability Risk Assessment generated top 5 concerns that came with recommendations to address.

INFORMATION:

The Administration recommends the Board discuss the proposed fiscal impact of the expenditures as identified in the Threat and Risk Assessment previously presented by MC Kimball and Associates at the April 4, 2024 Board Meeting.

FISCAL IMPACT:

Fiscal impact is pending the Board's direction on priorities

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Top 3 District Concerns

(as noted in Assessment and Family/Staff/Community Surveys)

1. **Visitor Access Management and Controls** – **Raptor Estimated \$33,340 Implementation, Training and Setup and \$23,786/year ongoing**
 - a. District can screen visitors against sex offender registries (Megan's law) and other databases of known threats and get results before allowing guest on site
 - b. Send real-time alerts to staff members if a visitor flags against a sex offender registry or another database of known threats
 - c. Easy for both visitors and school staff
 - d. Create badges or stickers with their name, photo, date and other information
 - e. Check-in/out process must be quick and efficient
 - f. Able to accommodate different types of visitors, such as parents, volunteers, and contractors
 - g. Generate reports on visitor activity
 - h. Standing kiosks and mobile check-in/out systems at all sites

2. **Enhanced Training for Staff** – **Estimated \$35,500 year 1 (asynchronous only), \$73,360 year 2, (site specific training and tabletops all district), and \$10,000 ongoing for updates and refresher courses (where to fund?)**
 - a. **ICS 100, 200, 200** free with Keenan but District must pay hourly rate for staff training as this would be in excess of the certificated PD Day. All staff Districtwide would be trained by the end of FY 2024/25
 - b. **ICS 300, 400, 700, and 800** all Admin annually
 - c. **Campus Supervisors Annual Training** - \$19,500
 - d. **Active Intruder Training** – year 1 and then roll into annual professional development planning day - \$8,000 (300 staff online only) plus \$11,800 (on site with up to 50 staff)
 - e. **Multi-Disciplinary Behavior Threat and Risk Assessment Training** – year 1 mandated training, and then continued refresher courses ongoing \$8,000 (online up to 300 staff) plus \$12,900 (on site with up to 100 staff)

3. **Streamline Communications between PGUSD and Community** – **No cost**
 - a. Standardize communications practices to community include:
 - i. Initial and immediate response to incidents
 - ii. Follow up response to incident when further details are available

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- iii. After Action Report to community following PGUSD and PGPD review
- b. Update communications platform to students
 - i. Initial and immediate information to students on campus through public address systems
 - ii. Video update from Superintendent and SRO

Top 5 Site Specific Concerns

(as noted in the Assessment and Family/Staff/Community Surveys)

Forest Grove Elementary School

1. Perimeter controls addressed with visitor management solutions – ***included in Districtwide totals***
2. Update fencing at perimeter south border of campus - ***\$35,000***
3. Emergency Power Backup solution to include dedicated portable generator power for Office Operations - ***\$5,000***
4. Expanded Deployment of Site Radios – ***One time cost of \$18,000 (handhelds in all classrooms, new repeater and training) PLUS \$5,000 (per site budget annually) for batteries, base stations etc.***
5. Additional Campus Supervisor - ***\$63,525 (1.0 FTE)***

Robert Down Elementary School

1. Perimeter controls addressed with visitor management solutions – ***included in Districtwide totals***
2. Main Doors Buzzer System w/ Camera - ***\$3,500***
3. Expansion of camera coverage with monitoring - ***\$45,000 hardware and \$2,000/month or \$24,000/year for real time monitoring (per site cost)***
4. Additional Campus Supervisor - ***\$63,525 (1.0 FTE)***
5. Spruce Ave barriers to include removable bollards - ***\$10,000***
6. Expanded Deployment of Site Radios – ***One time cost of \$18,000 (handhelds in all classrooms, new repeater and training) PLUS \$5,000 (per site budget annually) for batteries, base stations etc.***
7. Training addressed in districtwide totals

Pacific Grove Middle School

1. Perimeter controls addressed with visitor management solutions – ***included in Districtwide totals***
2. 2nd Floor Alternative Evacuation Routes professional services to review and plan (not for project implementation costs) - ***\$5,000***

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3. Anti-Collision Bollards and Fencing - ***\$215,000 anti-scale black fencing perimeter of campus, and \$46,000 bollards and other vehicle barriers at strategic locations on Forest Ave.***
4. Additional Campus Supervisor - ***\$63,525 (1.0 FTE)***
5. Expanded Deployment of Site Radios – ***One time cost of \$21,000 (handhelds in all classrooms, new repeater and training) PLUS \$5,000 (per site budget annually) for batteries, base stations etc.***
6. Training addressed in districtwide totals

Pacific Grove High School

1. Perimeter controls addressed with visitor management solutions – ***included in Districtwide totals***
2. Improved signage already underway – ***no additional cost***
3. Anti-Collision Bollards and Fencing - ***\$385,000 anti-scale black fencing for the entire perimeter of campus (to include drive gates etc.), OR rear campus fencing only \$45,000.***
4. Expanded Deployment of Site Radios – ***One time cost of \$23,000 (handhelds in all classrooms, new repeater and training) PLUS \$6,000 (per site budget annually) for batteries, base stations etc.***
5. Training addressed in districtwide totals

Pacific Grove Community High School

1. Perimeter controls addressed with visitor management solutions – ***included in Districtwide totals***
2. Updated Locks and Controls – ***no cost, already part of districtwide planning***
3. Expanded Deployment of Site Radios – ***One time cost of \$3,000 (handhelds in all classrooms, new repeater and training) PLUS \$800 (per site budget annually) for batteries, base stations etc.***
4. Training addressed in districtwide totals

Pacific Grove Adult School and Preschools

1. Perimeter controls addressed with visitor management solutions – ***included in Districtwide totals***
2. Updated Locks and Controls – ***no cost, already part of districtwide planning***

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3. Anti-Collision Bollards and Fencing - ***\$145,000 chain link fencing perimeter of campus and preschool, and \$26,000 bollards and other vehicle barriers at strategic drive locations.***
4. Expanded Deployment of Site Radios – ***One time cost of \$11,000 (handhelds in all classrooms, new repeater and training) PLUS \$3300 (per site budget annually) for batteries, base stations etc.***
5. Training addressed in districtwide totals

Overall Cost Breakdown

Facilities

One Time Facility Costs 2024/25 (Low Estimates) – \$796,415
(all projects listed above with lower add-alt)

One Time Facility Costs 2024/24 (High Estimates) – \$1,136,450
(all projects listed above with higher add-alt)

Annual Ongoing Costs Unrestricted General Fund - \$235,461
(proposed new FTE's, and annual cost for radios, and visitor management systems)

+ Training Costs

Districtwide Year 1 - \$75,000

Districtwide Year 2 - \$25,000

Districtwide ongoing - \$18,000

= TOTALS (Training + FTE + Projects):

Districtwide Year 1 (Low Estimates) - \$885,236

Districtwide Year 1 (High Estimates) - \$1,222,236

Districtwide ongoing - \$239,657

Trustee Considerations

1. Funding ongoing costs through elimination of Fund 14/Fund 40 General Fund Transfers
 - a. The General Fund would have to absorb the 3.0 FTE for Campus Supervisors at FGE, RHD and PGMS
2. Funding one-time costs through Measure D, Series C which will reduce the Measure D, Series C Project List significantly
3. Multi-year approach in lieu of an “all at once approach”

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4. Barriers considerations - District will need a camera analytics proposal in lieu of barriers such as fencing