

wearing of union buttons that support the union's position in collective bargaining.

Employees shall not be prohibited from wearing union buttons or other items 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 supervisory employees may be recognized if the bargaining unit includes all supervisory employees and is not represented by an 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 and confidential employees, as defined in Government Code 3540.1, are excluded from the right to be represented in negotiations by an employee organization. PERB ultimately determines, based upon the duties of the position, which positions qualify as "management" or "confidential" and thus are excluded from bargaining.

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 may represent themselves or be represented by an employee organization whose membership is composed entirely of employees designated as holding those positions. An employee organization representing management or confidential employees shall not be permitted to meet and negotiate with the district on behalf of the employees. (Government Code 3543.4)

*Management employee* means ~~any~~an employee ~~who has~~in a position having significant responsibilities for formulating district policies or administering district programs; ~~and whose position is,~~ Management positions shall be designated as a management position 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)

CSBA NOTE: The remainder of this section is optional. 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~~ CSBA's District and County Office of Education Legal Services or the ~~district's~~ 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 ~~under the law.~~ 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 to multiple employees any mass communication concerning employees' ~~right to join or support an employee organization or to refrain from joining or supporting an employee organization~~ rights under the law, such as a written document or script for oral or recorded presentation or message, the Superintendent or designee shall meet and confer with the employees' exclusive representative regarding the content of the communication. If the district and exclusive representative do not come to agreement on the content of the mass communication, the Superintendent or designee may disseminate the district's mass communication, provided that at the same time, copies of the exclusive representative's communication, which shall be of reasonable length, are also distributed. (Government Code 3553)

### **Access to New Employee Orientations**

The district shall permit employee organizations access to new employee orientation or onboarding process where newly hired employees 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 at least 10 days' notice in advance of an orientation, except that a shorter notice may be provided if an unforeseeable, urgent need critical to the district's operation prevents the required 10 days' notice. (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 access to the new employee orientation shall be subject to compulsory interest arbitration. The district and employee organization 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 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, the district shall ensure the following: (Government Code 3556)

1. When an inperson new employee orientation has not been conducted within 30 days of hiring any new employee who is working in person, the Superintendent or designee shall permit the exclusive representative to schedule an inperson 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.

Upon the request of an exclusive representative scheduling, 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 shall provide an appropriate on-site meeting space within seven days of receiving the exclusive representative's request.

2. When, by reason of a state or local public health order limiting the size of gatherings, the district is prohibited from organizing a new employee orientation, an 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.

#### Access to Employee Contact Information

CSBA NOTE: Pursuant to Government Code 3558, districts are required to provide recognized employee organizations 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 ~~6254.3~~ 7928.300, which authorizes disclosure of an employee's home address, home telephone number(s), and personal cell phone number to an employee organization unless the district receives a written request by the employee to not disclose the information. Pursuant to Government Code ~~6254.3~~ 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. Service Employees International Union, Local 721*, 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) on file with the district, and home address of any newly hired employee in the bargaining unit, within 30 days of hire or by the first pay period of the month following hire, unless the exclusive representative has agreed to a different interval for the provision of the information. In addition, the Superintendent or designee shall provide the exclusive representative the same information in regard to all employees in the bargaining unit at least every 120 days, unless more frequent or detailed lists are required by agreement with the exclusive representative.

(Government Code 3558, ~~6254.3~~)

7928.300)

However, the Superintendent or designee shall not disclose ~~the~~: (Government Code 3558, 6207, 6215, 6215.2, 7928.300)

1. The home address and any phone numbers on file for employees performing law enforcement-related functions; ~~nor disclose the home address, home~~

CSBA NOTE: The Safe at Home address confidentiality program has been in existence pursuant to Government Code 6207 to protect victims of domestic violence, sexual

assault, and stalking. This type of protection has been extended, pursuant to Government Code 6215 and 6215.2, as amended by SB 1131 (Ch. 554, Statutes of 2022), to employees who face threats of violence, or violence or harassment from the public because of the employee's work for the district.

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 or of any employee who provides a written request that the information not be disclosed to the exclusive representative. Following receipt of a written request, the district shall remove the
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 keep such information private. In such instances, the Superintendent or designee shall also remove the employee's home address, and home telephone and personal cell phone numbers from any mailing list maintained by the district unless the list is only used by the district to contact the employee. (Government Code 3558, 6207, 6254.3)

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. Government Code 3558, as amended by SB 270 (Ch. 330, Statutes of 2021), allows the district 20 calendar days to cure an if the alleged violation that 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. If a violation is found, PERB is required to assess against the district a civil penalty of \$10,000 and 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, as amended, 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 and may be revised to reflect district practice.

At least, at the beginning of each school year, To provide accurate information, the Superintendent or designee shall review the list of contact information for district employees ~~to ensure that the list is complete and contains accurate information.~~ at the beginning of each school year, or more often as appropriate.

## Communications with Employees

Employee organizations may 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, employee organizations may also use institutional bulletin boards, mailboxes, and other means of communication to communicate with employees. (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 who choose to join the employee organization pay membership dues, which are 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 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 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 employee organization that certifies 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 employees. The employee organization shall not be required to submit to the district a copy of the written authorization in order for the payroll deductions to be effective. However, 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 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)

**Policy Reference UPDATE Service**

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**Policy Reference Disclaimer:**

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

<b>State</b>	<b>Description</b>
8 CCR 33015-33490	Recognition of exclusive representative; proceedings
8 CCR 33700-33710	Severance of established unit
8 CCR 34020	Petition to rescind organizational security arrangement
8 CCR 34055	Reinstatement of organizational security arrangement
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 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 3540-3549.3	Educational Employment Relations Act
Gov. Code 3540.1	Public employment; definitions
Gov. Code 3543.4	Management position 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
Gov. Code <del>6254.3</del> <a href="#">6215-6216</a>	Disclosure of employee contact information to employee organization <a href="#">Address confidentiality for individuals who face threats or violence because of work for a public entity</a>
Gov. Code 6503.5	Joint powers agencies; <a href="#">agreement</a>
<a href="#">Gov. Code 7920.200-7930.215</a>	<a href="#">Public Records Act</a>
<a href="#">Gov. Code 7928.300</a>	<a href="#">Personal information of agency employee</a>
<b>Federal</b>	<b>Description</b>
8 CFR 33015-33490	Recognition of exclusive representative; proceedings
8 CFR 33700-33710	Severance of established unit
8 CFR 34020	Petition to rescind organizational security arrangement
8 CFR 34055	Reinstatement of organizational security arrangement
<b>Management Resources</b>	<b>Description</b>
Court Decision	County of Los Angeles v. Service Employees International Union, Local <a href="#">721</a> , <a href="#">Los Angeles County Employee Relations Commission</a> (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
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
<b>Cross References</b>	
<b>Code</b>	<b>Description</b>
0450	Comprehensive Safety Plan

0450	Comprehensive Safety Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
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
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

**Regulation 4261.1: Personal Illness/Injury Leave**

**Status: ADOPTED**

Original Adopted Date: 03/01/2017 | Last Revised Date: 03/06/01/2019 2023 | Last Reviewed  
Date: 03/06/01/2019 2023

CSBA NOTE: The following administrative regulation is subject to collective bargaining. ~~Twelve~~ Education Code 45191 provides a minimum of 12 days of ~~paid~~ personal illness or injury leave (sick leave) per year ~~is the minimum prescribed by Education Code 45191~~ for classified employees ~~employed~~ working five days a week, in both merit and non-merit system districts. The Governing Board may allow more sick leave at its discretion; if it does so, the following paragraph should be revised accordingly.

Labor Code 245-249 (the Healthy Workplaces, Healthy Families Act) require districts to grant a minimum of one hour of paid sick leave for every 30 hours worked to their employees who work for 30 days within a year of their employment, including classified employees. Pursuant to Labor Code 246, a district may use a different sick leave accrual method which provides for the accrual to be on a regular basis so that employees accrue at least 24 hours of sick leave or paid time off by the 120th calendar day of their employment or each calendar year or 12-month period.

The provisions of Labor Code 245-249 are very broad and only district employees covered by a valid collective bargaining agreement may be exempted from them, if the collective bargaining agreement expressly provides paid sick leave in an amount equal to or exceeding the amount of leave required pursuant to Labor Code 246, includes final and binding arbitration of disputes regarding the application of the paid sick days provisions, and provides premium wage rates for all overtime hours worked and a regular hourly rate of pay of not less than 30 percent more than the state minimum wage rate. Since many districts may not satisfy all of the conditions for this exemption, this administrative regulation reflects the requirements of Labor Code 245-249. Any district which has a collective bargaining agreement that meets all of the conditions for exemption may modify this administrative regulation accordingly.

For additional requirements of Labor Code 245-249, see sections titled "Short-Term and Substitute Employees" and "Healthy Workplaces, Healthy Families Act Requirements" below. For sick leave for certificated employees, see AR 4161.1/4361.1 - Personal Illness/Injury Leave.

Classified employees employed five days a week are entitled to 12 days' leave of absence with full pay for personal illness or injury (sick leave) per fiscal year. Employees who work less than a full fiscal year or fewer than five days a week (part-time employees) shall be granted sick leave in proportion to the time they work. However, part-time employees who are entitled to less than 24 hours of paid sick leave per fiscal year due to the amount of time worked shall be granted sick leave pursuant to Labor Code 246, if they are eligible. (Education Code 45191; Labor Code 245-249)

## Use of Sick Leave

CSBA NOTE: Items #1-8 below reflect allowable uses of sick leave specified in law. The district may expand this list to include any additional purposes authorized by law, authorized by the district, or included in a bargaining agreement.

A classified employee may use sick leave for absences due to:

1. Accident or illness, whether or not the absence arises out of or in the course of employment, or by quarantine which results from contact in the course of employment with other persons having a contagious disease (Education Code 45199)

CSBA NOTE: Although Education Code 45193 does not expressly provide classified employees leave for miscarriage, in order to treat employees consistently, the Board may grant leave to classified employees for miscarriage as provided for certificated employees pursuant to Education Code 44965 and 44978.

2. Pregnancy, miscarriage, childbirth, and related recovery (Education Code 45193)
3. Personal necessity as specified in (Education Code 45207)

CSBA NOTE: Optional item Item #4 below may be revised to specify a different minimum increment.

4. Medical and dental appointments, in increments of not less than one hour
5. Industrial accident or illness when leave granted specifically for that purpose has been exhausted (Education Code 45192)

CSBA NOTE: Pursuant to the Family and Medical Leave Act (FMLA) (29 USC 2612) and California Family Rights Act (CFRA) (Government Code 12945.2), a district is required to grant leave to an eligible employee to bond with a child after the birth, adoption, or foster care placement of the child, if the district employs 50 or more employees within 75 miles of the worksite where the employee requesting the leave is employed. For this purpose, employees may, but are not required to, use sick leave for any otherwise unpaid FMLA or CFRA leave.

Government Code 12945.6 extends the right to parental leave to an eligible employee who is not covered by FMLA or CFRA when the district employs 20-49 employees within 75 miles of the worksite where the employee requesting the leave is employed.

For further information regarding parental leave, see AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave.

6. Need of an employee to bond with a child within one year of the child's birth, adoption, or foster care placement (parental leave) (Education Code 45196.1; Government Code 12945.2; ~~12945.6~~; 29 USC 2612; 29 CFR 825.112)

CSBA NOTE: Pursuant to Labor Code 233, any district that provides sick leave to its employees is required to permit ~~them~~ an employee to use sick leave, in an amount not less than the sick leave

that would be accrued during six months at the employee's then current rate of entitlement, for the purposes specified in ~~items #7-8 below~~ Items #7-8 below. Pursuant to Labor Code 233, designation of sick leave taken under this provision is at the sole discretion of the employee. Labor Code 233 does not extend the maximum period of leave to which an employee is entitled under CFRA or FMLA, regardless of whether the employee receives sick leave compensation during that leave.

For the purpose of using sick leave to attend to the health care needs of a family member, as specified in ~~item~~ Item #7 below, Labor Code 245.5 defines, as amended by AB 1041 (Ch. 748, Statutes of 2022), includes a designated person in the definition of a "family member" as, in addition to an employee's spouse, registered domestic partner, child (biological, adopted, or foster child; stepchild; legal ward; or a child to whom the employee stands in loco parentis), parent (biological, adoptive, or foster parent; stepparent; legal guardian of an employee or the employee's spouse or registered domestic partner; or a person who stood in loco parentis when the employee was a minor child), grandparent, grandchild, or sibling. Government Code 12945.2, as amended by AB 1041, defines a "designated person" as any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests the leave, and the district may limit the employee to one designated person per 12-month period for family care and medical leave. For further information regarding medical leave, see AR 4161.8/4261.8/4361.8 – Family Care and Medical Leave.

For additional information about leaves for victims of domestic violence, sexual assault, or stalking granted in accordance with ~~item~~ Item #8 below, see AR 4161.2/4261.2/4361.2 - Personal Leaves.

7. Need of the employee or the employee's family member, including a designated person, as defined in Labor Code 245.5, for the diagnosis, care, or treatment of an existing health condition or for preventive care (Government Code 12945.2; Labor Code 233, 246.5)
8. Need of the employee to seek or obtain any relief or medical attention specified in Labor Code 230(c) and 230.1(a) for the health, safety, or welfare of the employee or the employee's child, when the employee has been a victim of domestic violence, sexual assault, or stalking (Labor Code 233, 246.5)

For the purposes specified in ~~items~~ Items #7-8, an employee may use, in any calendar year, the amount of sick leave that would be accrued during six months at the employee's then current rate of entitlement. (Labor Code 233)

An employee may take leave for personal illness or injury at any time during the year, even if credit for such leave has not yet been accrued. However, a new full-time classified employee shall not be entitled to more than six days of sick leave, or the proportionate amount to which the employee may be entitled, until the first day of the month after the employee has completed six months of active service with the district. (Education Code 45191)

Unused days of sick leave shall be accumulated from year to year without limitation. (Education Code 45191)

CSBA NOTE: The following paragraph is optional.

An employee shall reimburse the district for any unearned sick leave used as of the date of termination.

The district shall not require newly employed classified employees to waive leave accumulated in a previous district. However, if the employee's previous employment was terminated for cause, the transfer of the accumulated leave shall be made only if approved by the Governing Board. (Education Code 45202)

CSBA NOTE: Pursuant to Education Code 45202, classified employees who are terminated after at least one year of employment for any reason unrelated to discipline are entitled to have their accumulated sick leave transferred with them in certain circumstances. The following paragraph, which provides for the notification of employees as a way to implement this provision, is optional and may be revised to reflect district practice.

The Superintendent or designee shall notify any classified employee whose employment with the district is terminated after at least one calendar year for reasons other than for cause that, if the employee accepts employment in another district, county office of education, or community college district within one year of the termination of employment, the employee may request that the district transfer any accumulated sick leave to the new employer. (Education Code 45202)

### **Additional Leave for Disabled Military Veterans**

In addition to any other entitlement for sick leave with pay, a classified employee who is a former active duty member of the U.S. Armed Forces or a former or current member of the California National Guard or a federal reserve component shall be entitled to sick leave with pay of up to 12 days for the purpose of undergoing medical treatment, including mental health treatment, for a military service-connected disability rated at 30 percent or higher by the U.S. Department of Veterans Affairs. An eligible employee who works less than five days per week shall be entitled to such leave in proportion to the time worked. (Education Code 45191.5)

The amount of leave shall be credited to the employee either on the date the employee receives confirmation of the submission of the disability application to the U.S. Department of Veterans Affairs or on the first day the employee begins or returns to employment after active duty, whichever is later. When the employee receives the disability rating decision, the employee shall report that information to the Superintendent or designee. If the disability rating decision makes the employee eligible for the leave, the time used before the decision shall be counted toward the 12-day maximum leave. If the disability rating decision makes the employee ineligible for the leave, the district may change the sick leave time used before the disability rating decision to an alternative leave balance. (Education Code 45191.5)

CSBA NOTE: Pursuant to Education Code 45191.5, the district may require proof that a leave granted under this law is used for treatment of a military service-connected disability. The following paragraph may be revised to reflect district practice.

The Superintendent or designee may require verification, in accordance with the section "Verification Requirements" below, that the employee used the leave to obtain treatment of a military service-connected disability.

Leave for military-service connected disability shall be available for 12 months following the first date that the leave was credited. Leave not used during the 12-month period shall not be carried over and shall be forfeited. (Education Code 45191.5)

## Notification of Absence

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

An employee shall notify the Superintendent or the designated manager or supervisor of the need to be absent as soon as such need is known so that the services of a substitute may be secured as necessary. This notification shall include an estimate of the expected duration of absence. If the absence becomes longer than estimated, the employee shall so notify the district. If the duration of absence becomes shorter than estimated, the employee shall notify the district not later than three o'clock in the afternoon of the day preceding the day on which the employee intends to return to work. If the employee fails to notify the district and the failure results in a substitute being secured, the cost of the substitute shall be deducted from the employee's pay.

## Continued Absence After Available Sick Leave Is Exhausted/Differential Pay

CSBA NOTE: Pursuant to Education Code 45196, districts may choose one of two methods for compensating classified employees who have exhausted their paid leaves and continue to be absent due to illness or injury.

Option 1 below is for use by districts that subtract the actual cost of a substitute from the absent employee's salary for up to five months. Pursuant to Education Code 45196, the amount paid to a substitute must be less than the absent employee's salary unless the Board has adopted a salary schedule for substitutes. In *California School Employees Association v. Tustin Unified School District*, the court ruled that a district could deduct from the absent employee's salary only the cost of an outside substitute employee, not the cost of existing classified employee(s) working additional hours to fill the position during the absence.

Option 2 is mandated pursuant to Education Code 45196 for districts that annually credit regular classified employees with at least 100 working days of paid sick leave and, after they have exhausted all fully paid leaves, compensate them at 50 percent or more of their regular salary for the remainder of the 100 working days. Option 2 may be revised to specify more than 100 working days and/or the level of compensation the district will pay an employee, if it chooses to pay more than 50 percent of the employee's salary.

Districts that maintain a catastrophic leave program for their classified employees should specify how the program will affect the differential leave pay to which the employee may be entitled.

### OPTION 1:

When a classified employee has exhausted all paid leaves, including sick leave, and continues to be absent on account of illness or injury for a period of five months or less, the district shall deduct from the employee's regular salary for that period an amount that does not exceed the actual cost of a substitute to fill the position. (Education Code 45196)

The five-month period shall commence on the first day of the leave of absence and shall run concurrently with any other paid leave.

### OPTION 1 ENDS HERE

## OPTION 2:

Each year, each regular classified employee shall be credited with no fewer than 100 working days of paid leave for personal illness or injury, including current year and accumulated days of leave. When the current year and accumulated days at full pay are exhausted, the remainder of the 100 days shall be compensated at least 50 percent of the employee's regular salary. Any of the 100 days of leave not used during the year in which they are credited shall be forfeited and shall not accumulate from year to year. This paid leave shall be exclusive of any other paid leave, holidays, vacation, or compensatory time to which the employee may be entitled. (Education Code 45196)

## OPTION 2 ENDS HERE

### Parental Leave

**CSBA NOTE:** The following section is subject to any conflicting provision in a collective bargaining agreement that provides greater parental leave rights.

During each school year, a classified employee may use all available sick leave, including accumulated sick leave, for the purpose of parental leave for a period of up to 12 work weeks. The 12-week period shall be reduced by any period of sick leave, including accumulated sick leave, taken during a period of such parental leave. (Education Code 45196.1)

**CSBA NOTE:** Unlike leave taken pursuant to Government Code 12945.2, leave taken pursuant to Education Code 45196.1 does not require an employee to have at least 1,250 hours of service with the district during the previous 12-month period in order to be eligible for parental leave. See AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave for further information on requirements related to the California Family Rights Act.

Eligibility for such leave shall not require 1,250 hours of service with the district during the previous 12 months. (Education Code 45196.1)

**CSBA NOTE:** Pursuant to Education Code 45196.1, the district is required to provide differential pay to a classified employee for up to 12 work weeks when the employee has exhausted all available sick leave, including accumulated sick leave, and continues to be absent due to parental leave pursuant to Government Code 12945.2. Such an employee is entitled to receive differential pay, calculated in the same manner described in Option 1 or 2 in the section "Continued Absence After Available Sick Leave Is Exhausted/Differential Pay" above. ~~As amended by AB 2012 (Ch. 994, Statutes of 2018),~~ Education Code 45196.1 requires that, regardless of the type of differential pay system used by the district, employees must receive at least 50 percent of their regular salary for any portion of the 12-week parental leave that remains following the exhaustion of sick leave. The following paragraph may be revised to specify a percentage higher than 50 percent in accordance with district practice.

Since Education Code 45196.1 does not expressly require districts to provide differential pay to employees who are eligible for parental leave pursuant to Government Code 12945.6, it is unclear whether such employees would be entitled to differential pay. Districts should consult [CSBA's District and County Office of Education Legal Services or district](#) legal counsel if they have questions regarding differential pay for such employees.

An employee who has exhausted all available sick leave, including accumulated sick leave, and continues to be absent on account of parental leave shall receive differential pay of at least 50

percent of the employee's regular salary for the remainder of the 12 work weeks. (Education Code 45196.1)

Parental leave taken pursuant to Education Code 45196.1 shall run concurrently with the parental leave taken pursuant to Government Code 12945.2 or 12945.6, and the aggregate amount of parental leave shall not exceed 12 work weeks in a 12-month period. (Education Code 45196.1; Government Code 12945.2, 12945.6)

### Extension of Leave

CSBA NOTE: Pursuant to Education Code 45195, the following extension of leave may be either paid or unpaid, and the Board may grant full pay for the full 18 months' allowable absence, if desired.

A permanent employee who is absent because of a personal illness or injury and who has exhausted all available sick leave, vacation, compensatory overtime, and any other paid leave shall be so notified, in writing, and offered an opportunity to request additional leave. The Board may grant the employee additional leave, paid or unpaid, for a period not to exceed six months and may renew this leave for two additional six-month periods or for lesser periods. The total additional leave granted shall not exceed 18 months. (Education Code 45195)

If the employee is still unable to return to work after all available paid and unpaid leaves have been exhausted, the employee shall be placed on a reemployment list for a period of 39 months. If during this time the employee becomes medically able, the employee shall be offered reemployment in the first vacancy in the classification of the employee's previous assignment. During the 39 months, the employee's reemployment shall take preference over all other applicants except those laid off for lack of work or lack of funds, in which case the employee shall be ranked according to seniority. (Education Code 45195)

### Verification Requirements

CSBA NOTE: Education Code 45191 **mandates** the Board to adopt regulations that require proof of illness or injury and prescribe the means of verification. However, Education Code 45191 provides that these regulations shall not discriminate against evidence of treatment and the need for treatment by the practice of a well-recognized religion. The following section should be modified to reflect district practice and any procedures that have been specified in bargaining agreements.

Labor Code 233 requires districts to allow their employees to use sick leave for the purposes specified in Labor Code 246.5; ~~the paid sick leave law.~~ Because the ~~paid sick leave law~~ Labor Code 246.5 is silent on requests for verification, and ~~actually~~ requires an employer to provide an employee with paid sick days upon oral or written request, districts should be cautious in requiring verification for sick leave used for the purposes specified in Labor Code 246.5 (~~items~~ Items #7-8 in the section "Use of Sick Leave" above). Although a district is permitted to require verification from an employee who is a victim of domestic violence, sexual assault, or stalking, pursuant to Labor Code 230 and 230.1, a general insistence on verification could be deemed a violation of Labor Code 246.5. Any district with questions regarding its authority related to verification should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

After any absence due to illness or injury, the employee shall submit a completed and signed district absence form to the employee's immediate supervisor.

The Superintendent or designee may require verification whenever an employee's absence record shows chronic absenteeism or a pattern of absences immediately before or after weekends and/or holidays or whenever available evidence clearly indicates that an absence is not related to illness or injury.

In addition, the Superintendent or designee may require an employee to visit a physician selected by the district, at district expense, in order to receive a report on the medical condition of the employee. The report shall include a statement as to the employee's need for additional leave of absence and a prognosis as to when the employee will be able to return to work. If the report concludes that the employee's condition does not warrant continued absence, the Superintendent or designee may, after giving notice to the employee, deny the request for additional leave.

**CSBA NOTE:** 42 USC 2000ff-1, the Genetic Information Nondiscrimination Act, and its implementing regulations, 29 CFR 1635.1-1635.12, specify that it is unlawful for a district to request, require, or purchase an employee's or family member's individual genetic information except in complying with the medical certification requirements for family care and medical leave purposes or with the employee's prior written authorization. See AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave. Pursuant to 29 CFR 1635.9, any such information received by the district must be kept confidential as specified below.

Any district request for additional verification by an employee's physician or a district-selected physician shall be in writing and shall specify that the report to be submitted to the district should not contain the employee's genetic information. Any genetic information received by the district on behalf of an employee shall be treated as a confidential medical record, maintained in a file separate from the employee's personnel file, and shall not be disclosed except in accordance with 29 CFR 1635.9.

Before returning to work, an employee who has been absent for surgery, hospitalization, or extended medical treatment may be asked to submit a letter from a physician stating that the employee is able to return to work and stipulating any necessary restrictions or limitations.

### **Short-Term and Substitute Employees**

**CSBA NOTE:** Pursuant to Labor Code 245-249, the district is required to grant a minimum of one hour of paid sick leave for every 30 hours worked by an employee who works for 30 days within a year of employment. In implementing this requirement, Labor Code 246 permits the district to use any of the options specified below. Option 1 provides for paid leave accrual based on one hour for every 30 hours worked. Option 2 allows an accrual method that provides for a regular accrual basis and ensures that the employee receives 24 hours of paid sick leave by the 120th calendar day of employment or each calendar year or 12-month period. Option 3 is for any district that credits employees with 24 hours or three days of paid sick leave at the beginning of each year and does not allow unused sick leave to carry over to the next year. In addition, pursuant to Labor Code 245.5, retired annuitants who have not reinstated to the applicable public retirement system are excluded from participation in these leave benefit provisions. The district should select the option below which corresponds to its approach under Labor Code 246.

See section below titled "Healthy Workplaces, Healthy Families Act Requirements" for additional requirements.

**OPTION 1:**

Except for a retired annuitant who is not reinstated to the retirement system, short-term or substitute employees who work for 30 or more days within a year of their employment shall be entitled to one hour of paid sick leave for every 30 hours worked. Accrued paid sick days shall carry over to the following year of employment, up to a maximum of 48 hours. (Labor Code 246)

**OPTION 1 ENDS HERE**

**OPTION 2:**

Except for a retired annuitant who is not reinstated to the retirement system, short-term or substitute employees who work for 30 or more days within a year of their employment shall accrue, on a regular basis, paid sick leave of up to 24 hours by the 120th calendar day of their employment or each calendar year or 12-month period. Accrued paid sick days shall carry over to the following year of employment, up to a maximum of 48 hours. (Labor Code 246)

**OPTION 2 ENDS HERE**

**OPTION 3:**

Except for a retired annuitant who is not reinstated to the retirement system, short term or substitute employees who work for 30 or more days within a year of their employment shall be credited with 24 hours or three days of paid sick leave for that year. Unused sick leave shall not carry over to the following year of employment. (Labor Code 246)

**OPTION 3 ENDS HERE**

**CSBA NOTE:** The following paragraph applies to all the above options.

Short-term or substitute employees may begin to use accrued paid sick days on the 90th day of their employment, after which they may use the sick days as they are accrued. (Labor Code 246)

**CSBA NOTE:** The following paragraph applies to all of the above options and reflects the intent of the Healthy Workplaces, Healthy Families Act to enable California workers to address their own and their family's health needs and to provide them with economic security when they need to take time off work for reasons of domestic violence, sexual assault, or stalking. The following paragraph may be revised to include additional reasons for which short-term or substitute employees may use sick leave, pursuant to district policy or practice. Pursuant to Labor Code 247.5, a district is not required to inquire into the purposes for which an employee uses paid leave.

A short-term or substitute employee may use accrued sick leave for absences due to: (Labor Code 246.5)

1. The employee's own need or the need of a family member, as defined in Labor Code 245.5, for the diagnosis, care, or treatment of an existing health condition or for preventive care

2. Need of the employee to obtain or seek any relief or medical attention specified in Labor Code 230(c) and 230.1(a) for the health, safety, or welfare of the employee, or the employee's child, when the employee has been a victim of domestic violence, sexual assault, or stalking

### Healthy Workplaces, Healthy Families Act Requirements

CSBA NOTE: Pursuant to Labor Code 245-249, all employers, including those that provide paid time off to their employees under existing policy or other law, must comply with the requirements specified in the following section. Pursuant to Labor Code 248.5, noncompliance with the Healthy Workplaces, Healthy Families Act could result in an enforcement action against the employer, including the imposition of civil and monetary penalties. Any district with questions regarding the applicability of this law should consult ~~its~~ CSBA's [District and County Office of Education Legal Services](#) or [district](#) legal counsel.

No employee, including a short-term or substitute employee, shall be denied the right to use accrued sick days and the district shall not in any manner discriminate or retaliate against an employee for using or attempting to use sick leave, filing a complaint with the Labor Commissioner, or alleging district violation of Labor Code 245-249.

To ensure the district's compliance with Labor Code 245-249, the Superintendent or designee shall:

1. At a conspicuous location in each workplace, display a poster on paid sick leave that includes the following information:
  - a. That an employee is entitled to accrue, request, and use paid sick days
  - b. The number of sick days provided by Labor Code 245-249
  - c. The terms of use of paid sick days
  - d. That discrimination or retaliation against an employee for requesting and/or using sick leave is prohibited by law and that an employee has the right to file a complaint with the Labor Commissioner if the district discriminates or retaliates against the employee
2. Provide at least 24 hours or three days of paid sick leave to each eligible employee to use per year and allow eligible employees to use accrued sick leave upon reasonable request
3. Provide eligible employees written notice, on their pay stub or other document issued with their pay check, of the amount of paid sick leave they have available
4. Keep a record documenting the hours worked and paid sick days accrued and used by each eligible employee for three years

#### Policy Reference UPDATE Service

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Policy Reference Disclaimer:

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

<b>State</b>	<b>Description</b>
Ed. Code 45103	Classified service in districts not incorporating the merit system
Ed. Code 45190	Leaves of absence and vacations; classified
Ed. Code 45191	Personal illness and injury leave; classified employees
Ed. Code 45191.5	Leave for military service _connected disability
Ed. Code 45193	Leave of absence for pregnancy (re; use of sick leave under certain circumstance)
Ed. Code 45195	Additional leave
Ed. Code 45196	Salary deductions during sick leave; classified employees
Ed. Code 45196.1	Differential pay during parental leave up to 12 weeks after sick leave is exhausted
Ed. Code 45202	Transfer of accumulated sick leave and other benefits
Gov. Code 12945.1-12945.2	California Family Rights Act
Gov. Code 12945.6	Parental leave
Lab. Code 230	Accommodations and leave for victims of domestic violence
Lab. Code 230.1	Employers with 25 or more employees; domestic violence, sexual assault, and stalking victims;; right to time off
Lab. Code 233	<del>Illness of child, parent, spouse or domestic partner</del> <u>Leave to attend to family illness</u>
Lab. Code 245-249	Healthy Workplaces, Healthy Families Act of 2014
<b>Federal</b>	<b>Description</b>
29 CFR 1635.1-1635.12	Genetic Information Nondiscrimination Act of 2008
29 CFR 825.100-825.702	Family and Medical Leave Act of 1993
29 USC 2601-2654	Family Care and Medical Leave Act
42 USC 2000ff-2000ff-11	Genetic Information Nondiscrimination Act of 2008
<b>Management Resources</b>	<b>Description</b>
Court Decision	California School Employees Association v. Colton Joint Unified School District; (2009) 170 Cal.App.4th 957
Court Decision	California School Employees Association v. Tustin Unified School District; (2007) 148 Cal.App.4th 510
Website	CSBA District and County Office of Education Legal Services

## Cross References

Code	Description
0470	COVID-19 Mitigation Plan
4032	Reasonable Accommodation
4112.42	Drug And Alcohol Testing For School Bus Drivers
4112.42	Drug And Alcohol Testing For School Bus Drivers
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4113.4	Temporary Modified/Light-Duty Assignment
4113.5	Working Remotely
4119.41	Employees With Infectious Disease
4141.6	Concerted Action/Work Stoppage
4141.6	Concerted Action/Work Stoppage
4154	Health And Welfare Benefits
4154	Health And Welfare Benefits
4159	Employee Assistance Programs
4161	Leaves
4161	Leaves
4161.11	Industrial Accident/Illness Leave
4161.2	Personal Leaves
4161.5	Military Leave
4161.8	Family Care And Medical Leave
4161.9	Catastrophic Leave Program
4161.9	Catastrophic Leave Program
4212.42	Drug And Alcohol Testing For School Bus Drivers
4212.42	Drug And Alcohol Testing For School Bus Drivers
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4213.4	Temporary Modified/Light-Duty Assignment
4213.5	Working Remotely

4216	Probationary/Permanent Status
4217.3	Layoff/Rehire
4219.41	Employees With Infectious Disease
4241.6	Concerted Action/Work Stoppage
4241.6	Concerted Action/Work Stoppage
4254	Health And Welfare Benefits
4254	Health And Welfare Benefits
4259	Employee Assistance Programs
4261	Leaves
4261	Leaves
4261.11	Industrial Accident/Illness Leave
4261.2	Personal Leaves
4261.5	Military Leave
4261.8	Family Care And Medical Leave
4261.9	Catastrophic Leave Program
4261.9	Catastrophic Leave Program
4312.42	Drug And Alcohol Testing For School Bus Drivers
4312.42	Drug And Alcohol Testing For School Bus Drivers
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4313.4	Temporary Modified/Light-Duty Assignment
4313.5	Working Remotely
4319.41	Employees With Infectious Disease
4354	Health And Welfare Benefits
4354	Health And Welfare Benefits
4359	Employee Assistance Programs
4361	Leaves
4361	Leaves
4361.11	Industrial Accident/Illness Leave
4361.2	Personal Leaves
4361.5	Military Leave

4361.8	Family Care And Medical Leave
4361.9	Catastrophic Leave Program
4361.9	Catastrophic Leave Program

## Regulation 4261.2: Personal Leaves

Status: ADOPTED

Original Adopted Date: 11/01/2012 | Last Revised Date: 09/06/01/2022 2023 | Last Reviewed  
Date: 09/06/01/2022 2023

CSBA NOTE: The following administrative regulation is subject to collective bargaining agreements.

Personal leaves granted to district employees shall be used as permitted in this administrative regulation, other Board-approved policy or district regulation, or applicable collective bargaining agreement.

CSBA NOTE: Family Code 297.5 extends to registered domestic partners the same rights that are available under state law to spouses. Thus, any reference to an employee's spouse throughout this administrative regulation also applies to a registered domestic partner, even if not expressly stated in the applicable state statute (e.g., Education Code, Military and Veterans Code). Districts should consult ~~CSBA~~ CSBA's District and County Office of Education Legal Services or the district's district legal counsel if a question arises as to leave provisions relative to an employee's domestic partner.

For the purpose of any personal leave offered pursuant to state law, a registered domestic partner shall have the same rights, protections, and benefits as a spouse and any protections provided to a spouse's child shall also apply to a child of a registered domestic partner. (Family Code 297.5)

Whenever possible, employees shall request personal leaves in advance and prepare suitable instructions, including lesson plans as applicable, for a substitute employee.

### Bereavement

CSBA NOTE: Education Code 44985 and 45194 allow the Governing Board Pursuant to expand the class of relatives listed below as "immediate family" and enlarge the benefits provided by law. In addition, Government Code 12945.27, as amended added by AB 1033 1949 (Ch. 327 767, Statutes of 2021), includes a parent-in-law in the definition of "parent" for purposes of California Family Rights Act (CFRA) 2022, districts are required to provide up to five days of bereavement leave. Thus, to ensure consistency, for the death of an employee's "family member," as defined, if the employee was employed by the district for at least 30 days prior to the commencement of the definition bereavement leave. Education Code 44985 and 45194 grant three days, or five days if out-of-state travel is required, of paid bereavement leave for certificated and classified employees upon the death of a member of the employee's "immediate family." Government Code 12945.7, as added by AB 1949, potentially expands the length of this leave. Education Code 44985 and 45194 grant bereavement leave for a member of the employee's "immediate family" below includes "mother-in-law" and father-in-law," as permitted by law. " the definition of which is more expansive than a "family member," pursuant to Government Code 12945.7. Any bereavement leave taken under the Education Code and/or Government Code runs concurrently and not consecutively.

The bereavement leave days do not need to be taken consecutively, but must be taken within three months of the family member's date of death. Districts with existing policies that provide employees less than five days of paid bereavement leave must continue to give employees the number of paid days specified in the policy, but may provide the remainder of the five days as unpaid bereavement leave. Districts must allow employees to use any paid vacation, personal

leave, sick leave, or compensatory time off for the balance of the unpaid bereavement leave. Additionally, Government Code 12945.7, as added by AB 1949, makes it unlawful to retaliate or discriminate against an employee for using bereavement leave or to interfere with an employee's right to use bereavement leave.

Districts with questions about bereavement leave should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

The following two paragraphs may be revised to reflect district practice.

Employees are entitled to a leave of up to ~~three days~~, or five days if out-of-state travel is required, upon the death of any member of the employee's immediate family: , as defined in Education Code 44985 and 45194. (Government Code 12945.7)

No deduction shall be made from the employee's salary, nor shall such leave be deducted from any other leave to which the employee is entitled. (Education Code 44985, 45194; Government Code 12945.7)

**CSBA NOTE:** Education Code 44985 and 45194 allow the Governing Board to expand the class of relatives listed below as "immediate family" and enlarge the benefits provided by law. In addition, Government Code 12945.2 includes a parent-in-law in the definition of "parent" for purposes of California Family Rights Act (CFRA) leave. Thus, to ensure consistency, the definition of "immediate family" includes "parent-in-law" as permitted by law.

~~Members of an employee's immediate family include: (Education Code 44985, 45194)~~

- ~~1. The mother, mother-in-law, father, father-in-law, grandmother, grandfather, or grandchild of the employee or of the employee's spouse~~
- ~~2. The employee's spouse, son, son-in-law, daughter, daughter-in-law, brother, or sister~~
- ~~3. Any relative living in the employee's immediate household~~

**Immediate Family** means a parent, parent-in-law, grandparent, or grandchild of the employee or of the spouse of the employee, and the spouse, domestic partner, child, child-in-law, or sibling of the employee, or any relative living in the immediate household of the employee. (Education Code 44985, 45194)

At the employee's request, bereavement leave may be extended under personal necessity leave provisions as provided in the section "Personal Necessity" below. (Education Code 44981, 45207)

### **Personal Necessity**

**CSBA NOTE:** Employees may use a maximum of seven days of accumulated personal illness/injury leave (sick leave) for reasons of personal necessity pursuant to Education Code 44981 (certificated employees) and 45207 (classified employees). Pursuant to Education Code 44981 and 45207, a higher maximum may be set for certificated and/or classified employees in the applicable collective bargaining agreement, or by Board resolution for classified employees who are not covered by a collective bargaining agreement. Districts that have established a maximum that is higher than seven days should modify the following paragraph accordingly.

Education Code 45207 clarifies that provisions pertaining to personal necessity leave also apply to

districts that have adopted the merit system for classified employees in accordance with Education Code 45240-45320.

Employees may use a maximum of seven days of accrued personal illness/injury leave (sick leave) during each school year for reasons of personal necessity. (Education Code 44981, 45207)

Acceptable reasons for the use of personal necessity leave include:

1. Death of a member of the employee's immediate family when the number of days of absence exceeds the limits set by bereavement leave provisions (Education Code 44981, 45207); [Government Code 12945.7](#)
2. An accident involving the employee or the employee's property, or the person or property of a member of the employee's immediate family (Education Code 44981, 45207)

CSBA NOTE: Pursuant to Education Code 44981, a certificated employee may use personal necessity leave for the serious illness of a member of the employee's immediate family. The Board may extend these provisions to classified employees under the authority granted to the Board by Education Code 45207. Districts are cautioned to consult ~~CSBA~~ [CSBA's](#) District and County Office of Education Legal Services or the ~~district's~~ [district](#) legal counsel regarding any interaction of Education Code provisions with Labor Code 233, 245.5, and 246.5, which allow the use of sick leave for the need of the employee or family member for the diagnosis, care, or treatment of an existing health condition or for preventive care and which include in the definition of "family member" a registered domestic partner, grandparent, and sibling. See AR 4161.1/4361.1 - Personal Illness/Injury Leave and AR 4261.1 - Personal Illness/Injury Leave.

Also see AR ~~4161.8/4261.8/4361.8~~ - Family Care and Medical Leave for federal and state provisions related to leaves for the birth, adoption, or foster placement of a new child; the care of a seriously ill child, parent, parent-in-law, or spouse/registered domestic partner or the employee's own serious health condition.

Pursuant to Government Code 12945.2 and Labor Code 245.5, as amended by AB 1041 (Ch. 748, Statutes of 2022), CFRA provides an eligible employee with up to 12 weeks of unpaid, job-protected leave to care for a designated person who has a serious health condition, in addition to caring for a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner. A "designated person" is defined as any individual related by blood or whose association with the employee is the equivalent of a family relationship. The employee may identify the designated person at the time the employee requests the leave. The district may limit the employee to taking CFRA leave to care for one designated person per 12-month period. For further information regarding medical leave, see AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave.

3. Illness, preventive care, or other need of a member of the employee's family, as defined in Labor Code 245.5 (Education Code 44981; [Government Code 12945.2](#); Labor Code 246.5)

CSBA NOTE: Education Code 45207 provides that classified employees may use sick leave for required court appearances, as provided in Item #4 below. Circumstances under which employees may take time off, with pay, for court appearances are described in the section on "Leave to Perform Legal Duties" below.

4. A classified employee's appearance in any court or before any administrative tribunal as a litigant, party, or witness under subpoena ~~327~~ or other order (Education Code 45207)

CSBA NOTE: Items #5 and #6 are optional and may be deleted or modified to reflect district practice.

5. Fire, flood, or other immediate danger to the home of the employee
6. Personal business of a serious nature which the employee cannot disregard

Leave for personal necessity may be allowed for other reasons at the discretion of the Superintendent or designee. However, personal necessity leave shall not be granted for purposes of personal convenience, for the extension of a holiday or vacation, or for matters which can be taken care of outside of working hours. The Superintendent or designee shall have final discretion as to whether a request reflects personal necessity.

CSBA NOTE: The following paragraph is optional. The district is prohibited from requiring employees to obtain advance permission prior to taking leaves in certain situations. Pursuant to Education Code 44981 and 45207, the district may not require advance permission for leaves taken by classified employees for the reasons specified in Items #1-2 above and by certificated employees for the reasons specified in Items #1-3 above. In addition, Labor Code 246.5 requires an employer to grant paid sick leave "upon the oral or written request of an employee." According to the Department of Industrial Relations, (DIR), employers may not require advance notice when the need for the leave was unforeseeable, as in the case of unanticipated illness or a medical emergency.

Also see AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave for requirements pertaining to requests for leaves that qualify under the federal Family and Medical Leave Act (29 USC 2601-2654) or CFRA (Government Code 12945.1-12945.2), including provisions that allow employees to provide notice as soon as practicable when 30-day advance notice is not practicable due to lack of knowledge of the date the leave will be needed, a change in circumstances, or a medical emergency.

Advance permission shall not be required of an employee in any case involving the death of a member of the employee's immediate family, an accident involving the employee's person or property or the person or property of a member of the employee's immediate family, or the illness, preventive care, or other need of a member of the employee's family. (Education Code 44981, 45207)

For any leave that is planned, or for which the need is foreseeable, an employee shall notify the Superintendent or designee in advance. In all other circumstances, the employee shall notify the Superintendent or designee of the need for the leave as soon as practicable.

CSBA NOTE: Education Code 44981 and 45207 **mandate** the adoption of regulations requiring proof of personal necessity and prescribing the manner of the required proof. The following paragraph may be revised to specify the manner of proof required by the district.

After any absence due to personal necessity, the employee shall verify the absence by submitting a completed and signed district absence form to the employee's immediate supervisor.

#### Leave to Perform Legal Duties

CSBA NOTE: Labor Code 230 prohibits the discharge of or discrimination or retaliation against an employee for taking time off for the activities specified in Items #1-2 below.

Pursuant to Education Code 44037, it is unlawful for the district, or personnel commission for merit districts, to (1) adopt any rule, regulation, or ~~028~~ that encourages classified employees to seek

exemption from jury duty; (2) directly or indirectly solicit or suggest to any employee that the employee seek exemption from jury duty; or (3) discriminate against any employee with respect to assignment, employment, promotion, or in any other manner because of the employee's service on a jury panel. However, the Board or personnel commission may establish a rule providing that only a percentage of district staff, which shall not be less than two percent, shall be granted such leave with pay at any one time. The following section may be revised to reflect district practice.

An employee may take time off work in order to: (Labor Code 230)

1. Serve on an inquest jury or trial jury
2. Comply with a subpoena or other court order to appear as a witness

Notices, summons, and subpoenas for court appearances shall be submitted to the district office when requesting leave.

A classified employee called for jury duty shall be granted leave with pay up to the amount of the difference between the employee's regular earnings and any amount received for jury fees. (Education Code 44037)

**CSBA NOTE:** The following optional paragraph is for use by districts that choose to provide leave of absence with pay for certificated employees called for jury duty, as authorized by Education Code 44036. Districts that do not grant such leave should delete this paragraph.

A certificated employee who is called for jury duty also shall be granted leave with pay up to the difference between the employee's regular earnings and any jury fees received. (Education Code 44036)

**CSBA NOTE:** The following paragraph is optional. Education Code 44036 allows the Board, at its discretion, to provide paid leaves for employees to appear in court as witnesses other than as litigants or to respond to orders from another governmental jurisdiction. Districts that do not grant such leave should delete this paragraph.

An employee shall be granted leave with pay to appear in court as a witness other than a litigant or to respond to an official order from another governmental jurisdiction for reasons not brought about through the connivance or misconduct of the employee. Such an employee shall receive the difference between the employee's regular earnings and any witness fees received. (Education Code 44036)

### **Leaves for Crime Victims for Judicial Proceedings**

**CSBA NOTE:** Labor Code 230.2 prohibits a district from taking adverse employment action against an employee who takes leave as described below.

An employee who is a victim of a crime or an immediate family member, registered domestic partner, or child of a registered domestic partner of such victim may be absent from work in order to attend related judicial proceedings, if the crime is any of the following: (Labor Code 230.2)

1. A violent felony as defined in Penal Code 667.5(c)
2. A serious felony as defined in Penal Code 1192.7(c)
3. A felony provision of law proscribing theft or embezzlement

**CSBA NOTE:** Pursuant to Labor Code 230.2, employees may use any of the types of leave listed in the following paragraph, unless otherwise provided by a collective bargaining agreement, although a collective bargaining agreement cannot diminish the entitlement of an employee.

For these purposes, the employee may use vacation, personal leave, personal illness/injury leave, unpaid leave, or compensatory time off that is otherwise available to the employee. (Labor Code 230.2)

Prior to taking time off, an employee shall give the Superintendent or designee a copy of the notice of each scheduled proceeding that is provided by the responsible agency, unless advance notice is not feasible. When advance notice is not feasible or an unscheduled absence occurs, the employee shall, within a reasonable time after the absence, provide documentation evidencing the judicial proceeding from the court or government agency setting the hearing, the district attorney or prosecuting attorney's office, or the victim/witness office that is advocating on behalf of the victim. (Labor Code 230.2)

The district shall keep confidential any records pertaining to the employee's absence from work by reason of this leave. (Labor Code 230.2)

### **Leaves for Victims of Crime or Abuse**

**CSBA NOTE:** Labor Code 230 and 230.1 allow employees who are victims of domestic violence, sexual assault, stalking, or a crime that caused physical injury or mental injury with a threat of physical injury, and employees whose immediate family member is deceased as the direct result of a crime to use any available vacation, personal leave, or compensatory time off for the purposes described in Items #1-5 below, and prohibit a district from taking adverse employment action against an employee for taking leave for any of those purposes. Pursuant to Labor Code 230.1, Items #2-5 apply to districts with 25 or more employees.

An employee who is a victim of domestic violence, sexual assault, stalking, or a crime that caused physical injury or mental injury with a threat of physical injury or an employee whose immediate family member, as defined, is deceased as the direct result of a crime may use vacation, sick leave, personal leave, or compensatory time off that is otherwise available to the employee to attend to the following activities: (Labor Code 230, 230.1, 246.5)

1. Obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or the employee's child
2. Seek medical attention for injuries caused by crime or abuse
3. Obtain services from a domestic violence shelter, program, rape crisis center, or victim services organization or agency as a result of the crime or abuse
4. Obtain psychological counseling or mental health services related to an experience of crime or abuse
5. Participate in safety planning and take other actions to increase safety from future crime or abuse, including temporary or permanent relocation

**CSBA NOTE:** Pursuant to Labor Code 230, the following certification may include documentation from a victim advocate (defined as an individual, whether paid or serving as a volunteer, who provides services to victims under the auspices or supervision of an agency or organization that has a documented record of providing services to victims, a court, or a law enforcement or prosecution

agency) or any other form of documentation that reasonably verifies that the crime or abuse occurred, including, but not limited to, a written statement signed by the employee or by an individual acting on the employee's behalf.

Prior to taking time off, an employee shall give reasonable notice to the Superintendent or designee, unless advance notice is not feasible. When an unscheduled absence occurs, the employee shall provide, within a reasonable period of time, certification of the absence in the form of any of the following: (Labor Code 230, 230.1)

1. A police report indicating that the employee was a victim
2. A court order protecting or separating the employee from the perpetrator of the crime or abuse, or other evidence from the court or prosecuting attorney that the employee has appeared in court
3. Documentation from a domestic violence or sexual assault counselor as defined in Evidence Code 1037.1 or 1035.2, licensed medical professional or health care provider, victim advocate, or counselor that the employee was undergoing treatment or receiving services for physical or mental injuries or abuse resulting in victimization from the crime or abuse
4. Any other form of documentation that reasonably verifies that the crime or abuse occurred, including, but not limited to, a written statement signed by the employee or by an individual acting on the employee's behalf certifying that the absence is for a purpose authorized under Labor Code 230 or 230.1

The district shall maintain the confidentiality of such an employee to the extent authorized by law. (Labor Code 230, 230.1)

CSBA NOTE: Pursuant to Labor Code 230.1, districts with 25 or more employees are required to notify district employees of employee rights under Labor Code 230 and 230.1. The district may use a form developed by the Labor Commissioner for this purpose, when available on the web site of the Department of Industrial Relations DIR's website, or may develop its own form that is substantially similar in content and clarity to the Labor Commissioner's form.

The Superintendent or designee shall inform employees of the rights provided employees pursuant to Labor Code 230 and 230.1 using a form developed by the Labor Commissioner or a substantially similar form developed by the district. Such information shall be provided to new employees upon hire and to other employees upon request. (Labor Code 230.1)

### **Personal Leave for Child-Related Activities**

CSBA NOTE: Pursuant to Labor Code 230.8, the following section applies to any district employing 25 or more employees at the same location. A district with fewer than 25 employees at the same location may use or delete this section at its discretion.

Pursuant to Labor Code 230.8, an employee who is discharged, threatened with discharge, demoted, suspended, or otherwise discriminated against for using the leave for child-related activities is entitled to reinstatement and reimbursement for lost wages and benefits, and an employer who willfully refuses to rehire, promote, or otherwise reinstate such an employee is subject to a civil penalty equal to three times the amount of the lost wages and benefits.

Any employee who is a parent/guardian of one or more children of an age to attend any of grades K-12 or a program offered by a licensed child care provider may use up to 40 hours of personal leave, vacation, or compensatory time off each school year in order to: (Labor Code 230.8)

1. Find, enroll, or reenroll a child in a school or with a licensed child care provider or to participate in activities of the school or child care provider, provided the employee gives reasonable advance notice of the absence. Time off for this purpose shall not exceed eight hours in any calendar month.
2. Address a school or child care emergency, provided the employee gives notice. An emergency exists when the child cannot remain in school or with a child care provider due to one of the following circumstances:
  - a. A request by the school or child care provider that the child be picked up
  - b. An attendance policy, excluding planned holidays, that prohibits the child from attending or requires that the child be picked up from the school or child care provider
  - c. Behavioral or discipline problems
  - d. Closure or unexpected unavailability of the school or child care provider, excluding planned holidays
  - e. A natural disaster, including, but not limited to, fire, earthquake, or flood

For purposes of this leave, parent/guardian includes a parent, guardian, stepparent, foster parent, grandparent, or person who stands in loco parentis to a child. (Labor Code 230.8)

**CSBA NOTE:** Labor Code 230.8 provides that the employee may use time off without pay to the extent the district makes it available. The following optional paragraph may be revised to reflect district practice.

In lieu of using vacation, personal leave, or compensatory time off, eligible employees may take unpaid leave for this purpose.

If two or more parents/guardians of a child are employed at the same work site, this leave shall be allowed for the parent/guardian who first gives notice to the district. Simultaneous absence by another parent/guardian of the child may be granted by the Superintendent or designee. (Labor Code 230.8)

Upon request by the Superintendent or designee, the employee shall provide documentation from the school or licensed child care provider that the employee engaged in permitted child-related activities on a specific date and at a particular time. (Labor Code 230.8)

### **Service on Education Boards and Committees**

Upon request, a certificated employee shall be granted up to 20 school days of paid leave per school year for service performed within the state on any education board, commission, committee, or group authorized by Education Code 44987.3 provided that all of the following conditions are met: (Education Code 44987.3)

1. The service is performed within the state-
2. The board, commission, organization, or group informs the district in writing of the service-
3. The board, commission, organization, or group agrees, prior to the service, to reimburse the district, upon the district's request, for compensation paid to the employee's substitute and for actual related administrative costs

## Employee Organization Activities

CSBA NOTE: The following optional section may be deleted by any district whose collective bargaining agreements expressly provide for a paid leave of absence for participation in the activities described in this section.

Education Code 44987 and 45210 provide that any certificated or classified employee may take time off without loss of compensation to serve as an elected officer of any local, statewide, or national employee organization of which the employee is a member. Following the district's payment to the employee for the leave of absence, the employee organization must reimburse the district within 10 days after receiving the district's certification of payment of compensation to the employee. This leave of absence is in addition to the release time granted to representatives of an employee organization pursuant to Government Code 3543.1.

Pursuant to Education Code 44987 and 45210, as amended by SB 294 (Ch. 539, Statutes of 2021), an employee's leave of absence to serve as an elected officer of an employee organization is additional to any other leave available for the employee's use by law or in agreement with the district.

Upon request, any certificated or classified employee shall be granted a leave of absence without loss of compensation, to serve as an elected officer of a district employee organization or any statewide or national employee organization with which the employee organization is affiliated. Such leave shall be in addition to any other leave to which the employee may be entitled by other laws or a memorandum of understanding or collective bargaining agreement. (Education Code 44987, 45210)

The leave shall include, but is not limited to, absence for purposes of attending periodic, stated, special, or regular meetings of the body of the organization on which the employee serves as an officer. (Education Code 44987, 45210)

CSBA NOTE: Education Code 45210 requires districts to grant a paid leave of absence to a reasonable number of classified employees serving as unelected members of the employee organization or a statewide or national public employee organization when the employee attends "important organizational activities authorized by the public employee organization." Compensation must include the required retirement fund contributions. The employee will continue to earn full service credit during the leave and must pay member contributions as specified. Education Code 45210 also requires that an employee organization provide reasonable notification to the district when requesting a leave of absence without loss of compensation for an employee.

Upon request of an employee organization in the district or its state or national affiliate, a reasonable number of unelected classified employees shall be granted a leave of absence without loss of compensation for the purpose of attending important organizational activities authorized by the employee organization. The employee organization shall provide reasonable notification to the Superintendent or designee when requesting a leave of absence for employees for this purpose. (Education Code 45210)

When leave is granted for any of the above purposes, the employee organization shall reimburse the district within 10 days after receiving the district's certification of payment of compensation to the employee. (Education Code 44987, 45210)

## Religious Leave

CSBA NOTE: The following optional section is for use by any district that chooses to grant religious leave and may be revised to reflect district practice. A district that does not grant such leave should

delete this section. However, the district should consult ~~CSBA~~**CSBA's** District and County Office of Education Legal Services or the ~~district's~~**district** legal counsel before denying a request for religious leave since the Constitution requires districts to provide "reasonable accommodation" to employee religious practices.

The Superintendent or designee may grant an employee up to three days of leave per year for religious purposes, provided that the leave is requested in advance and that it does not cause additional district expenditures, the neglect of assigned duties, or any other unreasonable hardship on the district.

**CSBA NOTE:** The following optional paragraph reflects the California Supreme Court's interpretation of Article 1, Section 8 of the California Constitution as stated in Rankin v. Commission on Professional Competence.

The Superintendent or designee shall deduct the cost of hiring a substitute, when required, from the wages of the employee who takes religious leave.

No employee shall be discriminated against for using this leave or any additional days of unpaid leave granted for religious observances at the discretion of the Superintendent or designee.

### **Spouse on Leave from Military Deployment**

**CSBA NOTE:** Military and Veterans Code 395.10 requires any district with 25 or more employees to allow up to 10 days of unpaid leave to an employee whose spouse is on leave from military deployment. A district with fewer than 25 employees may use the following section at its discretion. In addition, 29 USC 2612 authorizes an employee to take up to 26 work weeks of unpaid military caregiver leave or up to 12 weeks of "exigency" leave during a single 12-month period, as determined by the district; see AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave.

An employee who works an average of 20 hours or more per week and whose spouse is a member of the United States Armed Forces, National Guard, or reserves may take up to 10 days of unpaid leave during a period that the employee's spouse is on leave from deployment during a military conflict, as defined in Military and Veterans Code 395.10. (Military and Veterans Code 395.10)

Within two business days of receiving official notice that the employee's spouse will be on leave from deployment, the employee shall provide the Superintendent or designee with notice of the intention to take the leave. The employee shall submit written documentation certifying that the employee's spouse will be on leave from deployment during the time that the leave is requested. (Military and Veterans Code 395.10)

### **Leave for Emergency Duty**

**CSBA NOTE:** Labor Code 230.3 prohibits a district from discharging or discriminating against an employee who takes time off to perform emergency duty as specified below. Labor Code 230.3 defines emergency rescue personnel as a member of a federal, state, local, or private fire department or agency, as well as a sheriff or police department.

An employee may take time off to perform emergency duty as a volunteer firefighter, a reserve peace officer, or emergency rescue personnel. (Labor Code 230.3)

**CSBA NOTE:** Pursuant to Labor Code 230.4, a district with 50 or more employees must grant an employee who is a volunteer firefighter, reserve peace officer, or emergency rescue personnel a leave of absence for up to 14 days per calendar year for training purposes. A district with fewer than 50 employees may use or delete this paragraph at its discretion.

Any employee who performs duty as a volunteer firefighter, reserve peace officer, or emergency rescue personnel shall be permitted to take temporary leaves of absence, not to exceed an aggregate total of 14 days per calendar year, for the purpose of engaging in fire, law enforcement, or emergency rescue training. (Labor Code 230.4)

### Civil Air Patrol Leave

CSBA NOTE: Labor Code 1500-1507 require a district with more than 15 employees to provide at least 10 days of unpaid leave per year, beyond any leave otherwise available to employees, to employees who volunteer with the Civil Air Patrol and are directed to respond to an emergency operational mission, as provided below. Labor Code 1503 specifies that a district may not require an employee to first exhaust all accrued vacation, personal, sick, or any other available leave in order to use Civil Air Patrol leave.

If the district chooses to offer more than 10 days of such leave per year or to provide paid leave, it should modify the following paragraph accordingly. A district with 15 or fewer employees may use or delete this section at its discretion.

An employee may take up to 10 days of unpaid leave per calendar year, beyond any leave otherwise available to the employee, to respond to an emergency operational mission of the California Civil Air Patrol, provided that the employee has been employed by the district for at least a 90-day period immediately preceding the leave. Such leaves shall not exceed three days for a single mission, unless an extension is granted by the governmental entity authorizing the mission and is approved by the Superintendent or designee. (Labor Code 1501, 1503)

The employee shall give the district as much advance notice as possible of the intended dates of the leave. The Superintendent or designee may require certification from the proper Civil Air Patrol authority to verify the eligibility of the employee for the leave and may deny the leave if the employee fails to provide the required certification. (Labor Code 1503)

### 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
CA Constitution Article 1, Section 8	Religious discrimination
Ed. Code 44036-44037	Leaves of absence for judicial and official appearances
Ed. Code 44963	Power to grant leaves of absence; certificated
Ed. Code 44981	Leave of absence for personal necessity
Ed. Code 44985	Leave of absence due to death in immediate family; certificated
Ed. Code 44987	Service as officer of employee organization; certificated
Ed. Code 44987.3	Leave of absence to serve on certain boards, commissions, etc.

Ed. Code 45190	Leaves of absence and vacations; classified
Ed. Code 45194	Bereavement leave of absence; classified
Ed. Code 45198	Effect of provisions authorizing leaves of absence
Ed. Code 45207	Personal necessity; classified
Ed. Code 45210	Service as officer of employee organization; classified
Ed. Code 45240-45320	Merit system
Evid. Code 1035.2	Sex assault counselor; definition
Evid. Code 1037.1	Domestic violence counselor; definition
Fam. Code 297-297.5	Rights, protections, benefits under the law; registered domestic partners
Gov. Code 12945.1-12945.2	California Family Rights Act
<u>Gov. Code 12945.7</u>	<u>Bereavement leave</u>
Gov. Code 3543.1	Rights of employee organizations
Lab. Code 1500-1507	Civil Air Patrol leave
Lab. Code 230-230.2	Leaves for victims of domestic violence, sexual assault, or specified felonies
Lab. Code 230.3	Leave for emergency personnel
Lab. Code 230.4	Leave for volunteer firefighters
Lab. Code 230.8	Time off to visit child's school
Lab. Code 233	<del>Illness of child, parent, spouse or domestic partner</del> <u>Leave to attend to family illness</u>
Lab. Code 234	Absence control policy
Lab. Code 246.5	Paid sick days; purposes for use
M&V Code 395.10	Leave when spouse on leave from military deployment
Pen. Code 1192.7	Plea bargaining limitation
Pen. Code 667.5	Prior prison terms; enhancement of prison terms
<b>Federal</b>	<b>Description</b>
29 USC 2601-2654	Family Care and Medical Leave Act
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
<b>Management Resources</b>	<b>Description</b>
Court Decision	Rankin v. Commission on Professional Competence, (1988) 24 Cal.3d 167
Public Employment Relations Board Decision	Berkeley Council of Classified Employees v. Berkeley Unified School District, (2008) PERB Decision No. 1954
Website	CSBA District and County Office of Education Legal Services

Website	California Department of Industrial Relations
Website	California Federation of Teachers
Website	California Public Employment Relations Board
Website	California School Employees Association
Website	California Teachers Association

## Cross References

Code	Description
2121	Superintendent's Contract
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4121	Temporary/Substitute Personnel
4121	Temporary/Substitute Personnel
4140	Bargaining Units
4141.6	Concerted Action/Work Stoppage
4141.6	Concerted Action/Work Stoppage
4143	Negotiations/Consultation
4158	Employee Security
4158	Employee Security
4161	Leaves
4161	Leaves
4161.1	Personal Illness/Injury Leave
4161.8	Family Care And Medical Leave
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4240	Bargaining Units
4241.6	Concerted Action/Work Stoppage
4241.6	Concerted Action/Work Stoppage
4243	Negotiations/Consultation
4258	Employee Security
4258	Employee Security
4261	Leaves
4261	Leaves

4261.1	Personal Illness/Injury Leave
4261.8	Family Care And Medical Leave
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4340	Bargaining Units
4358	Employee Security
4358	Employee Security
4361	Leaves
4361	Leaves
4361.1	Personal Illness/Injury Leave
4361.8	Family Care And Medical Leave
5148	Child Care And Development
5148	Child Care And Development

## Regulation 4261.8: Family Care And Medical Leave

Status: ADOPTED

Original Adopted Date: 07/01/2015 | Last Revised Date: 06/01/2022 ~~2023~~ | Last Reviewed  
Date: 06/01/2022 ~~2023~~

CSBA NOTE: The following optional administrative regulation addresses mandatory subjects of bargaining. The laws referenced in this regulation provide minimum amounts of leave which the district must grant its employees if more generous benefits are not provided as part of its collective bargaining agreement. Any covered subject that is already addressed in the district's collective bargaining agreements should be deleted from this administrative regulation.

Both federal and state law provide for family care and medical leave (29 USC 2601-2654, the Family and Medical Leave Act of 1993 (FMLA), and Government Code 12945.1-12945.2, the California Family Rights Act (CFRA)). However, these laws do not always provide identical rights or operate in the same manner. For example, pregnancy as a "serious health condition" is covered under FMLA but not under CFRA. Instead, under state law, an employee who is disabled due to pregnancy, childbirth, or a related medical condition is entitled to pregnancy disability leave (PDL) pursuant to Government Code 12945. Where there is a difference between state and federal law, the law that grants the greatest benefits generally controls. In those situations, the district should consult CSBA's District and County Office of Education Legal Services or district legal counsel should be consulted as needed.

The district shall not deny any eligible employee the right to family care or medical leave pursuant to the Family and Medical Leave Act (FMLA) or the California Family Rights Act (CFRA), or to Pregnancy Disability Leave (PDL), when an employee is disabled by a pregnancy, childbirth, or related medical condition. The district shall not interfere with, restrain, or deny the exercise of an employee's right to any such leave, nor shall the district discharge, discriminate against, or retaliate against an employee for taking such leave, opposing or challenging an unlawful employment practice in relation to any of these laws, or being involved in any related inquiry or proceeding. (Government Code 12945, 12945.2; 2 CCR 11094; 29 USC 2615)

### Definitions

The words and phrases defined below shall have the same meaning throughout this administrative regulation except where a different meaning is otherwise specified.

*Child* means a biological, adopted, or foster child; a stepchild; a legal ward; or a person to whom the employee stands in loco parentis. For purposes of CFRA leave, child also includes a child of a registered domestic partner. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611)

CSBA NOTE: Pursuant to Government Code 12945.2, as amended by AB 1041 (Ch. 748, Statutes of 2022), a designated person, as defined below, is added to the class of people an employee may take leave to care for under CFRA. A designated person may be identified by the employee at the time of the employee's requests for the leave, and the district may limit employees to one designated person per 12-month period.

Designated person, for CFRA purposes, means any individual related by blood, or whose association with the employee is the equivalent of a family relationship. (Government Code 12945.2)

*Eligible employee*, for FMLA and CFRA purposes, means an employee who has been employed with the district for at least 12 months and who has at least 1,250 hours of service with the district during the 12 months immediately preceding the leave. However, these requirements shall not apply when an employee applies for PDL. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611; 29 CFR 825.110)

CSBA NOTE: Pursuant to Government Code 12945.2, as amended by AB 1033 (Ch. 327, Statutes of 2021), includes 1041, a parent-in-law "designated person," as defined above, is included in the definition of "parent" "eligible family member" for purposes of CFRA leave.

*Eligible family member* means an employee's child, parent, or spouse. For purposes of leave to care for a family member with a serious health condition pursuant to CFRA, eligible family member includes an employee's child, parent, parent-in-law, spouse, registered domestic partner, grandparent, grandchild, or sibling, or designated person. (Government Code 12945.2; 2 CCR 11087; 29 USC 2612)

*Employee disabled by pregnancy* means an employee whose health care provider states that the employee is: (2 CCR 11035)

1. Unable because of pregnancy to perform any one or more of the essential functions of the job or to perform any of them without undue risk to the employee or other persons or to the pregnancy's successful completion
2. Suffering from severe "morning sickness" or needs to take time off for prenatal or postnatal care, bed rest, gestational diabetes, pregnancy-induced hypertension, preeclampsia, postpartum depression, childbirth, loss or end of pregnancy, recovery from childbirth or loss or end of pregnancy, or any other pregnancy-related condition

*Parent* means a biological, foster, or adoptive parent; a parent-in-law; a stepparent; a legal guardian; or another person who stood in loco parentis to the employee when the employee was a child. However, for FMLA purposes, parent does not include a spouse's parents. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611; 29 CFR 825.122)

*Serious health condition* means an illness, injury (including, but not limited to, on-the-job injuries), impairment, or physical or mental condition of the employee or an eligible family member of the employee that involves either inpatient care or continuing treatment, including treatment for substance abuse, as follows: (Government Code 12945.2; 2 CCR 11087, 11097; 29 USC 2611, 2612; 29 CFR 825.113-825.115)

1. Inpatient care in a hospital, hospice, or residential health care facility, any subsequent treatment in connection with such inpatient care, or any period of incapacity.

A person is considered an inpatient when formally admitted to a health care facility with the expectation of remaining overnight and occupying a bed, even if it later develops that the person can be discharged or transferred to another facility and does not actually remain overnight.

Incapacity means the inability to work, attend school, or perform other regular daily activities due to a serious health condition, its treatment, or the recovery that it requires.

2. Continuing treatment or continuing supervision by a health care provider, including one or more of the following:

- a. A period of incapacity of more than three consecutive full days
- b. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition
- c. Any period of incapacity due to pregnancy or for prenatal care under FMLA
- d. Any period of incapacity which is permanent or long term due to a condition for which treatment may not be effective
- e. Any period of absence to receive multiple treatments, including recovery, by a health care provider

*Spouse* means a partner in marriage as defined in Family Code 300, including same sex partners in marriage. For purposes of CFRA leave, spouse also includes a registered domestic partner within the meaning of Family Code 297-297.5. (Family Code 297, 297.5, 300; 2 CCR 11087; 29 CFR 825.122)

### **Eligibility/Purposes of Leave**

CSBA NOTE: Government Code 12945.2 and 29 USC 2611-2612 require a district to grant family care and medical leave to an eligible employee for any of the reasons stated below. These requirements apply to all public agencies regardless of the number of employees.

The district shall grant FMLA or CFRA leave to eligible employees for any of the following reasons: (Government Code 12945.2; 29 USC 2612; 29 CFR 825.112, 825.126, 825.127)

1. The birth of a child of the employee or placement of a child with the employee in connection with the employee's adoption or foster care of the child (parental leave)
2. The care of an eligible family member with a serious health condition
3. The employee's own serious health condition that makes the employee unable to perform the job functions of the position

CSBA NOTE: Pursuant to 29 CFR 825.126, FMLA military family leave is available to any eligible employee for a qualifying exigency while the employee's spouse, child, or parent who is a military member is on covered active duty during deployment to a foreign country. Government Code 12945.2 provides exigency leave under CFRA for an employee whose registered domestic partner is on active duty. For requirements related to qualifying exigency leave, see the section "Military Family Leave Resulting from Qualifying Exigencies" below.

4. A qualifying exigency arising out of the fact that the employee's spouse, child, parent, or, for CFRA leave only, a registered domestic partner, is a military member on covered active duty or call to covered active duty (or has been notified of an impending call or order to covered active duty)

CSBA NOTE: Pursuant to 29 CFR 825.127, military caregiver leave is available to any eligible employee who is a family member of a covered servicemember with a serious injury or illness. For requirements related to military caregiver leave, see the section on "Military Caregiver Leave" below.

5. The care of a covered servicemember with a serious injury or illness when the employee is a spouse, child, parent, or next of kin of the covered servicemember

CSBA NOTE: Under federal law, pregnancy as a "serious health condition" is covered as part of FMLA leave. However, disability due to pregnancy is explicitly excluded from coverage under CFRA (2 CCR 11093). Instead, pursuant to Government Code 12926 and 12945, any California employee who is "disabled because of pregnancy, childbirth, or related medical conditions" is entitled to unpaid PDL of up to four months if the employer has five or more employees. Therefore, such an employee is entitled to up to four months of PDL and an additional 12 weeks of CFRA leave following the birth of the child.

Additionally, pursuant to 2 CCR 11037, PDL is not subject to eligibility requirements for other FMLA and CFRA leaves, such as minimum hours worked or length of service.

In addition, the district shall grant PDL to any employee who is disabled by pregnancy, childbirth, or other related medical condition. (Government Code 12945; 2 CCR 11037)

### Terms of Leave

CSBA NOTE: Pursuant to Government Code 12945.2, leaves common to CFRA and FMLA run concurrently so that total leave to which an employee is entitled would not be more than 12 work weeks.

An eligible employee shall be entitled to a total of 12 work weeks of FMLA or CFRA leave during any 12-month period, except in the case of leave to care for a covered servicemember as provided under "Military Caregiver Leave" below. To the extent allowed by law, CFRA and FMLA leaves shall run concurrently. (Government Code 12945.2; 29 USC 2612)

CSBA NOTE: To determine the 12-month period in which the leave entitlement occurs, the district may use any of the methods identified in 29 CFR 825.200 and specified in options #1-4 below. However, a district may choose not to use any of these options and may instead choose some other fixed 12-month period. Whichever option is selected, it must be applied uniformly to all employees. If the district fails to select a method for calculating the 12-month period, the method that provides the most beneficial outcome for the employee will be used. Pursuant to 2 CCR 11090, if the district decides to change the calculation method, it must provide at least 60 days' notice to all employees.

**OPTION 1:** The 12-month period shall coincide with the calendar year. (29 CFR 825.200)

**OPTION 2:** The 12-month period shall coincide with the fiscal year. (29 CFR 825.200)

**OPTION 3:** The 12-month period shall be measured forward from the date the employee's first family care and medical leave begins. (29 CFR 825.200)

**OPTION 4:** The 12-month period shall be a rolling period measured backward from the date an employee uses any family care and medical leave, as defined in 29 CFR 825.200. (29 CFR 825.200)

CSBA NOTE: 2 CCR 11042 clarifies that the four months of PDL to which an employee is entitled means the number of days or hours that the employee would normally work within the four calendar months. For employees who work 40 hours per week, PDL leave is defined as 17-1/3 weeks, 122 days, or 693 hours.

In addition, any employee who is disabled by pregnancy, childbirth, or other related condition shall be entitled to PDL for the period of the disability not to exceed four months. For a part-time employee, the four months shall be calculated on a proportional basis. (Government Code 12945; 2 CCR 11042)

CSBA NOTE: While leaves common to CFRA and FMLA run concurrently, PDL is separate and distinct from CFRA leave. Consequently, pursuant to 2 CCR 11046, an employee who is "disabled by pregnancy" may be entitled to up to four months of PDL, followed by 12 work weeks of CFRA leave for the birth of the child (baby bonding). Determining which leaves run concurrently is a complex endeavor and districts should consult [CSBA's District and County Office of Education Legal Services or district legal counsel](#) as needed.

PDL shall run concurrently with FMLA leave for disability caused by an employee's pregnancy. At the end of the employee's FMLA leave for disability caused by pregnancy, or at the end of four months of PDL, whichever occurs first, a CFRA-eligible employee may request to take CFRA leave of up to 12 work weeks, for the reason of the birth of a child or to bond with or care for the child. (Government Code 12945, 12945.2; 2 CCR 11046, 11093)

Leave taken for the birth or placement of a child must be concluded within the 12-month period beginning on the date of the birth or placement of the child. Such leave does not need to be taken in one continuous period of time. (2 CCR 11090; 29 USC 2612)

CSBA NOTE: Although 29 USC 2612 allows the district to limit the aggregate number of work weeks of leave to which two parents may be entitled when both parents work for the district, such leave is covered under both FMLA and CFRA and state law prevails since it provides greater rights to employees.

Each eligible employee shall be granted up to 12 work weeks for family care and medical leave related to the birth or placement of a child, regardless of whether both parents of the child work for the district.

#### **Use/Substitution of Paid Leave**

CSBA NOTE: The district may require employees (Option 1) or employees may elect (Option 2) to use paid leave during an otherwise unpaid portion of CFRA or FMLA leave or PDL. Pursuant to 2 CCR 11044 and 11092, the district may only require an employee to use sick leave if the leave is for the employee's own serious health condition or for PDL, unless mutually agreed to by the district and the employee.

**OPTION 1:** During any otherwise unpaid period of FMLA or CFRA leave, except leave for an employee's own serious health condition, an employee shall use accrued paid leave, including, but not limited to, vacation leave, personal leave, or family leave. If the leave is for the employee's own serious health condition, the employee shall use accrued paid leave, including but not limited to, vacation leave, personal leave, or sick leave. During an unpaid period of PDL, the employee shall use any accrued sick leave and may elect to use any vacation time or other accrued personal time off. (Government Code 12945, 12945.2; 2 CCR 11044, 11092; 29 USC 2612)

#### **OPTION 1 ENDS HERE**

**OPTION 2:** During any otherwise unpaid period of PDL or any FMLA or CFRA leave, the employee may elect to use accrued vacation leave, or any other paid time off negotiated with the district that the employee is eligible to use. If the leave is for the employee's own serious health condition or PDL, the employee may also elect to use accrued sick leave during the period of leave. (Government Code 12945, 12945.2; 2 CCR 11044; 11092; 29 USC 2612)

#### **OPTION 2 ENDS HERE**

CSBA NOTE: The following paragraph is for use with either option above.

The district and employee may also come to agreement regarding the use of any additional paid or unpaid time off instead of using the employee's CFRA leave. (2 CCR 11092)

### **Intermittent Leave/Reduced Work or Leave Schedule**

PDL and family care and medical leave for the serious health condition of an employee or eligible family member may be taken intermittently or on a reduced work or leave schedule when medically necessary, as determined by the health care provider of the person with the serious health condition. However, the district shall limit leave increments to the shortest period of time that the district's payroll system uses to account for absences or use of leave provided it is not to be greater than one hour. (Government Code 12945.2; 2 CCR 11042, 11090; 29 USC 2612)

**CSBA NOTE:** Pursuant to 2 CCR 11090, the minimum duration of CFRA parental leave for the birth, adoption, or foster care placement of a child is generally two weeks. However, the district must grant a request for CFRA leave of less than two weeks duration on any two occasions and may grant additional requests.

The basic minimum duration of leave for the birth, adoption, or foster care placement of a child shall be two weeks. However, the district shall grant a request for such leave of less than two weeks on any two occasions. (2 CCR 11090; 29 USC 2612)

The district may require an employee to transfer temporarily to an available alternative position under any of the following circumstances: (2 CCR 11041, 11090; 29 USC 2612)

1. The employee needs intermittent leave or leave on a reduced work schedule that is foreseeable based on a planned medical treatment for the employee or family member.

**CSBA NOTE:** Pursuant to 2 CCR 11041, the district must accommodate the transfer request of a pregnant employee to the same extent that it accommodates transfer requests for other temporarily disabled employees.

2. A medical certification is provided by the employee's health care provider that, because of pregnancy, the employee has a medical need to take intermittent leave or leave on a reduced work schedule.
3. The district agrees to permit intermittent leave or leave on a reduced work schedule due to the birth, adoption, or foster care placement of the employee's child.

The alternative position must have equivalent pay and benefits and must better accommodate recurring periods of leave than the employee's regular job, and the employee must be qualified for the position. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced work or leave schedule. (2 CCR 11041, 11090; 29 USC 2612)

### **Request for Leave**

**CSBA NOTE:** Pursuant to 2 CCR 11050 and 11091, an employee is required to notify the district of the need to take PDL or family care and medical leave. The employee must provide at least verbal notice sufficient to make the district aware that the employee needs qualifying leave, and the anticipated timing and duration of the leave. However, the employee does not need to assert rights under CFRA or FMLA or even mention CFRA or FMLA to meet the notice requirement, but must state the reason the leave is needed. If there is a question about whether leave is FMLA/CFRA qualifying or if the district is considering denying CFRA leave based on an

employee's refusal to provide further information, [CSBA's District and County Office of Education Legal Services of district](#) legal counsel should be consulted.

The district shall consider an employee's request for PDL or family care and medical leave only if the employee provides at least verbal notice sufficient to make the district aware of the need to take the leave and the anticipated timing and duration of the leave. (2 CCR 11050, 11091)

For family care and medical leave, the employee need not expressly assert or mention FMLA/CFRA to satisfy this requirement. However, the employee must state the reason the leave is needed (e.g., birth of child, medical treatment). If more information is necessary to determine whether the employee is eligible for family care and medical leave, the Superintendent or designee shall inquire further and obtain the necessary details of the leave to be taken. (2 CCR 11091)

The district shall respond to requests for leave as soon as practicable, but no later than five business days after receiving the employee's request. (2 CCR 11091)

CSBA NOTE: Both 29 CFR 825.300 and 2 CCR 11091 require the district to provide an employee with notice of the designation of leave as either qualifying for CFRA or FMLA protection. See section entitled "Notifications" below for further requirements of this "designation notice" as well as other required notifications.

Pursuant to 2 CCR 11091, an employee has the obligation to respond to questions designed to determine whether an absence is potentially CFRA qualifying. If the district is unable to determine whether requested leave is CFRA qualifying because of an employee's refusal to respond to its inquiries, the employee may be denied CFRA protection.

Based on the information provided by the employee, the Superintendent or designee shall designate the leave, paid or unpaid, as FMLA/CFRA qualifying leave and shall give notice of such designation to the employee. Failure of an employee to respond to permissible inquiries regarding the leave request may result in denial of CFRA protection if the district is unable to determine whether the leave is CFRA qualifying. (2 CCR 11091; 29 CFR 825.300)

CSBA NOTE: Pursuant to 2 CCR 11091, the district may require an employee to provide at least 30 days advance notice of the need for family care and medical leave, if the need is foreseeable. If the district requires such advance notice from employees, then the district's notification of FMLA/CFRA rights must so specify; see section below entitled "Notifications."

Pursuant to 2 CCR 11050, an employee requesting PDL is required to provide the district at least 30 days advance notice if the need for PDL is foreseeable.

When an employee is able to foresee the need for PDL or family care and medical leave at least 30 days in advance of the leave, the employee shall provide the district with at least 30 days advance notice before the leave. When the 30 days' notice is not practicable because of a lack of knowledge of when leave will be required to begin, a change in circumstances, a medical emergency, or other good cause, the employee shall provide the district with notice as soon as practicable. Failure of an employee to provide required notice may result in a denial of leave. (2 CCR 11050, 11091)

In all instances, the employee shall consult with the Superintendent or designee and make a reasonable effort to schedule, subject to the health care provider's approval, any planned appointment or medical treatment or supervision so as to minimize disruption to district operations. (Government Code 12945.2; 2 CCR 11050, 11091)

#### **Certification of Health Condition**

CSBA NOTE: Government Code 12945.2 and Labor Code 245.5, as amended by AB 1041, expands the CFRA leave an eligible employee may take to include caring for a designated person with a serious health condition. A "designated person" is defined as any individual related by blood or whose association with the employee is the equivalent of a family relationship. The employee may identify the designated person at the time the employee requests the leave. The district may limit the employee to taking CFRA leave to care for one designated person per 12-month period.

An eligible employee may request CFRA leave to care for a designated person with a serious health condition. The employee may identify the designated person at the time of the employee's request for the leave. The district may limit an employee to using CFRA leave to care for one designated person per 12-month period. (Government Code 12945.2; Labor Code 245.5)

#### **Certification of Health Condition**

CSBA NOTE: The following optional section is for use by districts that require an employee to submit a medical certification of the need for family care and medical leave for an employee's own serious health condition or to care for the employee's eligible family member with a serious health condition. In order to help avoid claims of discrimination, the district should generally treat all such employees uniformly; thus, districts using this section should request a medical certification from all such employees.

Districts requiring written medical certification from employees may develop their own form, utilize one provided by the employee's health care provider, or use the form provided in 2 CCR 11097.

Within five business days of an employee's request for family care and medical leave for the serious health condition of the employee or an eligible family member, the Superintendent or designee shall request that the employee provide certification by a health care provider of the need for leave. Upon receiving the district's request, the employee shall provide the certification within 15 calendar days, unless either the Superintendent or designee provides additional time or it is not practicable under the particular circumstances, despite the employee's diligent, good faith efforts. (2 CCR 11087, 11091; 29 CFR 825.305)

The certification shall include the following: (Government Code 12945.2; 2 CCR 11087; 29 USC 2613)

1. The date on which the serious health condition began
2. The probable duration of the condition

CSBA NOTE: Item #3 below addresses an eligible employee's request for leave to care for an eligible family member. In such a case, 2 CCR 11087 provides that the health care provider's certification need not identify the serious health condition involved. The U.S. Department of Labor (DOL) provides a form, "Certification of Health Care Provider for Family Member's Serious Health Condition under the Family and Medical Leave Act," that districts may use for this purpose to avoid unauthorized disclosure of the serious health condition.

3. If the employee is requesting leave to care for an eligible family member with a serious health condition, both of the following:
  - a. Statement that the serious health condition warrants the participation of the employee to provide care, such as by providing psychological comfort, arranging for third party care, or directly providing or participating in the medical care of the

eligible family member during a period of the treatment or supervision

- b. Estimated amount of time the health care provider believes the employee needs to care for the eligible family member
4. If the employee is requesting leave because of the employee's own serious health condition, a statement that due to the serious health condition, the employee is unable to work at all or is unable to perform one or more essential job functions of the position
5. If the employee is requesting leave for intermittent treatment or on a reduced work or leave schedule for planned medical treatment, a statement of the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave

**CSBA NOTE:** Government Code 12940 and other provisions of the California Genetic Information Nondiscrimination Act of 2011 prohibit an employer from making a non-job related inquiry into an employee's genetic information. A district which believes that an employee's leave may require obtaining this information should consult with [CSBA's District and County Office of Education Legal Services or district](#) legal counsel.

The Superintendent or designee shall not request any genetic information related to an employee except as authorized by law in accordance with the California Genetic Information Nondiscrimination Act of 2011. (Government Code 12940)

When an employee has provided sufficient medical certification to enable the district to determine whether the employee's leave request is FMLA/CFRA-eligible, the Superintendent or designee shall notify the employee within five business days whether the leave is FMLA/CFRA-eligible. The Superintendent or designee may also retroactively designate leave as FMLA/CFRA leave as long as appropriate notice is given to the employee and there is no harm or injury to the employee. (2 CCR 11091; 29 CFR 825.301)

If the Superintendent or designee has a good faith objective reason to doubt the validity of a certification that accompanies a request for leave for the employee's own serious health condition, the Superintendent or designee may require the employee to obtain a second opinion from a district-approved health care provider, at district expense. If the second opinion is contrary to the first, the Superintendent or designee may require the employee to obtain a third medical opinion from a third health care provider approved by both the employee and the district, again at district expense. The opinion of the third health care provider shall be final and binding. (Government Code 12945.2; 2 CCR 11091; 29 USC 2613)

#### **Certification for PDL**

**CSBA NOTE:** The following optional section is for use by districts that require an employee to submit a medical certification of the need for leave along with the request for PDL. Districts requiring written medical certification from employees who request reasonable accommodation, transfer, or disability leave because of pregnancy may develop their own form, utilize one provided by the employee's health care provider, or use the form provided in 2 CCR 11050.

The Superintendent or designee shall request that an employee who is requesting PDL provide certification by a health care provider of the need for leave at the time the employee gives notice of the need for PDL, or within two business days of giving the notice. If the need for PDL is unforeseen, the Superintendent or designee shall request the medical certification within two business days after the leave commences. The Superintendent or designee may request certification at some later date if the Superintendent or designee has reason to question the

appropriateness of the leave or its duration. (2 CCR 11050)

For PDL that is foreseeable and for which at least 30 days' notice has been given, the employee shall provide the medical certification before the leave begins. When this is not practicable, the employee shall provide the certification within the time frame specified by the Superintendent or designee which must be at least 15 calendar days after the request, unless it is not practicable under the particular circumstances despite the employee's diligent, good faith efforts. (2 CCR 11050)

Medical certification for PDL purposes shall include a statement that the employee needs to take the leave because the employee is disabled by pregnancy, childbirth, or a related medical condition, the date on which the employee became disabled because of pregnancy, and the estimated duration of the leave. (2 CCR 11050)

If additional PDL or family care and medical leave is needed when the time estimated by the health care provider expires, the district may require the employee to provide recertification in the manner specified for the leave. (Government Code 12945.2; 2 CCR 11050; 29 USC 2613)

### **Release to Return to Work**

**CSBA NOTE:** The following optional section is for use by districts that choose to require a return-to-work certification and may be modified to list the specific positions for which certification is required. Pursuant to 2 CCR 11091, the district may require an employee to submit a return-to-work certification from the employee's health provider, stating that the employee is able to return to work. However, this requirement may only be made if the district has a uniformly applied practice of requiring such releases when employees return to work after illness, injury, or disability, any fitness-for-duty examination is job related and consistent with business necessity, and the practice is not forbidden by its collective bargaining agreement. 2 CCR 11050 has similar requirements when an employee is returning to work after PDL.

Pursuant to 29 CFR 825.312, when the health care provider certifies that the employee is able to resume work, the district may also require the health care provider to address the employee's ability to perform the essential functions of the job. If such a requirement is imposed, then the district must provide the employee with a list of the employee's essential job functions with the "designation notice"; see section entitled "Notifications" below.

Upon expiration of an employee's PDL or family care and medical leave taken for the employee's own serious health condition, the employee shall present certification from the health care provider of the employee's ability to resume work. The certification shall address the employee's ability to perform the essential job functions of the position.

### **Rights to Reinstatement**

**CSBA NOTE:** Pursuant to Government Code 12945.2, 2 CCR 11043 and 11089, and 29 USC 2614, an employee on PDL or family care and medical leave has the right to be reinstated to the same or a comparable position upon return from such leave. However, such an employee has no greater right to reinstatement or other benefits than the employee would have if employment had been continuous.

Upon granting an employee's request for PDL or FMLA/CFRA leave, the Superintendent or designee shall guarantee to reinstate the employee in the same or a comparable position when the leave ends. (Government Code 12945.2; 2 CCR 11043, 11089; 29 USC 2614)

The district may refuse to reinstate an employee to the same or a comparable position if the FMLA/CFRA leave was fraudulently obtained by the employee. (2 CCR 11089; 29 CFR 825.216)

The district may refuse to reinstate an employee to the same position after taking PDL if, at the time the reinstatement is requested, the employee would not otherwise have been employed in that position for legitimate business reasons unrelated to the employee's PDL. (2 CCR 11043)

#### **Maintenance of Benefits/Failure to Return from Leave**

During the period when an employee is on PDL or family care and medical leave, the employee shall maintain employee status with the district and the leave shall not constitute a break in service for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan. (Government Code 12945.2; 2 CCR 11092; 29 USC 2614)

CSBA NOTE: Pursuant to 2 CCR 11044 and 11092, the time that the district maintains and pays for group health coverage during PDL shall not be used to meet its obligation to pay for 12 weeks of group health coverage during leave taken under CFRA, even where the district designates the PDL as FMLA or CFRA leave. The entitlements to employer-paid group health coverage during PDL and during CFRA are two separate and distinct entitlements.

For up to a maximum of four months for PDL and 12 work weeks for other family care and medical leave, the district shall continue to provide an eligible employee the group health plan coverage that was in place before the employee took the leave. The employee shall reimburse the district for premiums paid during the leave if the employee fails to return to district employment after the expiration of all available leaves and the failure is for a reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond the employee's control. (Government Code 12945.2; 2 CCR 11044, 11092; 29 USC 2614; 29 CFR 825.213)

In addition, during the period when an employee is on PDL or family care and medical leave, the employee shall be entitled to continue to participate in other employee benefit plans including life insurance, short-term or long-term disability insurance, accident insurance, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as would apply to an unpaid leave taken for any other purpose. However, for purposes of pension and retirement plans, the district shall not make plan payments for an employee during any unpaid portion of the leave period and the leave period shall not be counted for purposes of time accrued under the plan. (Government Code 12945.2; 2 CCR 11044, 11092)

#### **Military Family Leave Resulting from Qualifying Exigencies**

CSBA NOTE: The following optional section reflects 29 USC 2611 and 2612 which authorize an eligible employee to take up to 12 work weeks of unpaid FMLA leave to attend to an "exigency" arising out of the fact that the employee's spouse, child, or parent is on active duty or on call to active duty status in the National Guard or Reserves, or is a member of the regular Armed Forces on deployment to a foreign country. Pursuant to Government Code 12945.2, an employee may take unpaid leave under CFRA to attend to an exigency involving the employee's registered domestic partner.

Pursuant to 29 CFR 825.200, an employee is entitled to 12 work weeks of qualifying exigency leave during each 12-month period established by the district; see section entitled "Terms of Leave" above. According to DOL's, "Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers," an employee may take all 12 weeks of FMLA leave entitlement as

a qualifying exigency leave or take a combination of the 12 weeks of leave for both qualifying exigency leave and other FMLA leave, such as leave for a serious health condition.

An eligible employee may take up to 12 work weeks of unpaid FMLA/CFRA leave, during each 12-month period established by the district in the section entitled "Terms of Leave" above, for one or more qualifying exigencies while the employee's child, parent, spouse, or, for purposes of CFRA leave, registered domestic partner, who is a military member is on covered active duty or on call to covered active duty status. (Government Code 12945.2; 29 USC 2612; 29 CFR 825.126)

*Covered active duty* means, for members of the Regular Armed forces, duty during the deployment of a member of the regular Armed Forces to a foreign country or, for members of the Reserve components of the Armed forces, duty during the deployment of a member of the National Guard or Reserves to a foreign country under a call or an order to active duty in support of a contingency operation pursuant to law. Deployment to a foreign county includes deployment to international waters. (29 USC 2611; 29 CFR 825.126)

CSBA NOTE: Pursuant to 29 CFR 825.126, a "qualifying exigency" may include "other events" agreed to by the district and the employee. As an example of such other event, ~~DOL's~~ DOL's, "Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers," and the California Department of Human Resources', "Questions and Answers - Military Family Leave - FMLA," list leave to spend time with the military member either prior to or post deployment or to attend to household emergencies that would normally have been handled by the military member.

Qualifying exigencies include time needed to: (29 CFR 825.126)

1. Address issues arising from short notice deployment of up to seven calendar days from the date of receipt of call or order of short notice deployment
2. Attend military events and related activities, such as any official ceremony or family assistance program related to the covered active duty or call to covered active duty status
3. Arrange child care or attend school activities arising from the covered active duty or call to covered active duty, such as arranging for alternative child care, enrolling or transferring a child to a new school, or attending meetings
4. Make or update financial and legal arrangements to address a military member's absence
5. Attend counseling provided by someone other than a health care provider
6. Spend time (up to 15 calendar days of leave per instance) with a military member who is on short-term, temporary, rest and recuperation leave during deployment
7. Attend to certain post-deployment activities, such as arrival ceremonies or reintegration briefings
8. Care for a military member's parent who is incapable of self-care when the care is necessitated by the military member's covered active duty
9. Address any other event that the employee and district agree is a qualifying exigency

The employee shall provide the Superintendent or designee with notice of the need for the qualifying exigency leave as soon as practicable, regardless of how far in advance such leave is foreseeable. (29 CFR 825.302)

CSBA NOTE: The district may require the employee to provide certification of the qualifying exigency containing the information specified in 29 CFR 825.309. A form has been developed by DOL for this purpose and is available on its ~~web site~~ [website](#).

The following paragraph is optional and should be deleted by those districts that do not require such documentation. In order to help avoid claims of discrimination, the district should generally treat all employees uniformly; thus, districts using this paragraph should request certification from all employees requesting such leave.

An employee who is requesting leave for qualifying exigencies shall provide the Superintendent or designee with a copy of the military member's active duty orders, or other documentation issued by the military, and the dates of the service. In addition, the employee shall provide the Superintendent or designee with certification of the qualifying exigency necessitating the leave. The certification shall contain the information specified in 29 CFR 825.309.

The employee's qualifying exigency leave may be taken on an intermittent or reduced work or leave schedule basis. (29 CFR 825.302)

CSBA NOTE: Pursuant to 29 USC 2612 and 29 CFR 825.207, the district has the option to require or give employees discretion to use paid leave when taking FMLA/CFRA leave; see Options 1 and 2 in the section entitled "Use/Substitution of Paid Leave" above. Whichever option is selected by the district with ~~regards~~ [regard](#) to FMLA/CFRA leave is also applicable to qualified exigency leave.

During the period of qualified exigency leave, the district's rule regarding an employee's use of accrued vacation leave and any other accrued paid or unpaid time off, as specified in the section "Use/Substitution of Paid Leave" above, shall apply.

### **Military Caregiver Leave**

CSBA NOTE: 29 USC 2612 and 29 CFR 825.127 authorize an eligible employee to take up to 26 work weeks of unpaid military caregiver leave, as defined below, during a single 12-month period. According to DOL's, "Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers," if an employee does not use the entire 26-week entitlement in a single 12-month period, unused weeks cannot be carried over into another 12-month period. However, the employee may qualify for nonmilitary FMLA leave.

The district shall grant an eligible employee up to a total of 26 work weeks of leave during a single 12-month period, measured forward from the first date the leave is taken, to care for a covered servicemember with a serious illness or injury. In order to be eligible for such military caregiver leave, the employee must be the spouse, child, parent, or next of kin of the covered servicemember. This 26-week period is inclusive of the 12 work weeks of leave that may be taken for other FMLA qualifying reasons. (29 USC 2611, 2612; 29 CFR 825.127)

Covered servicemember may be: (29 CFR 825.127)

1. A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list for a serious injury or illness
2. A veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran

*Child of a covered servicemember* means the covered servicemember's biological, adopted, or foster child, stepchild, legal ward, or child for whom the covered servicemember stood in loco parentis, and who is of any age. (29 CFR 825.127)

*Parent of a covered servicemember* means the covered servicemember's biological, adopted, step, or foster parent, or any other individual who stood in loco parentis to the covered servicemember (except "parents in law"). (29 CFR 825.127)

*Next of kin* means the nearest blood relative to the covered servicemember, other than the spouse, parent, or child, unless designated in writing by the covered servicemember. (29 USC 2611, 2612; 29 CFR 825.127)

*Outpatient status* means the status of a member of the Armed Forces assigned to a military medical treatment facility as an outpatient or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. (29 USC 2611; 29 CFR 825.127)

**CSBA NOTE:** 29 USC 2611 defines "serious injury or illness" for active members of the Armed Forces and for veterans, as provided below. Pursuant to 29 CFR 825.127, a veteran's injury or illness will qualify as a "serious injury or illness" for the purpose of this leave, only if one of the four conditions listed in Item #2 below is present.

*Serious injury or illness* means: (29 USC 2611; 29 CFR 825.127)

1. For a current member of the Armed Forces, an injury or illness incurred by the member in the line of duty on active duty, or that existed before the beginning of the member's active duty and was aggravated by the member's service in the line of duty while on active duty in the Armed Forces, and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating;
2. For a veteran, an injury or illness incurred or aggravated by the member's service in the line of duty on active duty in the Armed Forces, including the National Guard or Reserves, that manifested itself before or after the member became a veteran and that is at least one of the following:
  - a. A continuation of a serious injury or illness incurred or aggravated while the veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember's office, grade, rank, or rating
  - b. A physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs (VA) Service-Related Disability Rating of 50 percent or greater, based wholly or partly on that physical or mental condition
  - c. A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of one or more disabilities related to the servicemember's military service or that would do so but for treatment received by the veteran
  - d. An injury, including a psychological injury, on the basis of which the veteran has been enrolled in the VA's Program of Comprehensive Assistance for Family Caregivers

CSBA NOTE: As is the case for other types of FMLA/CFRA leave, 29 CFR 825.302 requires the employee, when the need for the leave is foreseeable, to provide 30 days advance notice to the district before the leave is to begin.

The employee shall provide reasonable and practicable notice of the need for the leave in accordance with the procedures in the section entitled "Request for Leave" above.

CSBA NOTE: 29 CFR 825.310 authorizes the district to require employees to provide certification of the need for the leave, which is to be completed by an authorized health care provider of the covered servicemember.

The following paragraph is optional. In order to help avoid claims of discrimination, the district should generally treat all employees uniformly; thus, districts using this paragraph should request a medical certification from all employees requesting such leave.

An employee requesting leave to care for a covered servicemember with a serious injury or illness shall provide the Superintendent or designee with certification from an authorized health care provider of the servicemember that contains the information specified in 29 CFR 825.310.

CSBA NOTE: Pursuant to 29 CFR 825.127, an employee may take up to a total of 26 work weeks of leave for both regular FMLA and military caregiver leave during the 12-month leave entitlement period. However, the employee may not take more than 12 weeks for regular FMLA leave. For example, according to DOL's, "Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers," an employee could take 12 weeks of FMLA leave to care for a newborn child and 14 weeks of military caregiver leave but could not take 16 weeks to care for a newborn and 10 weeks of military caregiver leave. If the leave qualifies as both military caregiver leave and leave to care for a family member with a serious health condition, 29 CFR 825.127 specifies that the district must first designate the leave as military caregiver leave.

The leave may be taken intermittently or on a reduced work or leave schedule when medically necessary. An employee taking military caregiver leave in combination with other family care and medical leaves pursuant to this administrative regulation shall be entitled to a combined total of 26 work weeks of leave during a single 12-month period. When both spouses work for the district and both wish to take such leave, the spouses are limited to a maximum combined total of 26 work weeks during a single 12-month period. (29 USC 2612)

CSBA NOTE: Pursuant to 29 USC 2612 and 29 CFR 825.207, the district has the option to require or give employees discretion to substitute paid leave when taking FMLA/CFRA leave; see Options 1 and 2 in section entitled "Use/Substitution of Paid Leave" above. Whichever option is selected by the district with regard to FMLA/CFRA, leave is also applicable to military caregiver leave.

During the period of military caregiver leave, the district's rule regarding an employee's use of accrued vacation leave and other accrued paid or unpaid time off, as specified in the section "Use/Substitution of Paid Leave" above, shall apply.

## Notifications

CSBA NOTE: Both 29 CFR 825.300 and 2 CCR 11095 require employers to provide general notification to employees of their rights under the FMLA/CFRA as well as specific notifications when an employee has requested leave, as detailed below. 2 CCR 11049 contains similar notice requirements for PDL purposes. Samples of notices which describe an employee's rights are available on the web sites [websites](#) of the California [Civil Rights](#) Department of Fair Employment and Housing and the DOL.

Pursuant to 2 CCR 11095, the district must translate the notice into every language that is spoken by at least 10 percent of the district's employees at any facility.

The Superintendent or designee shall provide the following notifications regarding state and federal law related to PDL or FMLA/CFRA leave:

1. General Notice: Information explaining the provisions of the Fair Employment and Housing Act/PDL and FMLA/CFRA and employees' rights and obligations shall be posted in a conspicuous place on district premises, or electronically, and shall be included in employee handbooks. (2 CCR 11049, 11095; 29 USC 2619)

CSBA NOTE: Pursuant to 2 CCR 11050 and 11091, a district may require an employee, when the need for the leave is foreseeable, to provide at least 30 days advance notice before the leave is to begin; see the section entitled "Request for Leave" above. 2 CCR 11049 and 11091 specify that districts requiring such notice from employees must give them "reasonable advance notice" of their obligation and that incorporation of the requirement into the general notice satisfies the "advance notice" requirement.

The following optional paragraph is for use by districts that require employees to provide advance notice.

2. The general notice shall also explain an employee's obligation to provide the Superintendent or designee with at least 30 days' notice of the need for the requested leave, when the need is reasonably foreseeable at least 30 days prior to the start of the leave. (2 CCR 11049, 11050, 11091)
3. Eligibility Notice: When an employee requests leave, including PDL, or when the Superintendent or designee acquires knowledge that an employee's leave may be for an FMLA/CFRA qualifying reason, the Superintendent or designee shall, within five business days, provide notification to the employee of eligibility to take such leave. (2 CCR 11049, 11091; 29 CFR 825.300)
4. Rights and Responsibilities Notice: Each time the eligibility notice is provided to an employee, the Superintendent or designee shall provide written notification explaining the specific expectations and obligations of the employee, including any consequences for a failure to meet those obligations. Such notice shall include, as applicable: (29 CFR 825.300)
  - a. A statement that the leave may be designated and counted against the employee's annual FMLA/CFRA leave entitlement and the appropriate 12-month entitlement period, if qualifying

CSBA NOTE: Item #4b below is for use by districts that require medical certification to the effect that the employee is able to resume work. See the section entitled "Release to Return to Work" above.

- b. Any requirements for the employee to furnish medical certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of active duty or call to active duty status and the consequences of failing to provide the certification
    - c. The employee's right to use paid leave, whether the district will require use of paid leave, conditions related to any use of paid leave, and the employee's entitlement to take unpaid leave if the employee does not meet the conditions for paid leave

- d. Any requirements for the employee to make premium payments necessary to maintain health benefits, the arrangement for making such payments, and the possible consequences of failure to make payments on a timely basis
- e. The employee's right to maintenance of benefits during the leave and restoration to the same or an equivalent job upon return from leave
- f. The employee's potential liability for health insurance premiums paid by the district during the employee's unpaid FMLA leave should the employee not return to service after the leave

Any time the information provided in the above notice changes, the Superintendent or designee shall, within five business days of receipt of an employee's first notice of need for leave, provide the employee with a written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

- 5. Designation Notice: When the Superintendent or designee has information (e.g., sufficient medical certification) to determine whether the leave qualifies as FMLA/CFRA leave, the Superintendent or designee shall, within five business days, provide written notification designating the leave as FMLA/CFRA qualifying or, if the leave will not be so designated, the reason for that determination. (2 CCR 11091; 29 CFR 825.300)

If the amount of leave needed is known, the notice shall include the number of hours, days, or weeks that will be counted against the employee's FMLA/CFRA entitlement. If it is not possible to provide that number at the time of the designation notice, notification shall be provided of the amount of leave counted against the employee's entitlement upon request by the employee and at least once in every 30-day period if leave was taken in that period. (29 CFR 825.300)

CSBA NOTE: 29 CFR 825.300 requires the designation notice to specify whether the district requires paid leave to be used during an otherwise unpaid family care and medical leave, whether the district requires an employee to present release to return to work certification, and whether that certification must address the employee's ability to perform the essential functions of the job. See the sections entitled "Use/Substitution of Paid Leave" and "Release to Return to Work" above. The following paragraph should be revised to reflect district practice.

- 6. If the district requires paid leave to be used during an otherwise unpaid family care and medical leave, the notice shall so specify. If the district requires an employee to present a release to return to work certification that addresses the employee's ability to perform the essential functions of the job, the notice shall also specify that requirement. (2 CCR 11091, 11097; 29 CFR 825.300)

Any time the information provided in the designation notice changes, the Superintendent or designee shall, within five business days, provide the employee with written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

## Records

CSBA NOTE: Government Code 12946, 29 USC 2616, and 29 CFR 825.500 require districts to maintain records of, among other things, applications, dates, and personnel and employment action related to family care and medical leave. Pursuant to 42 USC 2000ff-1, any individually identifiable genetic information possessed by the district must be treated as a confidential medical record of the employee involved.

The Superintendent or designee shall maintain records pertaining to an individual employee's use of FMLA or CFRA leave or PDL in accordance with law. (Government Code 12946; 29 USC 2616; 42 USC 2000ff-1; 29 CFR 825.500)

#### 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
2 CCR 11035-11051	Unlawful sex discrimination;; pregnancy, childbirth, and related medical conditions
2 CCR 11087-11098	California Family Rights Act
Ed. Code 44965	Granting of leaves of absence for pregnancy and childbirth
Fam. Code 297-297.5	Rights, protections, benefits under the law; registered domestic partners
Fam. Code 300	Definition of marriage
Gov. Code 12926	Definitions
Gov. Code 12940	Unlawful discriminatory employment practices
Gov. Code 12945	Unlawful discrimination based on pregnancy, childbirth, or related medical conditions
Gov. Code 12945.1-12945.2	California Family Rights Act
Gov. Code 12945.6	Parental leave
Gov. Code 12946	Fair employment and Housing Act: discrimination prohibited
Federal	Description
1 USC 7	Definition of marriage and spouse
29 CFR 825.100-825.702	Family and Medical Leave Act of 1993
29 USC 2601-2654	Family Care and Medical Leave Act
42 USC 2000ff-2000ff-11	Genetic Information Nondiscrimination Act of 2008
Management Resources	Description
Court Decision	Faust v. California Portland Cement Company, (2007) 150 Cal.App.4th 864
Court Decision	Tellis v. Alaska Airlines, (9th Cir., 2005) 414 F.3d 1045
Court Decision	United States v. Windsor, (2013) 699 F.3d 169
U.S. Department of Labor Publication	Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers
Website	CSEA District and County Office of Education Legal Services

Website	U.S. Department of Labor, FMLA
Website	California Civil Rights Department

## Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
0470	COVID-19 Mitigation Plan
1113	District And School Web Sites
1113	District And School Web Sites
1113-E(1)	District And School Web Sites
2121	Superintendent's Contract
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4032	Reasonable Accommodation
4033	Lactation Accommodation
4112.2	Certification
4112.2	Certification
4112.4	Health Examinations
4112.42	Drug And Alcohol Testing For School Bus Drivers
4112.42	Drug And Alcohol Testing For School Bus Drivers
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4113.4	Temporary Modified/Light-Duty Assignment
4117.3	Personnel Reduction
4141	Collective Bargaining Agreement
4154	Health And Welfare Benefits
4154	Health And Welfare Benefits
4161	Leaves
4161	Leaves
4161.1	Personal Illness/Injury Leave
4161.2	Personal Leaves
4161.9	Catastrophic Leave Program
4161.9	Catastrophic Leave Program

4212.4	Health Examinations
4212.42	Drug And Alcohol Testing For School Bus Drivers
4212.42	Drug And Alcohol Testing For School Bus Drivers
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4213.4	Temporary Modified/Light-Duty Assignment
4217.3	Layoff/Rehire
4241	Collective Bargaining Agreement
4254	Health And Welfare Benefits
4254	Health And Welfare Benefits
4259	Employee Assistance Programs
4261	Leaves
4261	Leaves
4261.1	Personal Illness/Injury Leave
4261.2	Personal Leaves
4261.9	Catastrophic Leave Program
4261.9	Catastrophic Leave Program
4312.4	Health Examinations
4312.42	Drug And Alcohol Testing For School Bus Drivers
4312.42	Drug And Alcohol Testing For School Bus Drivers
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4313.4	Temporary Modified/Light-Duty Assignment
4354	Health And Welfare Benefits
4354	Health And Welfare Benefits
4359	Employee Assistance Programs
4361	Leaves
4361	Leaves
4361.1	Personal Illness/Injury Leave
4361.2	Personal Leaves
4361.9	Catastrophic Leave Program
4361.9	Catastrophic Leave Program

**Exhibit 4312.9-E(1): Employee Notifications**

**Status: ADOPTED**

Original Adopted Date: 05/01/2016 | Last Revised Date: ~~03/06/01/2022~~ 2023 | Last Reviewed  
Date: ~~03/06/01/2022~~ 2023

CSBA NOTE: The following exhibit lists notices which the law requires be provided to employees. See the referenced Board policy, administrative regulation, or Board bylaw for further information about related program and notice requirements.

**I. To All Employees**

When/Whom to Notify: At the beginning of school year or upon employment  
Education or Other Legal Code: Education Code 231.5, Government Code 12950  
Board Policy/Administrative Regulation #: AR 4119.11/4219.11/4319.11  
Subject: The district's policy on sexual harassment, legal remedies, complaints

When/Whom to Notify: Annually and 72 hours before pesticide application  
Education or Other Legal Code: Education Code 17612  
Board Policy/Administrative Regulation #: AR 3514.2  
Subject: Use of pesticide ~~product~~ products, active ingredients, Internet address to access information on pesticides

When/Whom to Notify: Prior to implementing year-round schedule  
Education or Other Legal Code: Education Code 37616  
Board Policy/Administrative Regulation #: BP 6117  
Subject: Public hearing on ~~year-round~~ implementing year-round program schedule

When/Whom to Notify: Prior to implementing alternative schedule  
Education or Other Legal Code: Education Code 46162  
Board Policy/Administrative Regulation #: BP 6112  
Subject: Public hearing on alternative schedule in secondary grades

When/Whom to Notify: Annually  
Education or Other Legal Code: Education Code 49013; 5 CCR 4622  
Board Policy/Administrative Regulation #: AR 1312.3; BP 0460; BP 3260  
Subject: Uniform complaint procedures, appeals, civil law remedies, coordinator, complaints about student fees and local control accountability plan

When to Notify: Annually  
Education or Other Legal Code: Education Code 49069.5, 51225.1  
Board Policy/Administrative Regulation #: AR 6173, AR 6173.1, 6173.3, 6175  
Subject: Transfer of coursework and credits for foster youth, students experiencing homelessness, former juvenile court school students, children of military family, migrant students, and students participating in a newcomer program.

When/Whom to Notify: Annually  
Education or Other Legal Code: Education Code 49414  
Board Policy/Administrative Regulation #: AR 5141.21

Subject: Request for volunteers to be trained to administer epinephrine auto-injectors

When/Whom to Notify: At least once per year

Education or Other Legal Code: Education Code 49414.3

Board Policy/Administrative Regulation #: AR 5141.21

Subject: Request for volunteers to be trained to administer opioid antagonist

When to Notify: When a parent/guardian requests for district designation of volunteers is received for training on emergency use of anti-seizure medication for a student diagnosed with seizures

Education or Other Legal Code: Education Code 49468.2

Board Policy/Administrative Regulation #: To be included in AR 5141.21

Subject: Request for volunteers to be trained in recognition and response to seizures, including administration of emergency anti-seizure medication, description of training, right to rescind offer to volunteer, prohibition against retaliation.

When/Whom to Notify: To all employees

Education or Other Legal Code: Government Code 1126

Board Policy/Administrative Regulation #: BP 4136/4236/4336

Subject: Prohibition of activities that are inconsistent, incompatible, in conflict with, or inimical to duties; discipline; appeal

When/Whom to Notify: To all employees

Education or Other Legal Code: Government Code 8355; 41 USC 8102; 34 CFR 84.205, 84.210

Board Policy/Administrative Regulation #: BP 4020, BP 4159/4259/4359

Subject: District's drug- and alcohol-free workplace; actions that will be taken if violated; available employee assistance programs

When/Whom to Notify: Upon employment

Education or Other Legal Code: Government Code 21029

Board Policy/Administrative Regulation #: None

Subject: Right to purchase PERS service credit for military service performed prior to public employment

When/Whom to Notify: Upon placement of automated external defibrillator (AED) in school, annually thereafter

Education or Other Legal Code: Health and Safety Code 1797.196

Board Policy/Administrative Regulation #: AR 5141

Subject: Proper use of AED; location of all AEDs on campus, sudden cardiac arrest, school's emergency response plan

When/Whom to Notify: If the district receives Tobacco-Use Prevention Education funds

Education or Other Legal Code: Health and Safety Code 104420

Board Policy/Administrative Regulation #: AR 3513.3

Subject: District's tobacco-free schools policy and enforcement procedures

When/Whom to Notify: Annually, or more frequently if there is new information

Education or Other Legal Code: Health and Safety Code 120875, 120880

Board Policy/Administrative Regulation #: BP 4119.43/4219.43/4319.43

Subject: AIDS and hepatitis B, methods to prevent exposure

When/Whom to Notify: To new employees upon hire and other employees upon request, in

districts with 25 or more employees  
Education or Other Legal Code: Labor Code 230.1  
Board Policy/Administrative Regulation #: AR 4161.2/4261.2/4361.2  
Subject: Rights pursuant to Labor Code 230-230.1 pertaining to leaves and accommodations for victims of crime or abuse

When/Whom to Notify: With each paycheck  
Education or Other Legal Code: Labor Code 246  
Board Policy/Administrative Regulation #: AR 4161.1/4261.1/4361.1  
Subject: Amount of sick leave available

When/Whom to Notify: Upon hire, in employee handbook, and upon request for parental leave  
Education or Other Legal Code: Labor Code 1034  
Board Policy/Administrative Regulation #: BP 4033  
Subject: The district's policy on lactation accommodation

When/Whom to Notify: To covered employees and former employees  
Education or Other Legal Code: Labor Code 2800.2  
Board Policy/Administrative Regulation #: AR 4154/4254/4354  
Subject: Availability of COBRA/Cal-COBRA continuation and conversion coverage; statement encouraging careful examination of options before declining coverage

When/Whom to Notify: To employees participating in a flexible spending account  
Education or Other Legal Code: Labor Code 2810.7  
Board Policy/Administrative Regulation #: None  
Subject: Deadline to withdraw funds from account before the end of the plan year

When/Whom to Notify: To every new employee, either at the time employee is hired or by end of first pay period  
Education or Other Legal Code: Labor Code 3551  
Board Policy/Administrative Regulation #: AR 4157.1/4257.1/4357.1  
Subject: Workers' compensation benefits, how to obtain medical care, role of primary physician, form for reporting personal physician/chiropractor

When/Whom to Notify: Within one day of receiving notice of potential exposure to COVID-19, and remain posted for not less than 15 calendar days, to employees who were on the premises during the infectious period, the exclusive representative, and the employer of subcontracted employees as applicable

Where: Prominently display in all places where notices to employees concerning workplace rules or regulations are customarily posted

Education or Other Legal Code: Labor Code 6409.6  
Board Policy/Administrative Regulation #: AR 4157/4257/4357  
Subject: Potential exposure to COVID-19; benefits to which employees may be entitled; available leave options; protection against discrimination and retaliation; district's disinfection and safety plan

When/Whom to Notify: Prior to beginning employment  
Education or Other Legal Code: Penal Code 11165.7, 11166.5  
Board Policy/Administrative Regulation #: AR 5141.4  
Subject: Status as a mandated reporter of child abuse, reporting obligations, confidentiality rights, copy of law

When/Whom to Notify: Upon employment; ~~and when employee goes on leave for specified reasons and when leaving work due to pregnancy or nonoccupational sickness or injury~~  
Education or Other Legal Code: Unemployment Insurance Code 2613  
Board Policy/Administrative Regulation #: AR 4154/4254/4354  
Subject: Disability insurance rights and benefits

When/Whom to Notify: To principal, counselor who directly supervises or reports on student's behavior or progress, and teacher and other administrators who directly supervise or report on student's behavior or progress when ~~principal~~ the superintendent or designee believes the employee needs the information for the protection of self or others when working with the student, when Superintendent or designee receives written notification that minor student has committed a felony or misdemeanor involving specified offenses  
Education or Other Legal Code: Welfare and Institutions Code 827  
Board Policy/Administrative Regulation #: AR 4158/4258/4358  
Subject: Limited exception to juvenile court record confidentiality to ensure rehabilitation of juvenile criminal offenders and protect students and staff

When/Whom to Notify: To all employees and job applicants  
Education or Other Legal Code: 2 CCR 11023; 34 CFR 104.8, 106.9  
Board Policy/Administrative Regulation #: BP 0410, AR 4030  
Subject: District's policy on nondiscrimination and related complaint procedures

When/Whom to Notify: To all employees via employee handbook, or to each new employee  
Education or Other Legal Code: 2 CCR 11091, 11095; 29 CFR 825.300  
Board Policy/Administrative Regulation #: AR 4161.8/4261.8/4361.8  
Subject: Benefits through Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA); obligation to provide 30 days' notice of need for leave when possible

When/Whom to Notify: To all employees  
Education or Other Legal Code: 8 CCR 3203  
Board Policy/Administrative Regulation #: AR 4157/4257/4357  
Subject: The right and procedure to access the injury and illness prevention program

When/Whom to Notify: To all employees ~~working with homeless families~~  
~~Education or Other Legal Code: 42 USC 11432~~  
~~Board Policy/Administrative Regulation #: AR 6173~~  
~~Subject: Duties of district liaison for homeless students~~

~~When/Whom to Notify: To all employees~~  
~~Education or Other Legal Code: 34 CFR 106.8~~  
~~Board Policy/Administrative Regulation #: AR 4119.11/4219.11/4319.11~~  
~~Subject: Nondiscrimination on the basis of sex; contact information for district's Title IX Coordinator; referral of inquiries to Title IX Coordinator and/or Office for Civil Rights~~

When/Whom to Notify: Annually  
Education or Other Legal Code: 40 CFR 763.84, 763.93  
Board Policy/Administrative Regulation #: AR 3514  
Subject: Availability of asbestos management plan; any inspections, response actions or post-response actions planned or in progress

II.

When/Whom to Notify: Prior to the beginning of school year or upon employment  
Education or Other Legal Code: 20 USC 2354; 34 CFR 100 Appendix B, 104.8  
Board Policy/Administrative Regulation #: AR 6178  
Subject: All career and technical education opportunities are offered without regard to race, color, national origin, sex, or disability in accordance with 34 CFR 100

## **II. To Certificated Employees**

When/Whom to Notify: To eligible certificated employees in a timely manner, and to part-time and substitute certificated employees within 30 days of hire

Education or Other Legal Code: Education Code 22455.5

Board Policy/Administrative Regulation #: AR 4121

Subject: Criteria for membership in retirement system; right to elect membership at any time

When/Whom to Notify: Upon employment of a retired certificated individual

Education or Other Legal Code: Education Code 22461

Board Policy/Administrative Regulation #: AR 4117.14/4317.14

Subject: Postretirement earnings limitation or employment restriction; monthly report of compensation

When/Whom to Notify: To certificated employees

Education or Other Legal Code: Education Code 35171

Board Policy/Administrative Regulation #: AR 4115, BP 4315

Subject: District regulations related to performance evaluations

When/Whom to Notify: 30 days before last day of school year for instructional staff, or by June 30 for noninstructional certificated staff, in any year in which employee is evaluated

Education or Other Legal Code: Education Code 44663

Board Policy/Administrative Regulation #: AR 4115

Subject: Copy of employee's evaluation

When/Whom to Notify: To a certificated employee with unsatisfactory evaluation, once per year for probationary employee or at least once every other year for permanent employee

Education or Other Legal Code: Education Code 44664

Board Policy/Administrative Regulation #: AR 4115

Subject: Notice and description of the unsatisfactory performance

When/Whom to Notify: By May 30, if district elects to issue reemployment notices to certificated employees

Education or Other Legal Code: Education Code 44842

Board Policy/Administrative Regulation #: AR 4112.1

Subject: Request that the employee notify district of intent to remain in service next year

When/Whom to Notify: To probationary and temporary certificated employees upon employment and every July thereafter

Education or Other Legal Code: Education Code 44916

Board Policy/Administrative Regulation #: AR 4112.1, AR 4121

Subject: Employment status and salary

When/Whom to Notify: To probationary employee, by March 15

Education or Other Legal Code: Education Code 44929.21, 44929.23, 44948.5

Board Policy/Administrative Regulation #: BP 4116

Subject: Whether or not employee is reelected for next school year

When/Whom to Notify: When certificated employee is subject to disciplinary action for cause, at any time of year or, for charge of unsatisfactory performance, during instructional year

Education or Other Legal Code: Education Code 44934, 44934.1, 44936

Board Policy/Administrative Regulation #: BP 4118; AR 4118

Subject: Notice of charges, procedures, and employee rights; intent to dismiss or suspend 30 days after notice

When/Whom to Notify: To certificated employee charged with unprofessional conduct, at least 45 days prior to suspension/dismissal notice

Education or Other Legal Code: Education Code 44938

Board Policy/Administrative Regulation #: BP 4118

Subject: Notice of deficiency and opportunity to correct

When/Whom to Notify: To certificated employee charged with unsatisfactory performance, at least 90 days prior to suspension/dismissal notice or prior to last quarter of school year

Education or Other Legal Code: Education Code 44938

Board Policy/Administrative Regulation #: BP 4118

Subject: Notice of deficiency and opportunity to correct

When/Whom to Notify: To certificated employee charged with mandatory leave of absence offense, within 10 days of entry of judgment in proceedings

Education or Other Legal Code: Education Code 44940.5

Board Policy/Administrative Regulation #: AR 4118

Subject: Notice of intent to dismiss 30 days from notice unless employee demands hearing

When/Whom to Notify: To probationary employee 30 days prior to dismissal during school year, but not later than March 15 for a second- year probationary employee

Education or Other Legal Code: Education Code 44948.3

Board Policy/Administrative Regulation #: AR 4118

Subject: Reasons for dismissal and opportunity to appeal

When/Whom to Notify: By March 15 when necessary to reduce certificated personnel, with final notice by May 15

Education or Other Legal Code: Education Code 44949, 44955

Board Policy/Administrative Regulation #: BP 4117.3

Subject: Reasons for personnel reduction and employees' right to hearing; final notice of Board decision re: termination

When/Whom to Notify: Before the end of the school year to temporary employee who served 75 percent of school year but will be released

Education or Other Legal Code: Education Code 44954  
Board Policy/Administrative Regulation #: BP 4121  
Subject: District's decision not to reelect employee for following school year

When/Whom to Notify: During the time between five days after the enactment of an annual Budget Act and August 15 of the fiscal year to which the Budget Act applies when the Board determines that the district's local control funding formula apportionment per unit of ADA for that fiscal year has not increased by at least two percent, to any permanent or probationary certificated employee, including an employee holding a position that requires administrative or supervisory credential, whose services are terminated

Education or Other Legal Code: Education Code 44955.5  
Board Policy/Administrative Regulation #: BP 4117.3  
Subject: Decrease in the number of permanent employees in accordance with a schedule of notice and hearing adopted by the Board

When/Whom to Notify: To teacher, when a student engages in or is reasonably suspected of specified acts

Education or Other Legal Code: Education Code 49079  
Board Policy/Administrative Regulation #: AR 4158/4258/4358  
Subject: Student has committed specified act that constitutes ground for suspension or expulsion

When/Whom to Notify: To teacher of a student who is suspended or expelled, when Superintendent or designee receives transfer student's record regarding acts that resulted in suspension or expulsion

Education or Other Legal Code: Education Code 48201  
Board Policy/Administrative Regulation #: AR 4158/4258/4358  
Subject: Student has committed specified act that constitutes ground for suspension or expulsion

When/Whom to Notify: To certificated employee upon change in employment status due to alleged misconduct

Education or Other Legal Code: 5 CCR 80303  
Board Policy/Administrative Regulation #: AR 4117.7/4317.7  
Subject: Contents of state regulation re: report to Commission on Teacher Credentialing

### **III. To Classified Employees**

When/Whom to Notify: When classified employee is subject to disciplinary action for cause, in nonmerit district

Education or Other Legal Code: Education Code 45113  
Board Policy/Administrative Regulation #: AR 4218  
Subject: Notice of charges, right to hearing, timeline for requesting hearing

When/Whom to Notify: By March 15, when laid off due to lack of work or lack of funds, with final notice by May 15

Education or Other Legal Code: Education Code 45117  
Board Policy/Administrative Regulation #: AR 4217.3  
Subject: Notice of layoff, displacement and reemployment rights, right to hearing; final notice of Board decision regarding termination

When/Whom to Notify: During the time between five days after the enactment of an annual Budget Act and August 15 of the fiscal year to which the Budget Act applies when the Board determines that the district's local control funding formula apportionment per unit of ADA for that fiscal year has not increased by at least two percent, to classified employees who are laid off due to lack of work or lack of funds

Education or Other Legal Code: Education Code 45117

Board Policy/Administrative Regulation #: AR 4217.3

Subject: District Statement of Reduction in Force to affected employees in accordance with a schedule of notice and hearing adopted by the Board

When/Whom to Notify: At least 60 days prior to the effective date of layoff, if the employee's position must be eliminated due to the expiration of a specially funded program

Education or Other Legal Code: Education Code 45117

Board Policy/Administrative Regulation #: AR 4217.3

Subject: Notice of layoff date, displacement and reemployment rights

When/Whom to Notify: Upon employment and upon each change in classification

Education or Other Legal Code: Education Code 45169

Board Policy/Administrative Regulation #: AR 4212

Subject: Employee's class specification, salary data, assignment or work location, duty hours, prescribed workweek

When/Whom to Notify: To permanent employee whose leave is exhausted

Education or Other Legal Code: Education Code 45192, 45195

Board Policy/Administrative Regulation #: AR 4261.1, AR 4261.11

Subject: Exhaustion of leave, opportunity to request additional leave

When/Whom to Notify: To school bus drivers and school activity bus drivers prior to expiration of specified documents

Education or Other Legal Code: 13 CCR 1234

Board Policy/Administrative Regulation #: AR 3542

Subject: Expiration date of driver's license, driver's certificate and medical certificate; need to renew

When/Whom to Notify: To school bus drivers and school activity bus drivers upon employment and at least once per year thereafter

Education or Other Legal Code: 13 CCR 2480

Board Policy/Administrative Regulation #: AR 3542

Subject: Limitations on vehicle idling; consequences of not complying

When/Whom to Notify: To school bus drivers, prior to district drug testing program and thereafter upon employment

Education or Other Legal Code: 49 CFR 382.113, 382.601

Board Policy/Administrative Regulation #: AR 4112.42/4212.42/4312.42

Subject: Explanation of federal requirements for drug testing program and district's policy; prior to administration of each drug or alcohol test

When/Whom to Notify: To school bus drivers, prior to operating school bus  
Education or Other Legal Code: 49 CFR 382.303  
Board Policy/Administrative Regulation #: AR 4112.42/4212.42/4312.42  
Subject: Post accident information, procedures, and instruction

#### **IV. To Administrative/Supervisory Personnel**

When/Whom to Notify: To superintendent, deputy, associate, or assistant superintendent or senior manager of classified service, at least 45 days before expiration of contract  
Education or Other Legal Code: Education Code 35031  
Board Policy/Administrative Regulation #: BP 2121, BP 4312.1  
Subject: Decision not to reelect or reemploy upon expiration of contract or term

When/Whom to Notify: Upon request by administrative or supervisory employee transferred to teaching position  
Education or Other Legal Code: Education Code 44896  
Board Policy/Administrative Regulation #: AR 4313.2  
Subject: Statement of the reasons for the reassignment

When/Whom to Notify: By March 15 to employee who may be released/reassigned the following school year  
Education or Other Legal Code: Education Code 44951  
Board Policy/Administrative Regulation #: AR 4313.2  
Subject: Notice that employee may be released or reassigned the following school year

#### **V. To Individual Employees Under Special Circumstances**

When/Whom to Notify: In the event of a breach of security of district records to affected employees  
Education or Other Legal Code: Civil Code 1798.29  
Board Policy/Administrative Regulation #: BP 3580  
Subject: Types of records affected, date of breach, description of incident, and, as applicable, contact information for credit reporting agencies

When/Whom to Notify: Prior to placing derogatory information in personnel file  
Education or Other Legal Code: Education Code 44031  
Board Policy/Administrative Regulation #: AR 4112.6/4212.6/4312.6  
Subject: Notice of derogatory information, opportunity to review and comment

When/Whom to Notify: To employees who volunteer to administer epinephrine auto-injector  
Education or Other Legal Code: Education Code 49414  
Board Policy/Administrative Regulation #: AR 5141.21  
Subject: Defense and indemnification from civil liability by the district

When/Whom to Notify: To district police officer, within 30 days of decision to impose discipline  
Education or Other Legal Code: Government Code 3304  
Board Policy/Administrative Regulation #: AR 3515.3  
Subject: Decision to impose discipline, including the date that discipline will be imposed

When/Whom to Notify: To employee returning from military leave of absence, within 30 days of return

Education or Other Legal Code: Government Code 20997

Board Policy/Administrative Regulation #: AR 4161.5/4261.5/4361.5

Subject: Right to receive PERS service credit for military service; application form

When/Whom to Notify: 24 hours before Board meets in closed session to hear complaints or charges against employee

Education or Other Legal Code: Government Code 54957

Board Policy/Administrative Regulation #: BB 9321

Subject: Employee's right to have complaints/charges heard in open session

When/Whom to Notify: When taking disciplinary action against employee for disclosure of confidential information

Education or Other Legal Code: Government Code 54963

Board Policy/Administrative Regulation #: BP 4119.23/4219.23/4319.23

Subject: Law prohibiting disclosure of confidential information obtained in closed session

When/Whom to Notify: When document identifying employee who is victim of domestic violence is disclosed

Education or Other Legal Code: Labor Code 230

Board Policy/Administrative Regulation #: AR 4158/4258/4358

Subject: Accommodations and leave for victims of domestic violence

When/Whom to Notify: Within one working day of work-related injury or victimization of crime

Education or Other Legal Code: Labor Code 3553, 5401

Board Policy/Administrative Regulation #: AR 4157.1/4257.1/4357.1

Subject: Potential eligibility for workers' compensation benefits, claim form

When/Whom to Notify: When adverse employment action is based on DOJ criminal history information or subsequent arrest notification

Education or Other Legal Code: Penal Code 11105, 11105.2

Board Policy/Administrative Regulation #: AR 4112.5/4212.5/4312.5

Subject: Copy of DOJ notification

When/Whom to Notify: To any employee with exposure to blood or potentially infectious materials, upon initial employment and at least annually thereafter

Education or Other Legal Code: 8 CCR 3204

Board Policy/Administrative Regulation #: AR 4119.42/4219.42/4319.42

Subject: The existence, location, and availability of exposure and medical records; person responsible for maintaining and providing access to records; right to access records

When/Whom to Notify: To any employee assigned to a work area in a laboratory setting where hazardous chemical chemicals are present, upon initial assignment and upon new within 15 working days after receiving a monitoring result related to an employee exposure situation determination

Education or Other Legal Code: 8 CCR 5191

Board Policy/Administrative Regulation #: AR 3514.1

Subject: Location Contents of 8 CCR 5191, including location and availability of chemical hygiene plan, exposure limits, signs and symptoms of exposure, location of reference material

When/Whom to Notify: To any employee who may be exposed to hazardous substances in the work area, upon initial assignment and when new hazard is introduced into work area

Education or Other Legal Code: 8 CCR 5194

Board Policy/Administrative Regulation #: AR 3514.1

Subject: Any Requirements of 8 CCR 5194, including any presence of hazardous substances in the work area, location and availability of hazard communication program, new material safety data sheet, employee rights

When/Whom to Notify: To employee eligible for military leave

Education or Other Legal Code: 38 USC 4334

Board Policy/Administrative Regulation #: AR 4161.5/4261.5/4361.5

Subject: Notice of rights, benefits, and obligations under military leave

When/Whom to Notify: Within five days of employee's request for family care and medical leave, receipt of supporting information, or district's knowledge that the requested leave may qualify as FMLA leave

Education or Other Legal Code: 29 CFR 825.300; 2 CCR 11049, 11091

Board Policy/Administrative Regulation #: AR 4161.8/4261.8/4361.8

Subject: Designation of leave as FMLA or non-FMLA; if not eligible, reason not eligible; requirement to use paid leave; any requirement for fitness-for-duty certification; any subsequent changes in designation notice

When/Whom to Notify: Whenever notice of eligibility for FMLA is provided to employee

Education or Other Legal Code: 29 CFR 825.300

Board Policy/Administrative Regulation #: AR 4161.8/4261.8/4361.8

Subject: Rights and responsibilities re: use of FMLA; consequences of failure to meet obligations

When/Whom to Notify: To all employees working with families experiencing homelessness

Education or Other Legal Code: Education Code 48851.3, 42 USC 11432

Board Policy/Administrative Regulation #: AR 6173

Subject: Duties of district liaison for homeless students and availability of training and services

#### **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
13 CCR 1234	<a href="#">Reports regarding school buses and bus drivers</a>
13 CCR 2480	<a href="#">Vehicle idling; limitations</a>
2 CCR 11023	<a href="#">Harassment and discrimination prevention and correction</a>
2 CCR 11035-11051	<a href="#">Unlawful sex discrimination: pregnancy, childbirth, and related medical conditions</a>
2 CCR 11087-11098	<a href="#">California Family Rights Act</a>
5 CCR 4622	Uniform complaint procedures
5 CCR 80303	Reports of change in employment status; alleged misconduct
8 CCR 3204	Access to employee exposure and medical records
8 CCR 5191	Chemical hygiene plan
8 CCR 5194	Hazard communication
Civ. Code 1798.29	<a href="#">District records; breach of security</a>
Ed. Code 17612	Notification of pesticide use
Ed. Code 22455.5	STRS information to potential members
Ed. Code 22461	Postretirement compensation limitation
Ed. Code 231.5	Sexual harassment policy
Ed. Code 35031	Term of employment
Ed. Code 35171	Availability of rules and regulations for evaluation of performance
Ed. Code 37616	Notice of public hearing on year-round schedule
Ed. Code 44663-44664	Evaluation of certificated employees
Ed. Code 44842	Reemployment notices; certificated employees
Ed. Code 44896	Transfer of administrator or supervisor to teaching position
Ed. Code 44916	Written statement of employment status
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 44934	Notice of disciplinary action for cause
Ed. Code 44938	Notice of unprofessional conduct and opportunity to correct
Ed. Code 44940.5-44941	Notification of suspension and intent to dismiss
Ed. Code 44948.3-44948.5	Dismissal of probationary employees

Ed. Code 44948.5	Nonreelection procedures; districts under 250 ADA
Ed. Code 44949	Dismissal of probationary employees
Ed. Code 44951	Continuation in position unless notified; administrative or supervisory personnel
Ed. Code 44954	Nonreelection of temporary employees
Ed. Code 44955	Reduction in number of permanent employees
Ed. Code 44955.5	Decrease in number of permanent employees during specified time period upon determination related to local control funding formula per unit of average daily attendance
Ed. Code 45113	Notification of charges; classified employees
Ed. Code 45117	Notice of layoff; classified employees
Ed. Code 45169	Employee salary data; classified employees
Ed. Code 45192	Industrial accident and illness leave for classified employees
Ed. Code 45195	Additional leave
Ed. Code 46162	Alternative schedule for junior high and high school; public hearing with notice
Ed. Code 48201	Transfer student's record for acts that resulted in suspension or expulsion
<u>Ed. Code 48851.3</u>	<u>Education of students in foster care and students who are homeless</u>
Ed. Code 49013	Complaints regarding student fees
Ed. Code 49079	Notification to teacher, student who has engaged in acts re: grounds suspension or expulsion
Ed. Code 49414	Epinephrine auto-injectors
Ed. Code 49414.3	Administration of opioid antagonist
Gov. Code 1126	Incompatible activities of employees
Gov. Code 12950	Sexual harassment
Gov. Code 21029	Retirement credit for period of military service
Gov. Code 54957	Complaints against employees; right to open session
Gov. Code 54963	Unauthorized disclosure of confidential information
Gov. Code 8355	Certification of drug-free workplace, including notification
H&S Code 104420	Tobacco-free schools
H&S Code 120875	Information on AIDS, AIDS-related conditions, and hepatitis B

H&S Code 120880	Notification to employees re AIDS, AIDS-related conditions, and hepatitis B
H&S Code 1797.196	Automated external defibrillators; notification of use and locations
Lab. Code 230	Accommodations and leave for victims of domestic violence
Lab. Code 2800.2	Notification of availability of continuation health coverage
Lab. Code 3550-3553	Notifications re: workers' compensation benefits
Lab. Code 5401	Workers' compensation; claim form and notice of potential eligibility
Pen. Code 11165.7	Child Abuse and Neglect Reporting Act; notification requirement
Pen. Code 11166.5	Employment; statement of knowledge of duty to report child abuse or neglect
Unemp. Ins. Code 2613	Disability insurance; notice of rights and benefits
W&I Code 827	Limited exception to juvenile court record
<b>Federal</b>	<b>Description</b>
29 CFR 825.300	Family and Medical Leave Act; notice requirement
<u>34 CFR 100</u>	<u>Nondiscrimination under programs receiving federal assistance</u>
34 CFR 104.8	Nondiscrimination
34 CFR 106.9	Severability
34 CFR 84.205-84.210	Drug-free workplace statement
<u>20 USC 2354</u>	<u>Local application for career and technical education programs</u>
38 USC 4334	Uniformed Services Employment and Reemployment Rights Act; notice requirement
40 CFR 763.84	Asbestos inspections, response actions and post-response actions
40 CFR 763.93	Asbestos management plans
41 USC 8101-8106	Drug-Free Workplace Act
42 USC 11431-11435	McKinney-Vento Homeless Assistance Act
49 CFR 382.113	Controlled substance and alcohol use and testing notifications
49 CFR 382.303	Post-accident information, procedures, and instructions
49 CFR 382.601	Controlled substance and alcohol use and testing notification

**Management Resources**  
Website

**Description**  
CSBA District and County Office of Education Legal Services

**Cross References**

<b>Code</b>	<b>Description</b>
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
2121	Superintendent's Contract
3260	Fees And Charges
3260	Fees And Charges
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
3515.3	District Police/Security Department
3515.3	District Police/Security Department
3542	School Bus Drivers
3580	District Records
3580	District Records
4020	Drug And Alcohol-Free Workplace
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4033	Lactation Accommodation
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
4115	Evaluation/Supervision
4115	Evaluation/Supervision
4116	Probationary/Permanent Status
4116	Probationary/Permanent Status
4117.14	Postretirement Employment
4117.3	Personnel Reduction
4117.7	Employment Status Reports
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.11	Sexual Harassment
4119.11	Sexual Harassment
4119.43	Universal Precautions
4119.43	Universal Precautions
4121	Temporary/Substitute Personnel
4121	Temporary/Substitute Personnel
4136	Nonschool Employment
4154	Health And Welfare Benefits
4154	Health And Welfare Benefits
4157	Employee Safety
4157	Employee Safety
4157.1	Work-Related Injuries
4158	Employee Security
4158	Employee Security
4161.1	Personal Illness/Injury Leave
4161.11	Industrial Accident/Illness Leave
4161.2	Personal Leaves
4161.5	Military Leave
4161.8	Family Care And Medical Leave
4212	Appointment And Conditions Of Employment

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
4216	Probationary/Permanent Status
4217.3	Layoff/Rehire
4219.11	Sexual Harassment
4219.11	Sexual Harassment
4219.43	Universal Precautions
4219.43	Universal Precautions
4236	Nonschool Employment
4254	Health And Welfare Benefits
4254	Health And Welfare Benefits
4257	Employee Safety
4257	Employee Safety
4257.1	Work-Related Injuries
4258	Employee Security
4258	Employee Security
4261.1	Personal Illness/Injury Leave
4261.11	Industrial Accident/Illness Leave
4261.2	Personal Leaves
4261.5	Military Leave
4261.8	Family Care And Medical Leave
4312.1	Contracts
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
4315	Evaluation/Supervision

4317.14	Postretirement Employment
4317.7	Employment Status Reports
4319.11	Sexual Harassment
4319.11	Sexual Harassment
4319.43	Universal Precautions
4319.43	Universal Precautions
4336	Nonschool Employment
4354	Health And Welfare Benefits
4354	Health And Welfare Benefits
4357	Employee Safety
4357	Employee Safety
4357.1	Work-Related Injuries
4358	Employee Security
4358	Employee Security
4361.1	Personal Illness/Injury Leave
4361.11	Industrial Accident/Illness Leave
4361.2	Personal Leaves
4361.5	Military Leave
4361.8	Family Care And Medical Leave
5141.4	Child Abuse Prevention And Reporting
5141.4	Child Abuse Prevention And Reporting
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
6117	Year-Round Schedules
6173	Education For Homeless Children
6173	Education For Homeless Children
6173-E(1)	Education For Homeless Children
6173-E(2)	Education For Homeless Children
<u>6178</u>	<u>Career Technical Education</u>
9310	Board Policies
9321	Closed Session

9321-E(1)

Closed Session

9321-E(2)

Closed Session

**Policy 4340: Bargaining Units**

**Status: ADOPTED**

Original Adopted Date: 11/01/2011 | Last Revised Date: 09/06/01/2022~~2022~~2023 | Last Reviewed  
Date: 09/06/01/2022~~2022~~2023

CSBA NOTE: Pursuant to Government Code 3544, an employee organization may become the employees' exclusive representative for negotiations by filing a request with the district providing proof that a majority of the 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 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, (2) another employee organization files a challenge to the appropriateness of the unit 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, means an employee organization recognized or certified as the exclusive negotiating representative for all district employees other than management and confidential 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 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 the employees in the employees' employment relationship with the district. The Board is committed to negotiating in good faith with recognized employee organizations 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 Public Employment Relations Board (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. See, 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~~CSBA's District and County Office of Education Legal Services or ~~the district's~~district legal counsel prior to limiting the

wearing of union buttons that support the union's position in collective bargaining.

Employees shall not be prohibited from wearing union buttons or other items 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 supervisory employees may be recognized if the bargaining unit includes all supervisory employees and is not represented by an 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 and confidential employees, as defined in Government Code 3540.1, are excluded from the right to be represented in negotiations by an employee organization. PERB ultimately determines, based upon the duties of the position, which positions qualify as "management" or "confidential" and thus are excluded from bargaining.

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 may represent themselves or be represented by an employee organization whose membership is composed entirely of employees designated as holding those positions. An employee organization representing management or confidential employees shall not be permitted to meet and negotiate with the district on behalf of the employees. (Government Code 3543.4)

*Management employee* means ~~any~~an employee ~~who has~~in a position having significant responsibilities for formulating district policies or administering district programs; ~~and whose position is~~. Management positions shall be designated as a management position 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)

CSBA NOTE: The remainder of this section is optional. 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~~ CSBA's District and County Office of Education Legal Services or the ~~district's~~ 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 ~~under the law.~~ 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 to multiple employees any mass communication concerning employees' ~~right to join or support an employee organization or to refrain from joining or supporting an employee organization~~ rights under the law, such as a written document or script for oral or recorded presentation or message, the Superintendent or designee shall meet and confer with the employees' exclusive representative regarding the content of the communication. If the district and exclusive representative do not come to agreement on the content of the mass communication, the Superintendent or designee may disseminate the district's mass communication, provided that at the same time, copies of the exclusive representative's communication, which shall be of reasonable length, are also distributed. (Government Code 3553)

### **Access to New Employee Orientations**

The district shall permit employee organizations access to new employee orientation or onboarding process where newly hired employees 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 at least 10 days' notice in advance of an orientation, except that a shorter notice may be provided if an unforeseeable, urgent need critical to the district's operation prevents the required 10 days' notice. (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 access to the new employee orientation shall be subject to compulsory interest arbitration. The district and employee organization 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 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, the district shall ensure the following: (Government Code 3556)

1. When an inperson new employee orientation has not been conducted within 30 days of hiring any new employee who is working in person, the Superintendent or designee shall permit the exclusive representative to schedule an inperson 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.

Upon the request of an exclusive representative scheduling, 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 shall provide an appropriate on-site meeting space within seven days of receiving the exclusive representative's request.

2. When, by reason of a state or local public health order limiting the size of gatherings, the district is prohibited from organizing a new employee orientation, an 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.

#### Access to Employee Contact Information

CSBA NOTE: Pursuant to Government Code 3558, districts are required to provide recognized employee organizations 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 ~~6254.3~~7928.300, which authorizes disclosure of an employee's home address, home telephone number(s), and personal cell phone number to an employee organization unless the district receives a written request by the employee to not disclose the information. Pursuant to Government Code ~~6254.3~~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. Service Employees International Union, Local 721* 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) on file with the district, and home address of any newly hired employee in the bargaining unit, within 30 days of hire or by the first pay period of the month following hire, unless the exclusive representative has agreed to a different interval for the provision of the information. In addition, the Superintendent or designee shall provide the exclusive representative the same information in regard to all employees in the bargaining unit at least every 120 days, unless more frequent or detailed lists are required by agreement with the exclusive representative.

(Government Code 3558, ~~6254.3~~)

7928.300)

However, the Superintendent or designee shall not disclose the: (Government Code 3558, 6207, 6215, 6215.2, 7928.300)

1. The home address and any phone numbers on file for employees performing law enforcement-related functions; ~~nor disclose the home address, home~~

CSBA NOTE: The Safe at Home address confidentiality program has been in existence pursuant to Government Code 6207 to protect victims of domestic violence, sexual

assault, and stalking. This type of protection has been extended, pursuant to Government Code 6215 and 6215.2, as amended by SB 1131 (Ch. 554, Statutes of 2022), to employees who face threats of violence, or violence or harassment from the public because of the employee's work for the district.

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 or of any employee who provides a written request that the information not be disclosed to the exclusive representative. Following receipt of a written request, the district shall remove the
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 keep such information private. In such instances, the Superintendent or designee shall also remove the employee's home address, and home telephone and personal cell phone numbers from any mailing list maintained by the district unless the list is only used by the district to contact the employee. (Government Code 3558, 6207, 6254.3)

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. Government Code 3558, as amended by SB 270 (Ch. 330, Statutes of 2021), allows the district 20 calendar days to cure an If the alleged violation that 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. If a violation is found, PERB is required to assess against the district a civil penalty of \$10,000 and 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, as amended, 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 and may be revised to reflect district practice.

At least, at the beginning of each school year, To provide accurate information, the Superintendent or designee shall review the list of contact information for district employees to ensure that the list is complete and contains accurate information at the beginning of each school year, or more often as appropriate.

### Communications with Employees

Employee organizations may 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, employee organizations may also use institutional bulletin boards, mailboxes, and other means of communication to communicate with employees. (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 who choose to join the employee organization pay membership dues, which are 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 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 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 employee organization that certifies 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 employees. The employee organization shall not be required to submit to the district a copy of the written authorization in order for the payroll deductions to be effective. However, 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 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)

**Policy Reference UPDATE Service**

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**Policy Reference Disclaimer:**

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

<b>State</b>	<b>Description</b>
8 CCR 33015-33490	Recognition of exclusive representative; proceedings
8 CCR 33700-33710	Severance of established unit
8 CCR 34020	<del>Petition to rescind organizational security arrangement</del>
8 CCR 34055	<del>Reinstatement of organizational security arrangement</del>
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 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 3540-3549.3	Educational Employment Relations Act
Gov. Code 3540.1	Public employment; definitions
Gov. Code 3543.4	Management <del>position</del> <u>and confidential positions</u> ; 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
Gov. Code <del>6254.3</del> <a href="#">6215-6216</a>	Disclosure of employee contact information to employee organization <a href="#">Address confidentiality for individuals who face threats or violence because of work for a public entity</a>
Gov. Code 6503.5	Joint powers agencies; <a href="#">agreement</a>
<a href="#">Gov. Code 7920.200-7930.215</a>	<a href="#">Public Records Act</a>
<a href="#">Gov. Code 7928.300</a>	<a href="#">Personal information of agency employee</a>
<b>Federal</b>	<b>Description</b>
8 CFR 33015-33490	Recognition of exclusive representative; proceedings
8 CFR 33700-33710	Severance of established unit
8 CFR 34020	Petition to rescind organizational security arrangement
8 CFR 34055	Reinstatement of organizational security arrangement
<b>Management Resources</b>	<b>Description</b>
Court Decision	County of Los Angeles v. Service Employees International Union, Local 721, <a href="#">Los Angeles County Employee Relations Commission</a> (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
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
<b>Cross References</b>	
<b>Code</b>	<b>Description</b>
0450	Comprehensive Safety Plan

0450	Comprehensive Safety Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
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
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

**Regulation 4361.1: Personal Illness/Injury Leave**

**Status:** ADOPTED

Original Adopted Date: 03/01/2017 | Last Revised Date: ~~03/06/01/2019~~2023 | Last Reviewed  
Date: ~~03/06/01/2019~~2023

CSBA NOTE: The following administrative regulation is subject to collective bargaining. Education Code 44978 provides a minimum of 10 days of personal illness or injury leave (sick leave) per year for certificated employees working five days a week. The Governing Board may allow additional days at its discretion; if it does so, the following paragraph should be revised accordingly.

Labor Code 245-249 (the Healthy Workplaces, Healthy Families Act) require districts to grant a minimum of one hour of paid sick leave for every 30 hours worked to their employees who work for 30 days or more within a year of their employment, including temporary and substitute employees. Pursuant to Labor Code 246, a district may use a different sick leave accrual method which provides for the accrual to be on a regular basis so that employees accrue at least 24 hours of sick leave or paid time off by the 120th calendar day of their employment or each calendar year or 12-month period.

The provisions of Labor Code 245-249 are very broad and only district employees covered by a valid collective bargaining agreement may be exempted from them, if the collective bargaining agreement expressly provides paid sick leave in an amount equal to or exceeding the amount of leave required pursuant to Labor Code 246, includes final and binding arbitration of disputes regarding the application of the paid sick days provisions, and provides premium wage rates for all overtime hours worked and a regular hourly rate of pay of not less than 30 percent more than the state minimum wage rate. Since many districts may not satisfy all of the conditions for this exemption, this administrative regulation has been drafted to include the requirements of Labor Code 245-249. Any district which has a collective bargaining agreement that meets all of the conditions for exemption may modify this administrative regulation accordingly.

For additional requirements of Labor Code 245-249, see the section titled "Healthy Workplaces, Healthy Families Act Requirements" below. For paid sick leave for temporary and substitute certificated employees, see BP/AR 4121 - Temporary/Substitute Personnel. For sick leave for classified employees, see AR 4261.1 - Personal Illness/Injury Leave.

Certificated employees employed five school days per week are entitled to 10 days' leave of absence with full pay for personal illness or injury (sick leave) per school year of service. Employees who work less than five school days per week (part-time employees) shall be granted sick leave in proportion to the time they work. However, any part-time employees who are entitled to less than three days of paid sick leave per year due to the amount of time worked shall be granted sick leave pursuant to Labor Code 246, if they are eligible. (Education Code 44978; Labor Code 245-249)

**Use of Sick Leave**

CSBA NOTE: Items #1-8 below reflect allowable uses of sick leave specified in law. The district may expand this list to include any additional purposes authorized by law, authorized by the district, or included in a bargaining agreement.

Certificated employees may use sick leave for absences due to:

1. Accident or illness, whether or not the absence arises out of and in the course of employment; quarantine which results from contact in the course of employment with other persons having a contagious disease; or temporary inability to perform assigned duties because of illness, accident, or quarantine (Education Code 44964)
2. Pregnancy, miscarriage, childbirth, and related recovery (Education Code 44965, 44978)
3. Personal necessity (Education Code 44981)

CSBA NOTE: Optional ~~item~~**Item** #4 below may be revised as ~~desired~~ to specify a different minimum increment for sick leave.

4. Medical and dental appointments, in increments of not less than one hour
5. Industrial accidents or illnesses when leave granted specifically for that purpose has been exhausted (Education Code 44984)

CSBA NOTE: Pursuant to the Family and Medical Leave Act (FMLA) (29 USC 2612) and California Family Rights Act (CFRA) (Government Code 12945.2), a district is required to grant leave to an eligible employee to bond with a child after the birth, adoption, or foster care placement of the child; if the district employs 50 or more employees within 75 miles of the worksite where the employee requesting the leave is employed. For this purpose, employees may, but are not required to, use sick leave for any otherwise unpaid FMLA or CFRA leave.

Government Code 12945.6 extends the right to parental leave to an eligible employee who is not covered by FMLA or CFRA when the district employs 20-49 employees within 75 miles of the worksite where the employee requesting the leave is employed.

For further information regarding parental leave, see AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave.

6. Need of the employee to bond with a child within one year of the child's birth, adoption, or foster care placement (parental leave) (Education Code 44977.5; Government Code 12945.2; ~~12945.6~~; 29 USC 2612; 29 CFR 825.112)

CSBA NOTE: Pursuant to Labor Code 233, any district that provides sick leave to its employees is required to permit ~~them~~**an employee** to use sick leave, in an amount not less than the sick leave that would be accrued during six months at the employee's then current rate of entitlement, for the purposes specified in ~~items #7-8 below~~**items #7-8 below. Pursuant to Labor Code 233, designation of sick leave taken under this provision is at the sole discretion of the employee. Labor Code 233 does not extend the maximum period of leave to which an employee is entitled under CFRA or FMLA, regardless of whether the employee receives sick leave compensation during that leave.**

For the purpose of using sick leave to attend to the health care needs of a family member, as specified in ~~item~~**Item** #7 below, Labor Code 245.5 defines, as amended by AB 1041 (Ch. 748, Statutes of 2022), includes a designated person in the definition of a "family member" as, "in addition to an employee's spouse, registered domestic partner, child (biological, adopted, or foster child; stepchild; legal ward; or a child to whom the employee stands in loco parentis), parent (biological, adoptive, or foster parent; stepparent; legal guardian of an employee or the employee's spouse or registered domestic partner; or a person who stood in loco parentis when the employee was a minor child), grandparent, grandchild, or sibling. Pursuant to Government Code 12945.2 and Labor Code 245.5, as amended by AB 1041, a "designated person" means any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests the leave, and the district may limit the employee to one designated person per 12-month period for family care and medical leave. For further information regarding medical leave, see AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave.

For additional information about leaves for victims of domestic violence, sexual assault, or stalking granted in accordance with ~~item~~**Item** #8 below, see AR 4161.2/4261.2/4361.2 - Personal Leaves.

7. Need of the employee or employee's family member, including a designated person, as defined in Labor Code 245.5, for the diagnosis, care, or treatment of an existing health condition or for preventive care (Government Code 12945.2; Labor Code 233, 246.5)
8. Need of the employee to seek or obtain any relief or medical attention specified in Labor Code 230(c) and ~~or~~ 230.1(a) for the health, safety, or welfare of the employee or the employee's child, when the employee has been a victim of domestic violence, sexual assault, or stalking (Labor Code 233, 246.5)

For the purposes specified in ~~items~~**Items** #7-8, an employee may use, in any calendar year, the amount of sick leave that would be accrued during six months at the employee's then current rate of entitlement. (Labor Code 233)

An employee may take sick leave at any time during the school year, even if credit for sick leave has not yet been accrued. (Education Code 44978)

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

An employee shall reimburse the district for any unearned sick leave used as of the date of termination.

Unused days of sick leave shall be accumulated from year to year without limitation. (Education Code 44978)

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

At the beginning of each school year, employees shall be notified of the amount of sick leave they have accumulated.

The district shall not require new employees to waive leave accumulated in a previous district. (Education Code 44979, 44980)

CSBA NOTE: Pursuant to Education Code 44979-44980, certificated employees are entitled to have their accumulated sick leave transferred with them in the circumstances specified in the following optional paragraph.

The Superintendent or designee shall notify any certificated employee who leaves the district after at least one school year of employment that if the employee accepts a certificated position in another district, county office of education, or community college district within one year, the employee may request that the district transfer any accumulated sick leave to the new employer. (Education Code 44979, 44980)

### **Additional Leave for Disabled Military Veterans**

In addition to any other entitlement for sick leave with pay, a certificated employee who is a former active duty member of the U.S. Armed Forces or a former or current member of the California National Guard or a federal reserve component shall be entitled to sick leave with pay of up to 10 days for the purpose of undergoing medical treatment, including mental health treatment, for a military service-connected disability rated at 30 percent or more by the U.S. Department of Veterans Affairs. An eligible employee who works less than five days per week shall be entitled to such leave in proportion to the time worked. (Education Code 44978.2)

The amount of leave shall be credited to the employee either on the date the employee receives confirmation of the submission of the disability application to the U.S. Department of Veterans Affairs or on the first day the employee begins or returns to employment after active duty, whichever is later. When the employee receives the disability rating decision, the employee shall report that information to the Superintendent or designee. If the disability rating decision makes the employee eligible for the leave, the time used before the decision shall be counted toward the 10-day maximum leave. If the disability rating decision makes the employee ineligible for the leave, the district may change the sick leave time used before the disability rating decision to an alternative leave balance. (Education Code 44978.2)

CSBA NOTE: Pursuant to Education Code 44978.2, the district may require proof that a leave granted under this law is used for treatment of a military service-connected disability. The following paragraph may be revised to reflect district practice.

The Superintendent or designee may require verification, in accordance with the section "Verification Requirements" below, that the employee used the leave to obtain treatment of a military service-connected disability.

Leave for military-service connected disability shall be available for 12 months following the first date that the leave was credited. Leave not used during the 12-month period shall not be carried over and shall be forfeited. (Education Code 44978.2)

### **Notification of Absence**

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

An employee shall notify the ~~district~~ Superintendent or designee of the need to be absent as soon as such need is known, so that substitute services may be secured. This notification shall include an estimate of the expected duration of absence. If the absence becomes longer than estimated, the employee shall so notify the district. If the duration of absence becomes shorter than estimated, the employee shall notify the district not later than three o'clock in the afternoon of the day

preceding the day on which the employee intends to return to work. If the employee fails to notify the district and the failure results in a substitute being secured, the cost of the substitute shall be deducted from the employee's pay.

#### **Continued Absence After Available Sick Leave Is Exhausted/Differential Pay**

CSBA NOTE: Pursuant to Education Code 44977, employees who are absent due to illness for up to five months after exhausting all available sick leave must receive their regular salary minus the cost of a substitute. Alternatively, Education Code 44983 allows districts to adopt a rule that gives certificated employees 50 percent or more of their regular salary during the period of absence. When an employee is absent for a cause other than illness, Education Code 44977 and 44983 provide that the amount deducted from the employee's salary shall be determined according to the rules and regulations adopted by the Board as long as such rules are not in conflict with State Board of Education regulations.

Option 1 below is for use by districts that subtract the cost of a substitute from the absent employee's salary pursuant to Education Code 44977. Option 2 is mandated pursuant to Education Code 44983 for districts that choose to give certificated employees 50 percent or more of their regular salary during the period of absence, and may be revised to specify a percentage higher than 50 percent in accordance with district practice.

If not covered in the district's bargaining agreement, the district may add provisions to this section reflecting salary deductions for employees absent longer than five months.

#### **OPTION 1:**

During each school year, when a certificated employee has exhausted all available sick leave, including all accumulated sick leave, and, due to illness or accident, continues to be absent for an additional period of up to five school months, the district shall deduct from the employee's regular salary for that period the actual cost of a substitute to fill the position. If the district has made every reasonable effort to secure the services of a substitute and has been unable to do so, the amount that would have been paid to a substitute shall be deducted from the employee's salary. (Education Code 44977)

An employee shall not be provided more than one five-month period per illness or accident. However, if the school year ends before the five-month period is exhausted, the employee may take the balance of the five-month period in a subsequent school year. (Education Code 44977)

#### **OPTION 1 ENDS HERE**

#### **OPTION 2:**

After a certificated employee has exhausted all available sick leave, including all accumulated sick leave, and, due to illness or accident, continues to be absent for an additional period of up to five months, the employee shall receive at least 50 percent of the employee's regular salary during the additional period of absence. (Education Code 44983)

#### **OPTION 2 ENDS HERE**

## Absence Beyond Five-Month Period/Reemployment List

CSBA NOTE: The following paragraph is required for districts that select Option 1 (i.e., differential pay) in the section "Continued Absence After Available Sick Leave Is Exhausted/Differential Pay" above and should be carefully considered by districts that select Option 2 (i.e., 50 percent pay). Education Code 44978.1 requires the establishment of a reemployment list for employees who are unable to resume their duties after the five-month period provided pursuant to Education Code 44977.

Although Education Code 44978.1 does not explicitly require a reemployment list for districts selecting Option 2, such districts should be aware that failure to establish a reemployment list may subject employees to termination following a five-month absence. Therefore, any district that selects Option 2 and currently maintains a reemployment list for employees who are absent beyond the five-month period, or that wishes to establish such a list, should consult CSBA's District and County Office of Education Legal Services or district legal counsel before changing its policy or practices.

If a certificated employee is not medically able to return to work after the five-month period provided pursuant to Education Code 44977, the employee shall be placed either in another position or on a reemployment list. Placement on the reemployment list shall be for 24 months for probationary employees or 39 months for permanent employees and shall begin at the expiration of the five-month period. If during this time the employee becomes medically able, the employee shall be returned to employment in a position for which the employee is credentialed and qualified. (Education Code 44978.1)

## Parental Leave

CSBA NOTE: The following section is subject to any conflicting provision in a collective bargaining agreement that provides greater parental leave rights.

During each school year, a certificated employee may use all available sick leave, including accumulated sick leave, for the purpose of parental leave for a period of up to 12 work weeks. The 12-week period shall be reduced by any period of sick leave, including accumulated sick leave, taken during a period of such parental leave. (Education Code 44977.5)

CSBA NOTE: Unlike leave taken pursuant to Government Code 12945.2, leave taken pursuant to Education Code 44977.5 does not require an employee to have at least 1,250 hours of service with the district during the previous 12-month period in order to be eligible for parental leave. See AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave for further information on requirements related to the California Family Rights Act.

Eligibility for such leave shall not require 1,250 hours of service with the district during the previous 12 months. (Education Code 44977.5)

CSBA NOTE: Pursuant to Education Code 44977.5, the district is required to provide differential pay to a certificated employee for up to 12 work weeks when the employee has exhausted all available sick leave, including accumulated sick leave, and continues to be absent due to parental leave pursuant to Government Code 12945.2. Such an employee is entitled to receive differential pay, calculated in the same manner described in Option 1 or 2 in the section "Continued Absence After Available Sick Leave Is Exhausted/Differential Pay" above. As amended by AB 2012 (Ch.

994, Statutes of 2018), Education Code 44977.5 requires that, regardless of the type of differential pay system used by the district, employees must receive at least 50 percent of their regular salary for any portion of the 12-week parental leave that remains following the exhaustion of sick leave. The following paragraph may be revised to specify a percentage higher than 50 percent in accordance with district practice.

Since Education Code 44977.5 does not expressly require districts to provide differential pay to employees who are eligible for parental leave pursuant to Government Code 12945.6, it is unclear whether such employees would be entitled to differential pay. Districts should consult [CSBA's District and County Office of Education Legal Services or district](#) legal counsel if they have questions regarding differential pay for such employees.

An employee who has exhausted all available sick leave, including accumulated sick leave, and continues to be absent on account of parental leave shall receive differential pay of at least 50 percent of the employee's regular salary for the remainder of the 12 work weeks. (Education Code 44977.5)

Parental leave taken pursuant to Education Code 44977.5 shall run concurrently with the parental leave taken pursuant to Government Code 12945.2 or 12945.6, and the aggregate amount of parental leave shall not exceed 12 work weeks in a 12-month period. (Education Code 44977.5; Government Code 12945.2, 12945.6)

#### Verification Requirements

CSBA NOTE: Education Code 44978 **mandates** the Board to adopt regulations requiring proof of illness or injury and prescribing the means of verification. However, Education Code 44978 provides that these regulations shall not discriminate against evidence of treatment and the need for treatment by the practice of a well-recognized religion. For verification requirements for employees on leave pursuant to the Family and Medical Leave Act, see AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave. The following section should be modified to reflect district practice and any procedures which have been specified in bargaining agreements.

Labor Code 233 requires districts to allow their employees to use sick leave for the purposes specified in Labor Code 246.5; ~~the paid sick leave law~~. Because ~~the paid sick leave law~~ [Labor Code 246.5](#) is silent on requests for verification, and ~~actually~~ requires an employer to provide an employee with paid sick days upon oral or written request, districts should be cautious in requiring verification for sick leave used for the purposes specified in Labor Code 246.5 (~~items~~ [Items](#) #7-8 in the section "Use of Sick Leave" above). Although a district is permitted to require verification from an employee who is a victim of domestic violence, sexual assault, or stalking, pursuant to Labor Code 230 and 230.1, a general insistence on verification could be deemed a violation of Labor Code 246.5. Any district with questions regarding its authority related to verification should consult [CSBA's District and County Office of Education Legal Services or district](#) legal counsel.

After any absence due to illness or injury, the employee shall verify the absence by submitting a completed and signed district absence form to the employee's immediate supervisor.

The Superintendent or designee may require verification whenever an employee's absence record shows chronic absenteeism or a pattern of absences immediately before or after weekends and/or holidays or whenever available evidence clearly indicates that an absence is not related to illness or injury.

In addition, the Superintendent or designee may require an employee to visit a physician selected by the district, at district expense, in order to receive a report on the employee's need for further leave of absence and a prognosis as to when the employee will be able to return to work. If the report concludes that the employee's condition does not warrant continued absence, the Superintendent or designee may, after giving notice to the employee, deny further leave.

**CSBA NOTE:** 42 USC 2000ff-1, the Genetic Information Nondiscrimination Act, and its implementing regulations, 29 CFR 1635.1-1635.12, specify that it is unlawful for a district to request, require, or purchase employees' or their family member's individual genetic information except in complying with the medical certification requirements for family care and medical leave purposes or with the employee's prior written authorization. See AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave. Pursuant to 29 CFR 1635.9, any such information received by the district must be kept confidential as specified below.

Any district request for additional verification by an employee's physician or a district-selected physician shall be in writing and shall specify that the report to be submitted to the district should not contain the employee's genetic information. Any genetic information received by the district on behalf of an employee shall be treated as a confidential medical record, maintained in a file separate from the employee's personnel file, and not be disclosed except in accordance with 29 CFR 1635.9.

Before returning to work, an employee who has been absent for surgery, hospitalization, or extended medical treatment may be asked to submit a letter from a physician stating that the employee is able to return to duty and stipulating any necessary restrictions or limitations.

### **Healthy Workplaces, Healthy Families Act Requirements**

**CSBA NOTE:** Pursuant to Labor Code 245-249, all employers, including those that provide paid time off to their employees under existing policy or other law, must comply with the requirements specified in the following section. Pursuant to Labor Code 248.5, noncompliance with the Healthy Workplaces, Healthy Families Act could result in an enforcement action against the employer, including the imposition of civil and monetary penalties. Any district with questions regarding the applicability of this law should consult ~~its~~ [CSBA's District and County Office of Education Legal Services or district](#) legal counsel.

No employee shall be denied the right to use accrued sick days, and the district shall not in any manner discriminate or retaliate against an employee for using or attempting to use sick leave, filing a complaint with the Labor Commissioner, or alleging district violation of Labor Code 245-249.

To ensure the district's compliance with Labor Code 245-249, the Superintendent or designee shall:

1. At a conspicuous location in each workplace, display a poster on paid sick leave that includes the following information:
  - a. That an employee is entitled to accrue, request, and use paid sick days

- b. The number of sick days provided by Labor Code 245-249
  - c. The terms of use of paid sick days
  - d. That discrimination or retaliation against an employee for requesting and/or using sick leave is prohibited by law and that an employee has the right to file a complaint with the Labor Commissioner if the district discriminates or retaliates against the employee
2. Provide at least 24 hours or three days of paid sick leave to each eligible employee to use per year and allow eligible employees to use accrued sick leave upon reasonable request
  3. Provide eligible employees written notice, on their pay stub or other document issued with their pay check, of the amount of paid sick leave they have available
  4. Keep a record documenting the hours worked and paid sick days accrued and used by each eligible employee for three years

**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 5601	Transfer of accumulated sick leave
Ed. Code 44964	Power to grant leaves of absence for accident, illness, or quarantine
Ed. Code 44965	Granting of leaves of absence for pregnancy and childbirth
Ed. Code 44976	Transfer of leave rights when school is transferred to another district
Ed. Code 44977	Salary schedule for substitute employees
Ed. Code 44977.5	Differential pay during parental leave up to 12 weeks after sick leave is exhausted
Ed. Code 44978	Sick leave; certificated employees
Ed. Code 44978.1	Inability to return to duty; placement in another position or on reemployment list
Ed. Code 44978.2	Leave for military service -connected disability
Ed. Code 44979	Transfer of accumulated sick leave to another district
Ed. Code 44980	Transfer of <del>accumulate</del> <u>accumulated</u> sick leave to a county office of education

Ed. Code 44981	Leave of absence for personal necessity
Ed. Code 44983	Compensation during leave; certificated employees
Ed. Code 44984	Required rules for industrial accident and illness leave
Ed. Code 44986	Leave of absence; state disability benefits
Gov. Code 12945.1-12945.2	California Family Rights Act
Gov. Code 12945.6	Parental leave
Lab. Code 220	Sections inapplicable to public employees
Lab. Code 230	Accommodations and leave for victims of domestic violence
Lab. Code 230.1	Employers with 25 or more employees; domestic violence, sexual assault and stalking victims, right to time off
Lab. Code 233	<del>Illness of child, parent, spouse or domestic partner</del> <u>Leave to attend to family illness</u>
Lab. Code 234	Absence control policy
Lab. Code 245-249	Healthy Workplaces, Healthy Families Act of 2014
<b>Federal</b>	<b>Description</b>
29 CFR 1635.1-1635.12	Genetic Information Nondiscrimination Act of 2008
29 CFR 825.100-825.702	Family and Medical Leave Act of 1993
29 USC 2601-2654	Family Care and Medical Leave Act
42 USC 2000ff-2000ff-11	Genetic Information Nondiscrimination Act of 2008
<b>Management Resources</b>	<b>Description</b>
Court Decision	Veguez v. Governing Board of Long Beach Unified School District; (2005) 127 Cal.App.4th 406
Website	CSBA District and County Office of Education Legal Services

## Cross References

Code	Description
0470	COVID-19 Mitigation Plan
2121	Superintendent's Contract
4032	Reasonable Accommodation
4112.2	Certification
4112.2	Certification
4112.42	Drug And Alcohol Testing For School Bus Drivers
4112.42	Drug And Alcohol Testing For School Bus Drivers

4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4113.4	Temporary Modified/Light-Duty Assignment
4113.5	Working Remotely
4116	Probationary/Permanent Status
4116	Probationary/Permanent Status
4117.11	Preretirement Part-Time Employment
4119.41	Employees With Infectious Disease
4121	Temporary/Substitute Personnel
4121	Temporary/Substitute Personnel
4141.6	Concerted Action/Work Stoppage
4141.6	Concerted Action/Work Stoppage
4154	Health And Welfare Benefits
4154	Health And Welfare Benefits
4157.1	Work-Related Injuries
4159	Employee Assistance Programs
4161	Leaves
4161	Leaves
4161.11	Industrial Accident/Illness Leave
4161.2	Personal Leaves
4161.5	Military Leave
4161.8	Family Care And Medical Leave
4161.9	Catastrophic Leave Program
4161.9	Catastrophic Leave Program
4212.42	Drug And Alcohol Testing For School Bus Drivers
4212.42	Drug And Alcohol Testing For School Bus Drivers
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4213.4	Temporary Modified/Light-Duty Assignment
4213.5	Working Remotely
4219.41	Employees With Infectious Disease

4241.6	Concerted Action/Work Stoppage
4241.6	Concerted Action/Work Stoppage
4254	Health And Welfare Benefits
4254	Health And Welfare Benefits
4257.1	Work-Related Injuries
4259	Employee Assistance Programs
4261	Leaves
4261	Leaves
4261.11	Industrial Accident/Illness Leave
4261.2	Personal Leaves
4261.5	Military Leave
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4312.42	Drug And Alcohol Testing For School Bus Drivers
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4312.9	Employee Notifications
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4313.4	Temporary Modified/Light-Duty Assignment
4313.5	Working Remotely
4317.11	Preretirement Part-Time Employment
4319.41	Employees With Infectious Disease
4354	Health And Welfare Benefits
4354	Health And Welfare Benefits
4357.1	Work-Related Injuries
4359	Employee Assistance Programs
4361	Leaves
4361	Leaves
4361.11	Industrial Accident/Illness Leave
4361.2	Personal Leaves
4361.5	Military Leave

4361.8	Family Care And Medical Leave
4361.9	Catastrophic Leave Program
4361.9	Catastrophic Leave Program

## Regulation 4361.2: Personal Leaves

Status: ADOPTED

Original Adopted Date: 11/01/2012 | Last Revised Date: 09/06/01/20222023 | Last Reviewed  
Date: 09/06/01/20222023

CSBA NOTE: The following administrative regulation is subject to collective bargaining agreements.

Personal leaves granted to district employees shall be used as permitted in this administrative regulation, other Board-approved policy or district regulation, or applicable collective bargaining agreement.

CSBA NOTE: Family Code 297.5 extends to registered domestic partners the same rights that are available under state law to spouses. Thus, any reference to an employee's spouse throughout this administrative regulation also applies to a registered domestic partner, even if not expressly stated in the applicable state statute (e.g., Education Code, Military and Veterans Code). Districts should consult CSBA's District and County Office of Education Legal Services or the district's district legal counsel if a question arises as to leave provisions relative to an employee's domestic partner.

For the purpose of any personal leave offered pursuant to state law, a registered domestic partner shall have the same rights, protections, and benefits as a spouse and any protections provided to a spouse's child shall also apply to a child of a registered domestic partner. (Family Code 297.5)

Whenever possible, employees shall request personal leaves in advance and prepare suitable instructions, including lesson plans as applicable, for a substitute employee.

### Bereavement

CSBA NOTE: Education Code 44985 and 45194 allow the Governing Board Pursuant to expand the class of relatives listed below as "immediate family" and enlarge the benefits provided by law. In addition, Government Code 12945.27, as amended added by AB 10331949 (Ch. 327767, Statutes of 2021), includes a parent-in-law in the definition of "parent" for purposes of California Family Rights Act (CFRA)2022). districts are required to provide up to five days of bereavement leave. Thus, to ensure consistency, for the death of an employee's "family member," as defined, if the employee was employed by the district for at least 30 days prior to the commencement of the definition bereavement leave. Education Code 44985 and 45194 grant three days, or five days if out-of-state travel is required, of paid bereavement leave for certificated and classified employees upon the death of a member of the employee's "immediate family." Government Code 12945.7, as added by AB 1949, potentially expands the length of this leave. Education Code 44985 and 45194 grant bereavement leave for a member of the employee's "immediate family" below includes "mother-in-law" and father-in-law," as permitted by law. the definition of which is more expansive than a "family member," pursuant to Government Code 12945.7. Any bereavement leave taken under the Education Code and/or Government Code runs concurrently and not consecutively.

The bereavement leave days do not need to be taken consecutively, but must be taken within three months of the family member's date of death. Districts with existing policies that provide employees less than five days of paid bereavement leave must continue to give employees the number of paid days specified in the policy, but may provide the remainder of the five days as unpaid bereavement leave. Districts must allow employees to use any paid vacation, personal

leave, sick leave, or compensatory time off for the balance of the unpaid bereavement leave. Additionally, Government Code 12945.7, as added by AB 1949, makes it unlawful to retaliate or discriminate against an employee for using bereavement leave or to interfere with an employee's right to use bereavement leave.

Districts with questions about bereavement leave should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

The following two paragraphs may be revised to reflect district practice.

Employees are entitled to a leave of up to ~~three days~~, or five days if out-of-state travel is required, upon the death of any member of the employee's immediate family: , as defined in Education Code 44985 and 45194. (Government Code 12945.7)

No deduction shall be made from the employee's salary, nor shall such leave be deducted from any other leave to which the employee is entitled. (Education Code 44985, 45194; Government Code 12945.7)

**CSBA NOTE:** Education Code 44985 and 45194 allow the Governing Board to expand the class of relatives listed below as "immediate family" and enlarge the benefits provided by law. In addition, Government Code 12945.2 includes a parent-in-law in the definition of "parent" for purposes of California Family Rights Act (CFRA) leave. Thus, to ensure consistency, the definition of "immediate family" includes "parent-in-law" as permitted by law.

~~Members of an employee's immediate family include: (Education Code 44985, 45194)~~

- ~~1. The mother, mother-in-law, father, father-in-law, grandmother, grandfather, or grandchild of the employee or of the employee's spouse~~
- ~~2. The employee's spouse, son, son-in-law, daughter, daughter-in-law, brother, or sister~~
- ~~3. Any relative living in the employee's immediate household~~

*Immediate Family means a parent, parent-in-law, grandparent, or grandchild of the employee or of the spouse of the employee, and the spouse, domestic partner, child, child-in-law, or sibling of the employee, or any relative living in the immediate household of the employee. (Education Code 44985, 45194)*

At the employee's request, bereavement leave may be extended under personal necessity leave provisions as provided in the section "Personal Necessity" below. (Education Code 44981, 45207)

### **Personal Necessity**

**CSBA NOTE:** Employees may use a maximum of seven days of accumulated personal illness/injury leave (sick leave) for reasons of personal necessity pursuant to Education Code 44981 (certificated employees) and 45207 (classified employees). Pursuant to Education Code 44981 and 45207, a higher maximum may be set for certificated and/or classified employees in the applicable collective bargaining agreement, or by Board resolution for classified employees who are not covered by a collective bargaining agreement. Districts that have established a maximum that is higher than seven days should modify the following paragraph accordingly.

Education Code 45207 clarifies that provisions pertaining to personal necessity leave also apply to

districts that have adopted the merit system for classified employees in accordance with Education Code 45240-45320.

Employees may use a maximum of seven days of accrued personal illness/injury leave (sick leave) during each school year for reasons of personal necessity. (Education Code 44981, 45207)

Acceptable reasons for the use of personal necessity leave include:

1. Death of a member of the employee's immediate family when the number of days of absence exceeds the limits set by bereavement leave provisions (Education Code 44981, 45207); [Government Code 12945.7](#))
2. An accident involving the employee or the employee's property, or the person or property of a member of the employee's immediate family (Education Code 44981, 45207)

CSBA NOTE: Pursuant to Education Code 44981, a certificated employee may use personal necessity leave for the serious illness of a member of the employee's immediate family. The Board may extend these provisions to classified employees under the authority granted to the Board by Education Code 45207. Districts are cautioned to consult ~~CSBA~~[CSBA's](#) District and County Office of Education Legal Services or the ~~district's~~[district](#) legal counsel regarding any interaction of Education Code provisions with Labor Code 233, 245.5, and 246.5, which allow the use of sick leave for the need of the employee or family member for the diagnosis, care, or treatment of an existing health condition or for preventive care and which include in the definition of "family member" a registered domestic partner, grandparent, and sibling. See AR 4161.1/4361.1 - Personal Illness/Injury Leave and AR 4261.1 - Personal Illness/Injury Leave.

Also see AR ~~4161.8/4261.8/4361.8~~ - Family Care and Medical Leave for federal and state provisions related to leaves for the birth, adoption, or foster placement of a new child; the care of a seriously ill child, parent, parent-in-law, or spouse/registered domestic partner or the employee's own serious health condition.

Pursuant to Government Code 12945.2 and Labor Code 245.5, as amended by AB 1041 (Ch. 748, Statutes of 2022), CFRA provides an eligible employee with up to 12 weeks of unpaid, job-protected leave to care for a designated person who has a serious health condition, in addition to caring for a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner. A "designated person" is defined as any individual related by blood or whose association with the employee is the equivalent of a family relationship. The employee may identify the designated person at the time the employee requests the leave. The district may limit the employee to taking CFRA leave to care for one designated person per 12-month period. For further information regarding medical leave, see AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave.

3. Illness, preventive care, or other need of a member of the employee's family, as defined in Labor Code 245.5 (Education Code 44981; [Government Code 12945.2](#); Labor Code 246.5)

CSBA NOTE: Education Code 45207 provides that classified employees may use sick leave for required court appearances, as provided in Item #4 below. Circumstances under which employees may take time off, with pay, for court appearances are described in the section on "Leave to Perform Legal Duties" below.

4. A classified employee's appearance in any court or before any administrative tribunal as a litigant, party, or witness under subpoena or other order (Education Code 45207)

CSBA NOTE: Items #5 and #6 are optional and may be deleted or modified to reflect district practice.

5. Fire, flood, or other immediate danger to the home of the employee
6. Personal business of a serious nature which the employee cannot disregard

Leave for personal necessity may be allowed for other reasons at the discretion of the Superintendent or designee. However, personal necessity leave shall not be granted for purposes of personal convenience, for the extension of a holiday or vacation, or for matters which can be taken care of outside of working hours. The Superintendent or designee shall have final discretion as to whether a request reflects personal necessity.

CSBA NOTE: The following paragraph is optional. The district is prohibited from requiring employees to obtain advance permission prior to taking leaves in certain situations. Pursuant to Education Code 44981 and 45207, the district may not require advance permission for leaves taken by classified employees for the reasons specified in Items #1-2 above and by certificated employees for the reasons specified in Items #1-3 above. In addition, Labor Code 246.5 requires an employer to grant paid sick leave "upon the oral or written request of an employee." According to the Department of Industrial Relations, (DIR), employers may not require advance notice when the need for the leave was unforeseeable, as in the case of unanticipated illness or a medical emergency.

Also see AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave for requirements pertaining to requests for leaves that qualify under the federal Family and Medical Leave Act (29 USC 2601-2654) or CFRA (Government Code 12945.1-12945.2), including provisions that allow employees to provide notice as soon as practicable when 30-day advance notice is not practicable due to lack of knowledge of the date the leave will be needed, a change in circumstances, or a medical emergency.

Advance permission shall not be required of an employee in any case involving the death of a member of the employee's immediate family, an accident involving the employee's person or property or the person or property of a member of the employee's immediate family, or the illness, preventive care, or other need of a member of the employee's family. (Education Code 44981, 45207)

For any leave that is planned, or for which the need is foreseeable, an employee shall notify the Superintendent or designee in advance. In all other circumstances, the employee shall notify the Superintendent or designee of the need for the leave as soon as practicable.

CSBA NOTE: Education Code 44981 and 45207 **mandate** the adoption of regulations requiring proof of personal necessity and prescribing the manner of the required proof. The following paragraph may be revised to specify the manner of proof required by the district.

After any absence due to personal necessity, the employee shall verify the absence by submitting a completed and signed district absence form to the employee's immediate supervisor.

#### Leave to Perform Legal Duties

CSBA NOTE: Labor Code 230 prohibits the discharge of or discrimination or retaliation against an employee for taking time off for the activities specified in Items #1-2 below.

Pursuant to Education Code 44037, it is unlawful for the district, or personnel commission for merit districts, to (1) adopt any rule, regulation, or policy that encourages classified employees to seek

exemption from jury duty; (2) directly or indirectly solicit or suggest to any employee that the employee seek exemption from jury duty; or (3) discriminate against any employee with respect to assignment, employment, promotion, or in any other manner because of the employee's service on a jury panel. However, the Board or personnel commission may establish a rule providing that only a percentage of district staff, which shall not be less than two percent, shall be granted such leave with pay at any one time. The following section may be revised to reflect district practice.

An employee may take time off work in order to: (Labor Code 230)

1. Serve on an inquest jury or trial jury
2. Comply with a subpoena or other court order to appear as a witness

Notices, summons, and subpoenas for court appearances shall be submitted to the district office when requesting leave.

A classified employee called for jury duty shall be granted leave with pay up to the amount of the difference between the employee's regular earnings and any amount received for jury fees. (Education Code 44037)

**CSBA NOTE:** The following optional paragraph is for use by districts that choose to provide leave of absence with pay for certificated employees called for jury duty, as authorized by Education Code 44036. Districts that do not grant such leave should delete this paragraph.

A certificated employee who is called for jury duty also shall be granted leave with pay up to the difference between the employee's regular earnings and any jury fees received. (Education Code 44036)

**CSBA NOTE:** The following paragraph is optional. Education Code 44036 allows the Board, at its discretion, to provide paid leaves for employees to appear in court as witnesses other than as litigants or to respond to orders from another governmental jurisdiction. Districts that do not grant such leave should delete this paragraph.

An employee shall be granted leave with pay to appear in court as a witness other than a litigant or to respond to an official order from another governmental jurisdiction for reasons not brought about through the connivance or misconduct of the employee. Such an employee shall receive the difference between the employee's regular earnings and any witness fees received. (Education Code 44036)

### **Leaves for Crime Victims for Judicial Proceedings**

**CSBA NOTE:** Labor Code 230.2 prohibits a district from taking adverse employment action against an employee who takes leave as described below.

An employee who is a victim of a crime or an immediate family member, registered domestic partner, or child of a registered domestic partner of such victim may be absent from work in order to attend related judicial proceedings, if the crime is any of the following: (Labor Code 230.2)

1. A violent felony as defined in Penal Code 667.5(c)
2. A serious felony as defined in Penal Code 1192.7(c)
3. A felony provision of law proscribing theft or embezzlement

CSBA NOTE: Pursuant to Labor Code 230.2, employees may use any of the types of leave listed in the following paragraph, unless otherwise provided by a collective bargaining agreement, although a collective bargaining agreement cannot diminish the entitlement of an employee.

For these purposes, the employee may use vacation, personal leave, personal illness/injury leave, unpaid leave, or compensatory time off that is otherwise available to the employee. (Labor Code 230.2)

Prior to taking time off, an employee shall give the Superintendent or designee a copy of the notice of each scheduled proceeding that is provided by the responsible agency, unless advance notice is not feasible. When advance notice is not feasible or an unscheduled absence occurs, the employee shall, within a reasonable time after the absence, provide documentation evidencing the judicial proceeding from the court or government agency setting the hearing, the district attorney or prosecuting attorney's office, or the victim/witness office that is advocating on behalf of the victim. (Labor Code 230.2)

The district shall keep confidential any records pertaining to the employee's absence from work by reason of this leave. (Labor Code 230.2)

### **Leaves for Victims of Crime or Abuse**

CSBA NOTE: Labor Code 230 and 230.1 allow employees who are victims of domestic violence, sexual assault, stalking, or a crime that caused physical injury or mental injury with a threat of physical injury, and employees whose immediate family member is deceased as the direct result of a crime to use any available vacation, personal leave, or compensatory time off for the purposes described in Items #1-5 below, and prohibit a district from taking adverse employment action against an employee for taking leave for any of those purposes. Pursuant to Labor Code 230.1, Items #2-5 apply to districts with 25 or more employees.

An employee who is a victim of domestic violence, sexual assault, stalking, or a crime that caused physical injury or mental injury with a threat of physical injury or an employee whose immediate family member, as defined, is deceased as the direct result of a crime may use vacation, sick leave, personal leave, or compensatory time off that is otherwise available to the employee to attend to the following activities: (Labor Code 230, 230.1, 246.5)

1. Obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or the employee's child
2. Seek medical attention for injuries caused by crime or abuse
3. Obtain services from a domestic violence shelter, program, rape crisis center, or victim services organization or agency as a result of the crime or abuse
4. Obtain psychological counseling or mental health services related to an experience of crime or abuse
5. Participate in safety planning and take other actions to increase safety from future crime or abuse, including temporary or permanent relocation

CSBA NOTE: Pursuant to Labor Code 230, the following certification may include documentation from a victim advocate (defined as an individual, whether paid or serving as a volunteer, who provides services to victims under the auspices or supervision of an agency or organization that has a documented record of providing services to victims, a court, or a law enforcement or prosecution

agency) or any other form of documentation that reasonably verifies that the crime or abuse occurred, including, but not limited to, a written statement signed by the employee or by an individual acting on the employee's behalf.

Prior to taking time off, an employee shall give reasonable notice to the Superintendent or designee, unless advance notice is not feasible. When an unscheduled absence occurs, the employee shall provide, within a reasonable period of time, certification of the absence in the form of any of the following: (Labor Code 230, 230.1)

1. A police report indicating that the employee was a victim
2. A court order protecting or separating the employee from the perpetrator of the crime or abuse, or other evidence from the court or prosecuting attorney that the employee has appeared in court
3. Documentation from a domestic violence or sexual assault counselor as defined in Evidence Code 1037.1 or 1035.2, licensed medical professional or health care provider, victim advocate, or counselor that the employee was undergoing treatment or receiving services for physical or mental injuries or abuse resulting in victimization from the crime or abuse
4. Any other form of documentation that reasonably verifies that the crime or abuse occurred, including, but not limited to, a written statement signed by the employee or by an individual acting on the employee's behalf certifying that the absence is for a purpose authorized under Labor Code 230 or 230.1

The district shall maintain the confidentiality of such an employee to the extent authorized by law. (Labor Code 230, 230.1)

CSBA NOTE: Pursuant to Labor Code 230.1, districts with 25 or more employees are required to notify district employees of employee rights under Labor Code 230 and 230.1. The district may use a form developed by the Labor Commissioner for this purpose, when available on the web site of the Department of Industrial Relations [DIR's website](#), or may develop its own form that is substantially similar in content and clarity to the Labor Commissioner's form.

The Superintendent or designee shall inform employees of the rights provided employees pursuant to Labor Code 230 and 230.1 using a form developed by the Labor Commissioner or a substantially similar form developed by the district. Such information shall be provided to new employees upon hire and to other employees upon request. (Labor Code 230.1)

### **Personal Leave for Child-Related Activities**

CSBA NOTE: Pursuant to Labor Code 230.8, the following section applies to any district employing 25 or more employees at the same location. A district with fewer than 25 employees at the same location may use or delete this section at its discretion.

Pursuant to Labor Code 230.8, an employee who is discharged, threatened with discharge, demoted, suspended, or otherwise discriminated against for using the leave **for child-related activities** is entitled to reinstatement and reimbursement for lost wages and benefits, and an employer who willfully refuses to rehire, promote, or otherwise reinstate such an employee is subject to a civil penalty equal to three times the amount of the lost wages and benefits.

Any employee who is a parent/guardian of one or more children of an age to attend any of grades K-12 or a program offered by a licensed child care provider may use up to 40 hours of personal leave, vacation, or compensatory time off each school year in order to: (Labor Code 230.8)

1. Find, enroll, or reenroll a child in a school or with a licensed child care provider or to participate in activities of the school or child care provider, provided the employee gives reasonable advance notice of the absence. Time off for this purpose shall not exceed eight hours in any calendar month.
2. Address a school or child care emergency, provided the employee gives notice. An emergency exists when the child cannot remain in school or with a child care provider due to one of the following circumstances:
  - a. A request by the school or child care provider that the child be picked up
  - b. An attendance policy, excluding planned holidays, that prohibits the child from attending or requires that the child be picked up from the school or child care provider
  - c. Behavioral or discipline problems
  - d. Closure or unexpected unavailability of the school or child care provider, excluding planned holidays
  - e. A natural disaster, including, but not limited to, fire, earthquake, or flood

For purposes of this leave, parent/guardian includes a parent, guardian, stepparent, foster parent, grandparent, or person who stands in loco parentis to a child. (Labor Code 230.8)

**CSBA NOTE:** Labor Code 230.8 provides that the employee may use time off without pay to the extent the district makes it available. The following optional paragraph may be revised to reflect district practice.

In lieu of using vacation, personal leave, or compensatory time off, eligible employees may take unpaid leave for this purpose.

If two or more parents/guardians of a child are employed at the same work site, this leave shall be allowed for the parent/guardian who first gives notice to the district. Simultaneous absence by another parent/guardian of the child may be granted by the Superintendent or designee. (Labor Code 230.8)

Upon request by the Superintendent or designee, the employee shall provide documentation from the school or licensed child care provider that the employee engaged in permitted child-related activities on a specific date and at a particular time. (Labor Code 230.8)

### **Service on Education Boards and Committees**

Upon request, a certificated employee shall be granted up to 20 school days of paid leave per school year for service performed within the state on any education board, commission, committee, or group authorized by Education Code 44987.3 provided that all of the following conditions are met: (Education Code 44987.3)

1. The service is performed within the state.
2. The board, commission, organization, or group informs the district in writing of the service.
3. The board, commission, organization, or group agrees, prior to the service, to reimburse the district, upon the district's request, for compensation paid to the employee's substitute and for actual related administrative costs.

## Employee Organization Activities

**CSBA NOTE:** The following optional section may be deleted by any district whose collective bargaining agreements expressly provide for a paid leave of absence for participation in the activities described in this section.

Education Code 44987 and 45210 provide that any certificated or classified employee may take time off without loss of compensation to serve as an elected officer of any local, statewide, or national employee organization of which the employee is a member. Following the district's payment to the employee for the leave of absence, the employee organization must reimburse the district within 10 days after receiving the district's certification of payment of compensation to the employee. This leave of absence is in addition to the release time granted to representatives of an employee organization pursuant to Government Code 3543.1.

Pursuant to Education Code 44987 and 45210, as amended by SB 294 (Ch. 539, Statutes of 2021), an employee's leave of absence to serve as an elected officer of an employee organization is additional to any other leave available for the employee's use by law or in agreement with the district.

Upon request, any certificated or classified employee shall be granted a leave of absence without loss of compensation, to serve as an elected officer of a district employee organization or any statewide or national employee organization with which the employee organization is affiliated. Such leave shall be in addition to any other leave to which the employee may be entitled by other laws or a memorandum of understanding or collective bargaining agreement. (Education Code 44987, 45210)

The leave shall include, but is not limited to, absence for purposes of attending periodic, stated, special, or regular meetings of the body of the organization on which the employee serves as an officer. (Education Code 44987, 45210)

**CSBA NOTE:** Education Code 45210 requires districts to grant a paid leave of absence to a reasonable number of classified employees serving as unelected members of the employee organization or a statewide or national public employee organization when the employee attends "important organizational activities authorized by the public employee organization." Compensation must include the required retirement fund contributions. The employee will continue to earn full service credit during the leave and must pay member contributions as specified. Education Code 45210 also requires that an employee organization provide reasonable notification to the district when requesting a leave of absence without loss of compensation for an employee.

Upon request of an employee organization in the district or its state or national affiliate, a reasonable number of unelected classified employees shall be granted a leave of absence without loss of compensation for the purpose of attending important organizational activities authorized by the employee organization. The employee organization shall provide reasonable notification to the Superintendent or designee when requesting a leave of absence for employees for this purpose. (Education Code 45210)

When leave is granted for any of the above purposes, the employee organization shall reimburse the district within 10 days after receiving the district's certification of payment of compensation to the employee. (Education Code 44987, 45210)

## Religious Leave

**CSBA NOTE:** The following optional section is for use by any district that chooses to grant religious leave and may be revised to reflect district practice. A district that does not grant such leave should

delete this section. However, the district should consult ~~CSBA~~CSBA's District and County Office of Education Legal Services or ~~the district's~~district legal counsel before denying a request for religious leave since the Constitution requires districts to provide "reasonable accommodation" to employee religious practices.

The Superintendent or designee may grant an employee up to three days of leave per year for religious purposes, provided that the leave is requested in advance and that it does not cause additional district expenditures, the neglect of assigned duties, or any other unreasonable hardship on the district.

**CSBA NOTE:** The following optional paragraph reflects the California Supreme Court's interpretation of Article 1, Section 8 of the California Constitution as stated in Rankin v. Commission on Professional Competence.

The Superintendent or designee shall deduct the cost of hiring a substitute, when required, from the wages of the employee who takes religious leave.

No employee shall be discriminated against for using this leave or any additional days of unpaid leave granted for religious observances at the discretion of the Superintendent or designee.

### **Spouse on Leave from Military Deployment**

**CSBA NOTE:** Military and Veterans Code 395.10 requires any district with 25 or more employees to allow up to 10 days of unpaid leave to an employee whose spouse is on leave from military deployment. A district with fewer than 25 employees may use the following section at its discretion. In addition, 29 USC 2612 authorizes an employee to take up to 26 work weeks of unpaid military caregiver leave or up to 12 weeks of "exigency" leave during a single 12-month period, as determined by the district; see AR 4161.8/4261.8/4361.8 - Family Care and Medical Leave.

An employee who works an average of 20 hours or more per week and whose spouse is a member of the United States Armed Forces, National Guard, or reserves may take up to 10 days of unpaid leave during a period that the employee's spouse is on leave from deployment during a military conflict, as defined in Military and Veterans Code 395.10. (Military and Veterans Code 395.10)

Within two business days of receiving official notice that the employee's spouse will be on leave from deployment, the employee shall provide the Superintendent or designee with notice of the intention to take the leave. The employee shall submit written documentation certifying that the employee's spouse will be on leave from deployment during the time that the leave is requested. (Military and Veterans Code 395.10)

### **Leave for Emergency Duty**

**CSBA NOTE:** Labor Code 230.3 prohibits a district from discharging or discriminating against an employee who takes time off to perform emergency duty as specified below. Labor Code 230.3 defines emergency rescue personnel as a member of a federal, state, local, or private fire department or agency, as well as a sheriff or police department.

An employee may take time off to perform emergency duty as a volunteer firefighter, a reserve peace officer, or emergency rescue personnel. (Labor Code 230.3)

**CSBA NOTE:** Pursuant to Labor Code 230.4, a district with 50 or more employees must grant an employee who is a volunteer firefighter, reserve peace officer, or emergency rescue personnel a leave of absence for up to 14 days per calendar year for training purposes. A district with fewer than 50 employees may use or delete this paragraph at its discretion.

Any employee who performs duty as a volunteer firefighter, reserve peace officer, or emergency rescue personnel shall be permitted to take temporary leaves of absence, not to exceed an aggregate total of 14 days per calendar year, for the purpose of engaging in fire, law enforcement, or emergency rescue training. (Labor Code 230.4)

### Civil Air Patrol Leave

**CSBA NOTE:** Labor Code 1500-1507 require a district with more than 15 employees to provide at least 10 days of unpaid leave per year, beyond any leave otherwise available to employees, to employees who volunteer with the Civil Air Patrol and are directed to respond to an emergency operational mission, as provided below. Labor Code 1503 specifies that a district may not require an employee to first exhaust all accrued vacation, personal, sick, or any other available leave in order to use Civil Air Patrol leave.

If the district chooses to offer more than 10 days of such leave per year or to provide paid leave, it should modify the following paragraph accordingly. A district with 15 or fewer employees may use or delete this section at its discretion.

An employee may take up to 10 days of unpaid leave per calendar year, beyond any leave otherwise available to the employee, to respond to an emergency operational mission of the California Civil Air Patrol, provided that the employee has been employed by the district for at least a 90-day period immediately preceding the leave. Such leaves shall not exceed three days for a single mission, unless an extension is granted by the governmental entity authorizing the mission and is approved by the Superintendent or designee. (Labor Code 1501, 1503)

The employee shall give the district as much advance notice as possible of the intended dates of the leave. The Superintendent or designee may require certification from the proper Civil Air Patrol authority to verify the eligibility of the employee for the leave and may deny the leave if the employee fails to provide the required certification. (Labor Code 1503)

### 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
CA Constitution Article 1, Section 8	Religious discrimination
Ed. Code 44036-44037	Leaves of absence for judicial and official appearances
Ed. Code 44963	Power to grant leaves of absence; certificated
Ed. Code 44981	Leave of absence for personal necessity
Ed. Code 44985	Leave of absence due to death in immediate family; certificated
Ed. Code 44987	Service as officer of employee organization; certificated
Ed. Code 44987.3	Leave of absence to serve on certain boards, commissions, etc.

Ed. Code 45190	Leaves of absence and vacations; classified
Ed. Code 45194	Bereavement leave of absence; classified
Ed. Code 45198	Effect of provisions authorizing leaves of absence
Ed. Code 45207	Personal necessity; classified
Ed. Code 45210	Service as officer of employee organization; classified
Ed. Code 45240-45320	Merit system
Evid. Code 1035.2	Sex assault counselor; definition
Evid. Code 1037.1	Domestic violence counselor; definition
Fam. Code 297-297.5	Rights, protections, benefits under the law; registered domestic partners
Gov. Code 12945.1-12945.2	California Family Rights Act
<u>Gov. Code 12945.7</u>	<u>Bereavement leave</u>
Gov. Code 3543.1	Rights of employee organizations
Lab. Code 1500-1507	Civil Air Patrol leave
Lab. Code 230-230.2	Leaves for victims of domestic violence, sexual assault, or specified felonies
Lab. Code 230.3	Leave for emergency personnel
Lab. Code 230.4	Leave for volunteer firefighters
Lab. Code 230.8	Time off to visit child's school
Lab. Code 233	<del>Illness of child, parent, spouse or domestic partner</del> <u>Leave to attend to family illness</u>
Lab. Code 234	Absence control policy
Lab. Code 246.5	Paid sick days; purposes for use
M&V Code 395.10	Leave when spouse on leave from military deployment
Pen. Code 1192.7	Plea bargaining limitation
Pen. Code 667.5	Prior prison terms; enhancement of prison terms
<b>Federal</b>	<b>Description</b>
29 USC 2601-2654	Family Care and Medical Leave Act
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
<b>Management Resources</b>	<b>Description</b>
Court Decision	Rankin v. Commission on Professional Competence, (1988) 24 Cal.3d 167
Public Employment Relations Board Decision	Berkeley Council of Classified Employees v. Berkeley Unified School District, (2008) PERB Decision No. 1954
Website	CSBA District and County Office of Education Legal Services

Website	California Department of Industrial Relations
Website	California Federation of Teachers
Website	California Public Employment Relations Board
Website	California School Employees Association
Website	California Teachers Association

## **Cross References**

<b>Code</b>	<b>Description</b>
2121	Superintendent's Contract
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4121	Temporary/Substitute Personnel
4121	Temporary/Substitute Personnel
4140	Bargaining Units
4141.6	Concerted Action/Work Stoppage
4141.6	Concerted Action/Work Stoppage
4143	Negotiations/Consultation
4158	Employee Security
4158	Employee Security
4161	Leaves
4161	Leaves
4161.1	Personal Illness/Injury Leave
4161.8	Family Care And Medical Leave
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4240	Bargaining Units
4241.6	Concerted Action/Work Stoppage
4241.6	Concerted Action/Work Stoppage
4243	Negotiations/Consultation
4258	Employee Security
4258	Employee Security
4261	Leaves
4261	Leaves

4261.1	Personal Illness/Injury Leave
4261.8	Family Care And Medical Leave
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4340	Bargaining Units
4358	Employee Security
4358	Employee Security
4361	Leaves
4361	Leaves
4361.1	Personal Illness/Injury Leave
4361.8	Family Care And Medical Leave
5148	Child Care And Development
5148	Child Care And Development

**Regulation 4361.8: Family Care And Medical Leave**

**Status: ADOPTED**

Original Adopted Date: 07/01/2015 | Last Revised Date: 06/01/2022 ~~2023~~ | Last Reviewed  
Date: 06/01/2022 ~~2023~~

CSBA NOTE: The following optional administrative regulation addresses mandatory subjects of bargaining. The laws referenced in this regulation provide minimum amounts of leave which the district must grant its employees if more generous benefits are not provided as part of its collective bargaining agreement. Any covered subject that is already addressed in the district's collective bargaining agreements should be deleted from this administrative regulation.

Both federal and state law provide for family care and medical leave (29 USC 2601-2654, the Family and Medical Leave Act of 1993 (FMLA), and Government Code 12945.1-12945.2, the California Family Rights Act (CFRA)). However, these laws do not always provide identical rights or operate in the same manner. For example, pregnancy as a "serious health condition" is covered under FMLA but not under CFRA. Instead, under state law, an employee who is disabled due to pregnancy, childbirth, or a related medical condition is entitled to pregnancy disability leave (PDL) pursuant to Government Code 12945. Where there is a difference between state and federal law, the law that grants the greatest benefits generally controls. In those situations, the district should consult CSBA's District and County Office of Education Legal Services or district legal counsel should be consulted as needed.

The district shall not deny any eligible employee the right to family care or medical leave pursuant to the Family and Medical Leave Act (FMLA) or the California Family Rights Act (CFRA), or to Pregnancy Disability Leave (PDL), when an employee is disabled by a pregnancy, childbirth, or related medical condition. The district shall not interfere with, restrain, or deny the exercise of an employee's right to any such leave, nor shall the district discharge, discriminate against, or retaliate against an employee for taking such leave, opposing or challenging an unlawful employment practice in relation to any of these laws, or being involved in any related inquiry or proceeding. (Government Code 12945, 12945.2; 2 CCR 11094; 29 USC 2615)

**Definitions**

The words and phrases defined below shall have the same meaning throughout this administrative regulation except where a different meaning is otherwise specified.

*Child* means a biological, adopted, or foster child; a stepchild; a legal ward; or a person to whom the employee stands in loco parentis. For purposes of CFRA leave, child also includes a child of a registered domestic partner. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611)

CSBA NOTE: Pursuant to Government Code 12945.2, as amended by AB 1041 (Ch. 748, Statutes of 2022), a designated person, as defined below, is added to the class of people an employee may take leave to care for under CFRA. A designated person may be identified by the employee at the time of the employee's requests for the leave, and the district may limit employees to one designated person per 12-month period.

Designated person, for CFRA purposes, means any individual related by blood, or whose association with the employee is the equivalent of a family relationship. (Government Code 12945.2)

*Eligible employee*, for FMLA and CFRA purposes, means an employee who has been employed with the district for at least 12 months and who has at least 1,250 hours of service with the district during the 12 months immediately preceding the leave. However, these requirements shall not apply when an employee applies for PDL. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611; 29 CFR 825.110)

CSBA NOTE: Pursuant to Government Code 12945.2, as amended by AB 1033 (Ch. 327, Statutes of 2021), includes 1041, a ~~parent-in-law~~ "designated person," as defined above, is included in the definition of "parent" "eligible family member" for purposes of CFRA leave.

*Eligible family member* means an employee's child, parent, or spouse. For purposes of leave to care for a family member with a serious health condition pursuant to CFRA, eligible family member includes an employee's child, parent, parent-in-law, spouse, registered domestic partner, grandparent, grandchild, or sibling, or designated person. (Government Code 12945.2; 2 CCR 11087; 29 USC 2612)

*Employee disabled by pregnancy* means an employee whose health care provider states that the employee is: (2 CCR 11035)

1. Unable because of pregnancy to perform any one or more of the essential functions of the job or to perform any of them without undue risk to the employee or other persons or to the pregnancy's successful completion
2. Suffering from severe "morning sickness" or needs to take time off for prenatal or postnatal care, bed rest, gestational diabetes, pregnancy-induced hypertension, preeclampsia, postpartum depression, childbirth, loss or end of pregnancy, recovery from childbirth or loss or end of pregnancy, or any other pregnancy-related condition

*Parent* means a biological, foster, or adoptive parent; a parent-in-law; a stepparent; a legal guardian; or another person who stood in loco parentis to the employee when the employee was a child. However, for FMLA purposes, parent does not include a spouse's parents. (Government Code 12945.2; 2 CCR 11087; 29 USC 2611; 29 CFR 825.122)

*Serious health condition* means an illness, injury (including, but not limited to, on-the-job injuries), impairment, or physical or mental condition of the employee or an eligible family member of the employee that involves either inpatient care or continuing treatment, including treatment for substance abuse, as follows: (Government Code 12945.2; 2 CCR 11087, 11097; 29 USC 2611, 2612; 29 CFR 825.113-825.115)

1. Inpatient care in a hospital, hospice, or residential health care facility, any subsequent treatment in connection with such inpatient care, or any period of incapacity.

A person is considered an inpatient when formally admitted to a health care facility with the expectation of remaining overnight and occupying a bed, even if it later develops that the person can be discharged or transferred to another facility and does not actually remain overnight.

Incapacity means the inability to work, attend school, or perform other regular daily activities due to a serious health condition, its treatment, or the recovery that it requires.

2. Continuing treatment or continuing supervision by a health care provider, including one or more of the following:

- a. A period of incapacity of more than three consecutive full days
- b. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition
- c. Any period of incapacity due to pregnancy or for prenatal care under FMLA
- d. Any period of incapacity which is permanent or long term due to a condition for which treatment may not be effective
- e. Any period of absence to receive multiple treatments, including recovery, by a health care provider

*Spouse* means a partner in marriage as defined in Family Code 300, including same sex partners in marriage. For purposes of CFRA leave, spouse also includes a registered domestic partner within the meaning of Family Code 297-297.5. (Family Code 297, 297.5, 300; 2 CCR 11087; 29 CFR 825.122)

### **Eligibility/Purposes of Leave**

**CSBA NOTE:** Government Code 12945.2 and 29 USC 2611-2612 require a district to grant family care and medical leave to an eligible employee for any of the reasons stated below. These requirements apply to all public agencies regardless of the number of employees.

The district shall grant FMLA or CFRA leave to eligible employees for any of the following reasons: (Government Code 12945.2; 29 USC 2612; 29 CFR 825.112, 825.126, 825.127)

1. The birth of a child of the employee or placement of a child with the employee in connection with the employee's adoption or foster care of the child (parental leave)
2. The care of an eligible family member with a serious health condition
3. The employee's own serious health condition that makes the employee unable to perform the job functions of the position

**CSBA NOTE:** Pursuant to 29 CFR 825.126, FMLA military family leave is available to any eligible employee for a qualifying exigency while the employee's spouse, child, or parent who is a military member is on covered active duty during deployment to a foreign country. Government Code 12945.2 provides exigency leave under CFRA for an employee whose registered domestic partner is on active duty. For requirements related to qualifying exigency leave, see the section "Military Family Leave Resulting from Qualifying Exigencies" below.

4. A qualifying exigency arising out of the fact that the employee's spouse, child, parent, or, for CFRA leave only, a registered domestic partner, is a military member on covered active duty or call to covered active duty (or has been notified of an impending call or order to covered active duty)

**CSBA NOTE:** Pursuant to 29 CFR 825.127, military caregiver leave is available to any eligible employee who is a family member of a covered servicemember with a serious injury or illness. For requirements related to military caregiver leave, see the section on "Military Caregiver Leave" below.

5. The care of a covered servicemember with a serious injury or illness when the employee is a spouse, child, parent, or next of kin of the covered servicemember

CSBA NOTE: Under federal law, pregnancy as a "serious health condition" is covered as part of FMLA leave. However, disability due to pregnancy is explicitly excluded from coverage under CFRA (2 CCR 11093). Instead, pursuant to Government Code 12926 and 12945, any California employee who is "disabled because of pregnancy, childbirth, or related medical conditions" is entitled to unpaid PDL of up to four months if the employer has five or more employees. Therefore, such an employee is entitled to up to four months of PDL and an additional 12 weeks of CFRA leave following the birth of the child.

Additionally, pursuant to 2 CCR 11037, PDL is not subject to eligibility requirements for other FMLA and CFRA leaves, such as minimum hours worked or length of service.

In addition, the district shall grant PDL to any employee who is disabled by pregnancy, childbirth, or other related medical condition. (Government Code 12945; 2 CCR 11037)

### Terms of Leave

CSBA NOTE: Pursuant to Government Code 12945.2, leaves common to CFRA and FMLA run concurrently so that total leave to which an employee is entitled would not be more than 12 work weeks.

An eligible employee shall be entitled to a total of 12 work weeks of FMLA or CFRA leave during any 12-month period, except in the case of leave to care for a covered servicemember as provided under "Military Caregiver Leave" below. To the extent allowed by law, CFRA and FMLA leaves shall run concurrently. (Government Code 12945.2; 29 USC 2612)

CSBA NOTE: To determine the 12-month period in which the leave entitlement occurs, the district may use any of the methods identified in 29 CFR 825.200 and specified in options #1-4 below. However, a district may choose not to use any of these options and may instead choose some other fixed 12-month period. Whichever option is selected, it must be applied uniformly to all employees. If the district fails to select a method for calculating the 12-month period, the method that provides the most beneficial outcome for the employee will be used. Pursuant to 2 CCR 11090, if the district decides to change the calculation method, it must provide at least 60 days' notice to all employees.

**OPTION 1:** The 12-month period shall coincide with the calendar year. (29 CFR 825.200)

**OPTION 2:** The 12-month period shall coincide with the fiscal year. (29 CFR 825.200)

**OPTION 3:** The 12-month period shall be measured forward from the date the employee's first family care and medical leave begins. (29 CFR 825.200)

**OPTION 4:** The 12-month period shall be a rolling period measured backward from the date an employee uses any family care and medical leave, as defined in 29 CFR 825.200. (29 CFR 825.200)

CSBA NOTE: 2 CCR 11042 clarifies that the four months of PDL to which an employee is entitled means the number of days or hours that the employee would normally work within the four calendar months. For employees who work 40 hours per week, PDL leave is defined as 17-1/3 weeks, 122 days, or 693 hours.

In addition, any employee who is disabled by pregnancy, childbirth, or other related condition shall be entitled to PDL for the period of the disability not to exceed four months. For a part-time employee, the four months shall be calculated on a proportional basis. (Government Code 12945; 2 CCR 11042)

CSBA NOTE: While leaves common to CFRA and FMLA run concurrently, PDL is separate and distinct from CFRA leave. Consequently, pursuant to 2 CCR 11046, an employee who is "disabled by pregnancy" may be entitled to up to four months of PDL, followed by 12 work weeks of CFRA leave for the birth of the child (baby bonding). Determining which leaves run concurrently is a complex endeavor and districts should consult [CSBA's District and County Office of Education Legal Services](#) or district legal counsel as needed.

PDL shall run concurrently with FMLA leave for disability caused by an employee's pregnancy. At the end of the employee's FMLA leave for disability caused by pregnancy, or at the end of four months of PDL, whichever occurs first, a CFRA-eligible employee may request to take CFRA leave of up to 12 work weeks, for the reason of the birth of a child or to bond with or care for the child. (Government Code 12945, 12945.2; 2 CCR 11046, 11093)

Leave taken for the birth or placement of a child must be concluded within the 12-month period beginning on the date of the birth or placement of the child. Such leave does not need to be taken in one continuous period of time. (2 CCR 11090; 29 USC 2612)

CSBA NOTE: Although 29 USC 2612 allows the district to limit the aggregate number of work weeks of leave to which two parents may be entitled when both parents work for the district, such leave is covered under both FMLA and CFRA and state law prevails since it provides greater rights to employees.

Each eligible employee shall be granted up to 12 work weeks for family care and medical leave related to the birth or placement of a child, regardless of whether both parents of the child work for the district.

#### Use/Substitution of Paid Leave

CSBA NOTE: The district may require employees (Option 1) or employees may elect (Option 2) to use paid leave during an otherwise unpaid portion of CFRA or FMLA leave or PDL. Pursuant to 2 CCR 11044 and 11092, the district may only require an employee to use sick leave if the leave is for the employee's own serious health condition or for PDL, unless mutually agreed to by the district and the employee.

**OPTION 1:** During any otherwise unpaid period of FMLA or CFRA leave, except leave for an employee's own serious health condition, an employee shall use accrued paid leave, including, but not limited to, vacation leave, personal leave, or family leave. If the leave is for the employee's own serious health condition, the employee shall use accrued paid leave, including but not limited to, vacation leave, personal leave, or sick leave. During an unpaid period of PDL, the employee shall use any accrued sick leave and may elect to use any vacation time or other accrued personal time off. (Government Code 12945, 12945.2; 2 CCR 11044, 11092; 29 USC 2612)

#### **OPTION 1 ENDS HERE**

**OPTION 2:** During any otherwise unpaid period of PDL or any FMLA or CFRA leave, the employee may elect to use accrued vacation leave, or any other paid time off negotiated with the district that the employee is eligible to use. If the leave is for the employee's own serious health condition or PDL, the employee may also elect to use accrued sick leave during the period of leave. (Government Code 12945, 12945.2; 2 CCR 11044; 11092; 29 USC 2612)

#### **OPTION 2 ENDS HERE**

CSBA NOTE: The following paragraph is for use with either option above.

The district and employee may also come to agreement regarding the use of any additional paid or unpaid time off instead of using the employee's CFRA leave. (2 CCR 11092)

### **Intermittent Leave/Reduced Work or Leave Schedule**

PDL and family care and medical leave for the serious health condition of an employee or eligible family member may be taken intermittently or on a reduced work or leave schedule when medically necessary, as determined by the health care provider of the person with the serious health condition. However, the district shall limit leave increments to the shortest period of time that the district's payroll system uses to account for absences or use of leave provided it is not to be greater than one hour. (Government Code 12945.2; 2 CCR 11042, 11090; 29 USC 2612)

CSBA NOTE: Pursuant to 2 CCR 11090, the minimum duration of CFRA parental leave for the birth, adoption, or foster care placement of a child is generally two weeks. However, the district must grant a request for CFRA leave of less than two weeks duration on any two occasions and may grant additional requests.

The basic minimum duration of leave for the birth, adoption, or foster care placement of a child shall be two weeks. However, the district shall grant a request for such leave of less than two weeks on any two occasions. (2 CCR 11090; 29 USC 2612)

The district may require an employee to transfer temporarily to an available alternative position under any of the following circumstances: (2 CCR 11041, 11090; 29 USC 2612)

1. The employee needs intermittent leave or leave on a reduced work schedule that is foreseeable based on a planned medical treatment for the employee or family member:

CSBA NOTE: Pursuant to 2 CCR 11041, the district must accommodate the transfer request of a pregnant employee to the same extent that it accommodates transfer requests for other temporarily disabled employees.

2. A medical certification is provided by the employee's health care provider that, because of pregnancy, the employee has a medical need to take intermittent leave or leave on a reduced work schedule:
3. The district agrees to permit intermittent leave or leave on a reduced work schedule due to the birth, adoption, or foster care placement of the employee's child:

The alternative position must have equivalent pay and benefits and must better accommodate recurring periods of leave than the employee's regular job, and the employee must be qualified for the position. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced work or leave schedule. (2 CCR 11041, 11090; 29 USC 2612)

### **Request for Leave**

CSBA NOTE: Pursuant to 2 CCR 11050 and 11091, an employee is required to notify the district of the need to take PDL or family care and medical leave. The employee must provide at least verbal notice sufficient to make the district aware that the employee needs qualifying leave, and the anticipated timing and duration of the leave. However, the employee does not need to assert rights under CFRA or FMLA or even mention CFRA or FMLA to meet the notice requirement, but must state the reason the leave is needed. If there is a question about whether leave is FMLA/CFRA qualifying or if the district is considering denying CFRA leave based on an

employee's refusal to provide further information, [CSBA's District and County Office of Education Legal Services of district](#) legal counsel should be consulted.

The district shall consider an employee's request for PDL or family care and medical leave only if the employee provides at least verbal notice sufficient to make the district aware of the need to take the leave and the anticipated timing and duration of the leave. (2 CCR 11050, 11091)

For family care and medical leave, the employee need not expressly assert or mention FMLA/CFRA to satisfy this requirement. However, the employee must state the reason the leave is needed (e.g., birth of child, medical treatment). If more information is necessary to determine whether the employee is eligible for family care and medical leave, the Superintendent or designee shall inquire further and obtain the necessary details of the leave to be taken. (2 CCR 11091)

The district shall respond to requests for leave as soon as practicable, but no later than five business days after receiving the employee's request. (2 CCR 11091)

**CSBA NOTE:** Both 29 CFR 825.300 and 2 CCR 11091 require the district to provide an employee with notice of the designation of leave as either qualifying for CFRA or FMLA protection. See section entitled "Notifications" below for further requirements of this "designation notice" as well as other required notifications.

Pursuant to 2 CCR 11091, an employee has the obligation to respond to questions designed to determine whether an absence is potentially CFRA qualifying. If the district is unable to determine whether requested leave is CFRA qualifying because of an employee's refusal to respond to its inquiries, the employee may be denied CFRA protection.

Based on the information provided by the employee, the Superintendent or designee shall designate the leave, paid or unpaid, as FMLA/CFRA qualifying leave and shall give notice of such designation to the employee. Failure of an employee to respond to permissible inquiries regarding the leave request may result in denial of CFRA protection if the district is unable to determine whether the leave is CFRA qualifying. (2 CCR 11091; 29 CFR 825.300)

**CSBA NOTE:** Pursuant to 2 CCR 11091, the district may require an employee to provide at least 30 days advance notice of the need for family care and medical leave, if the need is foreseeable. If the district requires such advance notice from employees, then the district's notification of FMLA/CFRA rights must so specify; see section below entitled "Notifications."

Pursuant to 2 CCR 11050, an employee requesting PDL is required to provide the district at least 30 days advance notice if the need for PDL is foreseeable.

When an employee is able to foresee the need for PDL or family care and medical leave at least 30 days in advance of the leave, the employee shall provide the district with at least 30 days advance notice before the leave. When the 30 days' notice is not practicable because of a lack of knowledge of when leave will be required to begin, a change in circumstances, a medical emergency, or other good cause, the employee shall provide the district with notice as soon as practicable. Failure of an employee to provide required notice may result in a denial of leave. (2 CCR 11050, 11091)

In all instances, the employee shall consult with the Superintendent or designee and make a reasonable effort to schedule, subject to the health care provider's approval, any planned appointment or medical treatment or supervision so as to minimize disruption to district operations. (Government Code 12945.2; 2 CCR 11050, 11091)

#### **Certification of Health Condition**

CSBA NOTE: Government Code 12945.2 and Labor Code 245.5, as amended by AB 1041, expands the CFRA leave an eligible employee may take to include caring for a designated person with a serious health condition. A "designated person" is defined as any individual related by blood or whose association with the employee is the equivalent of a family relationship. The employee may identify the designated person at the time the employee requests the leave. The district may limit the employee to taking CFRA leave to care for one designated person per 12-month period.

An eligible employee may request CFRA leave to care for a designated person with a serious health condition. The employee may identify the designated person at the time of the employee's request for the leave. The district may limit an employee to using CFRA leave to care for one designated person per 12-month period. (Government Code 12945.2; Labor Code 245.5)

#### **Certification of Health Condition**

CSBA NOTE: The following optional section is for use by districts that require an employee to submit a medical certification of the need for family care and medical leave for an employee's own serious health condition or to care for the employee's eligible family member with a serious health condition. In order to help avoid claims of discrimination, the district should generally treat all such employees uniformly; thus, districts using this section should request a medical certification from all such employees.

Districts requiring written medical certification from employees may develop their own form, utilize one provided by the employee's health care provider, or use the form provided in 2 CCR 11097.

Within five business days of an employee's request for family care and medical leave for the serious health condition of the employee or an eligible family member, the Superintendent or designee shall request that the employee provide certification by a health care provider of the need for leave. Upon receiving the district's request, the employee shall provide the certification within 15 calendar days, unless either the Superintendent or designee provides additional time or it is not practicable under the particular circumstances, despite the employee's diligent, good faith efforts. (2 CCR 11087, 11091; 29 CFR 825.305)

The certification shall include the following: (Government Code 12945.2; 2 CCR 11087; 29 USC 2613)

1. The date on which the serious health condition began
2. The probable duration of the condition

CSBA NOTE: Item #3 below addresses an eligible employee's request for leave to care for an eligible family member. In such a case, 2 CCR 11087 provides that the health care provider's certification need not identify the serious health condition involved. The U.S. Department of Labor (DOL) provides a form, "Certification of Health Care Provider for Family Member's Serious Health Condition under the Family and Medical Leave Act," that districts may use for this purpose to avoid unauthorized disclosure of the serious health condition.

3. If the employee is requesting leave to care for an eligible family member with a serious health condition, both of the following:
  - a. Statement that the serious health condition warrants the participation of the employee to provide care, such as by providing psychological comfort, arranging for third party care, or directly providing or participating in the medical care of the

eligible family member during a period of the treatment or supervision

- b. Estimated amount of time the health care provider believes the employee needs to care for the eligible family member
4. If the employee is requesting leave because of the employee's own serious health condition, a statement that due to the serious health condition, the employee is unable to work at all or is unable to perform one or more essential job functions of the position
5. If the employee is requesting leave for intermittent treatment or on a reduced work or leave schedule for planned medical treatment, a statement of the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of such treatment, and the expected duration of the leave

CSBA NOTE: Government Code 12940 and other provisions of the California Genetic Information Nondiscrimination Act of 2011 prohibit an employer from making a non-job related inquiry into an employee's genetic information. A district which believes that an employee's leave may require obtaining this information should consult with [CSBA's District and County Office of Education Legal Services or district](#) legal counsel.

The Superintendent or designee shall not request any genetic information related to an employee except as authorized by law in accordance with the California Genetic Information Nondiscrimination Act of 2011. (Government Code 12940)

When an employee has provided sufficient medical certification to enable the district to determine whether the employee's leave request is FMLA/CFRA-eligible, the Superintendent or designee shall notify the employee within five business days whether the leave is FMLA/CFRA-eligible. The Superintendent or designee may also retroactively designate leave as FMLA/CFRA leave as long as appropriate notice is given to the employee and there is no harm or injury to the employee. (2 CCR 11091; 29 CFR 825.301)

If the Superintendent or designee has a good faith objective reason to doubt the validity of a certification that accompanies a request for leave for the employee's own serious health condition, the Superintendent or designee may require the employee to obtain a second opinion from a district-approved health care provider, at district expense. If the second opinion is contrary to the first, the Superintendent or designee may require the employee to obtain a third medical opinion from a third health care provider approved by both the employee and the district, again at district expense. The opinion of the third health care provider shall be final and binding. (Government Code 12945.2; 2 CCR 11091; 29 USC 2613)

#### **Certification for PDL**

CSBA NOTE: The following optional section is for use by districts that require an employee to submit a medical certification of the need for leave along with the request for PDL. Districts requiring written medical certification from employees who request reasonable accommodation, transfer, or disability leave because of pregnancy may develop their own form, utilize one provided by the employee's health care provider, or use the form provided in 2 CCR 11050.

The Superintendent or designee shall request that an employee who is requesting PDL provide certification by a health care provider of the need for leave at the time the employee gives notice of the need for PDL, or within two business days of giving the notice. If the need for PDL is unforeseen, the Superintendent or designee shall request the medical certification within two business days after the leave commences. The Superintendent or designee may request certification at some later date if the Superintendent or designee has reason to question the

appropriateness of the leave or its duration. (2 CCR 11050)

For PDL that is foreseeable and for which at least 30 days' notice has been given, the employee shall provide the medical certification before the leave begins. When this is not practicable, the employee shall provide the certification within the time frame specified by the Superintendent or designee which must be at least 15 calendar days after the request, unless it is not practicable under the particular circumstances despite the employee's diligent, good faith efforts. (2 CCR 11050)

Medical certification for PDL purposes shall include a statement that the employee needs to take the leave because the employee is disabled by pregnancy, childbirth, or a related medical condition, the date on which the employee became disabled because of pregnancy, and the estimated duration of the leave. (2 CCR 11050)

If additional PDL or family care and medical leave is needed when the time estimated by the health care provider expires, the district may require the employee to provide recertification in the manner specified for the leave. (Government Code 12945.2; 2 CCR 11050; 29 USC 2613)

### **Release to Return to Work**

**CSBA NOTE:** The following optional section is for use by districts that choose to require a return-to-work certification and may be modified to list the specific positions for which certification is required. Pursuant to 2 CCR 11091, the district may require an employee to submit a return-to-work certification from the employee's health provider, stating that the employee is able to return to work. However, this requirement may only be made if the district has a uniformly applied practice of requiring such releases when employees return to work after illness, injury, or disability, any fitness-for-duty examination is job related and consistent with business necessity, and the practice is not forbidden by its collective bargaining agreement. 2 CCR 11050 has similar requirements when an employee is returning to work after PDL.

Pursuant to 29 CFR 825.312, when the health care provider certifies that the employee is able to resume work, the district may also require the health care provider to address the employee's ability to perform the essential functions of the job. If such a requirement is imposed, then the district must provide the employee with a list of the employee's essential job functions with the "designation notice"; see section entitled "Notifications" below.

Upon expiration of an employee's PDL or family care and medical leave taken for the employee's own serious health condition, the employee shall present certification from the health care provider of the employee's ability to resume work. The certification shall address the employee's ability to perform the essential job functions of the position.

### **Rights to Reinstatement**

**CSBA NOTE:** Pursuant to Government Code 12945.2, 2 CCR 11043 and 11089, and 29 USC 2614, an employee on PDL or family care and medical leave has the right to be reinstated to the same or a comparable position upon return from such leave. However, such an employee has no greater right to reinstatement or other benefits than the employee would have if employment had been continuous.

Upon granting an employee's request for PDL or FMLA/CFRA leave, the Superintendent or designee shall guarantee to reinstate the employee in the same or a comparable position when the leave ends. (Government Code 12945.2; 2 CCR 11043, 11089; 29 USC 2614)

The district may refuse to reinstate an employee to the same or a comparable position if the FMLA/CFRA leave was fraudulently obtained by the employee. (2 CCR 11089; 29 CFR 825.216)

The district may refuse to reinstate an employee to the same position after taking PDL if, at the time the reinstatement is requested, the employee would not otherwise have been employed in that position for legitimate business reasons unrelated to the employee's PDL. (2 CCR 11043)

#### **Maintenance of Benefits/Failure to Return from Leave**

During the period when an employee is on PDL or family care and medical leave, the employee shall maintain employee status with the district and the leave shall not constitute a break in service for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan. (Government Code 12945.2; 2 CCR 11092; 29 USC 2614)

**CSBA NOTE:** Pursuant to 2 CCR 11044 and 11092, the time that the district maintains and pays for group health coverage during PDL shall not be used to meet its obligation to pay for 12 weeks of group health coverage during leave taken under CFRA, even where the district designates the PDL as FMLA or CFRA leave. The entitlements to employer-paid group health coverage during PDL and during CFRA are two separate and distinct entitlements.

For up to a maximum of four months for PDL and 12 work weeks for other family care and medical leave, the district shall continue to provide an eligible employee the group health plan coverage that was in place before the employee took the leave. The employee shall reimburse the district for premiums paid during the leave if the employee fails to return to district employment after the expiration of all available leaves and the failure is for a reason other than the continuation, recurrence, or onset of a serious health condition or other circumstances beyond the employee's control. (Government Code 12945.2; 2 CCR 11044, 11092; 29 USC 2614; 29 CFR 825.213)

In addition, during the period when an employee is on PDL or family care and medical leave, the employee shall be entitled to continue to participate in other employee benefit plans including life insurance, short-term or long-term disability insurance, accident insurance, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as would apply to an unpaid leave taken for any other purpose. However, for purposes of pension and retirement plans, the district shall not make plan payments for an employee during any unpaid portion of the leave period and the leave period shall not be counted for purposes of time accrued under the plan. (Government Code 12945.2; 2 CCR 11044, 11092)

#### **Military Family Leave Resulting from Qualifying Exigencies**

**CSBA NOTE:** The following optional section reflects 29 USC 2611 and 2612 which authorize an eligible employee to take up to 12 work weeks of unpaid FMLA leave to attend to an "exigency" arising out of the fact that the employee's spouse, child, or parent is on active duty or on call to active duty status in the National Guard or Reserves, or is a member of the regular Armed Forces on deployment to a foreign country. Pursuant to Government Code 12945.2, an employee may take unpaid leave under CFRA to attend to an exigency involving the employee's registered domestic partner.

Pursuant to 29 CFR 825.200, an employee is entitled to 12 work weeks of qualifying exigency leave during each 12-month period established by the district; see section entitled "Terms of Leave" above. According to DOL's, "Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers," an employee may take all 12 weeks of FMLA leave entitlement as

a qualifying exigency leave or take a combination of the 12 weeks of leave for both qualifying exigency leave and other FMLA leave, such as leave for a serious health condition.

An eligible employee may take up to 12 work weeks of unpaid FMLA/CFRA leave, during each 12-month period established by the district in the section entitled "Terms of Leave" above, for one or more qualifying exigencies while the employee's child, parent, spouse, or, for purposes of CFRA leave, registered domestic partner, who is a military member is on covered active duty or on call to covered active duty status. (Government Code 12945.2; 29 USC 2612; 29 CFR 825.126)

*Covered active duty* means, for members of the Regular Armed forces, duty during the deployment of a member of the regular Armed Forces to a foreign country or, for members of the Reserve components of the Armed forces, duty during the deployment of a member of the National Guard or Reserves to a foreign country under a call or an order to active duty in support of a contingency operation pursuant to law. Deployment to a foreign county includes deployment to international waters. (29 USC 2611; 29 CFR 825.126)

CSBA NOTE: Pursuant to 29 CFR 825.126, a "qualifying exigency" may include "other events" agreed to by the district and the employee. As an example of such other event, ~~DOL's~~ DOL's, "Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers," and the California Department of Human Resources', "Questions and Answers - Military Family Leave - FMLA," list leave to spend time with the military member either prior to or post deployment or to attend to household emergencies that would normally have been handled by the military member.

Qualifying exigencies include time needed to: (29 CFR 825.126)

1. Address issues arising from short notice deployment of up to seven calendar days from the date of receipt of call or order of short notice deployment
2. Attend military events and related activities, such as any official ceremony or family assistance program related to the covered active duty or call to covered active duty status
3. Arrange child care or attend school activities arising from the covered active duty or call to covered active duty, such as arranging for alternative child care, enrolling or transferring a child to a new school, or attending meetings
4. Make or update financial and legal arrangements to address a military member's absence
5. Attend counseling provided by someone other than a health care provider
6. Spend time (up to 15 calendar days of leave per instance) with a military member who is on short-term, temporary, rest and recuperation leave during deployment
7. Attend to certain post-deployment activities, such as arrival ceremonies or reintegration briefings
8. Care for a military member's parent who is incapable of self-care when the care is necessitated by the military member's covered active duty
9. Address any other event that the employee and district agree is a qualifying exigency

The employee shall provide the Superintendent or designee with notice of the need for the qualifying exigency leave as soon as practicable, regardless of how far in advance such leave is foreseeable. (29 CFR 825.302)

CSBA NOTE: The district may require the employee to provide certification of the qualifying exigency containing the information specified in 29 CFR 825.309. A form has been developed by DOL for this purpose and is available on its web site [website](#).

The following paragraph is optional and should be deleted by those districts that do not require such documentation. In order to help avoid claims of discrimination, the district should generally treat all employees uniformly; thus, districts using this paragraph should request certification from all employees requesting such leave.

An employee who is requesting leave for qualifying exigencies shall provide the Superintendent or designee with a copy of the military member's active duty orders, or other documentation issued by the military, and the dates of the service. In addition, the employee shall provide the Superintendent or designee with certification of the qualifying exigency necessitating the leave. The certification shall contain the information specified in 29 CFR 825.309.

The employee's qualifying exigency leave may be taken on an intermittent or reduced work or leave schedule basis. (29 CFR 825.302)

CSBA NOTE: Pursuant to 29 USC 2612 and 29 CFR 825.207, the district has the option to require or give employees discretion to use paid leave when taking FMLA/CFRA leave; see Options 1 and 2 in the section entitled "Use/Substitution of Paid Leave" above. Whichever option is selected by the district with ~~regards~~ **regard** to FMLA/CFRA leave is also applicable to qualified exigency leave.

During the period of qualified exigency leave, the district's rule regarding an employee's use of accrued vacation leave and any other accrued paid or unpaid time off, as specified in the section "Use/Substitution of Paid Leave" above, shall apply.

### **Military Caregiver Leave**

CSBA NOTE: 29 USC 2612 and 29 CFR 825.127 authorize an eligible employee to take up to 26 work weeks of unpaid military caregiver leave, as defined below, during a single 12-month period. According to DOL's, "Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers," if an employee does not use the entire 26-week entitlement in a single 12-month period, unused weeks cannot be carried over into another 12-month period. However, the employee may qualify for nonmilitary FMLA leave.

The district shall grant an eligible employee up to a total of 26 work weeks of leave during a single 12-month period, measured forward from the first date the leave is taken, to care for a covered servicemember with a serious illness or injury. In order to be eligible for such military caregiver leave, the employee must be the spouse, child, parent, or next of kin of the covered servicemember. This 26-week period is inclusive of the 12 work weeks of leave that may be taken for other FMLA qualifying reasons. (29 USC 2611, 2612; 29 CFR 825.127)

Covered servicemember may be: (29 CFR 825.127)

1. A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list for a serious injury or illness
2. A veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran

*Child of a covered servicemember* means the covered servicemember's biological, adopted, or foster child, stepchild, legal ward, or child for whom the covered servicemember stood in loco parentis, and who is of any age. (29 CFR 825.127)

*Parent of a covered servicemember* means the covered servicemember's biological, adopted, step, or foster parent, or any other individual who stood in loco parentis to the covered servicemember (except "parents -in -law"). (29 CFR 825.127)

*Next of kin* means the nearest blood relative to the covered servicemember, other than the spouse, parent, or child, unless designated in writing by the covered servicemember. (29 USC 2611, 2612; 29 CFR 825.127)

*Outpatient status* means the status of a member of the Armed Forces assigned to a military medical treatment facility as an outpatient or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. (29 USC 2611; 29 CFR 825.127)

**CSBA NOTE:** 29 USC 2611 defines "serious injury or illness" for active members of the Armed Forces and for veterans, as provided below. Pursuant to 29 CFR 825.127, a veteran's injury or illness will qualify as a "serious injury or illness" for the purpose of this leave, only if one of the four conditions listed in Item #2 below is present.

*Serious injury or illness* means: (29 USC 2611; 29 CFR 825.127)

1. For a current member of the Armed Forces, an injury or illness incurred by the member in the line of duty on active duty, or that existed before the beginning of the member's active duty and was aggravated by the member's service in the line of duty while on active duty in the Armed Forces, and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.
2. For a veteran, an injury or illness incurred or aggravated by the member's service in the line of duty on active duty in the Armed Forces, including the National Guard or Reserves, that manifested itself before or after the member became a veteran and that is at least one of the following:
  - a. A continuation of a serious injury or illness incurred or aggravated while the veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember's office, grade, rank, or rating
  - b. A physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs (VA) Service-Related Disability Rating of 50 percent or greater, based wholly or partly on that physical or mental condition
  - c. A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of one or more disabilities related to the servicemember's military service or that would do so but for treatment received by the veteran
  - d. An injury, including a psychological injury, on the basis of which the veteran has been enrolled in the VA's Program of Comprehensive Assistance for Family Caregivers

CSBA NOTE: As is the case for other types of FMLA/CFRA leave, 29 CFR 825.302 requires the employee, when the need for the leave is foreseeable, to provide 30 days advance notice to the district before the leave is to begin.

The employee shall provide reasonable and practicable notice of the need for the leave in accordance with the procedures in the section entitled "Request for Leave" above.

CSBA NOTE: 29 CFR 825.310 authorizes the district to require employees to provide certification of the need for the leave, which is to be completed by an authorized health care provider of the covered servicemember.

The following paragraph is optional. In order to help avoid claims of discrimination, the district should generally treat all employees uniformly; thus, districts using this paragraph should request a medical certification from all employees requesting such leave.

An employee requesting leave to care for a covered servicemember with a serious injury or illness shall provide the Superintendent or designee with certification from an authorized health care provider of the servicemember that contains the information specified in 29 CFR 825.310.

CSBA NOTE: Pursuant to 29 CFR 825.127, an employee may take up to a total of 26 work weeks of leave for both regular FMLA and military caregiver leave during the 12-month leave entitlement period. However, the employee may not take more than 12 weeks for regular FMLA leave. For example, according to DOL's, "Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers," an employee could take 12 weeks of FMLA leave to care for a newborn child and 14 weeks of military caregiver leave but could not take 16 weeks to care for a newborn and 10 weeks of military caregiver leave. If the leave qualifies as both military caregiver leave and leave to care for a family member with a serious health condition, 29 CFR 825.127 specifies that the district must first designate the leave as military caregiver leave.

The leave may be taken intermittently or on a reduced work or leave schedule when medically necessary. An employee taking military caregiver leave in combination with other family care and medical leaves pursuant to this administrative regulation shall be entitled to a combined total of 26 work weeks of leave during a single 12-month period. When both spouses work for the district and both wish to take such leave, the spouses are limited to a maximum combined total of 26 work weeks during a single 12-month period. (29 USC 2612)

CSBA NOTE: Pursuant to 29 USC 2612 and 29 CFR 825.207, the district has the option to require or give employees discretion to substitute paid leave when taking FMLA/CFRA leave; see Options 1 and 2 in section entitled "Use/Substitution of Paid Leave" above. Whichever option is selected by the district with regard to FMLA/CFRA leave is also applicable to military caregiver leave.

During the period of military caregiver leave, the district's rule regarding an employee's use of accrued vacation leave and other accrued paid or unpaid time off, as specified in the section "Use/Substitution of Paid Leave" above, shall apply.

## Notifications

CSBA NOTE: Both 29 CFR 825.300 and 2 CCR 11095 require employers to provide general notification to employees of their rights under the FMLA/CFRA as well as specific notifications when an employee has requested leave, as detailed below. 2 CCR 11049 contains similar notice requirements for PDL purposes. Samples of notices which describe an employee's rights are available on the ~~web sites~~ [websites](#) of the California [Civil Rights](#) Department of Fair Employment and Housing and the DOL.

Pursuant to 2 CCR 11095, the district must translate the notice into every language that is spoken by at least 10 percent of the district's employees at any facility.

The Superintendent or designee shall provide the following notifications regarding state and federal law related to PDL or FMLA/CFRA leave:

1. General Notice: Information explaining the provisions of the Fair Employment and Housing Act/PDL and FMLA/CFRA and employees' rights and obligations shall be posted in a conspicuous place on district premises, or electronically, and shall be included in employee handbooks. (2 CCR 11049, 11095; 29 USC 2619)

CSBA NOTE: Pursuant to 2 CCR 11050 and 11091, a district may require an employee, when the need for the leave is foreseeable, to provide at least 30 days advance notice before the leave is to begin; see the section entitled "Request for Leave" above. 2 CCR 11049 and 11091 specify that districts requiring such notice from employees must give them "reasonable advance notice" of their obligation and that incorporation of the requirement into the general notice satisfies the "advance notice" requirement.

The following optional paragraph is for use by districts that require employees to provide advance notice.

2. The general notice shall also explain an employee's obligation to provide the Superintendent or designee with at least 30 days' notice of the need for the requested leave, when the need is reasonably foreseeable at least 30 days prior to the start of the leave. (2 CCR 11049, 11050, 11091)
3. Eligibility Notice: When an employee requests leave, including PDL, or when the Superintendent or designee acquires knowledge that an employee's leave may be for an FMLA/CFRA qualifying reason, the Superintendent or designee shall, within five business days, provide notification to the employee of eligibility to take such leave. (2 CCR 11049, 11091; 29 CFR 825.300)
4. Rights and Responsibilities Notice: Each time the eligibility notice is provided to an employee, the Superintendent or designee shall provide written notification explaining the specific expectations and obligations of the employee, including any consequences for a failure to meet those obligations. Such notice shall include, as applicable: (29 CFR 825.300)
  - a. A statement that the leave may be designated and counted against the employee's annual FMLA/CFRA leave entitlement and the appropriate 12-month entitlement period, if qualifying

CSBA NOTE: Item #4b below is for use by districts that require medical certification to the effect that the employee is able to resume work. See the section entitled "Release to Return to Work" above.

- b. Any requirements for the employee to furnish medical certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of active duty or call to active duty status and the consequences of failing to provide the certification
  - c. The employee's right to use paid leave, whether the district will require use of paid leave, conditions related to any use of paid leave, and the employee's entitlement to take unpaid leave if the employee does not meet the conditions for paid leave

- d. Any requirements for the employee to make premium payments necessary to maintain health benefits, the arrangement for making such payments, and the possible consequences of failure to make payments on a timely basis
- e. The employee's right to maintenance of benefits during the leave and restoration to the same or an equivalent job upon return from leave
- f. The employee's potential liability for health insurance premiums paid by the district during the employee's unpaid FMLA leave should the employee not return to service after the leave

Any time the information provided in the above notice changes, the Superintendent or designee shall, within five business days of receipt of an employee's first notice of need for leave, provide the employee with a written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

5. Designation Notice: When the Superintendent or designee has information (e.g., sufficient medical certification) to determine whether the leave qualifies as FMLA/CFRA leave, the Superintendent or designee shall, within five business days, provide written notification designating the leave as FMLA/CFRA qualifying or, if the leave will not be so designated, the reason for that determination. (2 CCR 11091; 29 CFR 825.300)

If the amount of leave needed is known, the notice shall include the number of hours, days, or weeks that will be counted against the employee's FMLA/CFRA entitlement. If it is not possible to provide that number at the time of the designation notice, notification shall be provided of the amount of leave counted against the employee's entitlement upon request by the employee and at least once in every 30-day period if leave was taken in that period. (29 CFR 825.300)

CSBA NOTE: 29 CFR 825.300 requires the designation notice to specify whether the district requires paid leave to be used during an otherwise unpaid family care and medical leave, whether the district requires an employee to present release to return to work certification, and whether that certification must address the employee's ability to perform the essential functions of the job. See the sections entitled "Use/Substitution of Paid Leave" and "Release to Return to Work" above. The following paragraph should be revised to reflect district practice.

6. If the district requires paid leave to be used during an otherwise unpaid family care and medical leave, the notice shall so specify. If the district requires an employee to present a release to return to work certification that addresses the employee's ability to perform the essential functions of the job, the notice shall also specify that requirement. (2 CCR 11091, 11097; 29 CFR 825.300)

Any time the information provided in the designation notice changes, the Superintendent or designee shall, within five business days, provide the employee with written notice referencing the prior notice and describing any changes to the notice. (29 CFR 825.300)

## Records

CSBA NOTE: Government Code 12946, 29 USC 2616, and 29 CFR 825.500 require districts to maintain records of, among other things, applications, dates, and personnel and employment action related to family care and medical leave. Pursuant to 42 USC 2000ff-1, any individually identifiable genetic information possessed by the district must be treated as a confidential medical record of the employee involved.

The Superintendent or designee shall maintain records pertaining to an individual employee's use of FMLA or CFRA leave or PDL in accordance with law. (Government Code 12946; 29 USC 2616; 42 USC 2000ff-1; 29 CFR 825.500)

**Policy Reference UPDATE Service**

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**Policy Reference Disclaimer:**

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

<b>State</b>	<b>Description</b>
2 CCR 11035-11051	Unlawful sex discrimination; pregnancy, childbirth, and related medical conditions
2 CCR 11087-11098	California Family Rights Act
Ed. Code 44965	Granting of leaves of absence for pregnancy and childbirth
Fam. Code 297-297.5	Rights, protections, benefits under the law; registered domestic partners
Fam. Code 300	Definition of marriage
Gov. Code 12926	Definitions
Gov. Code 12940	Unlawful discriminatory employment practices
Gov. Code 12945	Unlawful discrimination based on pregnancy, childbirth, or related medical conditions
Gov. Code 12945.1-12945.2	California Family Rights Act
Gov. Code 12945.6	Parental leave
Gov. Code 12946	Fair employment and Housing Act: discrimination prohibited
<b>Federal</b>	<b>Description</b>
1 USC 7	Definition of marriage and spouse
29 CFR 825.100-825.702	Family and Medical Leave Act of 1993
29 USC 2601-2654	Family Care and Medical Leave Act
42 USC 2000ff-2000ff-11	Genetic Information Nondiscrimination Act of 2008
<b>Management Resources</b>	<b>Description</b>
Court Decision	Faust v. California Portland Cement Company, (2007) 150 Cal.App.4th 864
Court Decision	Tellis v. Alaska Airlines, (9th Cir., 2005) 414 F.3d 1045
Court Decision	United States v. Windsor, (2013) 699 F.3d 169
U.S. Department of Labor Publication	Military Family Leave Provisions of the FMLA Frequently Asked Questions and Answers
Website	CSBA District and County Office of Education Legal Services

Website

U.S. Department of Labor, FMLA

Website

California Civil Rights Department

## Cross References

Code	Description
0410	Nondiscrimination In District Programs And Activities
0470	COVID-19 Mitigation Plan
1113	District And School Web Sites
1113	District And School Web Sites
1113-E(1)	District And School Web Sites
2121	Superintendent's Contract
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4032	Reasonable Accommodation
4033	Lactation Accommodation
4112.2	Certification
4112.2	Certification
4112.4	Health Examinations
4112.42	Drug And Alcohol Testing For School Bus Drivers
4112.42	Drug And Alcohol Testing For School Bus Drivers
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4113.4	Temporary Modified/Light-Duty Assignment
4117.3	Personnel Reduction
4141	Collective Bargaining Agreement
4154	Health And Welfare Benefits
4154	Health And Welfare Benefits
4161	Leaves
4161	Leaves
4161.1	Personal Illness/Injury Leave
4161.2	Personal Leaves
4161.9	Catastrophic Leave Program
4161.9	Catastrophic Leave Program

4212.4	Health Examinations
4212.42	Drug And Alcohol Testing For School Bus Drivers
4212.42	Drug And Alcohol Testing For School Bus Drivers
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4213.4	Temporary Modified/Light-Duty Assignment
4217.3	Layoff/Rehire
4241	Collective Bargaining Agreement
4254	Health And Welfare Benefits
4254	Health And Welfare Benefits
4259	Employee Assistance Programs
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4361	Leaves
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4361.9	Catastrophic Leave Program

**Policy 5117: Interdistrict Attendance**

Status: ADOPTED

Original Adopted Date: 12/01/2015 | Last Revised Date: ~~12/06/01/2019~~ 2023 | Last Revised  
Date: 06/01/2023

CSBA NOTE: The Education Code provides a number of options under which a district may enroll a student whose parent/guardian does not reside within district boundaries. Under an "interdistrict attendance permit" or "reciprocal agreement" pursuant to Education Code 46600-46610, a student may attend school in a different district when both the district of residence and the district of proposed attendance agree (Option 1 below). Alternatively, pursuant to Education Code 48300-48317, as amended by AB 185 (Ch. 571, Statutes of 2022), the Governing Board may, until July 1, 2028, declare the district to be a "school district of choice" willing to accept a specific number of interdistrict transfers into the district through a random selection process (Option 2 below). In order to maintain the integrity of the random selection process, it is recommended that a school district of choice not also accept transfers under the interdistrict attendance permit option except when extraordinary circumstances exist, as provided in Option 2 below. Districts that wish to use both sources of authority should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

In addition to these options, pursuant to Education 48345, as added by SB 941 (Ch. 711, Statutes of 2022), the Board is authorized, until July 1, 2029, to enter into an agreement with other local educational agencies (LEA) to offer courses and coursework to students from another LEA who have been impacted by disruptions or cancellations to specified courses, or teacher shortages to such courses. See the section "Instruction Collaboration Agreements" below.

Pursuant to Education Code 48204, a district may authorize a student whose parent/guardian is employed within district boundaries to attend a school in the district (Allen bill transfer); see AR 5111.1 - District Residency.

The Governing Board recognizes that parents/guardians of students who reside within the geographic boundaries of one district may, for a variety of reasons, desire to enroll their children in a school in another district.

**OPTION 1: Interdistrict Attendance Agreements and Permits**

CSBA NOTE: The following section is for use by districts that have entered into an agreement with one or more other districts to accept student transfers through interdistrict attendance permits pursuant to Education Code 46600-46610. Districts selecting this option should also select Option 1 in the accompanying administrative regulation.

The Board may enter into an agreement with any other school district, for a term not to exceed five school years, for the interdistrict attendance of students who are residents of the districts. (Education Code 46600)

CSBA NOTE: Education Code 46600 requires that the interdistrict attendance agreement specify the terms and conditions under which individual permits may be granted or denied. In addition, pursuant to Education Code 46600, students who have been granted an interdistrict attendance

permit must be allowed to continue to attend the school without having to reapply unless the agreement between the two districts contains specific agreed-upon standards for reapplication; see the accompanying administrative regulation. Districts also may include in the agreement the agreed-upon standards for revocation of students' interdistrict attendance. Examples of conditions that may result in revocation include falsification of information stated on the permit application, unsatisfactory attendance, continual disruption, or poor academic achievement.

The agreement shall specify the terms and conditions under which interdistrict attendance shall be permitted or denied. It also may contain standards agreed upon by both districts for reapplication and/or revocation of the student's permit. (Education Code 46600)

CSBA NOTE: Pursuant to Education Code 46600, it is the responsibility of the ~~superintendent~~Superintendent or designee of the district of residence, subject to ~~board~~Board policies of the district of residence and terms of the agreement, to issue an individual permit verifying the district's approval of an interdistrict transfer out of the district. The permit shall become valid when endorsed by the ~~board's~~Board's designee in the district of proposed enrollment.

See the accompanying administrative regulation for procedures to follow when the permit is denied.

Upon receiving a permit for transfer into the district that has been approved by the student's district of residence, or upon receiving a written request from the parent/guardian of a district student who wishes to enroll in another district, the Superintendent or designee shall review the request and may approve or deny the permit subject to the terms and conditions of the interdistrict attendance agreement.

#### **OPTION 1 ENDS HERE**

#### **OPTION 2: School District of Choice Program**

CSBA NOTE: The following section is for use by districts that elect to participate in the school district of choice program pursuant to Education Code 48300-48317. Pursuant to Education Code 48301, such a district must register as a school district of choice with the Superintendent of Public Instruction and County Board of Education before enrolling students under this option. Districts selecting this option should also select Option 2 in the accompanying administrative regulation.

Pursuant to Education Code 48315, as amended by AB 185 (Ch. 571, Statutes of 2022), the school district of choice program has been extended until July 1, 2028.

The Board has designated the district as a "school district of choice" and shall accept students who reside within other California school districts who wish to attend a district school.

The Board shall, by resolution, annually establish the number of students who will be accepted into the district through this program based on recommendations by the Superintendent or designee as to the number of transfer students the district will be able to accept and the schools, grades, and programs that will be able to accept the students. Once established, the district shall accept all students who apply to transfer into the district until the district is at maximum capacity, as required pursuant to Education Code 48301.

CSBA NOTE: Education Code 48301 requires a random, unbiased process for selecting students who will be admitted through the school district of choice program and prohibits consideration of certain characteristics and factors in making the selections. Pursuant to Education Code 48301, family income may only be considered to the extent necessary to determine enrollment priority pursuant to Education Code 48306; see the accompanying administrative regulation.

Students shall be admitted to district schools through an unbiased process that prohibits an inquiry into or evaluation or consideration of whether or not a student should be enrolled based upon the student's academic or athletic performance, physical condition, proficiency in English, any of the individual characteristics set forth in Education Code 200, or family income. (Education Code 48301)

If the number of transfer applications exceeds the number of transfers the Board has elected to accept, approval for transfer shall be determined by a random drawing held in public at a regularly scheduled Board meeting. (Education Code 48301)

CSBA NOTE: Because the school district of choice program requires a random selection process, it is recommended that participating districts not admit students through the interdistrict attendance permit process described in Option 1 above except under extraordinary circumstances. Such circumstances might include approving interdistrict attendance permits for students who are victims of an act of bullying. Such students are given priority for interdistrict attendance permits pursuant to Education Code 46600; see the accompanying administrative regulation.

Because the district admits students in accordance with the school district of choice program, the Superintendent or designee shall not admit students based on individual interdistrict attendance permits, pursuant to Education Code 46600-46610, except under extraordinary circumstances.

The Superintendent or designee shall keep an accounting of all requests for admittance through the school district of choice program and a record of their disposition, including, but not limited to, all of the following: (Education Code 48313)

1. The number of requests granted, denied, or withdrawn and, for denied requests, the reason for the denial
2. The number of students transferred into and out of the district pursuant to this program
3. The race, ethnicity, gender, self-reported socioeconomic status, eligibility for free or reduced-price meals, and the district of residence for each student transferred into or out of the district pursuant to this program
4. The number of students transferred into or out of the district pursuant to this program who are classified as English learners or students with disabilities

CSBA NOTE: Education Code 48311 authorizes, but does not require, a school district of choice to provide transportation to participating students to the extent that the district provides transportation assistance to other students. See section on "Transportation" below. Item #5 may be deleted by districts that do not provide transportation.

5. As applicable, the number of students described in ~~items~~ **Items** #3 and 4 above who are provided transportation assistance to a district school or program, and the total number of

students provided transportation assistance, pursuant to the school district of choice program

The information specified in Items #1-5 above shall be reported by the Superintendent or designee shall report to the Board, at a regularly scheduled meeting; the information specified in items #1-5 above. No later than October 15 of each year, the Superintendent or designee shall provide the same information for the current school year, as well as information regarding the district's status as a school district of choice in the upcoming school year, to each geographically adjacent school district, the county office of education, and the Superintendent of Public Instruction. (Education Code 48313)

The district's compliance with specified program requirements shall be reviewed as part of the annual district audit conducted pursuant to Education Code 41020. (Education Code 48301)

#### **OPTION2 ENDS HERE**

#### **Instruction Collaboration Agreements**

CSBA NOTE: Pursuant to Education Code 48345, as added by SB 941, the Board may enter into an instruction collaboration agreement (ICA) with school districts, county offices of education or charter schools to offer the same or similar corresponding individual courses and coursework to students from another LEA who have been impacted by teacher shortages, disruptions or cancellations in science, technology, engineering, and mathematics (STEM) classes, or disruptions or cancellations in dual language immersion programs.

The Superintendent or designee may, with board approval, enter into an instruction collaboration agreement (ICA) with another school district, county office of education or charter school to offer the same or similar courses and coursework to students who have been impacted by any of the following: (Education Code 48345)

1. Disruptions or cancellations in science, technology, engineering, and mathematics (STEM) classes
2. Disruptions or cancellations in dual language immersion programs
3. Teacher shortages in STEM classes or dual language immersion programs

Prior to accepting students for classes for any of the reasons specified in Items #1-3 above, the Superintendent or designee shall, with Board Approval, determine the maximum number of students that the district can accept for these purposes. The district shall accept students who apply until the district is at maximum capacity.

Students shall be admitted to this program through an unbiased process that prohibits an inquiry into, or evaluation or consideration of, whether a student should be authorized to participate in the course or coursework based upon the student's current academic or athletic performance, proficiency in English, physical condition, any of the individual characteristics specified in Education Code 200, or family income. If the number of applicants exceeds the number of seats available, the approval for participation shall be determined by a random public drawing at a regularly scheduled Board meeting. (Education Code 48345)

The Superintendent or designee shall publicly post information, including, but not limited to, applicable forms and timelines for submission pursuant to the ICA, to ensure that students and their families are aware of the opportunities to participate. (Education Code 48345)

CSBA NOTE: Pursuant to Education Code 48345, as added by SB 941, the average daily attendance attributable to a student participating in the ICA shall remain with the LEA of origination for purposes of state apportionment.

When negotiating the ICA, the Superintendent or designee shall collaborate with the other participating LEA(s) to agree upon an appropriate shared cost structure. (Education Code 48345)

## Transportation

CSBA NOTE: The following optional section is for use by all districts and should be revised to reflect district practice. Districts are not required to provide transportation or transportation assistance to students admitted under an interdistrict attendance permit pursuant to Education Code 46600-46610, except that Education Code 46600, as amended by AB 1127 (Ch. 781, Statutes of 2019), requires the district of enrollment to provide transportation assistance to a student who is eligible for free or reduced price meals and is either a child of an active military duty parent/guardian or a victim of an act of bullying, as defined in Education Code 48900.

Pursuant to Education Code 48311, a school district of choice is authorized, but not required, to provide transportation assistance to the extent that the district otherwise provides transportation assistance to students.

Upon parent/guardian request, the district shall provide transportation assistance to a student receiving an interdistrict transfer who is eligible for free and reduced-price meals and is the child of an active duty military parent/guardian or a victim of bullying, as defined in Education Code 46600. (Education Code 46600)

In addition, upon request of a student's parent/guardian, the Superintendent or designee may authorize transportation for any interdistrict transfer student to and from designated bus stops within the attendance area of the school that the student attends if space is available.

### 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
CA Constitution Article 1, Section 31	Nondiscrimination on the basis of race, sex, color, ethnicity, or national origin
Ed. Code 41020	Requirement for annual audit
Ed. Code 46600-46611	Interdistrict attendance agreements
Ed. Code 48204	Residency requirements for school attendance
Ed. Code 48300-48317	Student attendance alternatives; school district of choice program

Ed. Code 48345

Ed. Code 48900

Ed. Code 48915

Ed. Code 48915.1

Ed. Code 48918

Ed. Code 48980

Ed. Code 48985

Ed. Code 52317

Ed. Code 8151

**Management Resources**

Attorney General Opinion

Attorney General Opinion

Court Decision

Court Decision

Website

Website

Website

**Cross References**

**Code**

1312.3

1312.3

1312.3-E(1)

1312.3-E(2)

3460

3460

3540

3541

Local educational agency instruction collaboration agreements

Grounds for suspension or expulsion

Expulsion; particular circumstances

Expelled individuals; enrollment in another district

Rules governing expulsion procedures

Parent/Guardian notifications

Notices to parents in language other than English

Regional Occupational Center/Program; enrollment of students; interdistrict attendance

Apprentices; exemption from interdistrict attendance agreement

**Description**

84 Ops.Cal.Atty.Gen. 198 (2001)

87 Ops.Cal.Atty.Gen. 132 (2004)

Crawford v. Huntington Beach Union High School District; (2002) 98 Cal.App.4th 1275

Walnut Valley Unified School District v. the Superior Court of Los Angeles County; (2011) 192 Cal.App.4th 234

CSBA District and County Office of Education Legal Services

California Department of Education

CSBA

**Description**

Uniform Complaint Procedures

Uniform Complaint Procedures

Uniform Complaint Procedures

Uniform Complaint Procedures

Financial Reports And Accountability

Financial Reports And Accountability

Transportation

Transportation Routes And Services

3553	Free And Reduced Price Meals
3553	Free And Reduced Price Meals
5020	Parent Rights And Responsibilities
5020	Parent Rights And Responsibilities
5111	Admission
5111	Admission
5111.1	District Residency
5111.1	District Residency
5112.2	Exclusions From Attendance
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy
5113.12	District School Attendance Review Board
5113.12	District School Attendance Review Board
5116	School Attendance Boundaries
5116.1	Intradistrict Open Enrollment
5116.1	Intradistrict Open Enrollment
5119	Students Expelled From Other Districts
5131.2	Bullying
5131.2	Bullying
5144.1	Suspension And Expulsion/Due Process
5144.1	Suspension And Expulsion/Due Process
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5148	Child Care And Development
5148	Child Care And Development
6146.3	Reciprocity Of Academic Credit
6146.3	Reciprocity Of Academic Credit
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
6173.2	Education Of Children Of Military Families
6173.2	Education Of Children Of Military Families

7160	Charter School Facilities
7160	Charter School Facilities
9000	Role Of The Board
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session

Policy 5141.5: Mental Health

Status: ADOPTED

Original Adopted Date: 05/01/2020 | Last Reviewed Date: 05/06/01/2020 2023

CSBA NOTE: CSBA NOTE: The U.S. Surgeon General's, "Social Connection Advisory," emphasizes the critical role that social connection plays in individual and societal health and well-being, and provides recommendations for how to address the consequences when there is a lack of social connection. Because schools play an important role in facilitating positive social connection, the advisory includes specific actions districts can implement, which include (1) developing a strategic plan for school connectedness and social skills with benchmark tracking, (2) building social connection into the health curriculum, (3) implementing socially based educational techniques, and (4) creating a supportive school environment.

In its advisory, "Social Media and Youth Mental Health," the U.S. Surgeon General describes the positive and negative impacts of social media on children and adolescents, including the impact on mental health and well-being, and recommends that schools develop, implement, and evaluate digital and media literacy curriculum to provide students and staff with the skills to strengthen digital resilience.

Education Code 215 requires all governing boards to adopt a policy on student suicide prevention, intervention, and postvention (i.e., intervention conducted after a suicide) with specified components; see BP/AR 5141.52 - Suicide Prevention. The following optional policy is intended to address broader mental health issues facing students and may be revised to reflect district practice.

The Governing Board recognizes that students' emotional well-being and mental health contribute are critical to their ability to perform to their full academic and personal potential. The Superintendent or designee shall develop strategies and services to reduce the stigma associated with mental illness, facilitate access to mental health services, and help students build students' resiliency skills, help students including digital resilience, increase social connections, and cope with life challenges; and reduce the stigma associated with mental illness.

The Superintendent or designee shall consult and collaborate with school-employed mental health professionals, the county mental health department, psychologists and other health professionals, social workers, and/or community organizations to strengthen local mental health services and develop and implement an integrated plan to support student mental health.

To the extent possible, the district shall focus on preventive strategies which increase students' connectedness to school, create a support network of peers and trusted adults, and provide techniques for conflict resolution. The district shall investigate and resolve any complaint of bullying, intimidation, harassment, or discrimination in accordance with law and district policy.

CSBA NOTE: The state's content standards for health education include voluntary standards pertaining to mental, emotional, and social health at selected elementary and secondary grades and suicide prevention instruction at grade 7 or 8 and in high school.

Education Code 51925, as added by SB 224 (Ch. 675, Statutes of 2021), requires districts that offer health education courses to middle or high school students to include mental health instruction, as specified. Pursuant to Education Code 51929, as added by SB 244, the California

Department of Education (CDE) is required to, by January 1, 2024, develop a plan to expand mental health instruction.

The district shall provide instruction to students that promotes their healthy mental, emotional, and social development. Health education courses shall be aligned with the state content standards and curriculum framework and shall include, but not be limited to, instruction related to identifying signs of depression and self-destructive behaviors, developing coping skills, and identifying resources that may provide assistance.

### Information and Training

CSBA NOTE: Pursuant to Education Code 49428.15, as added by SB 14 (Ch. 672, Statutes of 2021), CDE is required to, subject to budget appropriations, recommend best practices and identify evidence-based and evidence-informed training programs for schools to address student behavioral health, including staff and student training on recognizing the signs and symptoms of behavioral health disorders, including common psychiatric conditions and substance use disorders such as opioid and alcohol abuse, and has identified such a training program, "Youth Mental Health First Aid," which is available on its website.

The Superintendent or designee shall provide school staff with information and training to recognize the early signs and symptoms of an emerging mental health condition or behavioral health disorder, including common psychiatric conditions and substance use disorders such as opioid and alcohol abuse, identify risk factors and warning signs of suicidal intent, respond to students who have been impacted by traumatic stress, safely deescalate crisis situations involving students with a behavioral health disorder, and link students with effective services, referrals, and supports. Such training shall also provide instruction on how to maintain student privacy and confidentiality. Behavioral health information and training may also be provided to parents/guardians, students, and families. (Education Code 49428.15)

The Superintendent or designee shall develop a protocol for identifying and assessing students who may be suffering from an anxiety disorder, depression, eating disorder, or other severe or disabling mental illness. The Superintendent or designee may establish districtwide or school-site crisis intervention team(s) to respond to mental health concerns in the school setting.

CSBA NOTE: Each district school is required to notify students and parents/guardians at least twice per school year with information regarding how to access student mental health services on campus and/or in the community, in accordance with Education Code 49428.

At least twice per school year, the Superintendent or designee shall ensure that each school provides notice regarding how to initiate access to student mental health services on campus and/or in the community. The notification shall be in at least two of the following methods: (Education Code 49428)

1. Distributing the information, electronically or in hardcopy, in a letter to parents/guardians, and in a school publication or other document to students
2. Including the information, at the beginning of the school year, in the parent handbook for parents/guardians and in student orientation materials or a student handbook
3. Posting the information on the school's website or social media

Parents/guardians and students shall each receive two notices on how to initiate access to student mental health services, which may be delivered by different methods. (Education Code 494280)

CSBA NOTE: Pursuant to Education Code 49428.5, as added by AB 748 (Ch. 431, Statutes of 2022), each school site serving students in any of grades 6-12 is required to create a poster, as specified below, that identifies approaches and resources about student mental health, and prominently display such poster in public areas that are accessible to and commonly frequented by students at each school site. Pursuant to Education Code 49428.5, as added by AB 748, CDE is required to develop a model mental health poster.

Each school site that serves students in any of grades 6-12 shall create an age appropriate and culturally relevant poster that identifies approaches and shares resources about student mental health, and that includes the following information: (Education Code 49428.5)

1. Identification of common behaviors of those struggling with mental health or who are in a mental health crisis, including, but not limited to, anxiety, depression, eating disorders, emotional dysregulation, bipolar episodes, and schizophrenic episodes
2. A list of, and contact information for, school site-specific resources, including, but not limited to, counselors, wellness centers, and peer counselors
3. A list of, and contact information for, community resources, including, but not limited to, suicide prevention, substance abuse, child crisis, nonpolice mental health hotlines, public behavioral health services, and community mental health centers
4. A list of positive coping strategies to use when dealing with mental health, including, but not limited to, meditation, mindfulness, yoga, breathing exercises, grounding skills, journaling, acceptance, and seeking therapy
5. A list of negative coping strategies to avoid, including, but not limited to, substance abuse or self-medication, violence and abuse, self-harm, compulsivity, dissociation, catastrophizing, and isolating

The poster shall be displayed in English and any primary language spoken by 15 percent or more of the students at the school site and be no smaller than 8.5 by 11 inches and at least 12-point font. The poster shall be prominently and conspicuously displayed in public areas that are accessible to, and commonly frequented by, students at each school site such as bathrooms, locker rooms, classrooms, classroom hallways, gymnasiums, auditoriums, cafeterias, wellness centers, and offices. Additionally, at the beginning of each school year the poster shall be distributed online to students through social media, websites, portals, and learning platforms. (Education Code 49428.5)

### **Mental Health Counseling and Referrals**

CSBA NOTE: Pursuant to Education Code 49428.1, as added by AB 309 (Ch. 662, Statutes of 2021), CDE is required to develop model referral protocols for addressing student mental health concerns and to post the model referral protocols on its website.

A school counselor, school psychologist, or school social worker may provide mental health counseling to students in accordance with the specialization(s) authorized on the individual's credential. As needed, students and their parents/guardians may be provided referrals to mental health services in the community and/or to mental health services at or near district schools.

CSBA NOTE: Pursuant to Education Code 49429, as amended by AB 167 (Ch. 252, Statutes of 2021), CDE, in consultation with the State Department of Health Care Services and appropriate stakeholders, is required to develop, subject to budget appropriations, guidelines for the use of

telehealth technology in schools, including mental health and behavioral health services to students on school campuses, by December 31, 2022. See also 5141.6 - School Health Services.

Mental health and behavioral health services for students on campus may be provided by way of telehealth technology. (Education Code 49429)

CSBA NOTE: Pursuant to 28 CFR 35.108, a student should be evaluated in accordance with Section 504 of the Rehabilitation Act (29 USC 794) if the student has a disability, including a mental impairment, that substantially limits a major life activity, has a record of such impairment, or is regarded as having such impairment. See BP/AR 6164.6 - Identification and Education Under Section 504. Districts also have an affirmative, ongoing duty to actively and systematically seek out, identify, locate, and evaluate all children with disabilities who may be in need of special education and related services (Education Code 56171, 56300-56385; 20 USC 1412; 34 CFR 300.111). See BP/AR 6164.4 - Identification and Evaluation of Individuals for Special Education.

If a student has an emotional or mental illness that limits a major life activity, has a record of such impairment, or is regarded as having such impairment, or may need special education and related services, the student shall be referred for an evaluation for purposes of determining whether any educational or related services are required in accordance with Section 504 of the Rehabilitation Act or the federal Individuals with Disabilities Education Act, as applicable. (Education Code 56301-56302; 29 USC 794; 28 CFR 35.108)

### **Funding Resources**

CSBA NOTE: In addition to using district funds for mental health programs or services, districts may apply for grant funds administered by the county mental health agency or other sources.

The Mental Health Services Act, established by Proposition 63 in 2004, provides funding, personnel, and other resources to support county mental health programs, including, but not limited to, prevention and early intervention programs. Funding may be allocated for outreach to families and others to recognize the early signs of potentially severe and disabling mental illnesses, access and linkage to medically necessary care for children with severe mental illness, reduction in stigma and discrimination against people with mental illness, and strategies to reduce negative outcomes that may result from untreated mental illness.

Welfare and Institutions Code 5886, as added by SB 75 (Ch. 51, Statutes of 2019), establishes established the Mental Health Student Services Act, a competitive grant program to award funds to county mental health or behavioral health departments for the purpose of creating mental health partnerships with school districts, charter schools, and county offices of education

The Superintendent or designee shall explore potential funding sources for district programs and services that support student's mental health. In accordance with local plans and priorities, the district may apply to the county for grants for prevention and early intervention activities that are designed to prevent mental illness from becoming severe and disabling and to improve timely access for underserved populations.

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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 215-216	Student suicide prevention
Ed. Code 234.6	Bullying and harassment prevention information
Ed. Code 32280-32289.5	School safety plans
Ed. Code 49060-49079	Student records
<a href="#">Ed. Code 49428.1</a>	<a href="#">Student mental health referral protocols</a>
<a href="#">Ed. Code 49428.15</a>	<a href="#">Identification of evidence-based and evidence-informed training programs for schools to address youth behavioral health</a>
<a href="#">Ed. Code 49428.5</a>	<a href="#">Student mental health poster</a>
Ed. Code 49600	Responsibilities of school counselors
Ed. Code 49602	Counseling and confidentiality of student information
Ed. Code 49604	Suicide prevention training for school counselors
<a href="#">Ed. Code 51925-51929</a>	<a href="#">Mandatory mental health education</a>
Ed. Code 56171	Duty to identify and assess children in private schools who need special education services
Ed. Code 56300-56385	Identification and referral; assessment, instructional planning
W&I Code 5698	Emotionally disturbed youth; legislative intent
W&I Code 5840-5840.8	Prevention and early intervention programs
W&I Code 5850-5883	Mental Health Services Act
<b>Federal</b>	<b>Description</b>
20 USC 1400-1482	Individuals with Disabilities Education Act
28 CFR 35.101-35.190	Americans with Disabilities Act
29 USC 794	Rehabilitation Act of 1973; Section 504
34 CFR 300.1-300.818	Individuals with Disabilities Education Act
<b>Management Resources</b>	<b>Description</b>
California Department of Education Publication	Health Education Content Standards for California Public Schools, Kindergarten Through Grade Twelve
California Department of Education Publication	Health Framework for California Public Schools, Kindergarten Through Grade Twelve
<a href="#">California Department of Education Publication</a>	<a href="#">Youth Behavioral Health Training Programs (https://www.cde.ca.gov/ls/mh/ec49428.15.asp)</a>
CDC and Prevention Publication	School Connectedness: Strategies for Increasing Protective Factors Among Youth, 2009
<a href="#">US Department of Education Publication</a>	<a href="#">Bipartisan Safer Communities Act Stronger Connections Grant Program, Frequently Asked Questions, April 2023 (https://oese.ed.gov/files/2023/04/23-0083.BSCA-FAQs.pdf)</a>

US Dept of Health and Human Services Publication

US Department of Health and Human Services

Nat. Child Traumatic Stress Network Publication

Website

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Our Epidemic of Loneliness and Isolation: The U.S. Surgeon General's Advisory on the Health Effects of Social Connection and the Community, 2023  
(<https://www.hhs.gov/sites/default/files/surgeon-general-social-connection-advisory.pdf>)

Social Media and Youth Mental Health: The U.S. Surgeon General's Advisory, 2023

Child Trauma Toolkit for Educators, 2008

CSBA District and County Office of Education Legal Services

National Child Traumatic Stress Network

National Council for Behavioral Health, Mental Health First Aid

Suicide Prevention Lifeline

Suicide Prevention Resource Center

Substance Abuse and Mental Health Services Administration

American Association of Suicidology

American Foundation for Suicide Prevention

American Psychological Association

California Department of Health Care Services, Mental Health Services

Centers for Disease Control and Prevention, Mental Health

National Association of School Psychologists

National Institute for Mental Health

California Department of Education, Mental Health

American School Counselor Association

Office of the Surgeon General  
(<https://www.hhs.gov/surgeongeneral/index.html>)

## Cross References

### Code

0470

3515.3

3515.3

3515.31

4131

5141.22

### Description

COVID-19 Mitigation Plan

District Police/Security Department

District Police/Security Department

School Resource Officers

Staff Development

Infectious Diseases

5141.22	Infectious Diseases
5141.4	Child Abuse Prevention And Reporting
5141.4	Child Abuse Prevention And Reporting
<u>5141.6</u>	<u>School Health Services</u>
5141.52	Suicide Prevention
5141.52	Suicide Prevention
6142.8	Comprehensive Health Education
6142.8	Comprehensive Health Education
6164.5	Student Success Teams
6164.5	Student Success Teams

**Policy 5141.6: School Health Services**

**Status:** ADOPTED

**Original Adopted Date:** 11/01/2008 | **Last Revised Date:** 10/06/01/2018 2023 | **Last Reviewed Date:** 10/06/01/2018 2023

CSBA NOTE: The following optional policy should be revised to reflect district practice. This policy addresses the provision of health services at or near school sites (e.g., a school-based or school-linked health center or mobile van) through the employment of or contract with health care professionals or community health centers. ~~Districts maintaining or planning to establish school health services are encouraged to review CSBA's policy brief entitled Expanding Access to School Health Services: Policy Considerations for Governing Boards, including by way of telehealth.~~

Pursuant to Education Code 49419, the California Department of Education (CDE) has created an Office of School-Based Health Programs to assist districts with current CDE health-related programs, and to provide technical assistance, outreach, and information to districts on allowable services and submission of claims. School-based health programs provide resources, support, and information to address the physical, mental, and/or behavioral health needs of school communities, including students and staff. For more information, see CDE's website.

The 2022 Bipartisan Safer Communities Act (P.L. 117-159), which amended the Protecting Access to Medicare Act of 2014 (42 USC 1396a), requires the Secretary of Health and Human Services (CalHHS) to publish best practices to support the delivery of services to students covered under Medicaid and the Children's Health Insurance Program (CHIP) via telehealth in schools, including mental health and substance use disorder services. See the section entitled "Medi-Cal Billing" in the accompanying administrative regulation.

Other CSBA sample policies and/or administrative regulations address specific health requirements and services for students. For example, see BP/AR 5141.21 - Administering Medication and Monitoring Health Conditions, AR 5141.24 - Specialized Health Care Services, BP/AR 5141.3 - Health Examinations, and AR 5141.32 - Health Screening for School Entry, and BP 5141.5 - Mental Health.

The Governing Board recognizes that good physical and mental health is critical to a student's ability to learn and believes that all students should have access to comprehensive health services. The Board further recognizes that schools are uniquely positioned to increase health equity and to help ensure that all students have access to necessary health care services. The district may provide access to health services at or near district schools through the establishment of a school health center and/or mobile van(s) that serve multiple campuses, and may utilize telehealth as a delivery mechanism to increase access to health care services in schools.

The Board and the Superintendent or designee shall collaborate with local and state agencies and health care providers to assess the health needs of students in district schools and the community. Based on the results of this needs assessment and the availability of resources, the Superintendent or designee shall recommend for Board approval the types of health services to be provided by the district, including preventative programming and intervention strategies to address students' physical, mental, and behavioral health needs.

CSBA NOTE: School health centers are generally funded by a combination of insurance reimbursements; state, federal, and county grants; district funds; subsidies from community clinics or hospitals; and/or private donations.

Board approval shall be required for any proposed use of district resources and facilities to support school health services. The Superintendent or designee shall identify funding opportunities available through grant programs, private foundations, and partnerships with local agencies and organizations.

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

The Board may prioritize school health services to schools serving students with the greatest need, including schools with medically underserved populations and/or a high percentage of low-income and uninsured children and youth.

School health services shall be provided under the supervision of a licensed health care professional. The Board may employ or contract with health care professionals or partner with community health centers to provide the services under the terms of a written contract or memorandum of understanding.

If a school nurse is employed by the school or district, ~~he/she~~ the nurse shall be involved in planning and implementing the school health services as appropriate.

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. The California Department of Education's (CDE), "Health Framework for California Public Schools," recommends a coordinated school health approach which integrates health services, health education, physical education, parent/community involvement, nutrition services, psychological and counseling services, a safe and healthy school environment, and health promotion for staff.

Welfare and Institutions Code 5961-5961.5 established the Children and Youth Behavioral Health Initiative, which was created to enhance, expand, and redesign the systems that support behavioral health for students under age 25, with the goal of delivering equitable, appropriate, timely, and accessible behavioral health services and supports. More information and resources are available on CalHHS' website.

The Superintendent or designee shall coordinate the provision of school health services with other student wellness initiatives, including health education, nutrition and physical fitness programs, and other activities designed to create a healthy school environment. The Superintendent or designee shall encourage joint planning and regular communications among health services staff, district administrators, teachers, counselors, other staff, and parents/guardians.

CSBA NOTE: The following optional paragraph is for use by districts that choose to engage in outreach and enrollment efforts to encourage eligible students' participation in no-cost or low-cost health coverage programs.

Education Code 49557.2 authorizes the district to include on the application for free and reduced-price meals information about the Medi-Cal program and a student's potential eligibility. Pursuant to Education Code 49558, districts may release information on the free and reduced-price meals application to the local agency that determines eligibility under the Medi-Cal program, provided that the student is approved for free meals and the parent/guardian consents to the sharing of information. See BP/AR 3553 - Free and Reduced Price Meals.

To further encourage student access to health care services, the Superintendent or designee shall develop and implement outreach strategies to increase enrollment of eligible students from low- to moderate-income families in affordable, comprehensive state or federal health coverage programs

and local health initiatives. Such strategies may include, but are not limited to, providing information about the Medi-Cal program on the application for free and reduced-price meals in accordance with law.

### Consent and Confidentiality

CSBA NOTE: Parent/guardian consent is generally required prior to providing health services to a minor student. However, Family Code 6920-~~6929~~6930 specify exceptions under which minors do not need parent/guardian consent prior to receiving services, including an exception for a minor age 12 years or older to consent to medical care related to the prevention of a sexually transmitted disease, for medical care and counseling relating to the diagnosis and treatment of a drug- or alcohol-related problem, or for medical care related to an injury caused by intimate partner violence. In addition, Health and Safety Code 124260 allows a minor age 12 or older to consent to outpatient mental health services if, in the opinion of a professional person, as defined, the minor is mature enough to participate intelligently in the mental health treatment or counseling services. In this case, the child's parent/guardian must be involved unless the professional person determines it would be inappropriate.

The Superintendent or designee shall obtain written parent/guardian consent prior to providing services to a student, except when the student is authorized to consent to the service pursuant to Family Code 6920-~~6929~~6930, Health and Safety Code 124260, or other applicable law.

CSBA NOTE: The Health Insurance Portability and Accountability Act (HIPAA) (45 CFR 164.500-164.534) mandates actions that "covered entities" must take to protect the privacy of an individual's health information. Generally, entities covered by HIPAA may release or receive "protected health information" about an individual only if that individual gives permission or the Act expressly permits its release. Districts with questions about the applicability of HIPAA should consult CSBA's District and County Office of Education Legal Services or district legal counsel as appropriate.

Additionally, the California Confidentiality of Medical Information Act (CMIA) (Civil Code 56-56.37) prohibits a health care provider, a health care service plan, or contractor from disclosing medical information without first obtaining permission of the individual. Civil Code 56.10, as amended by SB 1184 (Ch. 993, Statutes of 2022), authorizes a health care provider or a health care service plan to disclose medical information that complies with HIPAA to a school-linked services coordinator, pursuant to a written authorization between the health provider and the student. A "school-linked services coordinator" means an individual located on a school campus or under contract by a county behavioral health provider agency for the treatment and health care operations and referrals of students and their families that holds one of the following credentials or licenses: pupil personnel services, school nurse, marriage and family therapy, educational psychology, or professional clinical counseling.

In addition, 22 CCR 51270 requires districts serving as Medi-Cal providers (see ~~section entitled "Payment/Reimbursement for Services" below~~) to comply with confidentiality requirements specified in Education Code 46090 and 49073-49079, Welfare and Institutions Code 14100.2, 22 CCR 51009, 42 USC 1320c-9, and 42 CFR 431.300-; see the section entitled "Payment/Reimbursement for Services" below. Also see the accompanying administrative regulation regarding additional requirements for Medi-Cal billing, including the requirement to enter into a Provider Participation Agreement and Annual Report with the California Department of Health Care Services (DHCS).

Pursuant to Education Code 49428.15, CDE is required to recommend best practices and identify evidence-based and evidence-informed training programs for schools to address student behavioral health, including instruction on how to maintain student privacy and confidentiality, consistent with federal and state privacy laws. CDE has identified such a training program, "Youth Mental Health First Aid," which is available on its website.

The Superintendent or designee shall maintain the confidentiality of student health records in accordance with law.

#### **Payment/Reimbursement for Services**

CSBA NOTE: Some school health services, such as medical and related services specified in an individualized education program for students with disabilities, must be provided free of charge. For other services, districts may charge a fee and are entitled to seek third-party reimbursement from students' private insurance and state or federal programs such as Medi-Cal or the Child Health and Disability Prevention program. See the accompanying administrative regulation.

The Superintendent or designee may bill public and private insurance programs and other applicable programs for reimbursement of services as appropriate. Services may be provided free of charge or on a sliding scale in accordance with law.

CSBA NOTE: The following optional paragraph is for use by districts that have received approval from the ~~California Department of Health Care Services~~ **DHCS** to serve as Medi-Cal providers. Pursuant to Welfare and Institutions Code 14132.06 and 22 CCR 51051 and 51190.1, to the extent that federal funding is available, local educational agencies (LEAs) may receive partial Medi-Cal reimbursement through the LEA Medi-Cal Billing Option for health services provided to an enrolled student under age 22 who is certified for Medi-Cal and/or a member of the student's family. In addition, pursuant to Welfare and Institutions Code 14132.47, LEAs may be reimbursed through the Medi-Cal Administrative Activities (MAA) program for some of their administrative costs associated with school-based health and outreach activities that are not claimable under the LEA Medi-Cal Billing Option or other programs. See the accompanying administrative regulation.

Districts may receive assistance with Medi-Cal billing through CSBA's Practi-Cal program. See CSBA's web-site [website](#) for further information.

The district shall serve as a Medi-Cal provider to the extent feasible, comply with all related legal requirements, and seek reimbursement of costs to the extent allowed by law.

#### **Program Evaluation**

In order to continuously improve school health services, the Board shall evaluate the effectiveness of such services and the extent to which they continue to meet student needs.

The Superintendent or designee shall provide the Board with periodic reports that may include, but are not necessarily limited to, rates of participation in school health services; changes in student outcomes such as school attendance or achievement; measures of school climate; feedback from staff and participants regarding program accessibility and operations, including accessibility to low-income and linguistically and culturally diverse students and families; and program costs and revenues.

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

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**Policy Reference Disclaimer:**

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

<b>State</b>	<b>Description</b>
17 CCR 2950-2951	Hearing tests
17 CCR 6800-6874	Child Health and Disability Prevention program; health assessments
22 CCR 51009	Confidentiality
22 CCR 51050-51192	Definitions of Medi-Cal providers and services
22 CCR 51200	Requirements for providers
22 CCR 51231.2	Wheelchair van requirements
22 CCR 51270	Local educational agency provider; conditions for participation
22 CCR 51304	Limitations on specified benefits
22 CCR 51309	Psychology, physical therapy, occupational therapy, speech pathology, audiological services
22 CCR 51323	Medical transportation services
22 CCR 51351	Targeted case management services
22 CCR 51360	Local educational agency; types of services
22 CCR 51491	Local educational agency eligibility for payment
22 CCR 51535.5	Reimbursement to local educational agency providers
Ed. Code 49073-49079	Privacy of student records
Ed. Code 49423.5	Specialized physical health care services
Ed. Code 49557.2-49558	Eligibility for free and reduced-price meals; sharing information with Medi-Cal
Fam. Code 6920-6930	Consent by minor for medical treatment
Gov. Code 95020	Individualized family service plan
H&S Code 104830-104865	School-based application of fluoride or other tooth decay-inhibiting agent
H&S Code 121020	HIV/AIDS testing and treatment; parental consent for minor under age 12
H&S Code 123110	Minor's right to access health records
H&S Code 123115	Limitation on parent/guardian access to minor's health records
H&S Code 123800-123995	California Children's Services Act
H&S Code 124025-124110	Child Health and Disability Prevention Program
H&S Code 124172-124174.6	Public School Health Center Support Program
H&S Code 124260	Mental health services; consent by minors age 12 and older

H&S Code 130300-130317	Health Insurance Portability and Accountability Act (HIPAA)
<u>W&amp;I Code 5961-5961.5</u>	<u>Children and Youth Behavioral Health Initiative Act</u>
W&I Code 14059.5	Definition of "medically necessary"
W&I Code 14115	Medi-Cal claims process
W&I Code 14115.8	LEA Medi-Cal Billing Option; program guide
W&I Code 14124.90	Third-party health coverage
W&I Code 14132.06	Covered benefits; health services provided by local educational agencies
W&I Code 14132.47	Administrative claiming process and targeted case management
<b>Federal</b>	<b>Description</b>
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
42 CFR 431.300	Use and disclosure of information on Medicaid applicants and recipients
42 USC 1320c-9	Prohibition against disclosure of records
42 USC 1397aa-1397mm	State Children's Health Insurance Program
45 CFR 164.500-164.534	Privacy of individually identifiable health information
<b>Management Resources</b>	<b>Description</b>
CA Department of Health Care Services Publication	LEA Medi-Cal <u>Billing Option Program</u> Provider Manual, <u>November 2021</u> ( <a href="https://www.dhcs.ca.gov/provgovpart/Pages/LEAProviderManual.aspx">https://www.dhcs.ca.gov/provgovpart/Pages/LEAProviderManual.aspx</a> )
<u>CA Dept of Health Care Services Publication</u>	<u>Policy and Procedure Letter No. 21-017R, December 2021</u> ( <a href="https://www.dhcs.ca.gov/formsandpubs/Documents/PPL-21-017R-Alternative-Format-Request-Requirements.pdf">https://www.dhcs.ca.gov/formsandpubs/Documents/PPL-21-017R-Alternative-Format-Request-Requirements.pdf</a> )
<u>CA Dept of Health Care Services Publication</u>	<u>Policy and Procedure Letter No. 23-004, February 2023</u> ( <a href="https://www.dhcs.ca.gov/formsandpubs/Documents/PPL23-004-Alternative-Format-Extension.pdf">https://www.dhcs.ca.gov/formsandpubs/Documents/PPL23-004-Alternative-Format-Extension.pdf</a> )
CA Dept of Health Care Services Publication	California School-Based Medi-Cal Administrative Activities Manual ( <a href="https://www.dhcs.ca.gov/provgovpart/Pages/SMAAManual.aspx">https://www.dhcs.ca.gov/provgovpart/Pages/SMAAManual.aspx</a> )
<u>CA Health and Human Services Publication</u>	<u>Children and Youth Behavioral Health Initiative, 2021</u> ( <a href="https://www.chhs.ca.gov/wp-content/uploads/2021/12/Children-and-Youth-Behavioral-Health-Initiative-Brief.pdf">https://www.chhs.ca.gov/wp-content/uploads/2021/12/Children-and-Youth-Behavioral-Health-Initiative-Brief.pdf</a> )
CA School-Based Health Alliance Publication	Documenting the Link Between School-Based Health Centers and Academic Success, May 2014
CA School-Based Health Alliance Publication	How to Fund Health Services in Your School District, September 2014
California Department of Education Publication	Health <u>Education</u> Framework for California Public Schools, Kindergarten Through Grade Twelve, <u>May 2019</u> ( <a href="https://www.cde.ca.gov/ci/he/cf/documents/healthedframework2019.pdf">https://www.cde.ca.gov/ci/he/cf/documents/healthedframework2019.pdf</a> )
<u>CSBA US Dept of Health and Human Services</u> Publication	<u>Expanding Access to School Health Services: Policy Considerations for Governing Boards, November 2008</u> <u>Information on School-Based Services in Medicaid: Funding, Documentation and Expanding Services, August 18, 2022</u>

	<a href="https://www.medicaid.gov/federal-policy-guidance/downloads/sbscib081820222.pdf">https://www.medicaid.gov/federal-policy-guidance/downloads/sbscib081820222.pdf</a>
CSBAUS Dept of Health and Human Services Publication	Promoting Oral Health for California's Students: New Role, New Opportunities for Schools, Policy Brief, November 2008Centers for Medicare & Medicaid Services Informational Bulletin, Information on School-Based Services in Medicaid: Funding, Documentation and Expanding Services, August 2022 <a href="https://www.medicaid.gov/federal-policy-guidance/downloads/sbscib081820222.pdf">https://www.medicaid.gov/federal-policy-guidance/downloads/sbscib081820222.pdf</a>
National Center For Youth Law Publication	Confidential Medical Release: Frequently Asked Questions from Schools and Districts, November 2015
Website	CSBA District and County Office of Education Legal Services
Website	CSBA, Practi-Cal Program
Website	California School-Based Health Alliance
Website	Center for Health and Health Care in Schools
Website	Centers for Disease Control and Prevention, School Health Policies and Programs (SHPPS) Study
Website	Centers for Medicare and Medicaid Services
Website	California County Superintendents Educational Services Association
Website	National Center for Youth Law
Website	California School Nurses Organization
Website	California Department of Education, Health Services and School Nursing
Website	California Department of Health Care Services
Website	California Department of Public Health
<a href="#">Website</a>	<a href="#">California Department of Health and Human Services</a> <a href="https://www.chhs.ca.gov/">https://www.chhs.ca.gov/</a>
Website	CSBA

## Cross References

Code	Description
0470	COVID-19 Mitigation Plan
1330.1	Joint Use Agreements
1340	Access To District Records
1340	Access To District Records
1400	Relations Between Other Governmental Agencies And The Schools
3514	Environmental Safety

3514	Environmental Safety
3553	Free And Reduced Price Meals
3553	Free And Reduced Price Meals
4119.41	Employees With Infectious Disease
4119.43	Universal Precautions
4119.43	Universal Precautions
4157	Employee Safety
4157	Employee Safety
4219.41	Employees With Infectious Disease
4219.43	Universal Precautions
4219.43	Universal Precautions
4231	Staff Development
4257	Employee Safety
4257	Employee Safety
4319.41	Employees With Infectious Disease
4319.43	Universal Precautions
4319.43	Universal Precautions
4357	Employee Safety
4357	Employee Safety
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
5125	Student Records
5125	Student Records
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
5141	Health Care And Emergencies
5141	Health Care And Emergencies
5141.21	Administering Medication And Monitoring Health Conditions
5141.21	Administering Medication And Monitoring Health Conditions
5141.22	Infectious Diseases
5141.22	Infectious Diseases
5141.23	Asthma Management
5141.23	Asthma Management
5141.24	Specialized Health Care Services
5141.25	Availability Of Condoms
5141.26	Tuberculosis Testing
5141.3	Health Examinations
5141.3	Health Examinations
5141.31	Immunizations
5141.31	Immunizations
5141.32	Health Screening For School Entry
5141.33	Head Lice
5141.4	Child Abuse Prevention And Reporting
5141.4	Child Abuse Prevention And Reporting
5141.52	Suicide Prevention
5141.52	Suicide Prevention
5141.7	Sun Safety
5143	Insurance
5143	Insurance
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5146	Married/Pregnant/Parenting Students
5147	Dropout Prevention
5148	Child Care And Development
5148	Child Care And Development
5148.3	Preschool/Early Childhood Education

5148.3	Preschool/Early Childhood Education
6142.8	Comprehensive Health Education
6142.8	Comprehensive Health Education
6145.2	Athletic Competition
6145.2	Athletic Competition
6164.2	Guidance/Counseling Services
6164.5	Student Success Teams
6164.5	Student Success Teams
6171	Title I Programs
6171	Title I Programs
6173	Education For Homeless Children
6173	Education For Homeless Children
6173-E(1)	Education For Homeless Children
6173-E(2)	Education For Homeless Children
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
6175	Migrant Education Program
6175	Migrant Education Program
6177	Summer Learning Programs
6184	Continuation Education
6184	Continuation Education

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Date: ~~10/06/01/2018~~2023

### Types of Health Services

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

In accordance with student and community needs and available resources, school health services offered by the district may include, but are not limited to:

1. Health screenings, evaluations, and assessments of students' need for health services
2. Physical examinations, immunizations, and other preventive medical services
3. First aid and administration of medications
4. Diagnosis and treatment of minor injuries and acute medical conditions
5. Management of chronic medical conditions
6. Basic laboratory tests
7. Emergency response procedures
8. Nutrition services
9. Oral health services that may include preventive services, basic restorative services, and referral to specialty services

CSBA NOTE: Pursuant to Health and Safety Code 104830-104865, elementary and secondary students must be offered an opportunity each school year to receive a topical application of fluoride or other decay-inhibiting agent by a dentist or dental assistant, under a program organized and operated by the county health officer. Districts are required to cooperate with the county health officer in carrying out the program in any school in their jurisdiction and to provide notification to parents/guardians regarding the availability of the program, as provided below.

10. The Superintendent or designee shall notify all parents/guardians of the opportunity pursuant to Health and Safety Code 104830-104865 for their child to receive the topical application of fluoride, including fluoride varnish, or other decay-inhibiting agent to the teeth during the school year. Such application of fluoride or other decay-inhibiting agent shall only be provided to a student whose parent/guardian returns the notification with an indication consenting to the treatment. (Health and Safety Code 104830, 104850, 104855)

CSBA NOTE: Pursuant to Education Code 49428.15, the California Department of Education (CDE) is required to recommend best practices and identify evidence-based and evidence-informed training programs for schools to address student behavioral health, including staff and student training on recognizing the signs and symptoms of common psychiatric conditions and substance use disorders and other behavioral health disorders. CDE has identified such a training program, "Youth Mental Health First Aid," which is available on its website.

~~11.~~10. Mental Mental or behavioral health services, which may include assessments, crisis intervention, counseling, treatment, and referral to a continuum of services including emergency psychiatric care, community support programs, inpatient care, and outpatient programs

~~12.~~11. Substance abuse prevention and intervention services

~~13.~~12. Vision and audiology services

~~14.~~13. Speech therapy

~~15.~~14. Occupational therapy

~~16.~~15. Physical therapy

CSBA NOTE: Item #16 may be deleted by districts that offer only elementary grades.

~~17.~~16. Reproductive health services

~~18.~~17. Specialized health care services for students with disabilities

~~19.~~18. Medical transportation

~~20.~~19. Targeted case management

~~21.~~20. Referrals and linkage to services not offered on-site

~~22.~~21. Public health and disease surveillance

~~23.~~22. Individual and family health education

~~24.~~23. School or districtwide health promotion

CSBA NOTE: Pursuant to Education Code 49429, CDE, in consultation with the Department of Health Care Services (DHCS) and appropriate stakeholders, and subject to budget appropriations, is required to develop guidelines for the use of telehealth technology in schools, including mental health and behavioral health services to students on school campuses, by December 31, 2022.

The district may deliver health care services, including mental and behavioral health, for students on campus by means of telehealth technology. (Education Code 49429)

### Medi-Cal Billing

CSBA NOTE: The following optional section is for use by districts that have contracted with the California Department of Health Care Services (DHCS) in order to provide services as a Medi-Cal provider as authorized by Welfare and Institutions Code 14132.06; see the accompanying Board policy. To the extent that the district contracts with health care practitioners or clinics to provide the services, the practitioner or clinic is considered the provider of services and is the entity billing and receiving Medi-Cal payments for services.

DHCS' Local Educational Agency Medi-Cal Billing Option Program (LEA BOP) reimburses LEA BOP providers, including school districts, the federal share of the maximum allowable rate for approved health-related services provided by qualified health service practitioners to Medi-Cal eligible students.

Pursuant to Welfare and Institutions Code 14115.8, as amended by AB 3192 (Ch. 658, Statutes of 2018), requires DHCS, by January 1, 2020, to develop and distribute a **has developed** program **guidance, available on its website**, containing information regarding processes, documentation, and the proper submission of claims under the LEA Medi-Cal Billing Option program.**BOP.**

The 2022 Bipartisan Safer Communities Act (P.L. 117-159), which amended the Protecting Access to Medicare Act of 2014 (42 USC 1396a), requires the Secretary of Health and Human Services to publish best practices to support the delivery of services to students covered under Medicaid and the Children's Health Insurance Program (CHIP) via telehealth in schools, including mental health and substance use disorder services. The Secretary of Health and Human Services, in consultation with the Secretary of Education, has issued guidance, "Information on School-Based Services in Medicaid: Funding, Documentation and Expanding Services," to local educational agencies and school-based entities to support the delivery of medical assistance to Medicaid and CHIP beneficiaries in school-based settings and outline strategies and tools to reduce administrative burdens on, and simplify billing for, districts, in particular small and rural districts.

In order to provide services as a Medi-Cal provider, the district shall enter into and maintain a contract with the California Department of Health Care Services (DHCS). (Welfare and Institutions Code 14132.06; 22 CCR 51051, 51270)

CSBA NOTE: The federal Americans with Disabilities Act (42 USC 12101; 28 CFR 35) and Section 504 of the Rehabilitation Act of 1973 (29 USC 794), and state law, prohibit discrimination against qualified individuals who have speech, hearing, or vision disabilities who participate in public programs. Because discrimination is prohibited in the administration of Medi-Cal services, including determining eligibility, districts and district subcontractors must provide qualified individuals with auxiliary aides and services, including materials in alternative formats, such as braille, large font, or audio recordings, to ensure individuals can effectively communicate and participate in public programs, services, or activities including Medi-Cal. In accordance with DHCS Policy and Procedure Letters No. 21-017R and No. 23-004, districts are required, by August 1, 2023, to develop a plan to meet these alternative format requirements, in accordance with the terms and conditions of the Provider Participation Agreement and Addendum, and store and maintain the alternative format plan within their audit file, which may be requested by DHCS at any time after August 1, 2023.

The Superintendent or designee shall develop a plan to ensure that the district and all district subcontractors, provide individuals with speech, vision, and hearing disabilities auxiliary aides and services, to enable those individuals to effectively communicate and participate in the Medi-Cal program. Such auxiliary aides and services may include, but are not limited to, providing written materials in alternative formats, such as braille, large font, audio recordings, or closed captioning.

CSBA NOTE: With the exception of health care aides who provide specialized physical health care services pursuant to Education Code 49423.5, any practitioner whom the district employs or with whom it contracts must be credentialed to practice as a physician, registered nurse, psychologist, school counselor, or one of the other professions listed in 22 CCR 51190.3 in order for the district to receive Medi-Cal reimbursement.

The Superintendent or designee shall ensure that all practitioners employed by or under contract with the district possess the appropriate license, certification, registration, or credential and provide only those services that are within their scope of practice. (22 CCR 51190.3, 51270, 51491)

CSBA NOTE: Reimbursement under Medi-Cal is limited to the services specified in Welfare and Institutions Code 14132.06 and 22 CCR 51190.4 and 51360. Pursuant to Welfare and Institutions Code 14132.06, services may be reimbursable whether or not the student has an individualized

education program (IEP) or individualized family service plan (IFSP) or whether those same services are provided at no charge to the beneficiary or to the community at large.

22 CCR 51360 provides that services for accompanying a student off campus for nursing or school health aide services will be reimbursable when specified as medically necessary in an IEP or IFSP.

The Superintendent or designee shall submit a claim for Medi-Cal reimbursement whenever the district provides a Medi-Cal-eligible student under age 22 and/or a member of the ~~student's~~student's family a covered service specified in 22 CCR 51190.4 or 51360. (Welfare and Institutions Code 14132.06; 22 CCR 51096, 51098, 51190.1, 51190.4, 51309, 51360, 51535.5)

CSBA NOTE: Health and Safety Code 1374.722 requires a health care service plan contract issued, amended, renewed or delivered on or after January 1, 2024, that is required to provide coverage for medically necessary treatment of mental health and substance use disorders pursuant to Health and Safety Code 1374.72, 1374.721, and 1374.73, to cover the provision of the services identified in the fee-for-service reimbursement schedule published by DHCS, when those services are delivered at school sites, as defined below, regardless of the network status of the district or health care provider. Guidance to health care service plans regarding compliance with this section is required to be issued by December 31, 2023.

Additionally, pursuant to Welfare and Institutions Code 5961.4, DHCS is required to develop a school-linked statewide fee schedule for outpatient mental health or substance use disorder treatment provided to students under the age of 25 at a school site, a school-linked statewide provider network of school site behavioral health counselors, evidence-based behavioral health programs, behavioral health services and supports virtual platform, and to award school-linked partnership and capacity grants. As part of the Children and Youth Behavioral Health Initiative, DHCS is also required to provide incentive payments to qualifying Medi-Cal managed care plans to implement interventions that increase access to preventive, early intervention, and behavioral health services by school-affiliated behavioral health providers for children in publicly funded preschool through grade 12. More information about the Children and Youth Behavioral Health Initiative is available on DHCS's website.

When the district provides services, or arranges for the provision of services, for treatment of a mental health or substance use disorder for a student at a school site or at an off-campus clinic, mobile counseling service, or similar district-arranged location, the district may seek reimbursement from the student's health care service plan, in accordance with the requirements of Health and Safety Code 1374.722.

The district shall maintain records and supporting documentation including, but not limited to, records of the type and extent of services provided to a Medi-Cal beneficiary in accordance with law. (22 CCR 51270, 51476)

CSBA NOTE: 22 CCR 51270 requires federal reimbursements to be reinvested in health and social services for students and their families, as provided below. This requirement does not apply to reimbursements received under the Medi-Cal Administrative Activities (MAA) program described in the following section.

Any federal funds received by the district as reimbursement for the costs of services under the Medi-Cal billing option shall be reinvested in approved services for students and their families. The Superintendent or designee shall consult with a local school-linked services collaborative group regarding decisions on reinvestment of federal funds. (22 CCR 51270)

CSBA NOTE: 22 CCR 51270 requires that districts submit an annual report, as described below, as a condition of continued participation as a Medi-Cal provider. The deadline for this annual report is specified in the program provider participation agreement that districts enter into with DHCS.

The Superintendent or designee shall submit an annual report to DHCS to identify participants in the community collaborative, provide a financial summary including reinvestment expenditures, and describe service priorities for the future. (22 CCR 51270)

### Medi-Cal Administrative Activities

CSBA NOTE: The following optional section is for use by districts that participate in the MAA program administered by DHCS pursuant to Welfare and Institutions Code 14132.47. Under this program, districts providing Medi-Cal-covered health services may be reimbursed for some of their administrative and outreach costs. This section reflects program requirements described in the DHCS's "California School-Based Medi-Cal Administrative Activities Manual published by DHCS," available on its website.

Districts may receive assistance with Medi-Cal administrative billing through ~~CSBA's~~ CSBA's Practi-Cal program. See ~~CSBA's web site~~ CSBA's website for further information.

The district shall apply for reimbursement for activities identified by DHCS which are related to the administration of the Medi-Cal program. Such activities include, but are not be limited to, outreach, translation for Medi-Cal services, facilitation of applications, arrangement of nonemergency and nonmedical transportation of eligible individuals, program planning and policy development, claims coordination and administration, training, and general administration.

Appropriate staff shall receive training in administrative claiming categories and related activities.

CSBA NOTE: The district must submit claims through either a local educational agency consortium (i.e., one of the service regions of the California County Superintendent Educational Services Association) or a local governmental agency (i.e., county or chartered city) that has contracted with DHCS. The district may modify the following two paragraphs to reflect the appropriate entity or agency.

To receive reimbursement for Medi-Cal administrative activities, the Superintendent or designee shall, on a quarterly basis, submit an invoice to the local educational consortium or local governmental agency through which the district has contracted.

CSBA NOTE: The MAA program requires randomly selected employees who perform MAA activities as a normal part of their job duties to complete a random-moment time study which is used to determine the work effort of all time study participants over a given time period. Further information regarding the required procedure is available on the DHCS ~~web site~~ website.

In addition, the Superintendent or designee shall submit to the local educational consortium or local governmental agency, and shall update each quarter, a roster of all employees who perform direct Medi-Cal services or administrative activities. When notified by the local educational consortium or local governmental agency of the date and time that a random-moment time survey must be conducted by a particular employee, the Superintendent or designee shall coordinate the completion and submission of the survey in accordance with DHCS timelines and procedures.

The Superintendent or designee shall maintain an audit file containing random-moment time survey documentation and other records specified by DHCS. Such documentation shall be kept for three years after the end of the quarter in which expenditures were incurred or, if an audit is in progress, until the completion of the audit.

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**Policy Reference Disclaimer:**

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

<b>State</b>	<b>Description</b>
17 CCR 2950-2951	Hearing tests
17 CCR 6800-6874	Child Health and Disability Prevention program; health assessments
22 CCR 51009	Confidentiality
22 CCR 51050-51192	Definitions of Medi-Cal providers and services
22 CCR 51200	Requirements for providers
22 CCR 51231.2	Wheelchair van requirements
22 CCR 51270	Local educational agency provider; conditions for participation
22 CCR 51304	Limitations on specified benefits
22 CCR 51309	Psychology, physical therapy, occupational therapy, speech pathology, audiological services
22 CCR 51323	Medical transportation services
22 CCR 51351	Targeted case management services
22 CCR 51360	Local educational agency; types of services
22 CCR 51491	Local educational agency eligibility for payment
22 CCR 51535.5	Reimbursement to local educational agency providers
Ed. Code 49073-49079	Privacy of student records
Ed. Code 49423.5	Specialized physical health care services
Ed. Code 49557.2-49558	Eligibility for free and reduced-price meals; sharing information with Medi-Cal
Fam. Code 6920-6930	Consent by minor for medical treatment
Gov. Code 95020	Individualized family service plan
H&S Code 104830-104865	School-based application of fluoride or other tooth decay-inhibiting agent
H&S Code 121020	HIV/AIDS testing and treatment; parental consent for minor under age 12
H&S Code 123110	Minor's right to access health records
H&S Code 123115	Limitation on parent/guardian access to minor's health records
H&S Code 123800-123995	California Children's Services Act
H&S Code 124025-124110	Child Health and Disability Prevention Program

H&S Code 124172-124174.6	Public School Health Center Support Program
H&S Code 124260	Mental health services; consent by minors age 12 and older
H&S Code 130300-130317	Health Insurance Portability and Accountability Act (HIPAA)
<u>W&amp;I Code 5961-5961.5</u>	<u>Children and Youth Behavioral Health Initiative Act</u>
W&I Code 14059.5	Definition of "medically necessary"
W&I Code 14115	Medi-Cal claims process
W&I Code 14115.8	LEA Medi-Cal Billing Option; program guide
W&I Code 14124.90	Third-party health coverage
W&I Code 14132.06	Covered benefits; health services provided by local educational agencies
W&I Code 14132.47	Administrative claiming process and targeted case management
<b>Federal</b>	<b>Description</b>
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
42 CFR 431.300	Use and disclosure of information on Medicaid applicants and recipients
42 USC 1320c-9	Prohibition against disclosure of records
42 USC 1397aa-1397mm	State Children's Health Insurance Program
45 CFR 164.500-164.534	Privacy of individually identifiable health information
<b>Management Resources</b>	<b>Description</b>
CA Department of Health Care Services Publication	LEA Medi-Cal <u>Billing Option Program</u> Provider Manual, <u>November 2021</u> ( <a href="https://www.dhcs.ca.gov/provgovpart/Pages/LEAProviderManual.aspx">https://www.dhcs.ca.gov/provgovpart/Pages/LEAProviderManual.aspx</a> )
<u>CA Dept of Health Care Services Publication</u>	<u>Policy and Procedure Letter No. 21-017R, December 2021</u> ( <a href="https://www.dhcs.ca.gov/formsandpubs/Documents/PPL-21-017R-Alternative-Format-Request-Requirements.pdf">https://www.dhcs.ca.gov/formsandpubs/Documents/PPL-21-017R-Alternative-Format-Request-Requirements.pdf</a> )
<u>CA Dept of Health Care Services Publication</u>	<u>Policy and Procedure Letter No. 23-004, February 2023</u> ( <a href="https://www.dhcs.ca.gov/formsandpubs/Documents/PPL23-004-Alternative-Format-Extension.pdf">https://www.dhcs.ca.gov/formsandpubs/Documents/PPL23-004-Alternative-Format-Extension.pdf</a> )
CA Dept of Health Care Services Publication	California School-Based Medi-Cal Administrative Activities Manual ( <a href="https://www.dhcs.ca.gov/provgovpart/Pages/SMAAManual.aspx">https://www.dhcs.ca.gov/provgovpart/Pages/SMAAManual.aspx</a> )
<u>CA Health and Human Services Publication</u>	<u>Children and Youth Behavioral Health Initiative, 2021</u> ( <a href="https://www.chhs.ca.gov/wp-content/uploads/2021/12/Children-and-Youth-Behavioral-Health-Initiative-Brief.pdf">https://www.chhs.ca.gov/wp-content/uploads/2021/12/Children-and-Youth-Behavioral-Health-Initiative-Brief.pdf</a> )
CA School-Based Health Alliance Publication	Documenting the Link Between School-Based Health Centers and Academic Success, May 2014
CA School-Based Health Alliance Publication	How to Fund Health Services in Your School District, September 2014
California Department of Education Publication	Health <u>Education</u> Framework for California Public Schools, Kindergarten Through Grade Twelve, <u>May 2019</u> ( <a href="https://www.cde.ca.gov/ci/he/cf/documents/healthedframework2019.pdf">https://www.cde.ca.gov/ci/he/cf/documents/healthedframework2019.pdf</a> )

CSBA <a href="#">US Dept of Health and Human Services</a> Publication	Expanding Access to School Health Services: Policy Considerations for Governing Boards, November 2008 <a href="#">Information on School-Based Services in Medicaid: Funding, Documentation and Expanding Services, August 18, 2022</a>  ( <a href="https://www.medicaid.gov/federal-policy-guidance/downloads/sbscib081820222.pdf">https://www.medicaid.gov/federal-policy-guidance/downloads/sbscib081820222.pdf</a> )
CSBA <a href="#">US Dept of Health and Human Services</a> Publication	Promoting Oral Health for California's Students: New Role, New Opportunities for Schools, Policy Brief, November 2008 <a href="#">Centers for Medicare &amp; Medicaid Services Informational Bulletin, Information on School-Based Services in Medicaid: Funding, Documentation and Expanding Services, August 2022</a>  ( <a href="https://www.medicaid.gov/federal-policy-guidance/downloads/sbscib081820222.pdf">https://www.medicaid.gov/federal-policy-guidance/downloads/sbscib081820222.pdf</a> )
National Center For Youth Law Publication	Confidential Medical Release: Frequently Asked Questions from Schools and Districts, November 2015
Website	CSBA District and County Office of Education Legal Services
Website	CSBA, Practi-Cal Program
Website	California School-Based Health Alliance
Website	Center for Health and Health Care in Schools
Website	Centers for Disease Control and Prevention, School Health Policies and Programs (SHPPS) Study
Website	Centers for Medicare and Medicaid Services
Website	California County Superintendents Educational Services Association
Website	National Center for Youth Law
Website	California School Nurses Organization
Website	California Department of Education, Health Services and School Nursing
Website	California Department of Health Care Services
Website	California Department of Public Health
<a href="#">Website</a>	<a href="#">California Department of Health and Human Services</a> ( <a href="https://www.chhs.ca.gov/">https://www.chhs.ca.gov/</a> )
Website	CSBA

## Cross References

Code	Description
0470	COVID-19 Mitigation Plan
1330.1	Joint Use Agreements
1340	Access To District Records
1340	Access To District Records

1400	Relations Between Other Governmental Agencies And The Schools
3514	Environmental Safety
3514	Environmental Safety
3553	Free And Reduced Price Meals
3553	Free And Reduced Price Meals
4119.41	Employees With Infectious Disease
4119.43	Universal Precautions
4119.43	Universal Precautions
4157	Employee Safety
4157	Employee Safety
4219.41	Employees With Infectious Disease
4219.43	Universal Precautions
4219.43	Universal Precautions
4231	Staff Development
4257	Employee Safety
4257	Employee Safety
4319.41	Employees With Infectious Disease
4319.43	Universal Precautions
4319.43	Universal Precautions
4357	Employee Safety
4357	Employee Safety
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
5125	Student Records
5125	Student Records
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
5141	Health Care And Emergencies
5141	Health Care And Emergencies
5141.21	Administering Medication And Monitoring Health Conditions
5141.21	Administering Medication And Monitoring Health Conditions
5141.22	Infectious Diseases
5141.22	Infectious Diseases
5141.23	Asthma Management
5141.23	Asthma Management
5141.24	Specialized Health Care Services
5141.25	Availability Of Condoms
5141.26	Tuberculosis Testing
5141.3	Health Examinations
5141.3	Health Examinations
5141.31	Immunizations
5141.31	Immunizations
5141.32	Health Screening For School Entry
5141.33	Head Lice
5141.4	Child Abuse Prevention And Reporting
5141.4	Child Abuse Prevention And Reporting
5141.52	Suicide Prevention
5141.52	Suicide Prevention
5141.7	Sun Safety
5143	Insurance
5143	Insurance
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5146	Married/Pregnant/Parenting Students
5147	Dropout Prevention

5148	Child Care And Development
5148	Child Care And Development
5148.3	Preschool/Early Childhood Education
5148.3	Preschool/Early Childhood Education
6142.8	Comprehensive Health Education
6142.8	Comprehensive Health Education
6145.2	Athletic Competition
6145.2	Athletic Competition
6164.2	Guidance/Counseling Services
6164.5	Student Success Teams
6164.5	Student Success Teams
6171	Title I Programs
6171	Title I Programs
6173	Education For Homeless Children
6173	Education For Homeless Children
6173-E(1)	Education For Homeless Children
6173-E(2)	Education For Homeless Children
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
6175	Migrant Education Program
6175	Migrant Education Program
6177	Summer Learning Programs
6184	Continuation Education
6184	Continuation Education

**Policy 5145.6: Parent/Guardian Notifications**

**Status: ADOPTED**

Original Adopted Date: 03/01/2007 | Last Revised Date: 07/06/01/2020 ~~2023~~ | Last Reviewed  
Date: 07/06/01/2020 ~~2023~~

The Governing Board desires to promote effective communication between the school and the home and to keep parents/guardians informed regarding educational programs, school operations, and the legal rights of students and their parents/guardians. The Superintendent or designee shall send parents/guardians all notifications required by law and any other notifications the Superintendent or designee believes will promote parental understanding and involvement.

Notice of the rights and responsibilities of parents/guardians as specified in Education Code 48980 shall be sent at the beginning of each academic year and may be provided by regular mail, in electronic form when so requested by the parent/guardian, or by any other method normally used by the district for written communication with parents/guardians. (Education Code 48981)

No activity specified in Education Code 48980 shall be undertaken with respect to any particular student unless the student's parent/guardian has been informed of such action through the annual notification or other separate special notification. Such notice shall state the activity that will be undertaken and the approximate date on which the activity will occur. (Education Code 48983-48984)

The annual notification shall include a request that the parent/guardian sign the notice and return it to the school or, if the notice is provided in electronic format, that the parent/guardian submit a signed acknowledgment of receipt of the notice to the school. The parent/guardian's signature is an acknowledgment of receipt of the information but does not indicate that consent to participate in any particular program has been given or withheld. (Education Code 48982)

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

Whenever a student enrolls in a district school during the school year, the student's parents/guardians shall be given all required parental notifications at that time.

**CSBA NOTE:** The following paragraph applies to notices required for certain federal programs, including, but not necessarily limited to, Title I notices pursuant to 20 USC 6311 and 6312, notices regarding the rights of parents/guardians of students with disabilities pursuant to 34 CFR 300.503 and 300.504, and notices of the educational rights of ~~homeless~~ students **experiencing homelessness** pursuant to 42 USC 11432. The following paragraph may be revised to reflect district practice.

Notifications shall be presented in an understandable and uniform format and, to the extent practicable, in a language that parents/guardians can understand.

**CSBA NOTE:** Pursuant to state and federal antidiscrimination laws, including the Americans with Disabilities Act (42 USC 12101; 28 CFR 35) and Section 504 of the Rehabilitation Act of 1973 (29 USC 794), auxiliary aides and services must be provided to qualified individuals with disabilities to enable those individuals to effectively communicate and participate in public programs, services, or activities. For example, for the Medi-Cal Program, the Department of Health Care Services (DHCS), the state agency that administers the program, ~~has~~ issued Policy and Procedure Letters No. 21-472

017R and No. 23-004, which require districts to develop a plan to meet these alternative format requirements. For more information on the Medi-Cal Program, see AR 5141.6 – School Health Services.]

When necessary, the district shall provide notifications to qualified individuals with disabilities in alternative formats, such as braille, large front, or audio recordings, to enable such individuals to effectively participate in any program, service, or activity, as required by law.

CSBA NOTE: Pursuant to Education Code 48985, when 15 percent or more of students enrolled in a school speak a single primary language other than English, all notices and reports sent to the parents/guardians of these students must also be written in the primary language and may be answered by the parent/guardian in either language. Education Code 48985 requires the California Department of Education (CDE) to notify districts, by August 1 of each year, of the schools and the languages for which the translation of notices is required based on census data submitted to the CDE in the preceding fiscal year.

Whenever 15 percent or more of the students enrolled in a district school speak a single primary language other than English, as determined from the California Department of Education census data collected pursuant to Education Code 52164, all notices sent to the parent/guardian of any such student shall, in addition to being written in English, be written in the primary language, and may be responded to either in English or the primary language. (Education Code 48981, 48985)

Whenever an employee learns that a student's parent/guardian is unable to understand the district's printed notifications for any reason, the employee shall inform the principal or designee, who shall work with the parent/guardian to establish other appropriate means of communication.

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

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<b>State</b>	<b>Description</b>
17 CCR 2950-2951	Hearing tests
17 CCR 6000-6075	School attendance immunization requirements
22 CCR 101218.1	Child care licensing; parent/guardian rights
5 CCR 11303	Reclassification of English learners
5 CCR 11511.5	English language proficiency assessment; test results
5 CCR 11523	Notice of proficiency examinations
<u>5 CCR 17782</u>	<u>Notice of Action; application for services</u>
<u>5 CCR 17783</u>	<u>Notice of Action; recipient of services</u>
5 CCR 18066	Child care policies regarding excused and unexcused absences
5 CCR 18094-18095	Notice of Action; child care services
5 CCR 18114	Notice of delinquent fees; child care services

5 CCR 18118-18119	Notice of Action; child care services
5 CCR 3052	Behavioral intervention
5 CCR 4622	Uniform complaint procedures
5 CCR 4631	Uniform complaint procedures; notification of decision and right to appeal
5 CCR 4917	Notification of sexual harassment policy
5 CCR 852	Exemptions from state assessments
5 CCR 863	Reports of state assessment results
Civ. Code 1798.29	District records; breach of security
Ed. Code 17288	Building standards for university campuses
Ed. Code 17612	Notification of pesticide use
Ed. Code 221.5	Equal opportunity
Ed. Code 231.5	Sexual harassment policy
Ed. Code 234.1	Student protections relating to discrimination, harassment, intimidation, and bullying
Ed. Code 234.7	Student protections relating to immigration and citizenship status
Ed. Code 262.3	Appeals for discrimination complaints; information regarding availability of civil remedies
Ed. Code 310	Language acquisition programs
Ed. Code 313	Reclassification of English learners; parental consultation
Ed. Code 313.2	Long-term English learner; notification
Ed. Code 32221.5	Insurance for athletic team members
Ed. Code 32255-32255.6	Student's right to refrain from harmful or destructive use of animals
Ed. Code 32390	Voluntary program for fingerprinting students
Ed. Code 33479-33479.9	The Eric Parades Sudden Cardiac Arrest Prevention Act
Ed. Code 33479.3	The Eric Paredes Sudden Cardiac Arrest Prevention Act
Ed. Code 35160.5	Extracurricular and cocurricular activities
Ed. Code 35178.4	Notice of accreditation status
Ed. Code 35182.5	Advertising in the classroom
Ed. Code 35183	School dress code; uniforms
Ed. Code 35186	Complaints concerning deficiencies in instructional materials and facilities
Ed. Code 35211	Driver training; district insurance, parent/guardian liability

Ed. Code 35256	School Accountability Report Card
Ed. Code 35258	School Accountability Report Card
Ed. Code 35291	Rules for student discipline
<u>Ed. Code 35292.6</u>	<u>School maintenance</u>
Ed. Code 37616	<u>Notice of public hearing on year-round schedule</u> Consultation <u>regarding year-round schedule</u>
Ed. Code 39831.5	School bus rider rules and information
Ed. Code 440	English language proficiency assessment; instruction in English language development
Ed. Code 44050	Employee code of conduct; interaction with students
Ed. Code 44808.5	Permission to leave school grounds
Ed. Code 46010.1	Notice regarding excuse to obtain confidential medical services
Ed. Code 46014	Regulations regarding absences for religious purposes
Ed. Code 46162	Alternative schedule for junior high and high school; public hearing with notice
Ed. Code 46600-46611	Interdistrict attendance agreements
Ed. Code 48000	Minimum age of admission
Ed. Code 48070.5	Promotion and retention of students
Ed. Code 48204	Residency requirements
Ed. Code 48205	Absence for personal reasons
Ed. Code 48206.3	Students with temporary disabilities; individual instruction; definitions
Ed. Code 48207-48208	Students with temporary disabilities in hospitals
Ed. Code 48213	Prior notice of exclusion from attendance
Ed. Code 48216	Immunization and exclusion from attendance
Ed. Code 48260.5	Notice regarding truancy
Ed. Code 48262	Need for parent conference regarding truancy
Ed. Code 48263	Referral to school attendance review board or probation department
Ed. Code 48301	Interdistrict transfers
Ed. Code 48412	Certificate of proficiency
Ed. Code 48432.3	Voluntary enrollment in continuation education
Ed. Code 48432.5	Involuntary transfers of students
Ed. Code 48850-48859	Education of foster youth and homeless students

Ed. Code 48900.1	Parental attendance required after suspension
Ed. Code 48904	Liability of parent/guardian for willful student misconduct
Ed. Code 48904-48904.3	Withholding grades, diplomas, or transcripts
Ed. Code 48906	Notification of release of student to peace officer
Ed. Code 48911	Notification in case of suspension
Ed. Code 48911.1	Assignment to supervised suspension classroom
Ed. Code 48912	Closed sessions; consideration of suspension
Ed. Code 48915.1	Expelled students; enrollment in another district
Ed. Code 48916	Readmission procedures
Ed. Code 48918	Rules governing expulsion procedures
Ed. Code 48929	Transfer of student convicted of violent felony or misdemeanor
Ed. Code 48980	Parent/Guardian notifications
Ed. Code 48980.3	Notification of pesticide use
Ed. Code 48981	Time and means of notification
Ed. Code 48982	Parent signature acknowledging receipt of notice
Ed. Code 48983	Contents of notice
Ed. Code 48984	Activities prohibited unless notice given
Ed. Code 48985	Notices to parents in language other than English
<u>Ed. Code 48986</u>	<u>Safe storage of firearms</u>
Ed. Code 48987	Child abuse information
Ed. Code 49013	Use of uniform complaint procedures for complaints regarding student fees
Ed. Code 49063	Notification of parental rights
Ed. Code 49067	Student evaluation; student in danger of failing course
Ed. Code 49068	Transfer of permanent enrollment and scholarship record
Ed. Code 49069	Absolute right to access
Ed. Code 49070	Challenging content of student record
Ed. Code 49073	Release of directory information
Ed. Code 49073.6	Student records; social media
Ed. Code 49076	Access to student records
Ed. Code 49077	Access to information concerning a student in compliance with court order
<u>Ed. Code 49392</u>	<u>Threats of homicide at school</u>

Ed. Code 49403	Cooperation in control of communicable disease and immunizations
Ed. Code 49423	Administration of prescribed medication for student
Ed. Code 49451	Physical examinations: parent's refusal to consent
Ed. Code 49452.5	Screening for scoliosis
<a href="#">Ed. Code 49452.6</a>	<a href="#">Type 1 diabetes informational materials</a>
Ed. Code 49452.7	Information on type 2 diabetes
Ed. Code 49452.8	Oral health assessment
<a href="#">Ed. Code 49455.5</a>	<a href="#">Eye examination for purpose of eyeglasses</a>
Ed. Code 49456	Results of vision or hearing test
Ed. Code 49471-49472	Insurance
Ed. Code 49475	Student athletes; concussions and head injuries
Ed. Code 49476	Student athletes; opioid fact sheet
Ed. Code 49480	Continuing medication regimen for nonepisodic conditions
Ed. Code 49510-49520	Duffy-Moscone Family Nutrition Education and Services Act of 1970
Ed. Code 49557.5	Child Hunger Prevention and Fair Treatment Act of 2017; notice of negative balance in meal account
Ed. Code 51225.1	Exemption from district graduation requirements
Ed. Code 51225.2	Course credits
Ed. Code 51225.3	High school graduation requirements
<a href="#">Ed. Code 51225.31</a>	<a href="#">Graduation from high school: exemption for eligible students with special needs</a>
Ed. Code 51225.8	Completion and submission of FAFSA and CADAA
Ed. Code 51229	Course of study for grades 7-12
Ed. Code 51513	Personal beliefs; privacy
<a href="#">Ed. Code 51749.5</a>	<a href="#">Independent study</a>
Ed. Code 51938	HIV/AIDS and sexual health instruction
<a href="#">Ed. Code 52062</a>	<a href="#">Local control and accountability plans and the statewide system of support</a>
Ed. Code 52164	Language census
Ed. Code 52164.1	Census-taking methods; determination of primary language; assessment of language skills
Ed. Code 52164.3	Reassessment of English learners; notification of results
Ed. Code 54444.2	Migrant education programs; parent involvement

Ed. Code 56301	Child-find system; policies regarding written notification rights
Ed. Code 56321	Special education: proposed assessment plan
Ed. Code 56321.5-56321.6	Notice of parent rights pertaining to special education
Ed. Code 56329	Written notice of right to findings; independent assessment
Ed. Code 56341.1	Development of individualized education program; right to audio record meeting
Ed. Code 56341.5	Individualized education program team meetings
Ed. Code 56343.5	Individualized education program meetings
Ed. Code 56521.1	Behavioral intervention
Ed. Code 58501	Alternative schools; notice required prior to establishment
Ed. Code 60615	Exemption from state assessment
Ed. Code 60641	California Assessment of Student Performance and Progress
Ed. Code 69432.9	Submission of grade point average to Cal Grant program
Ed. Code 8212	Complaints related to preschool health and safety issues
Ed. Code 8483	Before/after school program; enrollment priorities
<u>Ed. Code 8489</u>	<u>Expulsion and suspension procedures in childcare and development services programs</u>
<u>Ed. Code 8489.1</u>	<u>Expulsion and suspension procedures in childcare and development services programs</u>
H&S Code 104420	Tobacco use prevention
H&S Code 104855	Availability of topical fluoride treatment
H&S Code 116277	Lead testing of school drinking water
H&S Code 120365-120375	Immunizations
H&S Code 120440	Sharing immunization information
H&S Code 124100-124105	Health screening and immunizations
<u>H&amp;S Code 1596.8555</u>	<u>Administration of child day care licensing; posting license</u>
H&S Code 1596.857	Right to enter child care facility
H&S Code 1597.16	Licensed child care centers; lead testing
Pen. Code 626.81	Notice of permission granted to sex offender to volunteer on campus
Pen. Code 627.5	Hearing request following denial or revocation of registration
<u>W&amp;I Code 10228</u>	<u>Child care providers; posting of rates, discounts, and scholarships</u>
<b>Federal</b>	<b>Description</b>

20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 1232h	Privacy rights
20 USC 1415	Procedural safeguards
20 USC 6311	State plan
20 USC 6312	Local educational agency plan
20 USC 6318	Parent and family engagement
20 USC 7704	Impact Aid; policies and procedures related to children residing on Indian lands
20 USC 7908	Armed forces recruiter access to students
34 CFR 104.32	District responsibility to provide free appropriate public education
34 CFR 104.36	Procedural safeguards
34 CFR 104.8	Nondiscrimination
34 CFR 106.9	Severability
34 CFR 200.48	Teacher qualifications
34 CFR 222.94	Impact Aid; district responsibilities
34 CFR 300.300	Parent consent for special education evaluation
34 CFR 300.322	Parent participation in IEP team meetings
34 CFR 300.502	Independent educational evaluation of student with disability
34 CFR 300.503	Prior written notice regarding identification, evaluation, or placement of student with disability
34 CFR 300.504	Procedural safeguards notice for students with disabilities
34 CFR 300.508	Due process complaint
34 CFR 300.530	Discipline procedures
34 CFR 99.30	Disclosure of personally identifiable information
34 CFR 99.34	Student records; disclosure to other educational agencies
34 CFR 99.37	Disclosure of directory information
34 CFR 99.7	Student records; annual notification
40 CFR 763.84	Asbestos inspections, response actions, and post-response actions
40 CFR 763.93	Asbestos management plans
42 USC 11431-11435	McKinney-Vento Homeless Assistance Act
42 USC 1758	Child nutrition programs
7 CFR 245.5	Eligibility criteria for free and reduced-price meals

7 CFR 245.6a

**Management Resources**

U.S. Department of Agriculture  
Publication

Website

Website

Verification of eligibility for free and reduced-price meals

**Description**

Civil Rights Compliance and Enforcement -- Nutrition  
Programs and Services, FNS Instruction 113-1, 2005

CSBA District and County Office of Education Legal Services

U.S. Department of Agriculture, Food and Nutrition Service

**Cross References**

**Code**

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0450

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0510

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3515.5

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**Description**

Nondiscrimination In District Programs And Activities

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Comprehensive Safety Plan

Local Control And Accountability Plan

Local Control And Accountability Plan

School Accountability Report Card

Volunteer Assistance

Volunteer Assistance

Uniform Complaint Procedures

Uniform Complaint Procedures

Uniform Complaint Procedures

Uniform Complaint Procedures

Impact Aid

Fees And Charges

Fees And Charges

Contracts

Tobacco-Free Schools

Tobacco-Free Schools

Environmental Safety

Environmental Safety

Integrated Pest Management

Sex Offender Notification

Sex Offender Notification

Facilities Inspection

Transportation Safety And Emergencies

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3551	Food Service Operations/Cafeteria Fund
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5113.1	Chronic Absence And Truancy

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5141.21	Administering Medication And Monitoring Health Conditions
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6184	Continuation Education
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**Exhibit 5145.6-E(1): Parent/Guardian Notifications**

**Status: ADOPTED**

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

Cautionary Notice: Government Code 17581.5 releases districts from the obligation to perform specified mandated activities when the Budget Act does not provide reimbursement during that fiscal year. The Budget Act of ~~2021~~2022 (AB ~~1281~~78, Ch. ~~214~~5, Statutes of ~~2021~~2022) extends the suspension of these requirements through the ~~2021-22~~2022-23 fiscal year. As a result, certain provisions of the following Exhibit related to scoliosis screening and bus safety instruction may be suspended.

CSBA NOTE: The following exhibit lists notices which the law explicitly requires be provided to parents/guardians. See the referenced Board policy, administrative regulation, or Board bylaw for further information about related program and notice requirements. For example, see AR 1312.3 - Uniform Complaint Procedures for the contents of the annual notice regarding uniform complaint procedures (UCP) as mandated by 5 CCR 4622.

The exhibit does not include other notices that are recommended throughout CSBA's sample policy manual, but are not required by law. The district may revise the exhibit to reflect additional notifications provided by the district.

**I. Annually**

When to Notify: Beginning of each school year  
Education or Other Legal Code: Education Code 222.5  
Board Policy/Administrative Regulation #: See BP 5146  
Subject: Rights and options for pregnant and parenting students

When to Notify: Beginning of each school year  
Education or Other Legal Code: Education Code 234.7  
Board Policy/Administrative Regulation #: See BP 0410  
Subject: Right to a free public year ~~234.7~~ education regardless of immigration status or religious beliefs

When to Notify: Beginning of each school year  
Education or Other Legal Code: Education Code 310  
Board Policy/Administrative Regulation #: See BP 6142.2, See AR 6174  
Subject: Information on the district's language acquisition program

When to Notify: Beginning of each school year  
Education or Other Legal Code: Education Code 17611.5, 17612, 48980.3  
Board Policy/Administrative Regulation #: See AR 3514.2  
Subject: Use of pesticide ~~product~~products, active ingredients, ~~Internet~~internet address to access

information, and, if district uses certain pesticides, integrated pest management plan

When to Notify: Annually by February 1

Education or Other Legal Code: Education Code 35256, 35258

Board Policy/Administrative Regulation #: See BP 0510

Subject: School Accountability Report Card provided

When to Notify: Beginning of each school year

Education or Other Legal Code: Education Code 35291, 48980

Board Policy/Administrative Regulation #: See AR 5144, See AR 5144.1

Subject: District and site discipline rules

When to Notify: Beginning of each school year

Education or Other Legal Code: Education Code 44050

Board Policy/Administrative Regulation #: See BP 4119.21, See BP 4219.21, See BP 4319.21

Subject: Code of conduct addressing employee interactions with students

When to Notify: Beginning of each school year

Education or Other Legal Code: Education Code 46010.1

Board Policy/Administrative Regulation #: See AR 5113

Subject: Absence for confidential medical services

When to Notify: Beginning of each school year, if district has adopted policy on involuntary transfer of students convicted of certain crimes when victim is enrolled at same school

Education or Other Legal Code: Education Code 48929, 48980

Board Policy/Administrative Regulation #: See BP 5116.2

Subject: District policy authorizing transfer

When to Notify: Beginning of each school year

Education or Other Legal Code: Education Code 48980

Board Policy/Administrative Regulation #: See BP 6111

Subject: Schedule of minimum days and student-free staff development days

When to Notify: Beginning of each school year

Education or Other Legal Code: Education Code 48980, 231.5; 5 CCR 4917; 34 CFR 106.8

Board Policy/Administrative Regulation #: See AR 5145.7

Subject: Copy of sexual harassment policy as related to students; contact information for Title IX coordinator

When to Notify: Beginning of each school year

Education or Other Legal Code: Education Code 48980, 32255-32255.6

Board Policy/Administrative Regulation #: See AR 5145.8

Subject: Right to refrain from harmful or destructive use of animals

When to Notify: Beginning of each school year

Education or Other Legal Code: Education Code 48980, 35160.5, 46600-46611, 48204, 48301

Board Policy/Administrative Regulation #: See BP 5111.1, See AR 5116.1, See AR 5117

Subject: All statutory attendance options, available local attendance options, options for meeting

residency, form for changing attendance, appeals process

When to Notify: Beginning of each school year, if Board allows such absence

Education or Other Legal Code: Education Code 48980, 46014

Board Policy/Administrative Regulation #: See AR 5113

Subject: Absence for religious exercise or purposes

When to Notify: Beginning of each school year

Education or Other Legal Code: Education Code 48980, 48205

Board Policy/Administrative Regulation #: See AR 5113, See BP 6154

Subject: Excused absences; grade/credit cannot be reduced due to excused absence if work or test has been completed; full text of Education Code 48205

When to Notify: Beginning of each school year

Education or Other Legal Code: Education Code 48980, 48206.3, 48207, 48208

Board Policy/Administrative Regulation #: See AR 6183

Subject: Availability of home/hospital instruction for students with temporary disabilities

When to Notify: Beginning of each school year

Education or Other Legal Code: Education Code 48980, 49403

Board Policy/Administrative Regulation #: See BP 5141.31

Subject: School immunization program

When to Notify: Beginning of each school year

Education or Other Legal Code: Education Code 48980, 49423, 49480

Board Policy/Administrative Regulation #: See AR 5141.21

Subject: Administration of prescribed medication

When to Notify: Beginning of each school year

Education or Other Legal Code: Education Code 48980, 49451; 20 USC 1232h

Board Policy/Administrative Regulation #: See AR 5141.3

Subject: Right to refuse consent to physical examination

When to Notify: Beginning of each school year

Education or Other Legal Code: Education Code 48980, 49471, 49472

Board Policy/Administrative Regulation #: See BP 5143

Subject: Availability of insurance

When to Notify: Beginning of each school year in grades 9-12, if district allows career technical education (CTE) course to satisfy graduation requirement

Education or Other Legal Code: Education Code 48980, 51225.3

Board Policy/Administrative Regulation #: See AR 6146.1

Subject: How district established graduation requirements do or do not satisfy college entrance A-G course criteria; district's CTE courses that satisfy A-G course criteria

When to Notify: Annually

Education or Other Legal Code: Education Code 48986, 49392

Board Policy/Administrative Regulation #: See AR 0450

Subject: Information and laws related to the safe storage of firearms and California's child access prevention laws

When to Notify: Annually

Education or Other Legal Code: Education Code 49013; 5 CCR 4622

Board Policy/Administrative Regulation #: See AR 1312.3, See BP 0460, See BP 3260

Subject: Uniform complaint procedures, available appeals, civil law remedies, coordinator, complaints about student fees and local control and accountability plan

When to Notify: Beginning of each school year

Education or Other Legal Code: Education Code 49063

Board Policy/Administrative Regulation #: See AR 5125, See AR 5125.3

Subject: Challenge, review and expunging of records

When to Notify: Beginning of each school year

Education or Other Legal Code: Education Code 49063, 49069; 20 USC 1232g; 34 CFR 99.7

Board Policy/Administrative Regulation #: See AR 5125

Subject: Student records: inspect and review, access, types, location, persons responsible, location of log, access criteria, cost of copies, amendment requests, criteria for defining school officials and to determine legitimate educational interest, categories defined as directory information, disclosures, right to file complaint with U.S. Department of Education, course prospectus availability

When to Notify: Beginning of each school year

Education or Other Legal Code: Education Code 49063, 49073; 20 USC 1232g; 34 CFR 99.37

Board Policy/Administrative Regulation #: See AR 5125.1

Subject: Release of directory information

When to Notify: Beginning of each

When to Notify: Beginning of each school year

Education or Other Legal Code: Education Code 49069.5, 51225.1

Board Policy/Administrative Regulation #: See AR 6173, AR 6173.1, AR 6173.3, AR 6175

Subject: Transfer of coursework and credits for foster youth, students experiencing homelessness, former juvenile court school students, children of military family, migrant students and students participating in a newcomer program.

When to Notify: Two or more times during the school year

Education or Other Legal Code: Education Code 49428

Board Policy/Administrative Regulation #: See ~~None~~BP 5141.5

Subject: How to access mental health services at school and/or in the community

When to Notify: Beginning of each school year in schools serving students in grades 6-12

Education or Other Legal Code: Education Code 49428.5

Board Policy/Administrative Regulation #: See BP 5141.5

Subject: Distribution of digitized mental health poster online

When to Notify: Annually or upon enrollment in elementary school

Education or Other Legal Code: Education Code 49452.6

Board Policy/Administrative Regulation #: See AR 5141.3

Subject: Availability of type 1 diabetes informational materials developed by the California Department of Education

When to Notify: Beginning of each school year  
Education or Other Legal Code: Education Code 49520, 48980; 42 USC 1758; 7 CFR 245.5  
Board Policy/Administrative Regulation #: See AR 3553  
Subject: Eligibility and application process for free and reduced price meals

When to Notify: Beginning of each school year  
Education or Other Legal Code: Education Code 51513, 20 USC 1232h  
Board Policy/Administrative Regulation #: See AR 5022, See BP 6162.8  
Subject: Notice of privacy policy and dates of activities re: survey, health examination, or collection of personal information for marketing; process to opt out of such activities; inspection rights and procedures

When to Notify: When developing the local control and accountability plan and during the annual update of the local control and accountability plan (LCAP)  
Education or Other Legal Code: Education Code 52062  
Board Policy/Administrative Regulation #: See BP 0460  
Subject: Opportunity to submit written comments regarding specific actions and expenditures in proposed plan or annual update

When to Notify: Beginning of each school year  
Education or Other Legal Code: Education Code 56301  
Board Policy/Administrative Regulation #: See BP 6164.4  
Subject: Parental rights re: special education identification, referral, assessment, instructional planning, implementation and review, and procedures for initiating a referral for assessment

When to Notify: Beginning of each school year  
Education or Other Legal Code: Education Code 58501, 48980  
Board Policy/Administrative Regulation #: See AR 6181  
Subject: Alternative schools

When/Whom to Notify: Annually  
Education or Other Legal Code: Education Code 60615, 5 CCR 852  
Board Policy/Administrative Regulation #: See AR 6162.51  
Subject: Student's participation in state assessments; option to request exemption from testing

When to Notify: Beginning of each school year  
Education or Other Legal Code: Health and Safety Code 104855  
Board Policy/Administrative Regulation #: See AR 5141.6  
Subject: Availability of dental fluoride treatment; opportunity to accept or deny treatment

~~When/Whom to Notify: Annually~~  
~~Education or Other Legal Code: 5 CCR 852; Education Code 60615~~  
~~Board Policy/Administrative Regulation #: See AR 6162.51~~  
~~Subject: Student's participation in state assessments; option to request exemption from testing~~

When to Notify: Beginning of each school year, if district receives Title I funds  
Education or Other Legal Code: 20 USC 6312; 34 CFR 200.48  
Board Policy/Administrative Regulation #: See BP 4112.2, See AR 4222

Subject: Right to request information re: professional qualifications of child's teacher and paraprofessional

When to Notify: Beginning of each school year  
Education or Other Legal Code: 34 CFR 104.8, 106.9  
Board Policy/Administrative Regulation #: See BP 0410, See BP 6178  
Subject: Nondiscrimination

When to Notify: Beginning of each school year to parent, teacher, and employee organizations or, in their absence, individuals  
Education or Other Legal Code: 40 CFR 763.84, 40 CFR 763.93  
Board Policy/Administrative Regulation #: See AR 3514  
Subject: Availability of asbestos management plan; any inspections, response actions or post-response actions planned or in progress

When to Notify: Beginning of each school year  
Education or Other Legal Code: USDA [FNS Instructions 113-1](#)  
[Board Policy/Administrative Regulation #: See BP 3555](#)  
[Subject: Information related to the district's food service programs](#)

[When to Notify: Beginning of each school year](#)  
[Education or Other Legal Code: USDA SP-23-201746-2016](#)  
Board Policy/Administrative Regulation #: See AR 3551  
Subject: District policy on meal payments

## **II. At Specific Times During the Student's Academic Career**

When to Notify: Beginning in grade 7, at least once prior to course selection and career counseling  
Education or Other Legal Code: Education Code 221.5<sup>1</sup>, 48980  
Board Policy/Administrative Regulation #: See BP 6164.2  
Subject: Course selection and career counseling

When to Notify: Upon a student's enrollment  
Education or Other Legal Code: Education Code 310  
Board Policy/Administrative Regulation #: See BP 6142.2, See AR 6174  
Subject: Information on the district's language acquisition programs

When to Notify: When child first enrolls in a public school, if the school offers a fingerprinting program  
Education or Other Legal Code: Education Code 32390, 48980  
Board Policy/Administrative Regulation #: See AR 5142.1  
Subject: Fingerprinting program

When/Whom to Notify: When participating in driver training courses under the jurisdiction of the district  
Education or Other Legal Code: Education Code 35211  
Board Policy/Administrative Regulation #: None  
Subject: Civil liability, insurance coverage

When to Notify: Upon registration in K-6, if students have not previously been transported  
Education or Other Legal Code: Education Code 39831.5  
Board Policy/Administrative Regulation #: See AR 3543  
Subject: School bus safety rules and information, list of stops, rules of conduct, red light crossing instructions, bus danger zones, walking to and from stops

When to Notify: Beginning of each school year for high school students, if high school is open campus  
Education or Other Legal Code: Education Code 44808.5, 48980  
Board Policy/Administrative Regulation #: See BP 5112.5  
Subject: Open campus

When to Notify: Beginning of each school year in grades 9-12, if district allows career technical education (CTE) course ~~Prior~~ to satisfy graduation requirement providing an eye examination  
Education or Other Legal Code: Education Code ~~48980, 51225.3~~ 49455.5  
Board Policy/Administrative Regulation #: See AR ~~6146.1~~ 5141.3  
Subject: ~~How each school graduation requirement does~~ Upcoming eye examinations at school site, including form on which parent/guardian may indicate lack of consent

When to Notify: When a parent/guardian request for district designation of volunteers is received for training on emergency use of anti-seizure medication for a student diagnosed with seizures  
Education or does not satisfy college entrance a-g course criteria; districts CTE courses that satisfy a-g course criteria

Other Legal Code: Education Code 49468.2  
Board Policy/Administrative Regulation #: To be included in AR 5141.21  
Subject: Request for volunteers to be trained in recognition and response to seizures, including administration of emergency anti-seizure medication, description of training, right to rescind offer to volunteer, prohibition against retaliation.

When to Notify: Upon a student's enrollment  
Education or Other Legal Code: Education Code 49063  
Board Policy/Administrative Regulation #: See AR 5125, See AR 5125.3  
Subject: Specified rights related to student records

When to Notify: When students enter grade 7  
Education or Other Legal Code: Education Code 49452.7  
Board Policy/Administrative Regulation #: See AR 5141.3  
Subject: Specified information on type 2 diabetes

When to Notify: When in kindergarten, or first grade if not previously enrolled in public school  
Education or Other Legal Code: Education Code 49452.8  
Board Policy/Administrative Regulation #: See AR 5141.32  
Subject: Requirement for oral health assessment, explanation of law, importance of oral health, agency contact, privacy rights

When to Notify: Before grade 12  
Education or Other Legal Code: Education Code 51225.8  
Board Policy/Administrative Regulation #: See AR 6143  
Subject: Completion and submission of FAFSA and CADAA

When to Notify: Beginning of each school year for students in grades 9-12  
Education or Other Legal Code: Education Code 51229, 48980  
Board Policy/Administrative Regulation #: See AR 6143, [BP 6178](#)  
Subject: UC and CSU College admission requirements, UC and CSU web sites that list certified courses, description of CTE, CDE Internet address, how students may meet with counselors

When to Notify: Beginning of each school year for students in grades 7-12, or at time of enrollment if after beginning of year  
Education or Other Legal Code: Education Code 51938, 48980  
Board Policy/Administrative Regulation #: See AR 6142.1  
Subject: Sexual health and HIV prevention education; right to view A/V materials, whether taught by district staff or outside consultants, right to request specific Education Code sections, right to excuse

When to Notify: Within 20 working days of receiving results of standardized achievement tests or, if results not available in school year, within 20 working days of start of next school year  
Education or Other Legal Code: Education Code 60641.5, 5 CCR 863  
Board Policy/Administrative Regulation #: See AR 6162.51  
Subject: Results of tests; test purpose, individual score and intended use

When/Whom to Notify: By October 15 for students in grade 12  
Education or Other Legal Code: Education Code 69432.9  
Board Policy/Administrative Regulation #: See AR 5121, See AR 5125  
Subject: Forwarding of student's grade point average to Cal Grant program; timeline to opt out

When to Notify: Upon enrollment in a California State Preschool program  
Education or Other Legal Code: Education Code 8489.1  
Board Policy/Administrative Regulation #: See AR 5148.3  
Subject: Limitations on disenrollment, including expulsion and suspension and how to file an appeal in the event of expulsion or suspension

When to Notify: When child is enrolled or reenrolled in a licensed child care center or preschool  
Education or Other Legal Code: Health and Safety Code 1596.7996  
Board Policy/Administrative Regulation #: See AR 5148  
Subject: Information on risks and effects of lead exposure, blood lead testing

When to Notify: When child is enrolled in kindergarten  
Education or Other Legal Code: Health and Safety Code 124100, 124105  
Board Policy/Administrative Regulation #: See AR 5141.32  
Subject: Health screening examination

When to Notify: To students in grades 11-12, early enough to enable registration for fall test  
Education or Other Legal Code: 5 CCR 11523  
Board Policy/Administrative Regulation #: See AR 6146.2  
Subject: Notice of proficiency examination provided under Education Code 48412

When to Notify: To secondary students, if district receives Title I funds  
Education or Other Legal Code: 20 USC 7908  
Board Policy/Administrative Regulation #: See AR 5125.1  
Subject: Request that district not release student's name, address, and phone number to military recruiters without prior written consent

### III. When Special Circumstances Occur

When to Notify: In the event of a breach of security of district records, ~~security of district records~~,  
Education or Other Legal Code: Civil Code 1798.29

Board Policy/Administrative Regulation #: See BP 3580

Subject: Types of records affected, date of breach, description of incident, contact information for credit reporting agencies

When to Notify: Upon receipt of a complaint alleging discrimination

Education or Other Legal Code: Education Code 262.3

Board Policy/Administrative Regulation #: See AR 1312.3

Subject: Civil law remedies available to complainants

When to Notify: When determining whether an English learner should be reclassified as fluent English proficient

Education or Other Legal Code: Education Code 313; 5 CCR 11303

Board Policy/Administrative Regulation #: See AR 6174

Subject: Description of reclassification process, opportunity for parent/guardian to participate

When to Notify: When Student is identified as English learner and district receives ~~Titles~~ Title I or Title III funds for English learner programs, not later than 30 days after beginning of school year or within two weeks of placement if identified during school year

Education or Other Legal Code: Education Code 313.2, 440; 20 USC 6312

Board Policy/Administrative Regulation #: See AR 6174

Subject: Reason for classification, level of English proficiency, identification as long-term English learner, description of program(s), option to decline program or choose alternate, option to remove student from program at any time, exit requirements of program

When to Notify: Prior to implementing alternative schedule

Education or Other Legal Code: Education Code 46162

Board Policy/Administrative Regulation #: See BP 6112

Subject: Public hearing on alternative schedule in secondary grades

When to Notify: When homeless or foster youth applies for enrollment in before/after school program

Education or Other Legal Code: Education Code 8483

Board Policy/Administrative Regulation #: See AR 5178.2

Subject: Right to priority enrollment how to request priority enrollment

When to Notify: When a child in a California State Preschool program exhibits persistent and serious challenging behaviors

Education or Other Legal Code: Education Code 8489.1

Board Policy/Administrative Regulation #: See AR 5148.3

Subject: Description of the child's behaviors and program plan for maintaining the child's safe participation in program and expulsion/unenrollment process

When to Notify: At least 24 hours before the effective date of suspending or expelling a child from a California State Preschool program

Education or Other Legal Code: Education Code 8489.1

Board Policy/Administrative Regulation #: See AR 5148.3

Subject: "Notice of Action, Recipient of Services," as described in 5 CCR 17783

When to Notify: Before high school student attends specialized secondary program on a university campus

Education or Other Legal Code: Education Code 17288

Board Policy/Administrative Regulation #: None

Subject: University campus buildings may not meet Education Code requirements for structural safety

When to Notify: At least 72 hours before use of pesticide product not included in annual list

Education or Other Legal Code: Education Code 17612

Board Policy/Administrative Regulation #: See AR 3514.2

Subject: Intended use of pesticide product

When to Notify: To members of athletic teams

Education or Other Legal Code: Education Code 32221.5

Board Policy/Administrative Regulation #: See AR 5143

Subject: Offer of insurance; no-cost and low-cost program options

When to Notify: Annually to parents/guardians of student athletes before participation in competition

Education or Other Legal Code: Education Code 33479.3

Board Policy/Administrative Regulation #: See AR 6145.2

Subject: Information on sudden cardiac arrest

When to Notify: If school has lost its WASC accreditation status

Education or Other Legal Code: Education Code 35178.4

Board Policy/Administrative Regulation #: See BP 6190

Subject: Loss of status, potential consequences

When/Whom to Notify: When district has contracted for electronic products or services that disseminate advertising

Education or Other Legal Code: Education Code 35182.5

Board Policy/Administrative Regulation #: See BP 3312

Subject: Advertising will be used in the classroom or learning center

When to Notify: At least six months before implementing a schoolwide uniform policy

Education or Other Legal Code: Education Code 35183

Board Policy/Administrative Regulation #: See AR 5132

Subject: Dress code policy requiring schoolwide uniform

When to Notify: Before implementing a year-round schedule

Education or Other Legal Code: Education Code 37616

Board Policy/Administrative Regulation #: See BP 6117

Subject: Public hearing on year-round schedule

When to Notify: When interdistrict transfer is requested and not approved or denied within 30 days

Education or Other Legal Code: Education Code 46601

Board Policy/Administrative Regulation #: See AR 5117

Subject: Appeal process

When to Notify: Before early entry to transitional kindergarten or kindergarten, if early entry offered

Education or Other Legal Code: Education Code 48000

Board Policy/Administrative Regulation #: See AR 5111, See AR 6170.1

Subject: Effects, advantages and disadvantages of early entry

When to Notify: When student identified as being at risk of retention

Education or Other Legal Code: Education Code 48070.5

Board Policy/Administrative Regulation #: See AR 5123

Subject: Student at risk of retention

When to Notify: When student excluded due to quarantine, contagious or infectious disease, danger to safety or health

Education or Other Legal Code: Education Code 48213

Board Policy/Administrative Regulation #: See AR 5112.2

Subject: Student has been excluded from school

When to Notify: Before already admitted student is excluded for lack of immunization

Education or Other Legal Code: Education Code 48216~~2~~, 17 CCR 6040

Board Policy/Administrative Regulation #: See AR 5141.31

Subject: Need to submit evidence of immunization or exemption within 10 school days; referral to medical care

When to Notify: When a student is classified as truant

Education or Other Legal Code: Education Code 48260.5, 48262

Board Policy/Administrative Regulation #: See AR 5113.1

Subject: Truancy, parental obligation, availability of alternative programs, student consequences, need for conference

When to Notify: When a truant is referred to a SARB or probation department

Education or Other Legal Code: Education Code 48263

Board Policy/Administrative Regulation #: See AR 5113.1

Subject: Name and address of SARB or probation department and reason for referral

When/Whom to Notify: When student requests to voluntarily transfer to continuation school

Education or Other Legal Code: Education Code 48432.3

Board Policy/Administrative Regulation #: See AR 6184

Subject: Copy of district policy and regulation on continuation education

When to Notify: Prior to involuntary transfer to continuation school

Education or Other Legal Code: Education Code 48432.5

Board Policy/Administrative Regulation #: See AR 6184

Subject: Right to require meeting prior to involuntary transfer to continuation school

When/Whom to Notify: To person holding educational rights, prior to recommending placement of foster youth outside school of origin

Education or Other Legal Code: Education Code 48853.5  
Board Policy/Administrative Regulation #: See AR 6173.1  
Subject: Basis for the placement recommendation

When to Notify: When a foster youth or an Indian child receives a suspension, expulsion, manifestation determination, or involuntary transfer  
Education or Other Legal Code: Education Code 48853.5  
Board Policy/Administrative Regulation #: See AR 6173.1, AR 6173.4  
Subject: Suspension notice, expulsion notice, manifestation determination notice, involuntary transfer notice, and other documents and related information to a foster youth's educational rights holder, attorney, and county social worker and an Indian child's tribal social worker and, if applicable, the child's county social worker

When to Notify: When student is removed from class and teacher requires parental attendance at school

Education or Other Legal Code: Education Code 48900.1  
Board Policy/Administrative Regulation #: See AR 5144.1  
Subject: Parental attendance required; timeline for attendance

When to Notify: Prior to withholding grades, diplomas, or transcripts

Education or Other Legal Code: Education Code 48904  
Board Policy/Administrative Regulation #: See AR 5125.2  
Subject: Damaged school property

When to Notify: When withholding grades, diplomas or transcripts from transferring student

Education or Other Legal Code: Education Code 48904.3  
Board Policy/Administrative Regulation #: See AR 5125.2  
Subject: Next school will continue withholding grades, diplomas or transcripts

When to Notify: When student is released to peace officer

Education or Other Legal Code: Education Code 48906  
Board Policy/Administrative Regulation #: See BP 5145.11  
Subject: Release of student to peace officer for the purpose of removing minor from school, unless taken into custody as victim of suspected child abuse

When to Notify: At time of suspension

Education or Other Legal Code: Education Code 48911  
Board Policy/Administrative Regulation #: See BP 5144.1, See AR 5144.1  
Subject: Notice of suspension

When to Notify: When original period of suspension is extended

Education or Other Legal Code: Education Code 48911  
Board Policy/Administrative Regulation #: See AR 5144.1  
Subject: Extension of suspension

When to Notify: At the time a student is assigned to a supervised suspension classroom

Education or Other Legal Code: Education Code 48911.1  
Board Policy/Administrative Regulation #: See AR 5144.1

Subject: The student's assignment to a supervised suspension classroom

When to Notify: Before holding a closed session re: suspension

Education or Other Legal Code: Education Code 48912

Board Policy/Administrative Regulation #: See AR 5144.1

Subject: Intent to hold a closed session re: suspension

When to Notify: When a student expelled from another district for certain acts seeks admission

Education or Other Legal Code: Education Code 48915.1, 48918

Board Policy/Administrative Regulation #: See BP 5119

Subject: Hearing re: possible danger presented by expelled student

When to Notify: When readmission is denied

Education or Other Legal Code: Education Code 48916

Board Policy/Administrative Regulation #: See AR 5144.1

Subject: Reasons for denial; determination of assigned program

When to Notify: When expulsion occurs

Education or Other Legal Code: Education Code 48916

Board Policy/Administrative Regulation #: See AR 5144.1

Subject: Readmission procedures

When to Notify: At least 10 calendar days before expulsion hearing

Education or Other Legal Code: Education Code 48918

Board Policy/Administrative Regulation #: See AR 5144.1

Subject: Notice of expulsion hearing

When to Notify: When expulsion or suspension of expulsion occurs

Education or Other Legal Code: Education Code 48918

Board Policy/Administrative Regulation #: See AR 5144.1

Subject: Decision to expel; right to appeal to county board; obligation to inform new district of status

When to Notify: Before involuntary transfer of student convicted of certain crime when victim is enrolled at same school

Education or Other Legal Code: Education Code 48929, 48980

Board Policy/Administrative Regulation #: See BP 5116.2

Subject: Right to request a meeting with principal or designee

When to Notify: One month before the scheduled minimum day

Education or Other Legal Code: Education Code 48980

Board Policy/Administrative Regulation #: See BP 6111

Subject: When minimum days are scheduled after the beginning of the school year

When to Notify: When parents/guardians request guidelines for filing complaint of child abuse at a school site

Education or Other Legal Code: Education Code 48987

Board Policy/Administrative Regulation #: See AR 5141.4

Subject: Guidelines for filing complaint of child abuse at a school site with local child protective agencies

When to Notify: When student in danger of failing a course  
Education or Other Legal Code: Education Code 49067  
Board Policy/Administrative Regulation #: See AR 5121  
Subject: Student in danger of failing a course

When to Notify: When student transfers from another district or private school into the district  
Education or Other Legal Code: Education Code 49068  
Board Policy/Administrative Regulation #: See AR 5125  
Subject: Right to receive copy of student's record and a hearing to challenge content of student's records

When/Whom to Notify: When parent/guardian's challenge of student record is denied and parent/guardian appeals  
Education or Other Legal Code: Education Code 49070  
Board Policy/Administrative Regulation #: See AR 5125.3  
Subject: If board sustains allegations, the correction of destruction of record; if denied, right to submit written objection

When/Whom to Notify: When district is considering program to gather safety-related information from students' social media activity  
Education or Other Legal Code: Education Code 49073.6  
Board Policy/Administrative Regulation #: See BP 5125  
Subject: Opportunity for input on proposed program

When/Whom to Notify: When district adopts program to gather information from students' social media activity, and annually thereafter  
Education or Other Legal Code: Education Code 49073.6  
Board Policy/Administrative Regulation #: AR 5125  
Subject: Information is being gathered, access to records, process for removal or corrections, destruction of records

When to Notify: Within 24 hours of release of information to a judge or probation officer  
Education or Other Legal Code: Education Code 49076  
Board Policy/Administrative Regulation #: See AR 5125  
Subject: Release of student record to a judge or probation officer for conducting truancy mediation program or for presenting evidence at a truancy petition

When to Notify: Before release of information pursuant to court order or subpoena  
Education or Other Legal Code: Education Code 49077  
Board Policy/Administrative Regulation #: See AR 5125  
Subject: Release of information pursuant to court order or subpoena

When to Notify: When screening results in suspicion that student has scoliosis  
Education or Other Legal Code: Education Code 49452.5  
Board Policy/Administrative Regulation #: See AR 5141.3

Subject: Scoliosis screening

When to Notify: When test results in discovery of visual or hearing defects

Education or Other Legal Code: Education Code 49456; 17 CCR 2951

Board Policy/Administrative Regulation #: See AR 5141.3

Subject: Vision or hearing test results

When to Notify: Within 10 days of negative balance in meal account

Education or Other Legal Code: Education Code 49557.5

Board Policy/Administrative Regulation #: See AR 3551

Subject: Negative balance in meal account; encouragement to apply for free or reduced price meals

When to Notify: Annually to parents/guardians of student athletes

Education or Other Legal Code: Education Code 49475

Board Policy/Administrative Regulation #: See AR 6145.2

Subject: Information on concussions and head injuries

When to Notify: Annually to parents/guardians of student athletes before their first practice or competition

Education or Other Legal Code: Education Code 49476

Board Policy/Administrative Regulation #: See AR 6145.2

Subject: Opioid fact sheet

When/Whom to Notify: Within 30 days of foster youth, ~~homeless youth~~ student experiencing homelessness, former juvenile court school student, child of military family, or migrant student being transferred after second year of high school, or immigrant student enrolled in newcomer program in grades 11-12

Education or Other Legal Code: Educational Code 51225.1

Board Policy/Administrative Regulation #: See BP 6146.1, See AR 6173, See AR 6173.1, AR 6173.3, See AR 6175

Subject: Exemption from local graduation requirements, effect on college admission, option for fifth year of high school, transfer opportunities through California Community Colleges

When to Notify: When satisfactory educational progress in one or more independent study courses is not being made by student under 18

Education or Other Legal Code: Educational Code 51749.5

Board Policy/Administrative Regulation #: See BP 6158

Subject: Findings from evaluation to determine if it is in student's best interest to remain in independent study or whether student should be referred to an alternative program.

When to Notify: Before any test/survey questioning personal beliefs

Education or Other Legal Code: Education Code 51513

Board Policy/Administrative Regulation #: See AR 5022

Subject: Permission for test, survey questioning personal beliefs

When to Notify: At least 14 days before HIV prevention or sexual health instruction, if arrangement made for guest speaker after beginning of school year

Education or Other Legal Code: Education Code 51938

Board Policy/Administrative Regulation #: See AR 6142.1  
Subject: Instruction in HIV prevention or sexual health by guest speaker or outside consultant

When to Notify: Prior to administering survey regarding health risks and behaviors to students in 7-12

Education or Other Legal Code: Education Code 51938

Board Policy/Administrative Regulation #: See AR 5022

Subject: Notice that the survey will be administered

When to Notify: Within 30 calendar days of receipt of results of assessment or reassessment of English proficiency

Education or Other Legal Code: Education Code 52164.1, 52164.3; 5 CCR 11511.5

Board Policy/Administrative Regulation #: See AR 6174

Subject: Results of state test of English proficiency

When to Notify: When migrant education program is established

Education or Other Legal Code: Education Code 54444.2

Board Policy/Administrative Regulation #: See BP 6175, See AR 6175

Subject: Parent advisory council membership composition

When to Notify: When child participates in licensed child care and development program

Education or Other Legal Code: Health and Safety Code 1596.857; 22 CCR 101218.1

Board Policy/Administrative Regulation #: See AR 5148

Subject: Parent/guardian right to enter and inspect facility and other rights as specified

When to Notify: When a licensed child care center has a building constructed before January 1, 2010 and has drinking water tested for lead

Education or Other Legal Code: Health and Safety Code 1597.16

Board Policy/Administrative Regulation #: See AR 5148

Subject: The requirement to test the facility, and the results of the test

When/Whom to Notify: When district receives Tobacco-Use Prevention Education Funds

Education or Other Legal Code: Health and Safety Code 104420

Board Policy/Administrative Regulation #: See AR 3513.3

Subject: The district's tobacco-free schools policy and enforcement procedures

When to Notify: When testing by community water system finds presence of lead exceeding specified level

Education or Other Legal Code: Health and Safety Code 116277

Board Policy/Administrative Regulation #: See AR 3514

Subject: Elevated lead level at school

When to Notify: When sharing student immunization information with an immunization system

Education or Other Legal Code: Health and Safety Code 120440

Board Policy/Administrative Regulation #: See AR 5125

Subject: Types of information to be shared, name and address of agency, acceptable use of the information, right to examine, right to refuse to share

When/Whom to Notify: At least 14 days prior to sex offender coming on campus as volunteer

Education or Other Legal Code: Penal Code 626.81

Board Policy/Administrative Regulation #: See AR 1240, See BP 1250

Subject: Dates and times permission granted; obtaining information from law enforcement

When to Notify: When hearing is requested by person asked to leave school premises  
Education or Other Legal Code: Penal Code 627.5  
Board Policy/Administrative Regulation #: See AR 3515.2  
Subject: Notice of hearing

When/Whom to Notify: When responding to complaint re: discrimination, special education, or noncompliance with law  
Education or Other Legal Code: 5 CCR 4631  
Board Policy/Administrative Regulation #: See AR 1312.3  
Subject: Findings, disposition of complaint, any corrective actions, appeal rights and procedures

When to Notify: When child participates in licensed child care and development program  
Education or Other Legal Code: 5 CCR 18066  
Board Policy/Administrative Regulation #: See AR 5148  
Subject: Policies regarding excused and unexcused absences

When to Notify: Within 30 days of application for subsidized child care or preschool services  
Education or Other Legal Code: 5 CCR 17782, 18094, 18118  
Board Policy/Administrative Regulation #: See AR 5148, See AR 5148.3  
Subject: Policies re: Approval or denial of services

When to Notify: At least 14 days before change in service or other intended action, upon recertification or update of application for child care or preschool services  
Education or Other Legal Code: 5 CCR 17783, 18095, 18119  
Board Policy/Administrative Regulation #: See AR 5148, See AR 5148.3  
Subject: Policies re: Any change in service, such as in fees, amount of service, termination of service

When to Notify: Upon child's enrollment in child care program  
Education or Other Legal Code: 5 CCR 18114  
Board Policy/Administrative Regulation #: See AR 5148  
Subject: Policies re: Policy on fee collection

When to Notify: When payment of child care fees is seven days late  
Education or Other Legal Code: 5 CCR 18114  
Board Policy/Administrative Regulation #: See AR 5148  
Subject: Policies re: Notice of delinquent fees

When to Notify: When district substantively changes policy on student privacy rights  
Education or Other Legal Code: 20 USC 1232h  
Board Policy/Administrative Regulation #: See AR 5022  
Subject: Notice of any substantive change in policy or regulation

When to Notify: For districts receiving Title I funds, when a child has been assigned or taught for four or more consecutive weeks by a teacher who does not meet state certification requirements for the grade level/subject taught  
Education or Other Legal Code: 20 USC 6312  
Board Policy/Administrative Regulation #: See AR 4112.24  
Subject: Timely notice to parent/guardian of child's assignment

When to Notify: For districts receiving Title I funds, not later than 30 days after beginning of

school year, to parents/guardians of English learners  
Education or Other Legal Code: 20 USC 6312  
Board Policy/Administrative Regulation #: See AR 6174  
Subject: Reasons for placement, level of proficiency, instructional methods, how program meets child's strengths and teaches English, exit requirements, right to choose another program

When to Notify: For schools receiving Title I funds, upon development of parent involvement policy  
Education or Other Legal Code: 20 USC 6318  
Board Policy/Administrative Regulation #: See AR 6020  
Subject: Notice of policy

When to Notify: When district ~~receives~~receives Impact Aid funds for students residing on Indian lands, to ~~parents~~parents/guardians of Indian children  
Education or Other Legal Code: 20 USC 7704; 34 CFR 222.94  
Board Policy/Administrative Regulation #: See AR 3231  
Subject: Relevant applications, evaluations, program plans, information about district's general educational program; opportunity to submit comments

When to Notify: When household is selected for verification of eligibility for free or reduced-price meals  
Education or Other Legal Code: 42 USC 1758; 7 CFR 245.6a  
Board Policy/Administrative Regulation #: See AR 3553  
Subject: Need to submit verification information; any subsequent change in benefits; appeals

When/Whom to Notify: When student is homeless or unaccompanied minor  
Education or Other Legal Code: ~~42 USC 11432~~; Education Code 48852.5, 42 USC 11432  
Board Policy/Administrative Regulation #: See AR 6173  
Subject: Educational and related opportunities; transportation services; placement decision and right to appeal; duties of district liaison; public notice

When to Notify: When student transfers out of state and records are disclosed without consent pursuant to 34 CFR 99.30  
Education or Other Legal Code: 34 CFR 99.34  
Board Policy/Administrative Regulation #: See AR 5125  
Subject: Right to receive records and an opportunity for hearing upon request

When to Notify: When student complains of sexual harassment  
Education or Other Legal Code: 34 CFR 106.44, 106.45  
Board Policy/Administrative Regulation #: See AR 5145.7  
Subject: Right to file formal complaint, availability of supportive measures, notice of process, reason for dismissal of ~~complaint~~complaint if applicable

When to Notify: When district receives federal funding assistance for nutrition program  
Education or Other Legal Code: USDA FNS Instruction 113-1  
Board Policy/Administrative Regulation #: See BP 3555  
Subject: Rights and responsibilities, nondiscrimination policy, complaint procedures

#### **IV. Special Education Notices**

When to Notify: Prior to a student with disabilities beginning tenth grade

Education or Other Legal Code: Educational Code 51225.31  
Board Policy/Administrative Regulation #: See BP 6146.1  
Subject: Exemption from local graduation requirements

When to Notify: Prior to conducting initial evaluation

Education or Other Legal Code: Education Code 56301, 56321, 56321.5, 56321.6, 56329; 20 USC 1415 (d); 34 CFR 300.502, 300.503

Board Policy/Administrative Regulation #: See BP 6159.1, See AR 6159.1, See AR 6164.4

Subject: Proposed evaluation plan, related parental rights, prior written notice, procedural safeguards

When/Whom to Notify: Before functional behavioral assessment begins

Education or Other Legal Code: Education Code 56321

Board Policy/Administrative Regulation #: See AR 6159

Subject: Notification and consent

When to Notify: 24 hours before IEP when district intending to record

Education or Other Legal Code: Education Code 56341.1

Board Policy/Administrative Regulation #: See AR 6159

Subject: Intention to audio-record IEP meeting

When to Notify: Early enough to ensure opportunity for parent to attend IEP meeting

Education or Other Legal Code: Education Code 56341.5; 34 CFR 300.322

Board Policy/Administrative Regulation #: See AR 6159

Subject: Time, purpose, location, who will attend, participation of others with special knowledge, transition statements if appropriate

When to Notify: When parent/guardian orally requests review of IEP

Education or Other Legal Code: Education Code 56343.5

Board Policy/Administrative Regulation #: See AR 6159

Subject: Need for written request

When to Notify: Within one school day of emergency intervention or serious property damage

Education or Other Legal Code: Education Code 56521.1

Board Policy/Administrative Regulation #: See AR 6159.4

Subject: Emergency intervention

When to Notify: Whenever there is a proposal or refusal to initiate or change the identification, evaluation, placement, or FAPE, including when parent/guardian revokes consent for services

Education or Other Legal Code: 20 USC 1415(c); 34 CFR 300.300, 300.503

Board Policy/Administrative Regulation #: See AR 6159, See AR 6159.1

Subject: Prior written notice

When/Whom to Notify: Upon filing of state complaint

Education or Other Legal Code: 20 USC 1415(d), 34 CFR 300.504

Board Policy/Administrative Regulation #: See AR 6159.1

Subject: Procedural safeguards notice

When/Whom to Notify: When disciplinary measures are taken or a change in placement

Education or Other Legal Code: 20 USC 1415(k); 34 CFR 300.530

Board Policy/Administrative Regulation #: See AR 5144.2

Subject: Decision and procedural safeguards notice

When to Notify: Upon requesting a due process hearing

Education or Other Legal Code: 20 USC 1415(k), 34 CFR 300.508

Board Policy/Administrative Regulation #: See AR 6159.1

Subject: Child's name, address, school, description of problem, proposed resolution

When to Notify: Eligibility for services under Section 504

Education or Other Legal Code: 34 CFR 104.32, 104.36

Board Policy/Administrative Regulation #: See AR 6164.6

Subject: District responsibilities, district actions, procedural safeguards

## V. Classroom Notices

~~When~~**Where to Notify**~~Post~~: In all district schools and offices, including staff lounges and student government meeting rooms

Education or Other Legal Code: Education Code 234.1

Board Policy/Administrative Regulation #: See AR 1312.3

Subject: Uniform complaint procedures board policy and administrative regulation

~~When~~**Where to Notify**~~Post~~: In each classroom used for license exempt California State Preschool Program

Education or Other Legal Code: Education Code 8212

Board Policy/Administrative Regulation #: See AR/E 1312.3

Subject: Health and safety requirements for preschool programs; where to get complaint form

~~When to Notify~~: In each classroom in each school

Education or Other Legal Code: Education Code 35186

Board Policy/Administrative Regulation #: See AR/E 1312.4

Subject: Complaints subject to Williams uniform complaint procedures

~~When to Notify~~**Where to Post**: In each classroom in each school

Education or Other Legal Code: Education Code 35186

Board Policy/Administrative Regulation #: See AR/E 1312.4

Subject: Complaints subject to Williams uniform complaint procedures

~~When to Notify~~: **Where to Post**: In any school serving any of grades 6-12, in a prominent and conspicuous location in every restroom required to stock menstrual products.

Education or Other Legal Code: Education Code 35292.6

Board Policy/Administrative Regulation #: See AR 3517

Subject: Requirement to stock and make available free of cost an adequate supply of menstrual products that includes email address and telephone number for a designated individual responsible for maintaining requisite supply of menstrual products

**Where to Post**: In a licensed child care and development center at a location accessible to parents/guardians

Education or Other Legal Code: Health and Safety Code ~~596~~**1596**.857

Board Policy/Administrative Regulation #: See AR 5148

Subject: Parent/guardian right to inspect, prohibition against retaliation, right to file complaint; registered sex offender database available to public; review licensing reports of facility visits and substantiated complaints against facility

Where to Post: In a prominent, publicly accessible location in the child care facility  
Education or Other Legal Code: Health and Safety Code 1596.8555  
Board Policy/Administrative Regulation #: See AR 5148  
Subject: Child care license

Where to Post: In a prominent location adjacent to child care license at facility  
Education or Other Legal Code: Welfare and Institutions Code 10228  
Board Policy/Administrative Regulation #: See AR 5148  
Subject: Rates, discounts, or scholarship policies

#### 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 2950-2951	Hearing tests
17 CCR 6000-6075	School attendance immunization requirements
22 CCR 101218.1	Child care licensing; parent/guardian rights
5 CCR 11303	Reclassification of English learners
5 CCR 11511.5	English language proficiency assessment; test results
5 CCR 11523	Notice of proficiency examinations
<u>5 CCR 17782</u>	<u>Notice of Action; application for services</u>
<u>5 CCR 17783</u>	<u>Notice of Action; recipient of services</u>
5 CCR 18066	Child care policies regarding excused and unexcused absences
5 CCR 18094-18095	Notice of Action; child care services
5 CCR 18114	Notice of delinquent fees; child care services
5 CCR 18118-18119	Notice of Action; child care services
5 CCR 3052	Behavioral intervention
5 CCR 4622	Uniform complaint procedures
5 CCR 4631	Uniform complaint procedures; notification of decision and right to appeal
5 CCR 4917	Notification of sexual harassment policy
5 CCR 852	Exemptions from state assessments

5 CCR 863	Reports of state assessment results
Civ. Code 1798.29	District records; breach of security
Ed. Code 17288	Building standards for university campuses
Ed. Code 17612	Notification of pesticide use
Ed. Code 221.5	Equal opportunity
Ed. Code 231.5	Sexual harassment policy
Ed. Code 234.1	Student protections relating to discrimination, harassment, intimidation, and bullying
Ed. Code 234.7	Student protections relating to immigration and citizenship status
Ed. Code 262.3	Appeals for discrimination complaints; information regarding availability of civil remedies
Ed. Code 310	Language acquisition programs
Ed. Code 313	Reclassification of English learners; parental consultation
Ed. Code 313.2	Long-term English learner; notification
Ed. Code 32221.5	Insurance for athletic team members
Ed. Code 32255-32255.6	Student's right to refrain from harmful or destructive use of animals
Ed. Code 32390	Voluntary program for fingerprinting students
Ed. Code 33479-33479.9	The Eric Parades Sudden Cardiac Arrest Prevention Act
Ed. Code 33479.3	The Eric Paredes Sudden Cardiac Arrest Prevention Act
Ed. Code 35160.5	Extracurricular and cocurricular activities
Ed. Code 35178.4	Notice of accreditation status
Ed. Code 35182.5	Advertising in the classroom
Ed. Code 35183	School dress code; uniforms
Ed. Code 35186	Complaints concerning deficiencies in instructional materials and facilities
Ed. Code 35211	Driver training; district insurance, parent/guardian liability
Ed. Code 35256	School Accountability Report Card
Ed. Code 35258	School Accountability Report Card
Ed. Code 35291	Rules for student discipline
<u>Ed. Code 35292.6</u>	<u>School maintenance</u>

Ed. Code 37616	<del>Notice of public hearing on year-round schedule</del> Consultation regarding year-round schedule
Ed. Code 39831.5	School bus rider rules and information
Ed. Code 440	English language proficiency assessment; instruction in English language development
Ed. Code 44050	Employee code of conduct; interaction with students
Ed. Code 44808.5	Permission to leave school grounds
Ed. Code 46010.1	Notice regarding excuse to obtain confidential medical services
Ed. Code 46014	Regulations regarding absences for religious purposes
Ed. Code 46162	Alternative schedule for junior high and high school; public hearing with notice
Ed. Code 46600-46611	Interdistrict attendance agreements
Ed. Code 48000	Minimum age of admission
Ed. Code 48070.5	Promotion and retention of students
Ed. Code 48204	Residency requirements
Ed. Code 48205	Absence for personal reasons
Ed. Code 48206.3	Students with temporary disabilities; individual instruction; definitions
Ed. Code 48207-48208	Students with temporary disabilities in hospitals
Ed. Code 48213	Prior notice of exclusion from attendance
Ed. Code 48216	Immunization and exclusion from attendance
Ed. Code 48260.5	Notice regarding truancy
Ed. Code 48262	Need for parent conference regarding truancy
Ed. Code 48263	Referral to school attendance review board or probation department
Ed. Code 48301	Interdistrict transfers
Ed. Code 48412	Certificate of proficiency
Ed. Code 48432.3	Voluntary enrollment in continuation education
Ed. Code 48432.5	Involuntary transfers of students
Ed. Code 48850-48859	Education of foster youth and homeless students
Ed. Code 48900.1	Parental attendance required after suspension
Ed. Code 48904	Liability of parent/guardian for willful student misconduct

Ed. Code 48904-48904.3	Withholding grades, diplomas, or transcripts
Ed. Code 48906	Notification of release of student to peace officer
Ed. Code 48911	Notification in case of suspension
Ed. Code 48911.1	Assignment to supervised suspension classroom
Ed. Code 48912	Closed sessions; consideration of suspension
Ed. Code 48915.1	Expelled students; enrollment in another district
Ed. Code 48916	Readmission procedures
Ed. Code 48918	Rules governing expulsion procedures
Ed. Code 48929	Transfer of student convicted of violent felony or misdemeanor
Ed. Code 48980	Parent/Guardian notifications
Ed. Code 48980.3	Notification of pesticide use
Ed. Code 48981	Time and means of notification
Ed. Code 48982	Parent signature acknowledging receipt of notice
Ed. Code 48983	Contents of notice
Ed. Code 48984	Activities prohibited unless notice given
Ed. Code 48985	Notices to parents in language other than English
<u>Ed. Code 48986</u>	<u>Safe storage of firearms</u>
Ed. Code 48987	Child abuse information
Ed. Code 49013	Use of uniform complaint procedures for complaints regarding student fees
Ed. Code 49063	Notification of parental rights
Ed. Code 49067	Student evaluation; student in danger of failing course
Ed. Code 49068	Transfer of permanent enrollment and scholarship record
Ed. Code 49069	Absolute right to access
Ed. Code 49070	Challenging content of student record
Ed. Code 49073	Release of directory information
Ed. Code 49073.6	Student records; social media
Ed. Code 49076	Access to student records
Ed. Code 49077	Access to information concerning a student in compliance with court order
<u>Ed. Code 49392</u>	<u>Threats of homicide at school</u>

Ed. Code 49403	Cooperation in control of communicable disease and immunizations
Ed. Code 49423	Administration of prescribed medication for student
Ed. Code 49451	Physical examinations: parent's refusal to consent
Ed. Code 49452.5	Screening for scoliosis
<a href="#"><u>Ed. Code 49452.6</u></a>	<a href="#"><u>Type 1 diabetes informational materials</u></a>
Ed. Code 49452.7	Information on type 2 diabetes
Ed. Code 49452.8	Oral health assessment
<a href="#"><u>Ed. Code 49455.5</u></a>	<a href="#"><u>Eye examination for purpose of eyeglasses</u></a>
Ed. Code 49456	Results of vision or hearing test
Ed. Code 49471-49472	Insurance
Ed. Code 49475	Student athletes; concussions and head injuries
Ed. Code 49476	Student athletes; opioid fact sheet
Ed. Code 49480	Continuing medication regimen for nonepisodic conditions
Ed. Code 49510-49520	Duffy-Moscone Family Nutrition Education and Services Act of 1970
Ed. Code 49557.5	Child Hunger Prevention and Fair Treatment Act of 2017; notice of negative balance in meal account
Ed. Code 51225.1	Exemption from district graduation requirements
Ed. Code 51225.2	Course credits
Ed. Code 51225.3	High school graduation requirements
<a href="#"><u>Ed. Code 51225.31</u></a>	<a href="#"><u>Graduation from high school; exemption for eligible students with special needs</u></a>
Ed. Code 51225.8	Completion and submission of FAFSA and CADAA
Ed. Code 51229	Course of study for grades 7-12
Ed. Code 51513	Personal beliefs; privacy
<a href="#"><u>Ed. Code 51749.5</u></a>	<a href="#"><u>Independent study</u></a>
Ed. Code 51938	HIV/AIDS and sexual health instruction
<a href="#"><u>Ed. Code 52062</u></a>	<a href="#"><u>Local control and accountability plans and the statewide system of support</u></a>
Ed. Code 52164	Language census
Ed. Code 52164.1	Census-taking methods; determination of primary language; assessment of language skills

Ed. Code 52164.3	Reassessment of English learners; notification of results
Ed. Code 54444.2	Migrant education programs; parent involvement
Ed. Code 56301	Child-find system; policies regarding written notification rights
Ed. Code 56321	Special education: proposed assessment plan
Ed. Code 56321.5-56321.6	Notice of parent rights pertaining to special education
Ed. Code 56329	Written notice of right to findings; independent assessment
Ed. Code 56341.1	Development of individualized education program; right to audio record meeting
Ed. Code 56341.5	Individualized education program team meetings
Ed. Code 56343.5	Individualized education program meetings
Ed. Code 56521.1	Behavioral intervention
Ed. Code 58501	Alternative schools; notice required prior to establishment
Ed. Code 60615	Exemption from state assessment
Ed. Code 60641	California Assessment of Student Performance and Progress
Ed. Code 69432.9	Submission of grade point average to Cal Grant program
Ed. Code 8212	Complaints related to preschool health and safety issues
Ed. Code 8483	Before/after school program; enrollment priorities
<u>Ed. Code 8489</u>	<u>Expulsion and suspension procedures in childcare and development services programs</u>
<u>Ed. Code 8489.1</u>	<u>Expulsion and suspension procedures in childcare and development services programs</u>
H&S Code 104420	Tobacco use prevention
H&S Code 104855	Availability of topical fluoride treatment
H&S Code 116277	Lead testing of school drinking water
H&S Code 120365-120375	Immunizations
H&S Code 120440	Sharing immunization information
H&S Code 124100-124105	Health screening and immunizations
<u>H&amp;S Code 1596.8555</u>	<u>Administration of child day care licensing; posting license</u>
H&S Code 1596.857	Right to enter child care facility
H&S Code 1597.16	Licensed child care centers; lead testing

Pen. Code 626.81

Notice of permission granted to sex offender to volunteer on campus

Pen. Code 627.5

Hearing request following denial or revocation of registration

W&I Code 10228

Child care providers; posting of rates, discounts, and scholarships

**Federal**

**Description**

20 USC 1232g

Family Educational Rights and Privacy Act (FERPA) of 1974

20 USC 1232h

Privacy rights

20 USC 1415

Procedural safeguards

20 USC 6311

State plan

20 USC 6312

Local educational agency plan

20 USC 6318

Parent and family engagement

20 USC 7704

Impact Aid; policies and procedures related to children residing on Indian lands

20 USC 7908

Armed forces recruiter access to students

34 CFR 104.32

District responsibility to provide free appropriate public education

34 CFR 104.36

Procedural safeguards

34 CFR 104.8

Nondiscrimination

34 CFR 106.9

Severability

34 CFR 200.48

Teacher qualifications

34 CFR 222.94

Impact Aid; district responsibilities

34 CFR 300.300

Parent consent for special education evaluation

34 CFR 300.322

Parent participation in IEP team meetings

34 CFR 300.502

Independent educational evaluation of student with disability

34 CFR 300.503

Prior written notice regarding identification, evaluation, or placement of student with disability

34 CFR 300.504

Procedural safeguards notice for students with disabilities

34 CFR 300.508

Due process complaint

34 CFR 300.530

Discipline procedures

34 CFR 99.30

Disclosure of personally identifiable information

34 CFR 99.34

Student records; disclosure to other educational agencies

34 CFR 99.37

Disclosure of directory information

34 CFR 99.7	Student records; annual notification
40 CFR 763.84	Asbestos inspections, response actions, and post-response actions
40 CFR 763.93	Asbestos management plans
42 USC 11431-11435	McKinney-Vento Homeless Assistance Act
42 USC 1758	Child nutrition programs
7 CFR 245.5	Eligibility criteria for free and reduced-price meals
7 CFR 245.6a	Verification of eligibility for free and reduced-price meals
<b>Management Resources</b>	<b>Description</b>
U.S. Department of Agriculture Publication	Civil Rights Compliance and Enforcement -- Nutrition Programs and Services, FNS Instruction 113-1, 2005
Website	CSBA District and County Office of Education Legal Services
Website	U.S. Department of Agriculture, Food and Nutrition Service

#### **Cross References**

<b>Code</b>	<b>Description</b>
0410	Nondiscrimination In District Programs And Activities
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
0510	School Accountability Report Card
1240	Volunteer Assistance
1240	Volunteer Assistance
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
3231	Impact Aid
3260	Fees And Charges
3260	Fees And Charges
3312	Contracts

3513.3	Tobacco-Free Schools
3513.3	Tobacco-Free Schools
3514	Environmental Safety
3514	Environmental Safety
3514.2	Integrated Pest Management
3515.5	Sex Offender Notification
3515.5	Sex Offender Notification
<u>3517</u>	<u>Facilities Inspection</u>
3543	Transportation Safety And Emergencies
<u>3550</u>	<u>Food Service/Child Nutrition Program</u>
3551	Food Service Operations/Cafeteria Fund
3551	Food Service Operations/Cafeteria Fund
3553	Free And Reduced Price Meals
3553	Free And Reduced Price Meals
3555	Nutrition Program Compliance
3555-E(1)	Nutrition Program Compliance
3580	District Records
3580	District Records
4112.2	Certification
4112.2	Certification
4219.21	Professional Standards
4219.21-E(1)	Professional Standards
4222	Teacher Aides/Paraprofessionals
4222	Teacher Aides/Paraprofessionals
4319.21	Professional Standards
4319.21-E(1)	Professional Standards
5000	Concepts And Roles
5020	Parent Rights And Responsibilities
5020	Parent Rights And Responsibilities
5022	Student And Family Privacy Rights
5022	Student And Family Privacy Rights

5030	Student Wellness
5111	Admission
5111	Admission
5111.1	District Residency
5111.1	District Residency
5112.2	Exclusions From Attendance
5112.5	Open/Closed Campus
5113	Absences And Excuses
5113	Absences And Excuses
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy
5116.1	Intradistrict Open Enrollment
5116.1	Intradistrict Open Enrollment
5116.2	Involuntary Student Transfers
5117	Interdistrict Attendance
5117	Interdistrict Attendance
5119	Students Expelled From Other Districts
5123	Promotion/Acceleration/Retention
5123	Promotion/Acceleration/Retention
5125	Student Records
5125	Student Records
5125.1	Release Of Directory Information
5125.1	Release Of Directory Information
5125.1-E(1)	Release Of Directory Information
5125.2	Withholding Grades, Diploma Or Transcripts
5125.3	Challenging Student Records
5131.61	Drug Testing
5132	Dress And Grooming
5132	Dress And Grooming
5141.21	Administering Medication And Monitoring Health Conditions
5141.21	Administering Medication And Monitoring Health Conditions

5141.3	Health Examinations
5141.3	Health Examinations
5141.31	Immunizations
5141.31	Immunizations
5141.32	Health Screening For School Entry
5141.6	School Health Services
5141.6	School Health Services
5142.1	Identification And Reporting Of Missing Children
5143	Insurance
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5144	Discipline
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5144.1	Suspension And Expulsion/Due Process
5144.1	Suspension And Expulsion/Due Process
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5144.4	Required Parental Attendance
5144.4	Required Parental Attendance
5145.12	Search And Seizure
5145.12	Search And Seizure
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.7	Sexual Harassment
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5148.3	Preschool/Early Childhood Education
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6142.1	Sexual Health And HIV/AIDS Prevention Instruction
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6142.8	Comprehensive Health Education
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6143	Courses Of Study
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6146.1	High School Graduation Requirements
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6159.1	Procedural Safeguards And Complaints For Special Education
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6162.51	State Academic Achievement Tests
6162.51	State Academic Achievement Tests

6162.8	Research
6162.8	Research
6164.2	Guidance/Counseling Services
6164.4	Identification And Evaluation Of Individuals For Special Education
6164.4	Identification And Evaluation Of Individuals For Special Education
6164.6	Identification And Education Under Section 504
6164.6	Identification And Education Under Section 504
6170.1	Transitional Kindergarten
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
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<u>6173.4</u>	<u>Education for American Indian Students</u>
6175	Migrant Education Program
6175	Migrant Education Program
6178	Career Technical Education
6178	Career Technical Education
6181	Alternative Schools/Programs Of Choice
6181	Alternative Schools/Programs Of Choice
6183	Home And Hospital Instruction
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6190	Evaluation Of The Instructional Program
9310	Board Policies

**Policy 5148: Child Care And Development**

**Status: ADOPTED**

Original Adopted Date: 03/01/2009 | Last Revised Date: 12/06/01/2021/2023 | Last Reviewed  
Date: 12/06/01/2021/2023

CSBA NOTE: The following optional policy may be revised to reflect the type(s) of child care and development programs offered by the district.

The Child Care and Development Services Act (Welfare and Institutions Code 10207-~~10490~~10492.2) establishes a variety of child care programs including resource and referral programs (Welfare and Institutions Code 10217-10224.5; 5 CCR 18240-~~18248~~18249), alternative payment programs (Welfare and Institutions Code 10225-10234; 5 CCR 18220-18231), migrant child care and development programs (Welfare and Institutions Code 10235-10238), general child care and development programs (Welfare and Institutions Code 10240-10243), and programs for children with special needs (Welfare and Institutions Code 10260-10263).

Pursuant to Welfare and Institutions Code 10200-10206, effective July 1, 2021, the state's responsibility

The Early Education Expansion Program (Education Code 8337, as amended by AB 210 (Ch. 62, Statutes of 2022)) provides grant funding, as specified, until June 30, 2027, for administering these the purpose of increasing access to inclusive early care and education programs transferred from . Additionally, the California Department of Education (CDE) has developed a Universal Prekindergarten resources landing page, "Universal Prekindergarten (UPK), California's Great Start," designed for use by districts that operate California State Preschool Programs (CSPP), Head Start programs, transitional kindergarten, and child care providers.

Effective July 1, 2021, administrative authority over the state's child care and development programs was statutorily transferred from CDE to the California Department of Social Services (CDSS). AB 131 (Ch. 116, Statutes of 2021) repeals the, pursuant to Welfare and Institutions Code 10200-10206. Accordingly, the related statutes governing such programs were repealed from the Education Code and reenacts them reenacted in the Welfare and Institutions Code. Pursuant to Welfare and Institutions Code 10205, all existing regulations relating to child care programs that have been adopted by CDE are expressly continued in force, unless they conflict with law.

Education Code 8207, as added by AB 131, Additionally, pursuant to Welfare and Institutions Code 10206, as amended by AB 210, the date by which CDE and CDSS are required to adopt implementing regulations related to early childhood development has been extended to December 31, 2025.

Education Code 8207 clarifies that the Superintendent of Public Instruction (SPI) and CDE retain administrative supervision of the California State Preschool Program (CSPP). CSPP.

For requirements pertaining to before-school and after-school programs, including the After-School Education and Safety program (Education Code 8482-8484.65) and, 21st Century Community Learning Centers (Education Code 8484.7-8484.8), and Expanded Learning Opportunities Program (Education Code 46120), see BP/AR 5148.2 - Before/After School

Programs. For requirements pertaining to preschool programs for children ages 3-4 pursuant to the CSPP, as amended by AB 130 (Ch. 44, Statutes of 2021) and AB 131, (Education Code 8200-8340) see BP/AR 5148.3 - Preschool/Early Childhood Education.

The Governing Board desires to provide child care and development services which meet the developmental needs of children and offer a convenient child care alternative for parents/guardians in the community.

The Board shall enter into a contract with the California Department of Social Services (CDSS) for the provision of child care and development services by the district.

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. Welfare and Institutions Code 10480-10487, as amended and renumbered by AB 131, establish county-level child care and development planning councils, with members selected by the County Board of Supervisors and County Superintendent of Schools, to identify local priorities for child care and to develop policies to meet identified needs.

The district shall work cooperatively with the local child care and development planning council, public and private agencies, parents/guardians, and other community members to assess child care needs in the community, establish program priorities, obtain ongoing feedback on program quality, and supply information about child care options.

CSBA NOTE: Pursuant to 5 CCR 18271, the district must have a written philosophical statement, goals, and objectives, approved by the Governing Board, which address each program component specified in 5 CCR 18272-18281. See the accompanying administrative regulation for required program components.

The Board shall approve for the district's child care and development program a written philosophical statement, goals, and objectives that reflect the cultural and linguistic characteristics of the families to be served and address the program components specified in 5 CCR 18272-18281 and the accompanying administrative regulation. (5 CCR 18271)

CSBA NOTE: AB 131 allocates additional funds to provide subsidized child care programs with COVID-19 pandemic-related assistance. To receive the additional funding, a child care program that is funded to be operational, but which is physically closed by local or state public health order or guidance due to the COVID-19 pandemic, is required to provide distance learning services as specified by CDSS.

When a district child care program is physically closed by local or state public health order due to the COVID-19 pandemic, the district shall provide distance learning when required to do so as a condition of funding or when required by law.

### **Eligibility and Enrollment**

CSBA NOTE: Pursuant to 5 CCR 18105, districts contracting to offer child care services are mandated to develop written admissions policies and procedures that conform to the requirements of 22 CCR 101218, as provided below. See the accompanying administrative regulation for additional language that fulfills this mandate.

Child care admissions policies and procedures shall be in writing and available to the public. Such policies and procedures shall include criteria designating those children whose needs can be met by the child care center's program and services, the ages of children who will be accepted, program activities, any supplementary services provided, any field trip provisions, any transportation arrangements, food service provisions, and health examination requirements. (5 CCR 18105; 22 CCR 101218)

CSBA NOTE: Welfare and Institutions Code 10271 and 5 CCR 18106 establish eligibility criteria and priorities for subsidized child care services, as provided below and in the accompanying administrative regulation.

Eligibility is generally limited to children who reside within district boundaries. However, Welfare and Institutions Code 10332 and 5 CCR 18107 authorize the Board to enter into an agreement with the boards of other districts to serve children who reside within those districts. The district may revise the following paragraph to reflect any such agreement approved by the Board.

The Superintendent or designee shall ensure that subsidized child care ~~is~~ services are provided to eligible families to the extent that state and/or federal funding is available and in accordance with enrollment priorities specified in Welfare and Institutions Code 10271 and 5 CCR 18106.

CSBA NOTE: The following paragraph is optional and may be revised to reflect any district-established priorities for nonsubsidized services.

To the extent that space is available after the enrollment of children who are eligible for subsidized services, priority for admissions shall be given to district students, children of district students, and children of district employees.

CSBA NOTE: Pursuant to Education Code 48000, as amended by AB 130, a child's eligibility for transitional kindergarten enrollment may not impact family eligibility for a preschool or childcare program.

A child's eligibility for transitional kindergarten enrollment shall not impact family eligibility for a childcare or preschool program. (Education Code 48000)

### Staffing

CSBA NOTE: The Commission on Teacher Credentialing (CTC) issues permits for child development program directors, site supervisors, master teachers, teachers, associate teachers, and assistants pursuant to criteria established in Welfare and Institutions Code 10380 - 10387.5 and 5 CCR 80105-80125. The district may request a waiver of the qualification requirements for a site supervisor upon demonstration of a compelling need, in accordance with Welfare and Institutions Code 10213.5 and 5 CCR 18295.

Additionally, CTC has adopted 5 CCR 80067, 80067.1, and 80067.2, which are pending approval by the Office of Administrative Law, pertaining to the prekindergarten-grade 3 early childhood education specialist credential, that include requirements, and accelerated pathways to meet the requirements, in an effort to increase the number of early childhood education teachers to support UPK; see CTC Coded Correspondence 23-02 for more information regarding the regulations.

Health and Safety Code 1596.7995 requires that employees and volunteers at a day care center be immunized against influenza, pertussis, and measles, with specified exemptions. In addition, Health and Safety Code 1597.055 requires that teachers in a day care center obtain a tuberculosis clearance. See the accompanying administrative regulation.

Welfare and Institutions Code 10208 specifies indicators for the implementation of quality programs, which, as amended by AB 210, requires that staff have the appropriate and required training, or any combination of qualifications, experience, or training.

The Superintendent or designee shall ensure that individuals working in child care and development programs have the necessary qualifications, experience, and training, and have satisfied all legal requirements.

## Facilities

CSBA NOTE: Optional ~~items~~ **Items** #1-5 below present examples of methods that may be used to provide facilities for child care services and may be revised to reflect district practice.

Upon recommendation of the Superintendent or designee, the Board may approve any of the following for the provision of child care and development services:

1. The use of existing district facilities that have capacity
2. Renovation or improvement of district facilities to make them suitable for such services
3. Purchase of relocatable child care facilities
4. Inclusion of child care facilities in any new construction
5. Agreement with a public agency or community organization for the use of community facilities

CSBA NOTE: Health and Safety Code 1596.804, as added by AB 2827 (Ch. 916, Statutes of 2022), requires CDSS to revise its regulations to permit children with disabilities to use outdoor play spaces simultaneously with children who do not have disabilities without having to first seek a regulatory waiver and to specify any health and safety requirements that are required to be met when simultaneous play occurs.

The Superintendent or designee shall ensure that facilities used for child care services meet all applicable health and safety standards. (5 CCR 18020; 22 CCR 101238-101239.2)

## Complaints

CSBA NOTE: Pursuant to 5 CCR 4610, the district's uniform complaint procedures should be used to resolve any complaint alleging violation of state or federal laws governing educational programs, including child care and development programs; see BP/AR 1312.3 - Uniform Complaint Procedures. However, 5 CCR 4611, as amended by Register 2020, No. 21, provides that health and safety complaints regarding licensed facilities that operate a child care and development program should be referred to CDSS as described in the following paragraph and BP 1312.3.

Pursuant to 22 CCR 101156, all child care centers must be licensed by CDSS unless exempted by law. See the accompanying administrative regulation for information about child care programs that are exempted from licensure requirements. If all of the district's child care services are license-exempt, the following paragraph may be deleted.

For a licensed child care center, any complaint alleging health and safety violations shall be referred to CDSS. (5 CCR 4611)

Any other alleged violation of state or federal laws governing child care and development programs shall be investigated and resolved using the district's procedures in BP/AR 1312.3 - Uniform Complaint Procedures.

## Program Evaluation

CSBA NOTE: 5 CCR 18279-18281 require child care and development programs to be evaluated through the standardized "Desired Results for **522** Children and Families" system. The system requires a

program self-evaluation that includes, but is not limited to, a staff assessment, a parent survey, and an environment rating scale.

The Superintendent or designee shall annually conduct an evaluation of the district's child care and development services in accordance with state requirements. The results of the evaluation shall be used to develop an action plan which establishes program goals and objectives for the coming year and addresses any areas identified as needing improvement. (5 CCR 18279-18281)

#### 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
22 CCR 101151-101191	Licensing and application procedures
22 CCR 101151-101239.2	General requirements; licensed child care centers
22 CCR 101212-101231	Continuing requirements
22 CCR 101237-101239.2	Facilities and equipment
5 CCR 18000-18434	Child care and development programs
5 CCR 18012-18122	General requirements
5 CCR 18180-18192	Federal and state migrant programs
5 CCR 18210-18213	Severely handicapped program
5 CCR 18220-18231	Alternative payment program
5 CCR 18240-18248 <u>18249</u>	Resource and referral program
5 CCR 18270-18281	Program quality; accountability
5 CCR 18290-18292	Staffing ratios
5 CCR 18295	Waiver of qualifications for site supervisor
5 CCR 18300-18308	Appeals and dispute resolution
5 CCR 4600-4687	Uniform complaint procedures <u>and Williams complaints</u>
<u>5 CCR 80067-80067.2</u>	<u>Early Childhood Education Specialist Credential</u>
5 CCR 80105-80125	Commission on Teacher Credentialing; child care and development permits
<u>Ed. Code 46120</u>	<u>Expanded Learning Opportunities Program</u>
Ed. Code 48000	Transitional kindergarten
Ed. Code 49540-49546	Child care food program
Ed. Code 49570	National School Lunch program
Ed. Code 56244	Staff development funding

Ed. Code 8200-8340	California State Preschool Program
Ed. Code 8207	California State Preschool Program administration
Ed. Code <del>8278.3</del> <a href="#">8337</a>	<del>Child Care Facilities Revolving Fund</del> <a href="#">Early Education Expansion Program</a>
Ed. Code 8482-8484.65	After School Education and Safety Program
Ed. Code 8484.7-8484.9	21st Century Community Learning Centers
<a href="#">Gov. Code 95000-95029.5</a>	<a href="#">California Early Intervention Services Act</a>
H&S Code 120325-120380	Immunization against communicable diseases
<a href="#">H&amp;S Code 120440</a>	<a href="#">Disclosure of immunization information to local and state health departments</a>
H&S Code 1596.70-1596.895	California Child Day Care Act
H&S Code 1596.90-1597.21	Day care centers
W&I Code 10200-10206	Early Childhood Development Act of 2020
W&I Code 10207-10215	General provisions
W&I Code <del>10207-10490</del> <a href="#">10492.2</a>	Child Care and Development Services Act
W&I Code 10217-10224.5	Resource and referral programs
W&I Code 10225-10234	Alternative payment programs
W&I Code 10235-10238	Migrant child care and development programs
W&I Code 10240-10243	General child care and development programs
W&I Code 10250-10252	Family child care home education networks
W&I Code 10260-10263	Child care and development services for children with special needs
W&I Code 10271	Eligibility, enrollment, and priority of services; physical examinations; rules and regulations
W&I Code 10271.5	Income eligibility
<a href="#">W&amp;I Code 10271.7</a>	<a href="#">Family member certified as eligible to receive benefits; definition</a>
W&I Code 10272.5	Order of disenrollment
W&I Code 10273	Preferred placement for otherwise eligible children ages 11 or 12
<a href="#">W&amp;I Code 10276</a>	<a href="#">Child Care and Development Fund notice to providers</a>
W&I Code 10290	Fee schedule for families using preschool and child care and development services
W&I Code 10291	Families exempt from family fees
W&I Code 10315	Transfer of information to public schools

W&I Code ~~10322~~[10332](#)

Children residing in another district; use of facilities and personnel

[W&I Code 10491-10491.1](#)

[Expulsion and suspension procedures in childcare and development services programs](#)

**Federal**

**Description**

[20 USC 1232g](#)

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

[20 USC 1400-1482](#)

[Individuals with Disabilities Education Act](#)

[42 USC 1751-1769j](#)

School Lunch Program

[42 USC 9831-9852](#)[9852c](#)

Head Start programs

[42 USC ~~9858-9858q~~9857-9858r](#)

[Child care](#)[Care](#) and [development block grant](#)[Development Block Grant](#)

[45 CFR 98.2](#)[1](#)-98.93

[Child care](#)[Care](#) and [development fund](#)[Development Fund](#)

[7 CFR 210.1-210.3](#)[1](#)[33](#)

National School Lunch Program

[34 CFR 303.1-303.734](#)

[Early intervention program for infants and toddlers with disabilities](#)

**Management Resources**

**Description**

CA Dept of Social Services Publication

Child Care Transition: The Early Childhood Development Act of 2020

CA Dept of Social Services Publication

[American Rescue Plan Act](#) [Child Care & Development](#) Division FAQ

CA Dept of Social Services Publication

COVID-19 Licensed Child Care Facilities and Providers (FAQs)

[CA Commission on Teacher Credentialing Publication](#)

[Proposed Amendments to Title 5 of the California Code of Regulations Pertaining to the PK-3 Childhood Education Specialist Credential, Coded Correspondence 23-02, February 10, 2023](#)

[U.S. Department of Health and Human Services and U.S. Department of Education Publication](#)

[Policy Statement on Expulsion and Suspension Policies in Early Childhood Settings, 2016](#)  
(<https://oese.ed.gov/files/2020/07/policy-statement-ece-expulsions-suspensions.pdf>)

Court Decision

CBS Inc. v. The Superior Court of Los Angeles County, State Department of Social Services, (2001) 91 Cal.App.4th 892

Website

CSBA District and County Office of Education Legal Services

Website

California Association for the Education of Young Children

Website

[California Child Development Administrators Association](#)[EveryChild California, an Association of Leaders Advancing Early Learning](#) (<https://www.everychildca.org/>)

Website

California Department of Education, Early Education [and Support](#) Division

Website

California Department of Education, Early Education Management Bulletins

Website	<u>California Department of Social Services, Licensing Information</u> <u>California Department of Public Health</u> ( <a href="https://www.cdph.ca.gov/">https://www.cdph.ca.gov/</a> )
<u>Website</u>	<u>California Department of Social Services, Child Care Licensing</u> ( <a href="https://www.cdss.ca.gov/inforesources/child-care-licensing">https://www.cdss.ca.gov/inforesources/child-care-licensing</a> )
Website	California Head Start Association
Website	California School-Age Consortium
Website	National Association for the Education of Young Children
Website	Commission on Teacher Credentialing ( <a href="https://www.ctc.ca.gov/">https://www.ctc.ca.gov/</a> )
Website	CSBA
<u>Website</u>	<u>Medical Board of California</u> ( <a href="https://www.mbc.ca.gov/">https://www.mbc.ca.gov/</a> )
<u>Website</u>	<u>Office of Administrative Law</u> ( <a href="https://oal.ca.gov/">https://oal.ca.gov/</a> )
<u>Website</u>	<u>Osteopathic Medical Board of California</u> ( <a href="https://www.ombc.ca.gov/">https://www.ombc.ca.gov/</a> )
<u>Website</u>	<u>Universal Prekindergarten, California's Great Start</u>
Website	U.S. Department of Education
<u>Website</u>	<u>U.S. Department of Health and Human Services</u> ( <a href="https://www.usa.gov/federal-agencies/u-s-department-of-health-and-human-services">https://www.usa.gov/federal-agencies/u-s-department-of-health-and-human-services</a> )

## Cross References

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**Regulation 5148: Child Care And Development**

**Status: ADOPTED**

Original Adopted Date: 07/01/2015 | Last Revised Date: ~~12/06/01/2021~~ 2023 | Last Reviewed  
Date: ~~12/06/01/2021~~ 2023

CSBA NOTE: The following administrative regulation reflects provisions generally applicable to programs under the Child Care and Development Services Act (Welfare and Institutions Code 10207-~~10490~~; 10492.2). Such programs include resource and referral programs (Welfare and Institutions Code 10217-10224.5; 5 CCR 18240-~~18248~~ 18249), alternative payment programs (Welfare and Institutions Code 10225-10234; 5 CCR 18220-18231), migrant child care and development programs (Welfare and Institutions Code 10235-10238), general child care and development programs (Welfare and Institutions Code 10240-10243), and programs for children with special needs (Welfare and Institutions Code 10260-10263). Pursuant to Welfare and Institutions Code 10200-10206, effective July 1, 2021, the state's responsibility for administering these programs transferred from the California Department of Education (CDE) to the California Department of Social Services (CDSS). Education Code 8207, as amended and renumbered by AB 131 (Ch. 116, Statutes of 2021), clarifies that the Superintendent of Public Instruction and the California Department of Education CDE retain administrative supervision of the California State Preschool Programs: (CSPP).

The district may revise this regulation to reflect specific requirements for the program(s) it offers. See BP/AR 5148.2 - Before/After School Programs for requirements pertaining to the After-School Education and Safety program (Education Code 8482-8484.65) ~~and~~, 21st Century Community Learning Centers (Education Code 8484.7-8484.9), and Expanded Learning Opportunities Program (Education Code 46120), and BP/AR 5148.3 - Preschool/Early Childhood Education for CSPP requirements.

The following administrative regulation does not reflect all policy language mandated for each specific program. The district should be careful to include the mandates, if any, applicable to the program(s) it offers. For example, for the alternative payment program, 5 CCR 18221 mandates a written policy statement that includes specified components, including, but not limited to, program purpose, enrollment priorities, family eligibility, conditions/requirements for participation, reimbursement of providers, range of services available, and family fee collection. For the resource and referral program, 5 CCR 18244 ~~mandates~~ and 18247 mandate written referral policies and written complaint procedures.

In addition to the program requirements described below, child care and development programs may be subject to other policies in the district's policy manual (e.g., BP/AR 1240 - Volunteer Assistance, AR 3514.2 - Integrated Pest Management, and BP/AR 3550 - Food Service/Child Nutrition Program). Districts should consult CSBA's District and County Office of Education Legal Services or district legal counsel if ~~they have there are~~ questions regarding the applicability of other laws to the district's child care and development program.

**Licensing**

CSBA NOTE: Pursuant to 22 CCR 101156, all child care centers must be licensed by CDSS unless exempted by law. Health and Safety Code 1596.792 and 22 CCR 101158 list exemptions from the licensure requirements including, but not limited to, any program that (1) is a "public recreation program" that meets the criteria specified in Health and Safety Code 1596.792, (2) is operated before and/or after school by qualified teachers employed by the district, (3) is a school parenting program or adult education child care program, (4) operates only one day per week for no more than four hours on that day, (5) offers temporary child care services to parents/guardians who are on the same premises as the child care site, (6) provides activities that are of an instructional nature in a classroom-like setting when K-12 students are normally not in session and the sessions do not exceed a total of 30 days when only school-age children are enrolled or 15 days when younger children are enrolled, or (7) is a CSPP program operated in a school building that meets specified health and safety requirements. If the district offers only programs that are exempted from licensure, it should modify the following regulation accordingly.

Pursuant to Health and Safety Code 1596.951, CDSS was required to adopt regulations by January 1, 2021 to create a ~~new~~ child care center license ~~including that~~ includes components for serving infant, toddler, preschool, and school-age children; health and safety standards; and enhanced ability to transition children to the next age group. However, as amended by AB 2131 (Ch. 910, Statutes of 2022), Health and Safety Code 1596.951, authorizes CDSS to implement and administer the creation of a single child care center license through all-county letters or similar written instructions until regulations were delayed due to the COVID-19 pandemic. are adopted. Pursuant to Health and Safety Code 1596.951, all child care centers are required to ~~obtain this~~ license be licensed by January 1, 2024.

All district child care and development services shall be licensed by the California Department of Social Services, unless exempted pursuant to Health and Safety Code 1596.792 or 22 CCR 101158.

The license shall be posted in a prominent, publicly accessible location in the facility. (Health and Safety Code 1596.8555)

Licensed child care centers shall be subject to the requirements of Health and Safety Code 1596.70-1597.21, 22 CCR 101151-101239.2, and, when applicable, 22 CCR 101451-101539.

### Program Components

CSBA NOTE: Items #1-7 and 9 below list components of child care and development programs that are required for all providers pursuant to 5 CCR 18272-18281. The Governing Board is required, pursuant to 5 CCR 18271, to approve goals and objectives addressing each of these program components; see the accompanying Board policy. Additionally, Welfare and Institutions Code 10208 specifies indicators for the implementation of quality programs, which, as amended by AB 210 (Ch. 62, Statutes of 2022), requires that program activities meet the needs of dual language learners. The district may add components of other programs offered by the district.

The district's child care and development program shall include the following components:

1. 1. The use of a developmental profile reflecting each child's physical, cognitive, social, and emotional development to plan and conduct developmentally and age appropriate activities (Welfare and Institutions Code 10209.5; 5 CCR 18272)

Program staff shall complete the developmental profile for each child who is enrolled in the program for at least 10 hours per week and for any child with disabilities regardless of the number of hours enrolled. The profile shall be completed within 60 days of enrollment and at least once every six months thereafter for children of all ages. (Welfare and Institutions Code 10209.5; 5 CCR 18270.5, 18272)

- 2- 2. An educational program that complies with 5 CCR 18273, including the provision of services that are developmentally, linguistically, and culturally appropriate and inclusive of children with special needs
- 3- 3. A staff development program which complies with 5 CCR 18274
- 4- 4. Parent/guardian involvement and education that comply with 5 CCR 18275 and ~~include~~includes an orientation, at least two individual conferences per year, meetings with program staff, an advisory committee, participation in daily activities, and information regarding their child's progress
- 5- 5. A health and social services component that complies with 5 CCR 18276 and includes referrals to appropriate community agencies as needed
- 6- 6. A community involvement component that complies with 5 CCR 18277

CSBA NOTE: Health and Safety Code 1596.808 establishes beverage standards for licensed child care centers. In addition, centers that receive funding through the Child and Adult Care Food Program (42 USC 1766) must meet federal guidelines for meals, snacks, fluid milk or nutritionally equivalent milk substitutes, and drinking water.

- 7- 7. As applicable, a nutrition component that ensures children in the program are provided nutritious meals, beverages, and snacks that meet state and federal standards and have access to drinking water throughout the day, including meal times (Health and Safety Code 1596.808; 5 CCR 18278; 42 USC 1766)

CSBA NOTE: Item #8 below is optional and may be revised to reflect district practice. 42 USC 1766 encourages child care centers to provide opportunities for physical activity and to limit the amount of time spent in sedentary activities, such as time spent using electronic devices.

- 8- 8. Programs that promote age-appropriate structured and unstructured opportunities for physical activity and that limit the amount of time spent in sedentary activities to an appropriate level

CSBA NOTE: 5 CCR 18279-18281 require an annual evaluation using the standardized "Desired Results for Children and Families" system. The system requires a program self-evaluation that includes a staff assessment, a parent/guardian survey, and an environment rating scale. Each contractor is required to submit a summary of the self-evaluation findings by June 1 of each year.

9. 9. An annual plan for program evaluation which conforms with the state's system and includes a self-evaluation, parent/guardian survey, and environment rating scale (5 CCR 18270.5, 18279, 18280, 18281)

## Health and Safety

CSBA NOTE: The following section is for use by districts that offer one or more licensed child care programs. Health and Safety Code 1596.7996 requires licensed child care programs to provide parents/guardians of enrolled children with a flyer developed by CDSS in conjunction with the California Department of Public Health, (CDPH), which contains specified information regarding lead exposure and blood testing. The flyer is available on the ~~CDSS web site~~ CDSS' website.

When a child enrolls or reenrolls in a licensed child care program, the center shall provide the child's parent/guardian with written information on the risks and effects of lead exposure, blood lead testing recommendations and requirements, and options for obtaining blood lead testing, including any state or federally funded programs that offer free or discounted tests. (Health and Safety Code 1596.7996)

CSBA NOTE: Pursuant to Health and Safety Code 1597.16, a licensed child care center located in a building that was constructed before January 1, 2010 must have its drinking water tested for lead contamination as provided below. A licensed child care center is subject to the temporary suspension of its license if it fails to comply with the requirements to cease using any fountains and faucets where elevated lead levels may exist and to provide potable water.

If a licensed child care center is located in a building that was constructed before January 1, 2010, the center shall have its drinking water tested for lead contamination levels every five years ~~following an initial test conducted between January 1, 2020 and January 1, 2023.~~ . The center shall notify the parents/guardians of enrolled children of the requirement to test a facility's drinking water and of the test results. If notified of elevated lead levels, the center shall immediately make inoperable and cease using the fountains and faucets where elevated lead levels may exist and shall obtain a potable source of water for children and staff at that location. (Health and Safety Code 1597.16)

## Staffing

The district's child care and development program shall maintain at least the minimum adult-child and teacher-child ratios specified in Welfare and Institutions Code 10275.5 and 5 CCR 18290-18292 based on the ages of the children served.

All persons employed at a licensed district child care center and all volunteers who provide care and supervision to children at such a center shall be immunized against influenza, pertussis, and measles. If ~~they meet~~ a person meets all other requirements for employment or volunteering, as applicable, but ~~need~~ needs additional time to obtain and provide immunization records, ~~they~~ the person may be employed or volunteer conditionally for a maximum of 30 days upon signing and submitting a written statement attesting that ~~they have been immunized~~ as the person has received the required: ~~In addition, employees~~ immunizations. Employees and volunteers shall ~~receive an~~ be immunized against influenza vaccination between August 1 and December 1 of each year. A ~~person shall be exempt from these requirements only under any of the following circumstances:~~  
(Health and Safety Code 1596.7995)

A person shall be exempt from the above immunization requirements only under any of the following circumstances: (Health and Safety Code 1596.7995)

- 1- 1. The person submits a written statement from a licensed physician declaring either that immunization is not safe because of the person's physical condition or medical circumstances or that the person has evidence of current immunity to influenza, pertussis, and measles.
- 2- 2. In the case of the influenza vaccine, the person submits a written declaration declining the vaccination.
- 3- 3. In the case of the influenza vaccine required during the first year of employment or volunteering, the vaccine is not timely because the person was hired after December 1 of the previous year and before August 1 of the current year.

Documentation of the required immunizations or exemptions from immunization shall be maintained in the employee's personnel file. (Health and Safety Code 1596.7995)

In addition to the above immunization requirements, teachers employed in a licensed child care center shall present evidence of a current tuberculosis clearance and meet other requirements specified in Health and Safety Code 1597.055. (Health and Safety Code 1597.055)

### Eligibility and Enrollment

CSBA NOTE: State funding is only available for services to families who meet the criteria for subsidized services as specified in Welfare and Institutions Code 10271 and 10271.5: 10271.5, and, as added by SB 1047 (Ch. 923, Statutes of 2022), 10271.7. The district may also provide services to nonsubsidized families provided the district uses other funding sources or the families pay the full cost of services; see section on "Fees and Charges" below.

Pursuant to 5 CCR 18105, districts contracting to offer child care services are mandated to develop and make available to the public written admissions policies and procedures that conform to requirements of 22 CCR 101218, including, but not limited to, criteria designating those children whose needs can be met by the child care center's program and services and the ages of children who will be accepted.

The following section should be revised to reflect the district's contract(s).

The district's subsidized child care and development services may be available to infants and children through 12 years of age and to individuals with disabilities through 21 years of age in accordance with their individualized education program and Welfare and Institutions Code 10213.5. (Welfare and Institutions Code 10213.5, 10273; 5 CCR 18089, 18407, 18422)

CSBA NOTE: Pursuant to 5 CCR 18082-18083, the parent/guardian must submit an application for services which contains specified information and documentation. The family's or child's eligibility must be certified by a person designated by the district.

Pursuant to Welfare and Institutions Code 10271.5, as amended by AB 210, income eligibility

which is based on an adjusted monthly family income at or below 85 percent of the state median income, adjusted for family size., does not include foster care payments made on behalf of a child or guaranteed income payments. Welfare and Institutions Code 10271.5, as amended by AB 185 (Ch. 571, Statutes of 2022), requires CDSS to adopt regulations regarding the exclusion of these two forms of payment no later than July 1, 2025.

Welfare and Institutions Code 10271, as amended by SB 1047, extends eligibility for child care and development programs to families in which a member of the family has been certified as eligible to receive benefits from specified means tested government programs, as reflected below.

To participate in the district's subsidized child care program, families shall document both an eligibility basis and need for care as follows: (Welfare and Institutions Code 10271 and 10271.5)

1. The family is eligible for subsidized services on the basis of being a:

a. A current aid recipient; income

b. Income eligible; or homeless and/or the

c. Homeless

~~1.d.~~ The family's children are recipients of child protective services or have been identified as being or at risk of being abused, neglected, or exploited.

e. A member of the household is certified to receive benefits from Medi-Cal, CalFresh, the California Food Assistance Program, the California Special Supplemental Nutrition Program for Women, Infants, and Children, the federal Food Distribution Program on Indian Reservations, Head Start, Early Head Start, or any other means-tested government program as determined by the California Department of Social Services.

2. 2. The family has a need for child care based on either of the following:

a. a. The parents/guardians are participating in vocational training leading directly to a recognized trade, paraprofession, or profession; are engaged in an educational program for English language learners or to attain a high school diploma or general educational development certificate; are employed or seeking employment; are seeking permanent housing for family stability; or are incapacitated

b. b. The child is identified by a legal, medical, or social services agency, the district liaison for homeless students, a Head Start program, or an emergency or transitional shelter as being a recipient of protective services, as being or at risk of being neglected, abused, or exploited, or as being homeless experiencing homelessness

CSBA NOTE: The following paragraph may be revised to reflect district practice. Unless state funding is allocated to support the centralized eligibility list established in each county pursuant to Welfare and Institutions Code 10231, such lists will be maintained only if locally funded. In situations where there is no locally funded centralized eligibility list or the district elects not to

participate in the local list, the district must establish its own waiting list in accordance with admission priorities pursuant to Welfare and Institutions Code 10271 and 5 CCR 18106.

The Superintendent or designee shall consult the county's centralized eligibility list, when available, or shall maintain a district waiting list in accordance with admission priorities. As vacancies occur, applicants shall be contacted in order of their priority. (5 CCR 18106)

First priority for enrollment shall be given to neglected or abused children who are recipients of child protective services, or children who are at risk of being neglected or abused, upon written referral from a legal, medical, or social services agency. If unable to enroll a child in this category, the district shall refer the child's parent/guardian to local resource and referral services so that services for the child can be located. (Welfare and Institutions Code 10271)

CSBA NOTE: Pursuant to Welfare and Institutions Code 10271, as amended by SB 1047, if a family's eligibility for the district's subsidized child care and services program is based on a family member's certification as eligible to receive benefits from a specified means tested government program, as defined in Welfare and Institutions Code 10271.7, as added by SB 1047, the family's priority for enrollment must be based on the income declared on the application of the government program.

In keeping with the legislative intent of AB 321 (Ch. 903, Statutes of 2022), to prioritize access to childcare and development services for children who reside in homes in which the primary language is not English, Welfare and Institutions Code 10271, as amended by AB 321, provides that within the second priority category, children from such families be enrolled first when there are two or more families with the same income ranking.

Second priority for enrollment shall be given to families, regardless of the number of parents in the home, who are income eligible, as defined in Welfare and Institutions Code 10271.5. Families with the lowest gross monthly income in relation to family size shall be admitted first. If two or more families are in the same priority in relation to income, the family that has a child with disabilities shall be admitted first or, if there is no child with disabilities, the family in which the primary home language is a language other than English shall be admitted first. If there is no family of the same priority in which the primary home language is a language other than English, the family of the same priority that has been on the waiting list for the longest time shall be admitted first. (Welfare and Institutions Code 10271 and 10271.5)

The district shall allow eligible children 11-12 years of age to combine enrollment in a before-school or after-school program with subsidized child care services during the time that the before-school or after-school program does not operate. Children 11-12 years of age, except for children with disabilities, shall be eligible for subsidized child care services only for the portion of care needed that is not available in a before-school or after-school program. (Welfare and Institutions Code 10273)

CSBA NOTE: The following optional paragraph may be revised to reflect additional enrollment priorities or criteria established by the district, such as priority for district students, children of district students, or children of district employees; see the accompanying Board policy.

After all children eligible for subsidized services have been enrolled, the district may enroll other children in accordance with the priorities established by the Governing Board.

CSBA NOTE: 5 CCR 18094 and 18118 require the district to provide written notification to the parent/guardian as to whether the application for subsidized services has been approved or denied. For this purpose, the district should use the state's Notice of Action form.

The district's decision to approve or deny services shall be communicated to the parent/guardian through a written Notice of Action mailed or delivered within 30 days from the date the application is signed by the parent/guardian. (5 CCR 18094, 18118)

CSBA NOTE: Pursuant to Welfare and Institutions Code 10271, as amended by SB 1047, upon establishing initial eligibility or ongoing eligibility for child care and development services, a family is considered to meet eligibility and need requirements for services for not less than 24 months, and is eligible to receive services for at least 24 months before having the family's eligibility or need recertified, unless an exception exists, as specified below.

Upon establishing eligibility for services, a family shall be eligible for and shall receive services for not less than ~~12~~24 months before having the family's eligibility or need recertified and shall not be required to report changes to income or other changes for at least ~~12 months~~. 24 months. If such eligibility ends before the end of the child care and services program year, eligibility shall be extended until the end of the program year as long as applicable age-eligibility requirements specified in Welfare and Institutions Code 10213.5 are met. (Welfare and Institutions Code 10271)

However, a family establishing eligibility on the basis of income shall report any increases in income that exceed the threshold for ongoing income eligibility specified in Welfare and Institutions Code 10271.5, and the family's ongoing eligibility shall be recertified at that time. At any time, a family may voluntarily report income or other changes, which shall be used, as applicable, to reduce the family's fees, increase the family's services, or extend the period of eligibility before recertification. (Welfare and Institutions Code 10271)

Additionally, a family establishing eligibility for services on the basis of receiving services under a CalWORKs Stage 1, 2, or 3 program shall be eligible for and shall receive services for not less than 12 months before having the family's eligibility or need recertified and shall not be required to report changes to income or other changes for at least 12 months. (Welfare and Institutions Code 10271)

The Superintendent or designee shall mail or deliver a Notice of Action to a parent/guardian at least 14 calendar days before any intended change in services, including, but not limited to, an increase or decrease in fees, an increase or decrease in the amount of services, or termination of services, due to any of the following circumstances: (5 CCR 18095, 18119)

1. 1. A determination made during recertification or the update of the application that the need or eligibility requirements are no longer being met or the fee or amount of service needs to be modified
2. 2. Failure of the parent/guardian to document the family's need or eligibility after the district requested such documentation in writing
3. 3. An indication by the parent/guardian that the service is no longer wanted

4. 4. The death of a parent/guardian or child

5. 5. The conclusion of a limited-term agreement, provided that the parent/guardian has been informed in writing of the date that the services would terminate

The Superintendent or designee shall establish and maintain a basic data file for each family receiving child care and development services ~~containing~~ including, but not limited to, the completed and signed application for services, documentation used to determine the child's eligibility and need, and copies of all Notices of Action. (5 CCR 18081, 18095)

### Fees and Charges

CSBA NOTE: Welfare and Institutions Code 10290 requires CDSS, in consultation with CDE, to establish a fee schedule for families using child care services, including families who are eligible for subsidized child care services based on the criteria specified in ~~item~~ Item #1 in the section "Eligibility and Enrollment" above.

Welfare and Institutions Code 10260 and 5 CCR 18110 prohibit districts from assessing fees for children ~~enrolled~~ a child's enrollment in a program because of a need for child protective services, or because the child is in a CSPP, in the severely disabled children program, or in the federally based migrant program, or because the family has an income level in relation to family size that is less than the first entry in the fee schedule. Districts may revise the following paragraph to reflect any such program(s) offered by the district. Districts that offer only programs prohibited from charging fees may delete the following section.

Except when offering a program that is prohibited by law from charging any fees, the Superintendent or designee may charge fees for services according to the state fee schedule, the actual cost of services, or the maximum daily/hourly rate specified in the contract, whichever is least. (Welfare and Institutions Code 10260, ~~10270~~ 10271, 10290, 10291, 10436; 5 CCR 18078, 18108-18110)

CSBA NOTE: Pursuant to AB 131, and in response to the COVID-19 pandemic, additional funds are available to provide subsidized child care to families and to provide child care programs with COVID-19 pandemic-related assistance. Pursuant to Welfare and Institutions Code 10290, as added by AB 131, family fees may not be collected for families receiving subsidized child care services from child care programs administered by CDSS.

However, for the 2021-22 fiscal year, family fees shall not be collected as specified in Welfare and Institutions Code 10290.

No fee shall be charged to a family that is receiving CalWORKS cash aid, an income-eligible family whose child is enrolled in a part-day California State Preschool Program, or a family whose income level, in relation to family size, is less than the first entry in the fee schedule. (~~Education Code 8253;~~ ~~Welfare and Institutions Code 10291;~~ 5 CCR 18110)

In addition, any family receiving child care on the basis of having neglected or abused children who are recipients of child protective services, or children who are at risk of being neglected or abused, upon written referral from a legal, medical, or social services agency, may be exempt from these fees for up to 12 months. (Welfare and Institutions Code 10271 and 10291)

CSBA NOTE: Pursuant to Welfare and Institutions Code 10290, family fees must be assessed at initial enrollment and reassessed at recertification.

Pursuant to 5 CCR 18114, districts contracting to offer child care services are mandated to adopt a policy for the collection of fees in advance of providing services, as provided below. 5 CCR 18114 contains an alternative definition of delinquency for alternative payment programs offered pursuant to Welfare and Institutions Code 10225-10234.

Fees shall be assessed at initial enrollment and reassessed when a family is recertified or experiences a change in status. Fees shall be considered delinquent after seven days from the date that fees are due. Parents/guardians shall be notified in the event that fees are delinquent. If a reasonable plan for payment of the delinquent fees has not been provided by the parents/guardians, services shall be terminated if all delinquent fees are not paid within two weeks of such notification. Parents/guardians shall receive a copy of the district's regulations regarding fee collection at the time of initial enrollment into the program. (Welfare and Institutions Code 10290; 5 CCR 18082, 18114, 18115)

CSBA NOTE: The following paragraph is for use by districts that contract to offer child care services and wish to require parents/guardians to provide diapers and/or to pay the costs of field trips (unless the program is exempt from fees), and may be modified to delete diapers as appropriate for the age of the children served. Welfare and Institutions Code 10292 mandates that such districts have a written policy which includes parents/guardians in the decision-making process. Pursuant to Welfare and Institutions Code 10292, the fees cannot exceed \$25 per child in the contract year.

The Superintendent or designee shall establish a process that involves parents/guardians in determining whether to require parents/guardians to provide diapers. This process shall also be used to determine whether and how much to charge parents/guardians for field trip expenses, within the limit specified in law. A child shall not be denied participation in a field trip due to the parent/guardian's inability or refusal to pay the fee, and no adverse action shall be taken against a parent/guardian for that inability or refusal. (Welfare and Institutions Code 10292)

CSBA NOTE: Pursuant to Welfare and Institutions Code 10228, licensed child care centers are required to post their rates, and discounts or scholarship policies if any, as specified below.

District child care centers shall post in a prominent location adjacent to the license at the child care facility the rates, and discounts or scholarship policies if any. (Welfare and Institutions Code 10288)

#### Expulsion/Unenrollment and Suspension Based on Behavior

CSBA NOTE: Welfare and Institutions Code 10491 and 10491.1, as added by AB 2806 (Ch. 915, Statutes of 2022), establishes requirements for expulsion, unenrollment, or suspension of a child from a child care and development program, as specified below.

The district's child care and development program shall not expel or unenroll a child or persuade or encourage a child's parents/guardians to voluntarily unenroll from the program based on the child's behavior, unless the district first takes the following actions to address the child's behavior: (Welfare and Institutions Code 10491)

1. In writing, inform the parents/guardians of the child's persistent and serious challenging behaviors and consult with the parents/guardians and teacher, and if available engage an early childhood mental health consultant, in an effort to maintain the child's safe participation in the program
2. If the child has an individualized family service plan (IFSP) or individualized education program (IEP), contact, with written parent/guardian consent, the agency or district employee responsible for such plan or program to seek consultation in regard to serving the child
3. If appropriate, consider completing a comprehensive screening to identify the needs of the child, including, but not limited to, screening the child's social and emotional development, referring the parents/guardians to community resources, and implementing behavior supports within the program

If the district has taken the actions specified in Items #1-3 above and the child's continued enrollment would present a serious safety threat to the child or other enrolled children, the district shall refer the parents/guardians to other potentially appropriate placements, the local child care resource and referral agency, or any other referral service available in the local community. The district shall, to the greatest extent possible, support direct transition to a more appropriate placement. The district may then unenroll the child. The district shall have up to 180 days to complete the actions described above. (Welfare and Institutions Code 10491.1)

CSBA NOTE: Pursuant to Education Code 10491.1, as added by AB 2806, a child enrolled in a child care and development program may only be suspended as a last resort in extraordinary circumstances where there is a serious safety threat that cannot be eliminated or reduced without removal of the child. To suspend a child, the district must comply with specified requirements, including, collaborating with the child's parents/guardians before determining that suspension is necessary and using appropriate community resources to determine that no other reasonable option is appropriate.

A child shall not be suspended from the district's child care and development program, nor shall a child's parent/guardian be encouraged or persuaded to prematurely pick up a child before the program day ends, except as a last resort in extraordinary circumstances, when a safety threat exists that cannot be eliminated or reduced without the removal of the child. (Welfare and Institutions Code 10491.1)

Before determining that a suspension is necessary, the district shall collaborate with the child's parents/guardians and, as needed, shall use appropriate community resources to determine that no other reasonable option is appropriate. (Welfare and Institutions Code 10491.1)

When suspension is deemed necessary, the district shall help the child return to full participation in the program as soon as possible while ensuring safety, by doing all of the following: (Welfare and Institutions Code 10491.1)

1. Continuing to engage with the child's parents/guardians and continuing to use appropriate community resources
2. Developing a written plan to document the action and supports needed

3. Providing referrals to appropriate community resources

4. If the child has an IFSP or IEP, contacting, with written parent/guardian consent, the agency responsible for the child's IFSP or IEP, to seek consultation on servicing the child

Upon enrollment, the parents/guardians of each child shall be notified, in writing, of the limitations on expulsion, suspension, or any form of disenrollment and how the parents/guardians may file an appeal to CDSS in the event of expulsion or suspension. If the district suspends or expels a child from the child care and development program, the district shall, at least 24 hours before the effective date of the suspension or expulsion, issue the child's parents/guardians a written "Notice of Action, Recipient of Services," as described in 5 CCR 18095, informing the parents/guardians of the right to file an appeal of the action directly with CDSS no later than 14 calendar days after receiving the notice. (Welfare and Institutions Code 10491.1)

CSBA NOTE: A joint statement by the U.S. Department of Education and U.S. Department of Health and Human Services, "Policy Statement on Expulsion and Suspension Policies in Early Childhood Settings," provides that if a child in an early childhood program is suspected of having a developmental delay, disability, or mental health issue, the child's parent/guardian be referred, if appropriate, to the mental health system, the state's early intervention program, or the district for information regarding evaluation for services under the Individuals with Disabilities Education Act (IDEA) (20 USC 1400-1482), to ensure that children with disabilities are not suspended or expelled because of disability-related behaviors.

If a child is suspected of having a developmental delay, disability, or mental health issue, the child's parent/guardian shall be referred, if appropriate, to the mental health system, the state's early intervention program, or the district's special education program regarding evaluation for services under the Individuals with Disabilities Education Act (IDEA). Children identified as having exceptional needs may only be suspended or expelled in conformance with the procedures and limitations of the IDEA.

## **Disenrollment**

CSBA NOTE: Welfare and Institutions Code 10272 specifies the order by which families must be disenrolled from child care and development services when funding levels are reduced. Parents/guardians may appeal such actions pursuant to 5 CCR 18120-18122, but only on the grounds that the factors used to determine the family's disenrollment are incorrect. See section "Rights of Parents/Guardians" below.

When necessary due to a reduction in state reimbursements, families shall be disenrolled from subsidized child care and development services in the following order: (Welfare and Institutions Code 10272.5)

1. 1. Families with the highest income in relation to family size shall be disenrolled first.
2. 2. If two or more families have the same income ranking, children ~~without disabilities~~ who have been enrolled in child care services the longest shall be disenrolled first. ~~After all children without disabilities~~
2. 3. ~~If two or more families have been disenrolled the same income,~~ children ~~with~~without disabilities shall be disenrolled; ~~with those who have been enrolled in child care services the~~

longest being disenrolled first.

3. 4. Families whose children are receiving child protective services or are at risk of neglect, or abuse, or exploitation, regardless of family income, shall be disenrolled last.

### Health Examination and Immunizations

CSBA NOTE: Welfare and Institutions Code 10271 requires children enrolling in a child care center to obtain a physical examination and evaluation, including immunizations, unless a parent/guardian submits a letter stating that such examination is contrary to the parent/guardian's religious beliefs. However, with respect to immunization requirements, Health and Safety Code 120335 eliminated the personal beliefs exemption unless the parent/guardian filed a letter or affidavit prior to January 1, 2016 or a licensed physician indicates that a student should be exempted for medical reasons. An exemption granted for personal beliefs is was only effective until the next grade span (i.e., birth through preschool, grades K-6, and grades 7-12)., and any student who received a personal belief exemption prior to January 1, 2016 would be in the next grade span, this exemption no longer exists. See BP/AR 5141.31 - Immunizations.

CDPH has developed a tool, the School and Child Care Lookup (SCCL), available on its web site, which looks at information from the California Immunization Registry (CAIR2) and can be used by child care centers to determine whether a student meets all immunization requirements to enroll in child care services.

Prior to or within six weeks of enrollment, a child enrolling in a child care center shall obtain a physical examination and evaluation and receive age-appropriate immunizations. (Welfare and Institutions Code 10271)

The requirement for a physical examination and evaluation shall be waived if a parent/guardian submits a letter stating that such examination is contrary to the parent/guardian's religious beliefs. (Welfare and Institutions Code 10271)

A child may be exempted from the immunization requirements only if: (Health and Safety Code 120335) a licensed physician indicates that immunization should not be given and specifies how long this exemption is expected to be needed. (22 CCR 101220.1)

1. A licensed physician indicates that immunization is not safe due to the physical condition or medical circumstances of the child.

CSBA NOTE: Pursuant to Health and Safety Code 120372, a child care center may only accept a medical exemption request that is made by a licensed physician or surgeon on an electronic, standardized, statewide medical exemption certification form developed by the California Department of Public Health CDPH and transmitted using the California Immunization Registry. CAIR2. However, Health and Safety Code 120370 requires that a child who has a medical exemption issued prior to January 1, 2020 be allowed to continue enrollment until the next grade span, unless the exemption was issued by a physician or surgeon that has been subject to disciplinary action by the Medical Board of California or the Osteopathic Medical Board of California.

2. A medical exemption shall be submitted using the standardized medical exemption certification form developed by California Department of Public Health (CDPH) and transmitted

using the California Immunization Registry. The request shall include, but not be limited to, a description of the medical basis for which the exemption for each individual immunization is sought and whether the medical exemption is permanent or temporary, including the date upon which a temporary medical exemption will expire. All medical exemptions shall not extend beyond the current grade span of the student, and a temporary exemption shall not exceed one year. (Health and Safety Code 120372)

3. ~~The parent/guardian submitted a letter or affidavit prior to January 1, 2016 stating that such examination is contrary to the parent/guardian's personal beliefs. An exemption from immunization granted for personal beliefs is effective only until the next grade span (i.e., birth through preschool, grades K-6, and grades 7-12).~~

If there is good cause to believe that a child is suffering from a recognized contagious or infectious disease, the child shall be temporarily excluded from the child care and development program until it is determined that the child is not suffering from that contagious or infectious disease. (Welfare and Institutions Code 10271)

CSBA NOTE: Pursuant to Health and Safety Code 120440, as amended by AB 1797 (Ch. 582, Statutes of 2022), child care centers are required to disclose specified immunization information to local health departments operating countywide or regional immunization information and reminder systems and CDPH, and to maintain the confidentiality of such information in the same manner as other student records. See BP/AR 5125 – Student Records.

District child care centers shall disclose immunization information to the local health department and CDPH in accordance with Health and Safety Code 120440, and maintain the confidentiality of such information in the same manner as other students records in accordance with law and as specified in Administrative Regulation 5125 – Student Records. (Health and Safety Code 120440)

## Attendance

Sign-in and sign-out sheets shall be used daily for all children for attendance accounting purposes. Attendance records shall include verification of excused absences, including the child's name, date(s) of absence, specific reason for absence, and signature of parent/guardian or ~~district~~the district's authorized representative if verification is made by telephone. (5 CCR 18065, 18066)

Absences shall be excused for the following reasons:

1. 1. Illness or quarantine of the child or of the parent/guardian (Welfare and Institutions Code 10213.5)
2. 2. Family emergency (Welfare and Institutions Code 10213.5)

CSBA NOTE: Pursuant to 5 CCR 18066, districts contracting to offer child care services are mandated to adopt policies delineating circumstances constituting an excused absence for a family emergency. The following paragraph may be revised to reflect district practice.

3.        A family emergency shall be considered to exist when unforeseen circumstances cause the need for immediate action, such as may occur in the event of a natural disaster or

when a member of the child's immediate family dies, has an accident, or is required to appear in court.

4. 3. Time spent with a parent/guardian or other relative as required by a court of law (Welfare and Institutions Code 10213.5)
5. 4. Time spent with a parent/guardian or other relative which is clearly in the best interest of the child (Welfare and Institutions Code 10213.5)

CSBA NOTE: 5 CCR 18066 mandates a policy that delineates circumstances constituting an excused absence "in the best interest of the child." The following paragraph may be revised to reflect district practice.

6.        An absence shall be considered to be in the best interest of the child when the time is spent with the child's parent/guardian or other relative for reasons deemed justifiable by the program coordinator or site supervisor.

Except for children who are recipients of child protective services or are at risk of abuse or neglect, excused absences in the best interest of the child shall be limited to 10 days during the contract period. (5 CCR 18066)

CSBA NOTE: 5 CCR 18066 mandates that providers adopt a policy governing unexcused absences which may include reasonable limitations, if any. The following paragraph may be revised to reflect district practice. CSBA NOTE: 5 CCR 18066.5 establishes procedures to follow when a child has been absent and the family has not been in communication with the district's child care and development services program coordinator or site supervisor for seven consecutive calendar days.

Any absence due to When a reason other than any of those stated above, or without child has been absent and the required verification, shall be considered an unexcused absence. After three unexcused absences during the year, the family has not been in communication with the program coordinator or site supervisor shall notify for seven consecutive calendar days, the district shall attempt to contact the child's parent/guardian. Children who continue to have excessive unexcused absences through a variety of communication methods, including one attempt in writing which may be removed from through electronic means, informing the program at parent/guardian that failure to communicate with the discretion district may result in termination of child care services. The district shall keep documentation of all such communication attempts in the program coordinator in order family's data file, and, if there has been no communication for a total of 30 consecutive calendar days, issue a Notice of Action to accommodate other families disenroll the family on the waiting list for admission. basis of abandonment of care. (5 CCR 18066.5)

Parents/guardians shall be notified of the policies and procedures related to excused and unexcused absences for child care and development services. (5 CCR 18066)

#### Rights of Parents/Guardians

CSBA NOTE: The following two paragraphs are for use by districts that operate one or more licensed child care centers, but may be used by license-exempt providers.

At the time a child is accepted into a licensed child care and development center, the child's parent/guardian or authorized representative shall be notified of the rights specified in 22 CCR 101218.1, including, but not limited to, the right to enter and inspect the child care facility and the right to be informed, upon request, of the name and type of association to the center of any adult who has been granted a criminal record exemption. (Health and Safety Code 1596.857; 22 CCR 101218.1)

The written notice of parent/guardian rights also shall be permanently posted within the facility in a location accessible to parents/guardians. Notwithstanding these rights, access to the facility may be denied to an adult whose behavior presents a risk to children present in the facility or to noncustodial parents/guardians when so requested by the responsible parent/guardian. (Health and Safety Code 1596.857)

**CSBA NOTE:** The remainder of this section is for use by all districts and applies to licensed and unlicensed child care programs.

In addition, if a parent/guardian disagrees with any district action to deny a child's eligibility for subsidized child care services, disenroll the child due to a funding shortage, increase or decrease fees, increase or decrease the amount of services, terminate services, or otherwise change the level of services, the parent/guardian may file a request for a hearing with the Superintendent or designee within 14 calendar days of the date the Notice of Action was received. Within 10 calendar days of receiving the request for a hearing, the Superintendent or designee shall notify the parent/guardian of the time and place of the hearing, which, to the extent possible, shall be convenient for the parent/guardian. (5 CCR 18120)

The hearing shall be conducted in accordance with the procedures specified in 5 CCR 18120 by a district administrator who is at a staff level higher in authority than the staff person who made the contested decision. Within 10 calendar days after the hearing, the district administrator shall mail or deliver a written decision to the parent/guardian. If the parent/guardian disagrees with the written decision, the parent/guardian may, within 14 calendar days, appeal the decision to the CDE Child Development Division. (5 CCR 18120-18122)

#### **Records** Coordinating Transitions

CSBA NOTE: Welfare and Institutions Code 10315 requires a preschool or infant and toddler program, when a child will be transferring to a local public school, to provide the child's parent/guardian with information from the previous year which is beneficial to the student and the teacher, as specified below.

When a child in the district's child care and development program transfers to a local public school, the district's child care and development program administrator shall provide the child's parent/guardian with information from the previous year which is beneficial to the student and the student's teacher, including, but not limited to, developmental issues, social interaction abilities, health background, and diagnostic assessments, if any. The program administrator shall transfer this information to the student's elementary school, with permission of the student's parent/guardian. (Welfare and Institutions Code 10315)

CSBA NOTE: Pursuant to Government Code 95008, as amended by SB 188 (Ch. 49, Statutes of 2022), districts are required to designate a main point of contact for coordinating and completing,

with other agencies and persons, the transition of a child and family from Part C of IDEA, infant/toddler programs, to Part B of IDEA, preschool, including establishing practices to educate and support families during the transition.

To facilitate the transition of a child with a disability, the district designates the individual listed below as the main point of contact for coordinating and completing, with other agencies and persons, the transition of a child and family from infant/toddler programs to preschool (Part C to Part B of IDEA), including establishing practices to educate and support families during the transition: (Government Code 95008)

(title or position)

(address)

(telephone number)

(email)

### **Records**

CSBA NOTE: State contracts require the district to submit data on both subsidized and nonsubsidized families served by child care centers. In addition, the district is required to provide monthly reports regarding any families receiving subsidized services during that month.

Welfare and Institutions Code 10315, as added by AB 131, requires a preschool or infant and toddler program to, when a child in a state-funded preschool or infant and toddler program will be transferring to a local public school, provide the parent/guardian with information from the previous year deemed beneficial to the student and the public school teacher, including, but not limited to, development issues, social interaction abilities, health background, and diagnostic assessments, if any. The preschool or infant and toddler program may, with the permission of the parent/guardian, transfer this information to the student's elementary school.

The Superintendent or designee shall maintain records of enrollment, attendance, types of families served, income received from all families participating in the district's child care and development program, and any other records required under the state contract.

### **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**

22 CCR 101151-101191

22 CCR 101151-101239.2

### **Description**

Licensing and application procedures

General requirements; licensed child care centers

22 CCR 101212-101231	Continuing requirements
22 CCR 101237-101239.2	Facilities and equipment
5 CCR 18000-18434	Child care and development programs
5 CCR 18012-18122	General requirements
5 CCR 18180-18192	Federal and state migrant programs
5 CCR 18210-18213	Severely handicapped program
5 CCR 18220-18231	Alternative payment program
5 CCR 18240-18248 <a href="#">18249</a>	Resource and referral program
5 CCR 18270-18281	Program quality; accountability
5 CCR 18290-18292	Staffing ratios
5 CCR 18295	Waiver of qualifications for site supervisor
5 CCR 18300-18308	Appeals and dispute resolution
5 CCR 4600-4687	Uniform complaint procedures <a href="#">and Williams complaints</a>
<a href="#">5 CCR 80067-80067.2</a>	<a href="#">Early Childhood Education Specialist Credential</a>
5 CCR 80105-80125	Commission on Teacher Credentialing; child care and development permits
<a href="#">Ed. Code 46120</a>	<a href="#">Expanded Learning Opportunities Program</a>
Ed. Code 48000	Transitional kindergarten
Ed. Code 49540-49546	Child care food program
Ed. Code 49570	National School Lunch program
Ed. Code 56244	Staff development funding
Ed. Code 8200-8340	California State Preschool Program
Ed. Code 8207	California State Preschool Program administration
Ed. Code 8278.3 <a href="#">8337</a>	Child Care Facilities Revolving Fund <a href="#">Early Education Expansion Program</a>
Ed. Code 8482-8484.65	After School Education and Safety Program
Ed. Code 8484.7-8484.9	21st Century Community Learning Centers
<a href="#">Gov. Code 95000-95029.5</a>	<a href="#">California Early Intervention Services Act</a>
H&S Code 120325-120380	Immunization against communicable diseases
<a href="#">H&amp;S Code 120440</a>	<a href="#">Disclosure of immunization information to local and state health departments</a>
H&S Code 1596.70-1596.895	California Child Day Care Act

H&S Code 1596.90-1597.21	Day care centers
W&I Code 10200-10206	Early Childhood Development Act of 2020
W&I Code 10207-10215	General provisions
W&I Code 10207- <del>10490</del> <a href="#">10492.2</a>	Child Care and Development Services Act
W&I Code 10217-10224.5	Resource and referral programs
W&I Code 10225-10234	Alternative payment programs
W&I Code 10235-10238	Migrant child care and development programs
W&I Code 10240-10243	General child care and development programs
W&I Code 10250-10252	Family child care home education networks
W&I Code 10260-10263	Child care and development services for children with special needs
W&I Code 10271	Eligibility, enrollment, and priority of services; physical examinations; rules and regulations
W&I Code 10271.5	Income eligibility
<a href="#">W&amp;I Code 10271.7</a>	<a href="#">Family member certified as eligible to receive benefits; definition</a>
W&I Code 10272.5	Order of disenrollment
W&I Code 10273	Preferred placement for otherwise eligible children ages 11 or 12
<a href="#">W&amp;I Code 10276</a>	<a href="#">Child Care and Development Fund notice to providers</a>
W&I Code 10290	Fee schedule for families using preschool and child care and development services
W&I Code 10291	Families exempt from family fees
W&I Code 10315	Transfer of information to public schools
W&I Code <del>10322</del> <a href="#">10332</a>	Children residing in another district; use of facilities and personnel
<a href="#">W&amp;I Code 10491-10491.1</a>	<a href="#">Expulsion and suspension procedures in childcare and development services programs</a>
<b>Federal</b>	<b>Description</b>
<a href="#">20 USC 1232g</a>	<a href="#">Family Educational Rights and Privacy Act (FERPA) of 1974</a>
<a href="#">20 USC 1400-1482</a>	<a href="#">Individuals with Disabilities Education Act</a>
42 USC 1751-1769j	School Lunch Program
42 USC 9831- <del>9852</del> <a href="#">9852c</a>	Head Start programs
42 USC <del>9858-9858g</del> <a href="#">9857-9858r</a>	Child care <del>Care</del> and development block grant <a href="#">Development Block Grant</a>

45 CFR 98.21-98.93	Child care <del>Care</del> and development fund <u>Development Fund</u>
7 CFR 210.1-210.3133	National School Lunch Program
<u>34 CFR 303.1-303.734</u>	<u>Early intervention program for infants and toddlers with disabilities</u>
<b>Management Resources</b>	<b>Description</b>
CA Dept of Social Services Publication	Child Care Transition: The Early Childhood Development Act of 2020
CA Dept of Social Services Publication	<u>American Rescue Plan Act</u> Child Care & Development Division FAQ
CA Dept of Social Services Publication	COVID-19 Licensed Child Care Facilities and Providers (FAQs)
<u>CA Commission on Teacher Credentialing Publication</u>	<u>Proposed Amendments to Title 5 of the California Code of Regulations Pertaining to the PK-3 Childhood Education Specialist Credential, Coded Correspondence 23-02, February 10, 2023</u>
<u>U.S. Department of Health and Human Services and U.S. Department of Education Publication</u>	<u>Policy Statement on Expulsion and Suspension Policies in Early Childhood Settings, 2016</u> ( <a href="https://oese.ed.gov/files/2020/07/policy-statement-ece-expulsions-suspensions.pdf">https://oese.ed.gov/files/2020/07/policy-statement-ece-expulsions-suspensions.pdf</a> )
Court Decision	CBS Inc. v. The Superior Court of Los Angeles County, State Department of Social Services; (2001) 91 Cal.App.4th 892
Website	CSBA District and County Office of Education Legal Services
Website	California Association for the Education of Young Children
Website	<u>California Child Development Administrators Association</u> <u>EveryChild California, an Association of Leaders Advancing Early Learning</u> ( <a href="https://www.everychildca.org/">https://www.everychildca.org/</a> )
Website	California Department of Education, Early Education <u>and Support</u> Division
Website	California Department of Education, Early Education Management Bulletins
Website	<u>California Department of Social Services, Licensing Information</u> <u>California Department of Public Health</u> ( <a href="https://www.cdph.ca.gov/">https://www.cdph.ca.gov/</a> )
<u>Website</u>	<u>California Department of Social Services, Child Care Licensing</u> ( <a href="https://www.cdss.ca.gov/inforesources/child-care-licensing">https://www.cdss.ca.gov/inforesources/child-care-licensing</a> )
Website	California Head Start Association
Website	California School-Age Consortium

Website	National Association for the Education of Young Children
Website	Commission on Teacher Credentialing ( <a href="https://www.ctc.ca.gov/">https://www.ctc.ca.gov/</a> )
Website	CSBA
<a href="#">Website</a>	<a href="https://www.mbc.ca.gov/">Medical Board of California (https://www.mbc.ca.gov/)</a>
<a href="#">Website</a>	<a href="https://oal.ca.gov/">Office of Administrative Law (https://oal.ca.gov/)</a>
<a href="#">Website</a>	<a href="https://www.ombc.ca.gov/">Osteopathic Medical Board of California (https://www.ombc.ca.gov/)</a>
<a href="#">Website</a>	<a href="#">Universal Prekindergarten, California's Great Start</a>
Website	U.S. Department of Education
<a href="#">Website</a>	<a href="https://www.usa.gov/federal-agencies/u-s-department-of-health-and-human-services">U.S. Department of Health and Human Services (https://www.usa.gov/federal-agencies/u-s-department-of-health-and-human-services)</a>

## Cross References

Code	Description
0000	Vision
0100	Philosophy
0200	Goals For The School District
0410	Nondiscrimination In District Programs And Activities
0500	Accountability
1240	Volunteer Assistance
1240	Volunteer Assistance
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1330	Use Of School Facilities
1330	Use Of School Facilities
1330-E(1)	Use Of School Facilities
1330.1	Joint Use Agreements
1400	Relations Between Other Governmental Agencies And The Schools

1700	Relations Between Private Industry And The Schools
3260	Fees And Charges
3260	Fees And Charges
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3550	Food Service/Child Nutrition Program
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4112	Appointment And Conditions Of Employment
4112.2	Certification
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4112.5	Criminal Record Check
4112.5-E(1)	Criminal Record Check
4112.6	Personnel Files
4131	Staff Development
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4212.5-E(1)	Criminal Record Check
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4261.2	Personal Leaves
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4312.5	Criminal Record Check
4312.5-E(1)	Criminal Record Check
4312.6	Personnel Files
4331	Staff Development
4361.2	Personal Leaves
5022	Student And Family Privacy Rights
5022	Student And Family Privacy Rights
5030	Student Wellness
5111.1	District Residency
5111.1	District Residency
5117	Interdistrict Attendance
5117	Interdistrict Attendance
5125	Student Records
5125	Student Records
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
5141.26	Tuberculosis Testing
5141.27	Food Allergies/Special Dietary Needs
5141.27	Food Allergies/Special Dietary Needs
5141.3	Health Examinations
5141.3	Health Examinations
5141.31	Immunizations
5141.31	Immunizations
5141.52	Suicide Prevention
5141.52	Suicide Prevention

5141.6	School Health Services
5141.6	School Health Services
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5146	Married/Pregnant/Parenting Students
5148.2	Before/After School Programs
5148.2	Before/After School Programs
5148.3	Preschool/Early Childhood Education
5148.3	Preschool/Early Childhood Education
6020	Parent Involvement
6020	Parent Involvement
6142.7	Physical Education And Activity
6142.7	Physical Education And Activity
6154	Homework/Makeup Work
6159	Individualized Education Program
6159	Individualized Education Program
6164.4	Identification And Evaluation Of Individuals For Special Education
6164.4	Identification And Evaluation Of Individuals For Special Education
6164.6	Identification And Education Under Section 504
6164.6	Identification And Education Under Section 504
6174	Education For English Learners
6174	Education For English Learners
6175	Migrant Education Program
6175	Migrant Education Program
6184	Continuation Education
6184	Continuation Education
7110	Facilities Master Plan

**Policy 6146.4: Differential Graduation And Competency Standards For Students With Disabilities**

**Status: ADOPTED**

Original Adopted Date: 11/01/1999 | Last Revised Date: ~~11/06/01/2009~~ 2023 | Last Reviewed Date: ~~11/06/01/2009~~ 2023

CSBA NOTE: The following optional policy is for use by districts that maintain high schools and should be modified to reflect district practice.

Pursuant to Education Code 56345 and 34 CFR 300.320, the individualized education program (IEP) for each student with a disability must contain ~~statements~~ a statement of measurable annual goals that would enable the student to progress in the general education curriculum ~~and~~, a statement regarding any accommodations necessary to measure the student's performance on state and district assessments, and any alternative means and modes necessary for the student to complete the district's prescribed course of study and to meet or exceed proficiency standards for graduation; see AR 6159 - Individualized Education Program for a detailed listing of the required contents of the IEP.

The Governing Board recognizes that students with disabilities are entitled to a course of study that provides them with a free appropriate public education (FAPE) and that modifications to the district's regular course may be needed on an individualized basis to provide FAPE. In accordance with law, each student's individualized education program (IEP) team shall determine the appropriate goals, as well as any appropriate individual accommodations necessary for measuring the academic achievement and functional performance of the student on state and districtwide assessments.

**Exemption from District-Established Graduation Requirements**

CSBA NOTE: Pursuant to Education Code 51225.31, as added by AB 181 (Ch. 52, Statutes of 2022), districts are required to exempt an eligible student with a disability from all coursework and other requirements adopted by the Board that are in addition to the statewide course requirements specified in Education Code 51225.3, and award such student a high school diploma, as reflected below. Awarding a diploma pursuant to this exception does not change the district's obligation to provide a free appropriate public education or otherwise constitute a change in placement.

District students shall complete all course requirements for high school graduation as specified in Board Policy 6146.1 – High School Graduation Requirements. However, a student with a disability may be exempted from all coursework and other requirements adopted by the Board that are in addition to the statewide course requirements for high school graduation if the student's IEP provides for both of the following requirements: (Education Code 51225.31).

1. That the student take the alternate assessment aligned to alternate achievement standards in grade 11 as described in Education Code 60640
2. That the student complete state standards aligned coursework to meet the statewide coursework specified in Education Code 51225.3

Prior to the beginning of grade 10, the IEP team for each student with a disability shall determine whether the student is eligible for the exemption, and if so, notify the student's parent/guardian of the exemption. (Education Code 51225.31)

Any such exempted student shall receive a diploma and be eligible to participate in any graduation ceremony and school activity related to graduation in which a student of similar age without a disability would be eligible to participate. (Education Code 51225.31)

## Certificate of Educational Achievement or Completion

CSBA NOTE: Education Code 56390-56392 authorize a district to award a certificate of educational achievement to ~~students~~ a student with ~~disabilities~~ a disability who ~~meet~~ meets the criteria specified below. Pursuant to Education Code 56391, ~~students~~ a student who ~~meet~~ meets the criteria ~~are~~ is eligible to participate in any graduation ceremony/activity in which a student of similar age without ~~disabilities~~ a disability would be eligible to participate. However, Education Code 56391 provides that the right to participate in graduation ceremonies does not equate a certificate or document of educational achievement with a regular diploma.

Instead of a high school diploma, a student with ~~disabilities~~ a disability may be awarded a certificate or document of educational achievement or completion if the student has met one of the following requirements: (Education Code 56390)

1. 1. Satisfactorily completed a prescribed alternative course of study approved by the board of the district in which the student attended school or the district with jurisdiction over the student as identified in ~~his/her~~ the student's IEP
2. 2. Satisfactorily met ~~his/her~~ the student's IEP goals and objectives during high school as determined by the IEP team
3. 3. Satisfactorily attended high school, participated in the instruction as prescribed in ~~his/her~~ the student's IEP, and met the objectives of the statement of transition services

A student with ~~disabilities~~ a disability who meets any of the criteria specified above shall be eligible to participate in any graduation ceremony and any school activity related to graduation in which a graduating student of similar age without disabilities would be eligible to participate. (Education Code 56391)

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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 3070

Description  
Graduation

Ed. Code 51225.3

High school graduation requirements

Ed. Code 51225.31

Graduation exemption for students with disabilities

Ed. Code 56341

Individualized education program team

Ed. Code 56345

Ed. Code 56390-56392

Ed. Code 60640

**Federal**

20 USC 1400-1482

34 CFR 300.1-300.818

34 CFR 300.320

**Management Resources**

Website

Website

Website

**Cross References**

**Code**

0430

0430

5127

6146.1

6146.3

6146.3

6159

6159

6159.1

6159.1

6159.2

6159.2

6159.3

6159.3

6162.51

6162.51

Individualized education program contents

Recognition for educational achievement; special education

California Assessment of Student Performance and Progress

**Description**

Individuals with Disabilities Education Act

Individuals with Disabilities Education Act

Definition of IEP

**Description**

CSBA District and County Office of Education Legal Services

U.S. Department of Education, Office of Special Education  
and Rehabilitative Services

California Department of Education

**Description**

Comprehensive Local Plan For Special Education

Comprehensive Local Plan For Special Education

Graduation Ceremonies And Activities

High School Graduation Requirements

Reciprocity Of Academic Credit

Reciprocity Of Academic Credit

Individualized Education Program

Individualized Education Program

Procedural Safeguards And Complaints For Special Education

Procedural Safeguards And Complaints For Special Education

Nonpublic, Nonsectarian School And Agency Services For  
Special Education

Nonpublic, Nonsectarian School And Agency Services For  
Special Education

Appointment Of Surrogate Parent For Special Education  
Students

Appointment Of Surrogate Parent For Special Education  
Students

State Academic Achievement Tests

State Academic Achievement Tests

6164.4	Identification And Evaluation Of Individuals For Special Education
6164.4	Identification And Evaluation Of Individuals For Special Education
6200	Adult Education
6200	Adult Education

**Policy 6159.2: Nonpublic, Nonsectarian School And Agency Services For Special Education** Status: ADOPTED

Original Adopted Date: 06/01/1995 | Last Revised Date: 07/06/01/2020 2023 | Last Reviewed Date: 07/06/01/2020 2023

CSBA NOTE: Education Code 56195.8 mandates districts to adopt policies for the special education programs and services they operate, including nonpublic, nonsectarian services provided to students with disabilities when no appropriate public education program is available to meet their special education needs. The nonpublic, nonsectarian school or agency (NPS/A) must be certified as meeting state standards pursuant to Education Code 56366 and 56366.1.

The following policy and accompanying administrative regulation should be revised to comply with the policies and regulations of the Special Education Local Plan Area in which the district operates.

The Governing Board recognizes its responsibility to provide a free appropriate public education to students with disabilities in accordance with law. When the district is unable to provide direct special education and/or related services to students with disabilities, the Board may enter into a contract with a nonpublic, nonsectarian school or agency (NPS/A) to meet student needs consistent with the comprehensive local plan of the Special Education Local Plan Area.

CSBA NOTE: Pursuant to Education Code 56366 and 56366.1, a district contracting with an NPS/A must verify that the NPS/A meets certification requirements. 5 CCR 3067 allows the district to request, in writing, that the California Department of Education review the certification status of an NPS/A.

Beginning in the 2020-21 school year, Education Code 56366.1, as amended by AB 1172 (Ch. 454, Statutes of 2019), also requires districts to verify that the NPS/A provides staff training in the use of evidence-based practices and interventions specific to the unique behavioral needs of the NPS/A's student population.

Prior to entering into a contract to place any student in an NPS/A, the Superintendent or designee shall verify that the school or agency is certified to provide special education and related services to individuals with disabilities and complies with staff training requirements in accordance with Education Code 56366 and 56366.1. In addition, the Superintendent or designee shall monitor, on an ongoing basis, the certification of any NPS/A with which the district has a contract to ensure that the certification has not expired.

No district student with a disability shall be referred to, or placed in, an NPS/A unless the student's individualized education program (IEP) team has determined that an appropriate public education alternative does not exist and that the placement is appropriate for the student. (Education Code 56342.1)

CSBA NOTE: Pursuant to Education Code 56365, students enrolled in an NPS/A are deemed to be enrolled in public schools for state apportionment purposes. Districts then pay to the NPS/A the full amount of the school tuition or, as amended by AB 1172, the agency fees for participating students pursuant to the contract.

The district shall pay to the NPS/A the full amount of the tuition or fees, as applicable, for students with disabilities who are enrolled in programs receiving services provided by the NPS/A.

pursuant to the contract. (Education Code 56365)

In accordance with law, any student with disabilities placed in an NPS/A shall have all the rights and protections to which students with disabilities are generally entitled, including, but not limited to, procedural safeguards, due process rights, and periodic review of the student's IEP.

During the period when any student with disabilities is placed in an NPS/A, the student's IEP team shall retain responsibility for monitoring the student's progress towards meeting the goals identified in the IEP.

CSBA NOTE: In a December 2022 Settlement Agreement between Davis Joint Unified School District and the U.S. Department of Education Office for Civil Rights, following an investigation into the use of seclusion and restraint at an NPS/A that the district contracted with, the district was found to have denied students a free and appropriate public education (FAPE) because the district failed to ensure the NPS/A staff were knowledgeable about district policies, procedures, and practices regarding the use seclusion and restraint, failed to reevaluate students to determine if the repeated use of restraint and seclusion affected the receipt of FAPE, and failed to consider if any additional aids and services were appropriate in order to provide FAPE. See BP5131. 41 - Use of Seclusion and Restraint for additional information on the use of Seclusion and Restraint.

The Superintendent or designee shall ensure that any contract with an NPS/A contains a requirement for the NPS/A to comply with district policy, procedures, and practices related to student rights, health, and safety, including the use of seclusion and restraint. All NPS/A staff that serve district students shall be made aware of, and trained in such policies, procedures, and practices.

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

The Superintendent or designee shall notify the Board prior to approving an out-of-state placement for any district student.

The Superintendent or designee may apply to the Superintendent of Public Instruction to waive any of the requirements of Education Code 56365, 56366, and 56366.6. (Education Code 56366.2)

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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 3001	Definitions
5 CCR 3051-3051.24	Special education; standards for related services and staff qualifications
5 CCR 3060-3070	Nonpublic, nonsectarian school and agency services
Ed. Code 56034-56035	Definitions of nonpublic, nonsectarian school and agency
Ed. Code 56042	Placement not to be recommended by attorney <u>or advocate</u> with conflict of interest

Ed. Code 56101	Waivers
Ed. Code 56163	Certification
Ed. Code 56168	Responsibility for education of student in hospital or health facility school
Ed. Code 56195.8	Adoption of policies
Ed. Code 56342.1	Individualized education program; placement
Ed. Code 56360-56369	Implementation of special education
Ed. Code 56711	Computation of state aid
Ed. Code 56740-56743	Apportionments and reports
Ed. Code 56760	Annual budget plan; service proportions
Ed. Code 56775.5	Reimbursement of assessment and identification costs
Ed. Code 56836.20-56836.21	Special education funding; SELPA contracts with nonpublic nonsectarian schools
Fam. Code 7911-7912	Interstate compact on placement of children
Gov. Code <del>7570-7587</del>	Interagency responsibilities for providing services to children with disabilities
Gov. Code <del>7572.55</del>	Seriously emotionally disturbed child; out-of-state placement
W&I Code 362.2	Out-of-home placement for IEP
W&I Code 727.1	Out-of-state placement of wards of court
<b>Federal</b>	<b>Description</b>
20 USC 1400-1487	Individuals with Disabilities Education Act
34 CFR 300.129-300.148	Children with disabilities in private schools
<b>Management Resources</b>	<b>Description</b>
Court Decision	Agostini v. Felton, (1997) 521 U.S. 203; <del>117 S.Ct. 1997</del>
<a href="#">US Dept of Ed Office for Civil Rights Settlement</a>	<a href="#">Department of Education, Davis Joint Unified School District Resolution Agreement, OCR No. 09-19-5001, December 7, 2022</a>
Website	CSBA District and County Office of Education Legal Services
Website	U.S. Department of Education, Office of Special Education and Rehabilitative Services
Website	California Department of Education
<b>Cross References</b>	
<b>Code</b>	<b>Description</b>
0430	Comprehensive Local Plan For Special Education
0430	Comprehensive Local Plan For Special Education
0500	Accountability

1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1431	Waivers
3541.2	Transportation For Students With Disabilities
3580	District Records
3580	District Records
4112.23	Special Education Staff
5125	Student Records
5125	Student Records
6146.1	High School Graduation Requirements
6146.3	Reciprocity Of Academic Credit
6146.3	Reciprocity Of Academic Credit
6146.4	Differential Graduation And Competency Standards For Students With Disabilities
6159	Individualized Education Program
6159	Individualized Education Program
6159.1	Procedural Safeguards And Complaints For Special Education
6159.1	Procedural Safeguards And Complaints For Special Education
6159.3	Appointment Of Surrogate Parent For Special Education Students
6159.3	Appointment Of Surrogate Parent For Special Education Students
6162.51	State Academic Achievement Tests
6162.51	State Academic Achievement Tests
6164.4	Identification And Evaluation Of Individuals For Special Education
6164.4	Identification And Evaluation Of Individuals For Special Education
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
6173.2	Education Of Children Of Military Families
6173.2	Education Of Children Of Military Families

**Policy 6173.4: Education for American Indian Students**

**Status: ADOPTED**

Original Adopted Date: 06/01/2023 |

CSBA NOTE: The following policy may be revised to reflect district practice. Districts that receive federal Title VI Indian education funding (20 USC 7401-7492), which supports local educational agencies, Indian tribes and organizations, and other entities in meeting the unique cultural, language, and educational needs of American Indian students, are mandated to adopt policy and procedures to ensure that the program will be operated and evaluated in consultation with, and with the involvement of, parents/guardians and family members of American Indian students and community representatives; see the section entitled, "Title VI Indian Education Program," for more information regarding this mandate.

The terms "American Indian," "Native American," and "Indian" are used in various state and federal laws but do not always refer to the same groupings of people or are not defined. For purposes of Title VI, 20 USC 7491 defines "Indians" to include Alaska natives. The following regulation may be revised to reflect terminology preferred by the district and local tribes.

The Governing Board recognizes that American Indian students may have unique cultural, language, and educational needs that may be addressed by increasing student knowledge about American Indian history, including the history and culture of local tribes, and by providing American Indian students with access to education and other services necessary for such students to meet the same challenging academic standards as other students.

The Superintendent or designee shall provide all students with culturally relevant curriculum related to local American Indian tribes and implement strategies necessary for the improvement of the academic achievement of American Indian students.

CSBA NOTE: The following paragraphs address the involvement of a California Indian Education Task Force. Pursuant to Education Code 33391, as added by AB 1703 (Ch. 477, Statutes of 2022), districts are encouraged to form a California Indian Education Task Force with Indian tribes local to their region, or historically located in the region, to assist in the development of curriculum related to local tribes, and in the identification of, and strategies to close, any achievement gaps between American Indian students and other students in the district.

In order to discuss, gain a shared understanding of, and develop curriculum for use within the district, and to identify the extent and nature of any achievement gaps between American Indian students and other district students, and strategies to address any such gaps, the district may form a California Indian Education Task Force with tribes local to the region. Participants in the task force meetings may consider issues of mutual concern, which include: (Education Code 33391)

1. Developing a thorough, shared understanding of accurate, high-quality curricular materials about the history, culture, and government of local tribes, and developing such materials for use within the district that include tribal experiences and perspectives
2. Developing a shared understanding of proper or improper instructional materials when these materials use depictions of Native Americans

3. Encouraging the adoption of the curriculum developed by the California Indian Education Task Force
4. Identifying the extent and nature of any achievement gap between American Indian students and other students, and strategies necessary to close it

If formed, the California Indian Education Task Force shall, within one year and thereafter annually, submit a report to the California Department of Education on the findings, including progress of work on Items #1-4, above. (Education Code 33391)

The Superintendent or designee shall identify American Indian students most at-risk of not meeting state academic standards and provide to such students the needed support(s), including making referrals, as appropriate, for special education services or services under Section 504 of the federal Rehabilitation Act of 1973, or other school-based services such as counseling and health services, supplemental instruction, before- or after-school services, and summer learning programs.

CSBA NOTE: Education Code 48432.5, as amended by AB 740 (Ch. 400, Statutes of 2022), provides protections for American Indian students prior to an involuntary transfer to a continuation school. Additionally, Education Code 48853.5, 48911, 48911.1, 48915.5, and 48918.1, as amended by AB 740, provide protections for American Indian students regarding suspension and expulsion proceedings and assignments to supervised suspension classrooms. In such instances, written notice must be provided to an American Indian student's tribal social worker and, if applicable, the county social worker. See AR 5144.1 – Suspension and Expulsion/Due Process, AR 5144.2 – Suspension and Expulsion/Due Process (Students with Disabilities), AR 6173.1 – Education for Foster Youth, and AR 6184 – Continuation Education.

Suspension, expulsion, assignment to a supervised suspension classroom, or involuntary transfer to a continuation school of an American Indian student shall be in accordance with law and as specified in Administrative Regulation 5144.1 – Suspension and Expulsion/Due Process, 5144.2 – Suspension and Expulsion/Due Process (Students with Disabilities), and 6184 – Continuation Education.

CSBA NOTE: Pursuant to Labor Code 3074.2, any district planning to hold a college or career fair is required to identify approved apprenticeship programs in the county and notify such programs that they are hosting a college or career fair. See BP 6164.2 – Guidance/Counseling Services and BP 6178 – Career Technical Education.

The Superintendent or designee shall provide programs to facilitate the successful transition of American Indian students to post-secondary education and employment, which may include college and career fairs in accordance with Labor Code 3074.2, mentorship programs, and counseling services.

As needed, the Superintendent or designee shall provide professional development to teachers and other school staff to assist them in understanding and responding to the unique needs of American Indian students.

At least annually, the Superintendent or designee shall report to the Board on the outcomes of American Indian students including, but not limited to, school attendance, student achievement test results, promotion and retention by grade level, graduation rates, and suspension/expulsion rates.

## Title VI Indian Education Program

CSBA NOTE: The following section is for districts that receive Title VI funding pursuant to 20 USC 7401-7492, and should be deleted by districts that do not receive such funding.

With the assistance of federal Title VI funding for the education of children from federally recognized tribes, the district shall offer programs and activities to meet the unique cultural, language, and educational needs of American Indian students, as defined in 20 USC 7491. Program objectives and outcomes shall be based on state academic standards. (20 USC 7424)

CSBA NOTE: The following paragraphs address the involvement of parents/guardians and family members of American Indian students and community representatives in program implementation and evaluation, as mandated by 20 USC 7424, and may be expanded to reflect district practice.

In developing, implementing, and evaluating Title VI programs and activities, the Superintendent or designee shall consult with and involve parents/guardians and family members of American Indian students and other community representatives. (20 USC 7424)

The district shall establish a committee that is composed of, and selected by, parents/guardians and family members of American Indian students, representatives of tribes on tribal lands located within 50 miles of any district school that serves any children of the tribes, teachers, and, if appropriate, American Indian students enrolled in secondary schools in the district. The majority of the committee shall be parents/guardians and family members of American Indian students. The committee shall participate in program development and provide written approval for the program. (20 USC 7424)

CSBA NOTE: Pursuant to 20 USC 7425, federal funding for American Indian education programs may be used for any of the services and activities listed in Items #1-13 below. The following list may be revised to reflect district practice.

The district's Title VI program for American Indian education may include any of the following services and activities: (20 USC 7425)

1. Activities that support Native American language programs and Native American language restoration programs, which may be taught by traditional leaders
2. Culturally related activities that support the district's program
3. Early childhood and family programs that emphasize school readiness
4. Enrichment programs that focus on problem solving and cognitive skills development and directly support the attainment of state academic standards
5. Integrated educational services in combination with other programs that meet the needs of American Indian students and their families, including programs that promote parent/guardian involvement in school activities and increase student achievement
6. Career preparation activities that enable American Indian students to participate in career technical education programs, including programs for mentoring and apprenticeship
7. Activities to educate individuals so as to prevent violence, suicide, and substance abuse
8. The acquisition of equipment that is essential to achieve program goals

9. Activities that promote the incorporation of culturally responsive teaching and learning strategies into the district's educational program
10. Family literacy services
11. Activities that recognize and support the unique cultural and educational needs of American Indian students, and incorporate appropriately qualified tribal elders and seniors
12. Dropout prevention strategies for American Indian students
13. Strategies to meet the educational needs of American Indian students in correctional facilities, including such strategies that support American Indian students who are transitioning from such facilities to schools served by the district

Any federal funds received to support American Indian education programs shall be used to supplement, not supplant, state or local funds allocated for such purposes. (20 USC 7424)

Program funds may be used to support a Title I schoolwide program pursuant to 20 USC 6314 if approved by the committee established pursuant to 20 USC 7424, provided that the schoolwide program is consistent with the purpose of American Indian education programs and the district's application identifies how the use of such funds in a schoolwide program will produce benefits to American Indian students that would not be achieved if not used in a schoolwide program. (20 USC 7424)

As needed, professional development shall be provided to teachers and other school staff to assist them in working with American Indian students and carrying out Title VI programs. (20 USC 7424)

The Superintendent or designee shall maintain a record of the information establishing the status of each student as an American Indian student eligible for assistance through the federal American Indian education program. (20 USC 7427)

The Superintendent or designee shall periodically assess the progress of all American Indian students, including American Indian students who do not participate in programs funded through Title VI, in meeting program goals and objectives. Assessment results shall be provided to the Board, the committee established pursuant to 20 USC 7424, tribes whose children are served by the district, and the community. (20 USC 7424)

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

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<b>State</b>	<b>Description</b>
Ed. Code 33380-33384	California Indian Education Centers
Ed. Code 33390-33391	California Indian Education Act
Ed. Code 48400-48454	Compulsory continuation education

Ed. Code 48850-48859  
 Ed. Code 48900-48927  
 Labor Code 3074.2

**Federal**

2 CFR 200.0-200.521  
 20 USC 1400-1482  
 20 USC 6314  
 20 USC 7401-7492  
 20 USC 7701-7714  
 29 USC 794  
 34 CFR 222.90-222.122  
 34 CFR 300.1-300.818

**Management Resources**

Website

Website

Website

Website

**Cross References**

**Code**

0410  
 0415  
 0460  
 0460  
 0500  
 1220  
 1220  
 3230  
 3230  
 3231  
 4131  
 4231  
 4331

Education of foster youth and homeless students  
 Suspension and expulsion  
 College and career fairs; notice to apprenticeship programs

**Description**

Federal uniform grant guidance  
 Individuals with Disabilities Education Act  
 Title I schoolwide program  
 Indian education  
 Impact Aid  
 Rehabilitation Act of 1973; Section 504  
 Impact Aid; special provisions for local educational agencies that claim children residing on Indian lands  
 Individuals with Disabilities Education Act  
 CSBA District and County Office of Education Legal Services  
 U.S. Department of Education, Office of Impact Aid  
 U.S. Department of Education, Office of Indian Education  
 California Department of Education

**Description**

Nondiscrimination In District Programs And Activities  
 Equity  
 Local Control And Accountability Plan  
 Local Control And Accountability Plan  
 Accountability  
 Citizen Advisory Committees  
 Citizen Advisory Committees  
 Federal Grant Funds  
 Federal Grant Funds  
 Impact Aid  
 Staff Development  
 Staff Development  
 Staff Development

5113.1	Chronic Absence and Truancy
5141.5	Mental Health
5141.6	School Health Services
5144.1	Suspension and Expulsion/Due Process
5144.2	Suspension and Expulsion/Due Process (Students with Disabilities)
5147	Dropout Prevention
5148.2	Before/After School Programs
6011	Academic Standards
6020	Parent Involvement
6020	Parent Involvement
6120	Response to Instruction and Intervention
6162.5	Student Assessment
6164.2	Guidance/Counseling Services
6164.5	Student Success Teams
6171	Title I Programs
6171	Title I Programs
6177	Summer Learning Programs
6178	Career Technical Education
6179	Supplemental Instruction
6184	Continuation Education

**Regulation 6173.4: Title VI Indian Education Program**

**Status:** ADOPTED

**Original Adopted Date:** 05/01/2020 | **Last Reviewed Date:** 05/01/2020

CSBA NOTE: The following administrative regulation is for use by districts that receive federal Title VI Indian education funding (20 USC 7401-7492), which supports local educational agencies, Indian tribes and organizations, and consortia in meeting the unique cultural, language, and educational needs of American Indian students and ensuring that all students meet challenging state academic standards. Pursuant to 20 USC 7424, districts receiving such funding are mandated to adopt policy and procedures to ensure that the program will be operated and evaluated in consultation with, and with the involvement of, parents/guardians and family members of American Indian students and community representatives, as provided below.

The terms "American Indian," "Native American," and "Indian" are used in various state and federal laws but do not always refer to the same groupings of people or are not defined. For purposes of Title VI, 20 USC 7491 defines "Indians" to include Alaska natives. The following regulation may be revised to reflect terminology preferred by the district and local tribes.

With the assistance of federal Title VI funding for the education of children from federally recognized tribes, the district shall offer programs and activities to meet the unique cultural, language, and educational needs of American Indian students, as defined in 20 USC 7491. Program objectives and outcomes shall be based on state academic standards. (20 USC 7424)

CSBA NOTE: The following paragraphs address the involvement of parents/guardians and family members of American Indian students and community representatives in program implementation and evaluation, as mandated by 20 USC 7424, and may be expanded to reflect district practice.

In developing, implementing, and evaluating Title VI programs and activities, the Superintendent or designee shall consult with and involve parents/guardians and family members of American Indian students and other community representatives. (20 USC 7424)

The district shall establish a committee that is composed of, and selected by, parents/guardians and family members of American Indian students, representatives of tribes on tribal lands located within 50 miles of any district school that serves any children of the tribes, teachers, and, if appropriate, American Indian students enrolled in secondary schools in the district. The majority of the committee shall be parents/guardians and family members of American Indian students. The committee shall participate in program development and provide written approval for the program. (20 USC 7424)

CSBA NOTE: Pursuant to 20 USC 7425, federal funding for American Indian education programs may be used for any of the services and activities listed in items #1-13 below. The following list may be revised to reflect district practice.

The district's Title VI program for American Indian education may include any of the following services and activities: (20 USC 7425)

1. Activities that support Native American language programs and Native American language restoration programs, which may be taught by traditional leaders

- 2.—Culturally related activities that support the district's progra
- 3.—Early childhood and family programs that emphasize school readiness
- 4.—Enrichment programs that focus on problem solving and cognitive skills development and directly support the attainment of state academic standards
- 5.—Integrated educational services in combination with other programs that meet the needs of American Indian students and their families, including programs that promote parent/guardian involvement in school activities and increase student achievement
- 6.—Career preparation activities that enable American Indian students to participate in career technical education programs, including programs for mentoring and apprenticeship
- 7.—Activities to educate individuals so as to prevent violence, suicide, and substance abuse
- 8.—The acquisition of equipment that is essential to achieve program goals
- 9.—Activities that promote the incorporation of culturally responsive teaching and learning strategies into the district's educational program
10. Family literacy services
11. Activities that recognize and support the unique cultural and educational needs of American Indian students, and incorporate appropriately qualified tribal elders and seniors
12. Dropout prevention strategies for American Indian students
13. Strategies to meet the educational needs of American Indian students in correctional facilities, including such strategies that support American Indian students who are transitioning from such facilities to schools served by the district

Any federal funds received to support American Indian education programs shall be used to supplement, not supplant, state or local funds allocated for such purposes. (20 USC 7424)

Program funds may be used to support a Title I schoolwide program pursuant to 20 USC 6314 if approved by the committee established pursuant to 20 USC 7424, provided that the schoolwide program is consistent with the purpose of American Indian education programs and the district's application identifies how the use of such funds in a schoolwide program will produce benefits to American Indian students that would not be achieved if not used in a schoolwide program. (20 USC 7424)

As needed, professional development shall be provided to teachers and other school staff to assist them in working with American Indian students and carrying out Title VI programs. (20 USC 7424)

The Superintendent or designee shall maintain a record of the information establishing the status of each student as an American Indian student eligible for assistance through the federal American Indian education program. (20 USC 7427)

The Superintendent or designee shall periodically assess the progress of American Indian students, including American Indian students who do not participate in programs funded through Title VI, in meeting program goals and objectives. Assessment results shall be provided to the Board, the committee established pursuant to 20 USC 7424, tribes whose children are served by the district,

and the community. (20 USC 7424)

#### 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 33380-33384

#### Description

California Indian Education Centers

#### Federal

2 CFR 200.0-200.521

#### Description

Federal uniform grant guidance

20 USC 6314

Title I schoolwide program

20 USC 7401-7492

Indian education

20 USC 7701-7714

Impact Aid

34 CFR 222.90-222.129

Impact Aid; special provisions for local educational agencies that claim children residing on Indian lands

#### Management Resources

Website

#### Description

CSBA District and County Office of Education Legal Services

Website

U.S. Department of Education, Office of Impact Aid

Website

U.S. Department of Education, Office of Indian Education

Website

California Department of Education

#### Cross References

#### Code

0410

#### Description

Nondiscrimination In District Programs And Activities

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Equity

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Local Control And Accountability Plan

0460

Local Control And Accountability Plan

0500

Accountability

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Citizen Advisory Committees

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Impact Aid

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Staff Development

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<del>4331</del>	<u>Staff Development</u>
<del>6011</del>	<u>Academic Standards</u>
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<del>6020</del>	<u>Parent Involvement</u>
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<del>6171</del>	<u>Title I Programs</u>
<del>6171</del>	<u>Title I Programs</u>

**Policy 6174: Education For English Learners**

**Status: ADOPTED**

Original Adopted Date: 03/01/2017 | Last Revised Date: ~~07/06/01/2019~~ 2023 | Last Reviewed  
Date: ~~07/06/01/2019~~ 2023

CSBA NOTE: The following policy may be revised to reflect district practice. State and federal law establish requirements for the identification, placement, and education of English learners.

Pursuant to Education Code 42238.02 and 42238.03, the local control funding formula provides additional funding based on the number and concentration of unduplicated counts of students who are English learners, foster youth, and/or eligible for free or reduced-price meals. Such funds must be used to increase or improve services for unduplicated students at least in proportion to the increase in funds apportioned on the basis of the number or concentration of unduplicated students; see BP 3100 - Budget.

In addition, 20 USC 6801-7014 (Title III) provide grant funds that may be used to supplement, but not supplant, funding from other sources for the purpose of ensuring that English learners attain English proficiency and meet the same challenging academic standards that are applicable to all students. During the Federal Program Monitoring (FPM) process, California Department of Education (CDE) staff will expect to see evidence that the district has complied with state and federal requirements. See CDE's ~~web site~~ [website](#) for FPM compliance monitoring instruments.

For further information regarding English learners, programs, and services, see CDE's publication, "The California English Learner Roadmap: Strengthening Comprehensive Educational Policies, Programs and Practices for English Learners," ([Roadmap](#)) available on its ~~web site~~ [website](#).

The Governing Board intends to provide English learners with challenging curriculum and instruction that maximize the attainment of high levels of proficiency in English, advance multilingual capabilities, and facilitate student achievement in the district's regular course of study.

CSBA NOTE: Pursuant to Education Code 60811, ~~in November 2012~~ the State Board of Education (SBE) adopted state academic content standards for English language development (ELD), and the English Language Arts/English Language Development Framework aligned with the California Common Core State Standards for English language arts, for students whose primary language is a language other than English. ~~In July 2014, the SBE adopted the English Language Arts/English Language Development Framework aligned to those standards.~~ A supplementary resource, "Integrating the CA ELD Standards into K-12 Mathematics and Science Teaching and Learning," specifies the correspondence ~~between~~ of the state ELD standards ~~and to~~ the California Common Core State Standards for mathematics and the Next Generation Science Standards.

~~CDE's Roadmap~~ CDE's, "California Digital Learning Integration and Standards Guidance," available on its website, provides distance learning curriculum and instructional guidance for mathematics, English language arts, and English language development.

Additionally, CDE's, "Roadmap" encourages differentiated instruction and curriculum which are

integrated across all subject areas and ~~emphasize~~emphasizes inquiry-based learning and critical thinking skills.

English learners shall be provided differentiated English language development instruction which is targeted to their English proficiency level. Such instruction shall be based on sound instructional theory, be aligned with state content standards, emphasize inquiry-based learning and critical thinking skills, and be integrated across all subject areas.

CSBA NOTE: The following items are for use by districts that maintain middle and/or high schools and may be revised to reflect the grade levels offered by the district. Education Code 60811.8, as added by AB 2735 (Ch. 304, Statutes of 2018), prohibits districts from denying any student who is an English learner the opportunity to enroll in core curriculum courses, courses required for middle school promotion or high school graduation, courses required for college admission, or advanced courses, with specified exceptions for recently arrived immigrant students. Pursuant ~~to~~However, Education Code 60811.8, ~~this law~~ does not require districts to create supplemental courses in languages other than English.

No middle or high school student who is an English learner shall be denied enrollment in any of the following: (Education Code 60811.8)

1. Courses in the core curriculum areas of reading/language arts, mathematics, science, and history-~~/~~social science, courses required to meet state and local high school graduation requirements, or courses required for middle school grade promotion

However, an English learner ~~may be denied participation in any such course if the student who~~ has been enrolled in a school in the United States for less than 12 months or is enrolled in a program designed to develop the basic English skills of newly arrived immigrant students, and may be denied participation in any such course, if the course of study provided to the student is designed to remedy academic deficits incurred during participation and reasonably calculated to enable the student to attain parity of participation in the standard instructional program within a reasonable length of time after the student enters the school system.

2. A full course load of courses specified in ~~item~~Item #1 above
3. Other courses that meet the "~~a-g~~A-G" course requirements for college admission or are advanced courses such as honors or Advanced Placement courses, on the sole basis of the student's classification as an English learner

CSBA NOTE: Education Code 52060 requires the district's local control and accountability plan (LCAP) to include annual goals and specific actions, aligned to state and local priorities, for all students and for each "numerically significant" student subgroup as defined in Education Code 52052, including English learners; see BP/AR 0460 - Local Control and Accountability Plan. CDE's "Roadmap" provides an alignment between principles outlined for English learners and the eight state priority areas required in the district's LCAP.

The district shall identify in its local control and accountability plan (LCAP) goals and specific actions and services to enhance student engagement, academic achievement, and other outcomes for English learners.

CSBA NOTE: The following paragraph may be revised to reflect district strategies for parent/guardian and community involvement. Education Code 305 requires the district to solicit input on language acquisition programs as part of the parent/guardian and community engagement process during the development of the LCAP; see section on "Language Acquisition Programs" below. In addition, if district enrollment includes at least 15 percent English learners, with at least 50 students who are English learners, Education Code 52063 requires the establishment of an English learner parent advisory committee to review and comment on the district's LCAP; see the accompanying administrative regulation and BP 0460 - Local Control and Accountability Plan.

The Superintendent or designee shall encourage parent/guardian and community involvement in the development and evaluation of programs for English learners. The Superintendent or designee may also provide an English development literacy training program for parents/guardians and community members so that they may better support students' English language development.

### Staff Qualifications and Training

CSBA NOTE: Commission on Teacher Credentialing's (CTC) leaflet CL-622, "Serving English Learners, describes," and "Bilingual Authorization Educator Preparation Preconditions, Program Standards, and Bilingual Teaching Performance Expectations," describe requirements pertaining to the qualifications of teachers of English learners. A teacher who is assigned to provide English language development, specially designed academic instruction in English, and/or primary language instruction to English learners must hold an appropriate authorization from CTC; see AR 4112.22 - Staff Teaching English Learners.

The Superintendent or designee shall ensure that all staff employed to teach English learners possess the appropriate authorization from the Commission on Teacher Credentialing.

CSBA NOTE: The following paragraph reflects a requirement for districts that receive federal Title III funds to improve the education of English learners, and is recommended for use by all districts. 20 USC 6825 lists the required uses of such funds, including the provision of professional development of sufficient intensity and duration to have a positive and lasting impact on teachers' performance in the classroom. Pursuant to 20 USC 6825, such professional development must not include one-day or short-term workshops and conferences.

The district shall provide effective professional development to teachers (including teachers in classroom settings that are not the settings of language instruction educational programs), administrators, and other school or community-based organization personnel to improve the instruction and assessment of English learners and enhance staff's ability to understand and use curricula, assessment, and instructional strategies for English learners. Such professional development shall be of sufficient intensity and duration to produce a positive and lasting impact on teachers' performance in the classroom. (20 USC 6825)

CSBA NOTE: The following paragraph is optional. CDE's "Roadmap," indicates the importance of a supportive and collaborative environment in order for teachers to effectively address the complex needs of English learners.

Staff development shall also address the sociocultural needs of English learners and provide opportunities for teachers to engage in supportive, collaborative learning communities.

### Identification and Assessment