

6. Provision of safety materials and emergency communications in language(s) understandable to parents/guardians

~~CSBA NOTE: Education Code 49392, as added by SB 906 (Ch. 144, Statutes of 2022), requires districts, starting with the 2023-24 school year, to include in the annual notification to parents/guardians pursuant to Education Code 48980 information related to the safe storage of firearms, as specified.~~

CSBA NOTE: The California School Board Association's Research and Policy Fact Sheet, "School Safety: Firearm Safety and Storage," provides guidance and best practices related to the safe storage of firearms.

7. Annual notification to parents/guardians related to the safe storage of firearms
8. Prevention and intervention strategies related to the sale or use of drugs and alcohol which shall reflect expectations for drug-free schools and support for recovering students
9. Collaborative relationships among the city, county, community agencies, local law enforcement, the judicial system, and the schools that lead to the development of a set of common goals and community strategies for violence prevention instruction
10. District policy prohibiting the possession of firearms and ammunition on school grounds
11. Measures to prevent or minimize the influence of gangs on campus

CSBA NOTE: Education Code 32281 authorizes the principal, upon receiving verification from law enforcement, to notify parents/guardians and employees in writing that a violent crime has occurred on the school site. A "violent crime" is any act for which a student could be expelled and which meets the definition listed in Education Code 67381, including willful homicide, forcible rape, robbery, and aggravated assault, as defined in the, "Federal Bureau of Investigation's Uniform Crime Reporting Handbook." Education Code 32281 encourages that the notice be sent no later than the second workday after receiving verification from law enforcement.

20 USC 7912 requires that all students attending a "persistently dangerous" school be provided notice of the designation and an option to transfer to a different school within the district. See BP/AR 5116.1 - Intradistrict Open Enrollment.

12. Procedures for receiving verification from law enforcement when a violent crime has occurred on school grounds and for promptly notifying parents/guardians and employees of that crime
13. Procedures for the early identification and threat assessment of, and appropriate response to, suspicious and/or threatening digital media content
14. Assessment of the school's physical environment, including a risk management analysis and development of ground security measures such as procedures for closing campuses to outsiders, installing surveillance systems, securing the campus perimeter, protecting buildings against vandalism, and providing for a law enforcement presence on campus

CSBA NOTE: Government Code 11549.3, as amended by AB 1352 (Ch. 593, Statutes of 2021), CSBA NOTE: Pursuant to Government Code 8586.5, the California Cybersecurity Integration Center (CSIC) serves as the central organizing hub of the state government's cybersecurity preparedness and response activities and coordinates cyber intelligence and information sharing, and, as amended by AB 1023 (Ch. 555, Statutes of 2023), is required to coordinate information sharing, including cyber threat information, with school districts. Government Code 11549.3 authorizes districts, at district expense, to request the Military Department, in consultation with ~~the California Cybersecurity Integration Center~~ CSIC, to perform an independent security assessment of the district or individual district school. Districts are encouraged to consult with the California Office of Emergency Services (OES) and utilize resources such as the State Threat Assessment System and Regional Fusion Centers to help assess potential threats. For more information see OES' ~~web site~~ website.

Pursuant to Education Code 35266, as added by AB 2355 (Ch. 498, Statutes of 2022), districts that experience a cyberattack, as defined, which impacts more than 500 students or personnel, are required to report such cyberattack to ~~the California Cybersecurity Integration Center~~ CSIC.

15. Independent security assessment of the school's network infrastructure and selected web applications to identify vulnerabilities and provide recommendations to improve cybersecurity

CSBA NOTE: Education Code 32282.1 does not require, but encourages, that comprehensive safety plans include the strategies described in Item #16 below, to the extent the district uses the listed professionals. CDE's, "The Comprehensive School Safety Plan: Recommended Components," available on its ~~web site~~ website, includes athletic coaches in the list of professionals and specifies that community intervention professionals include those who speak languages other than English.

16. Guidelines for the roles and responsibilities of mental health professionals, athletic coaches, community intervention professionals, school counselors, school resource officers, and police officers on school campuses. Guidelines may include, but are not limited to, the following:

- a. Strategies to create and maintain a positive school climate, promote school safety, and increase student achievement
- b. Strategies to prioritize mental health and intervention services, restorative and transformative justice programs, and positive behavior interventions and support
- c. Protocols to address the mental health care of students who have witnessed a violent act at any time, including, but not limited to, while on school grounds, while coming or going from school, during a lunch period whether on or off campus, or during or while going to or coming from a school-sponsored activity

17. Strategies for suicide prevention and intervention

CSBA NOTE: Policies and/or plans for maintaining a safe school environment during a pandemic, as described in Item #18 below, may be included in the district's comprehensive safety plan. Such policies may include ~~BP 0470 – COVID-19 Mitigation Plan, BP 3516.5 -~~

Emergency Schedules, BP 4113.5 - Working Remotely, BP 4119.41 - Employees with Infectious Disease, BP/AR 5141.22 - Infectious Diseases, and BP/AR 6158 - Independent Study.

18. District policy and/or plan related to pandemics

CSBA NOTE: Penal Code 626.8 provides that a person may be guilty of a misdemeanor for infringing with or disrupting a school activity, remaining on campus after having been asked to leave, reentering within seven days of being asked to leave, establishing a continued pattern of unauthorized entry, or willfully or knowingly creating a disruption with the intent to threaten the immediate physical safety of a student in preschool or grades K-8 who is arriving at, attending, or leaving school; see BP/AR 3515.2 - Disruptions.

19. Procedures to implement when a person interferes with or disrupts a school activity, remains on campus after having been asked to leave, or creates a disruption with the intent to threaten the immediate physical safety of students or staff

20. Crisis prevention and intervention strategies, which may include the following:

- a. Identification of possible crises that may occur, determination of necessary tasks that need to be addressed, and development of procedures relative to each crisis, including the involvement of law enforcement and other public safety agencies as appropriate
- b. Threat assessment strategies to determine the credibility and seriousness of a threat and provide appropriate interventions for the potential offender(s)
- c. Assignment of staff members responsible for each identified task and procedure
- d. Development of an evacuation plan based on an assessment of buildings and grounds and opportunities for students and staff to practice the evacuation plan
- e. Coordination of communication to schools, Governing Board members, parents/guardians, and the media
- f. Communication with parents/guardians of reunification plans and the necessity of cooperating with first responders
- g. Development of a method for the reporting of violent incidents
- h. Development of follow-up procedures that may be required after a crisis has occurred, such as counseling

CSBA NOTE: Education Code 49390 and 49393, ~~as added by SB 906~~, require certificated and classified employees of the district, or other school officials such as Board members, whose duties bring the employee or other school official in contact on a regular basis with students in any of grades 6-12, as part of a middle school or high school, who are alerted to or observe any threat or perceived threat of a homicidal act, as defined, to immediately report the threat or perceived threat to law enforcement in accordance with Education Code 49393. "Threat or perceived threat"

means any writing or action of a student that creates a reasonable suspicion that the student is preparing to commit a homicidal act related to school or a school activity. This may include possession, use, or depictions of firearms, ammunition, shootings, or targets in association with infliction of physical harm, destruction, or death in a social media post, journal, class note, or other media associated with the student. It may also include a warning by a parent, student, or other individual.

21. Training on assessment and reporting of potential threats, violence prevention, and intervention techniques. Such training shall include preparation to implement the elements of the comprehensive safety plan

**CSBA NOTE:** Pursuant to Education Code 32284, the comprehensive safety plan may, at the discretion of the Board, include procedures for responding to the release of a pesticide or other toxic substance from properties located within one-quarter mile of a school. No state funds may be used for this purpose.

22. Environmental safety strategies, including, but not limited to, procedures for preventing and mitigating exposure to toxic pesticides, lead, asbestos, vehicle emissions, and other hazardous substances and contaminants
23. Continuity of operations procedures to ensure that the district's essential functions are not disrupted during an emergency, to the extent possible

**Policy Reference UPDATE Service**

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**Policy Reference Disclaimer:**

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

State	Description
5 CCR 11987-11987.7	School Community Violence Prevention Program requirements
5 CCR 11992-11993	<del>Definition: persistently</del> <u>Persistently</u> dangerous schools; <u>definition</u>
CA Constitution Article 1, Section 28	Right to Safe Schools
Ed. Code 200-262.4	Prohibition of discrimination
Ed. Code 32260-32262	Interagency School Safety Demonstration Act of 1985
Ed. Code 32270	School safety cadre
Ed. Code 32280-32289.5	School safety plans
Ed. Code 32290	Safety devices
Ed. Code 35147	School site councils and advisory committees

Ed. Code 35183	School dress code; uniforms
Ed. Code 35266	Reporting of cyber attacks
Ed. Code 35291	Rules
Ed. Code 35291.5	School-adopted discipline rules
Ed. Code 41020	Requirement for annual audit
Ed. Code 48900-48927	Suspension and expulsion
Ed. Code 48950	Speech and other communication
Ed. Code 48980	Parent/Guardian notifications
Ed. Code 49079	Notification to teacher; student act constituting grounds for suspension or expulsion
Ed. Code 49390-49395	Homicide threats
Ed. Code 67381	Availability of information regarding crimes
<u>Gov. Code 8586.5</u>	<u>California Cybersecurity Integration Center</u>
Gov. Code 11549.3	Independent security assessment
Gov. Code 54957	Closed session meetings for threats to security
Pen. Code 11164-11174.3	Child Abuse and Neglect Reporting Act
Pen. Code 422.55	Definition of hate crime
Pen. Code 626.8	Disruptions
<b>Federal</b>	<b>Description</b>
<u>20 USC 1400-1482</u>	<u>Individuals with Disabilities Education Act</u>
20 USC 7111-7122	Student support and academic enrichment grants
20 USC 7912	Transfers from persistently dangerous schools
<u>29 USC 794</u>	<u>Rehabilitation Act of 1973; Section 504</u>
42 USC 12101-12213	Americans with Disabilities Act
6 USC 665k	Federal Clearinghouse on School Safety Evidence-Based Practices
<b>Management Resources</b>	<b>Description</b>
CSBA Publication	Community Schools: Partnerships Supporting Students, Families and Communities, Policy Brief, October 2010
CSBA Publication	Cyberbullying: Policy Considerations for Boards, Policy Brief, rev. July 2010
CSBA Publication	Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014

CSBA Publication	Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011
<u>CSBA Publication</u>	<u>School Safety: Firearm Safety and Storage, May 2023</u>
CSBA Publication	Legal Guidance on Rights of Transgender and Gender Nonconforming Students in Schools, October 2022
Federal Bureau of Investigation Publication	Uniform Crime Reporting Handbook, 2004
U.S. <del>DOE</del> <u>Department of Education</u> Publication	Practical Information on Crisis Planning: A Guide for Schools and Communities, January 2007
U.S. Secret Service & <del>DOE</del> <u>Department of Education</u> Publication	Threat Assessment in Schools: A Guide to Managing Threatening Situations and to Creating Safe School Climates, 2004
Website	California Military Department
<u>Website</u>	<u>California Department of Education, Safe Schools Planning</u> <u>(<a href="https://www.cde.ca.gov/ls/ss/vp/safeschlplanning.asp">https://www.cde.ca.gov/ls/ss/vp/safeschlplanning.asp</a>)</u>
Website	California Department of Technology, Independent Security Assessment
Website	U.S. Department of Homeland Security, Fusion Centers
<u>Website</u>	<u>Schoolsafety.gov (<a href="https://www.schoolsafety.gov/">https://www.schoolsafety.gov/</a>)</u>
Website	California State Threat Assessment System
Website	CSBA District and County Office of Education Legal Services
Website	U.S. Secret Service, National Threat Assessment Center
Website	Centers for Disease Control and Prevention
Website	Federal Bureau of Investigation
Website	National Center for Crisis Management
Website	National School Safety Center
<u>Website</u>	<u>California Department of Education, Language Services Policy and Process</u>
Website	California Department of Education, Safe Schools
Website	California Governor's Office of Emergency Services
Website	California Healthy Kids Survey
Website	U.S. Department of Education
Website	CSBA

**Cross References**

<b>Code</b>	<b>Description</b>
0400	Comprehensive Plans
0410	Nondiscrimination In District Programs And Activities
0420	School Plans/Site Councils
0420	School Plans/Site Councils
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
<del>0470</del>	<del>COVID-19 Mitigation Plan</del>
0500	Accountability
0510	School Accountability Report Card
1100	Communication With The Public
1112	Media Relations
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1220	Citizen Advisory Committees
1220	Citizen Advisory Committees
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
1313	Civility
1330	Use Of School Facilities
1330	Use Of School Facilities
1330.1	Joint Use Agreements
1340	Access To District Records
1340	Access To District Records
1400	Relations Between Other Governmental Agencies And The Schools
2210	Administrative Discretion Regarding Board Policy
3510	Green School Operations

3511	Energy And Water Management
3511	Energy And Water Management
3513.3	Tobacco-Free Schools
3513.3	Tobacco-Free Schools
3514	Environmental Safety
3514	Environmental Safety
3514.1	Hazardous Substances
3514.1	Hazardous Substances
3514.2	Integrated Pest Management
3515	Campus Security
3515	Campus Security
3515.2	Disruptions
3515.2	Disruptions
3515.3	District Police/Security Department
3515.3	District Police/Security Department
3515.31	School Resource Officers
3515.4	Recovery For Property Loss Or Damage
3515.4	Recovery For Property Loss Or Damage
3515.5	Sex Offender Notification
3515.5	Sex Offender Notification
3515.7	Firearms On School Grounds
3516	Emergencies And Disaster Preparedness Plan
3516	Emergencies And Disaster Preparedness Plan
3516.1	Fire Drills And Fires
3516.2	Bomb Threats
3516.3	Earthquake Emergency Procedure System
3516.5	Emergency Schedules
3530	Risk Management/Insurance
3530	Risk Management/Insurance
3543	Transportation Safety And Emergencies
4112.41	Employee Drug Testing



4112.41	Employee Drug Testing
4119.11	Sexual Harassment
4119.11	Sexual Harassment
4119.23	Unauthorized Release Of Confidential/Privileged Information
4131	Staff Development
4140	Bargaining Units
4141.6	Concerted Action/Work Stoppage
4141.6	Concerted Action/Work Stoppage
4157	Employee Safety
4157	Employee Safety
4158	Employee Security
4158	Employee Security
4212.41	Employee Drug Testing
4212.41	Employee Drug Testing
4219.11	Sexual Harassment
4219.11	Sexual Harassment
4219.23	Unauthorized Release Of Confidential/Privileged Information
4231	Staff Development
4240	Bargaining Units
4241.6	Concerted Action/Work Stoppage
4241.6	Concerted Action/Work Stoppage
4257	Employee Safety
4257	Employee Safety
4258	Employee Security
4258	Employee Security
4312.41	Employee Drug Testing
4312.41	Employee Drug Testing
4319.11	Sexual Harassment
4319.11	Sexual Harassment
4319.21	Professional Standards
4319.21-E(1)	Professional Standards

4319.23	Unauthorized Release Of Confidential/Privileged Information
4331	Staff Development
4340	Bargaining Units
4357	Employee Safety
4357	Employee Safety
4358	Employee Security
4358	Employee Security
5020	Parent Rights And Responsibilities
5020	Parent Rights And Responsibilities
5112.5	Open/Closed Campus
5113	Absences And Excuses
5113	Absences And Excuses
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy
5116.1	Intradistrict Open Enrollment
5116.1	Intradistrict Open Enrollment
5131	Conduct
5131.2	Bullying
5131.2	Bullying
5131.4	Student Disturbances
5131.4	Student Disturbances
5131.41	Use Of Seclusion And Restraint
5131.5	Vandalism And Graffiti
5131.6	Alcohol And Other Drugs
5131.6	Alcohol And Other Drugs
5131.61	Drug Testing
5131.62	Tobacco
5131.62	Tobacco
5131.63	Steroids
5131.63	Steroids
5131.7	Weapons And Dangerous Instruments

5131.7	Weapons And Dangerous Instruments
5131.8	Mobile Communication Devices
5132	Dress And Grooming
5132	Dress And Grooming
5136	Gangs
5136	Gangs
5137	Positive School Climate
5138	Conflict Resolution/Peer Mediation
5141.22	Infectious Diseases
5141.22	Infectious Diseases
5141.4	Child Abuse Prevention And Reporting
5141.4	Child Abuse Prevention And Reporting
5141.52	Suicide Prevention
5141.52	Suicide Prevention
5142	Safety
5142	Safety
5142.2	Safe Routes To School Program
5142.2	Safe Routes To School Program
5144	Discipline
5144	Discipline
5144.1	Suspension And Expulsion/Due Process
5144.1	Suspension And Expulsion/Due Process
5144.2	Suspension And Expulsion/Due Process (Students With Disabilities)
5145.12	Search And Seizure
5145.12	Search And Seizure
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5145.7	Sexual Harassment

5145.7	Sexual Harassment
5145.9	Hate-Motivated Behavior
5148.2	Before/After School Programs
5148.2	Before/After School Programs
6020	Parent Involvement
6020	Parent Involvement
6141.2	Recognition Of Religious Beliefs And Customs
6141.2	Recognition Of Religious Beliefs And Customs
6142.3	Civic Education
6142.4	Service Learning/Community Service Classes
6142.8	Comprehensive Health Education
6142.8	Comprehensive Health Education
6153	School-Sponsored Trips
6153	School-Sponsored Trips
6159	Individualized Education Program
6159	Individualized Education Program
6164.2	Guidance/Counseling Services
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
6184	Continuation Education
6184	Continuation Education
7214	General Obligation Bonds
7214	General Obligation Bonds
9010	Public Statements
9011	Disclosure Of Confidential/Privileged Information
9320	Meetings And Notices
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session

**Policy 0470: COVID-19 Mitigation Plan**

**Status:** ADOPTED

**Original Adopted Date:** 06/01/2020 | **Last Revised Date:** 09/01/2021 | **Last Reviewed Date:** 09/01/2021

**CSBA NOTE:** The following policy is intended for use during the coronavirus (COVID-19) pandemic and supersedes conflicting provisions in other district policies and administrative regulations, thereby eliminating the need to temporarily revise multiple policies. When the Governing Board determines, consistent with state and local orders from health officials, that the need for this policy no longer exists, the following policy should be removed from the district's policy manual.

Due to the unexpected nature of the pandemic, the evolving circumstances, and rapidly changing health and safety guidance regarding COVID-19, this policy has been revised to refer directly to the state resources that serve as both mandatory and recommended guidance to districts during the pandemic. Districts are encouraged to consult with local health officials, staff, students, parents/guardians, neighboring school districts, and the county office of education in comprehensive planning for safe operations.

This policy is not intended to serve as or supersede the District's COVID-19 Prevention Program ("CPP") required by the California Division of Occupational Safety and Health (Cal/OSHA), as described below, or the District's Injury and Illness Prevention Program ("IIPP"). Rather, this policy should supplement and support the IIPP. See BP/AR 4157/4257/4357 – Employee Safety.

This policy involves a number of working conditions that are often addressed in collective bargaining agreements and, as such, may be subject to negotiations with employee organizations.

The following policy establishes actions that will be taken by the district to provide a safe learning and working environment during the coronavirus (COVID-19) pandemic, and shall supersede any conflicting language in existing district policies or administrative regulations until the Governing Board determines that the need for this policy no longer exists. The Board acknowledges that, due to the evolving nature of the pandemic, federal, state, and local orders impacting district operations are subject to change without notice. In the event that any federal or state law and/or order or local order may conflict with this policy, the law or order shall govern.

The Board may also adopt resolutions or take other actions as needed to respond to such orders or provide further direction during the pandemic.

To limit the impact of the pandemic on the education of district students, the district shall implement learning recovery, social-emotional support, and other measures and strategies designed to keep students learning and engaged in the instructional program.

**COVID-19 Safety Plan**

**CSBA NOTE:** Pursuant to Health and Safety Code 120130, the State Public Health Officer has the authority to create mandates for K-12 schools to prevent the spread of a communicable disease. In addition, the California Department of Public Health (CDPH) may adopt and enforce regulations requiring strict or modified isolation or quarantine if necessary for the protection of the public health. Local health officials have similar authority pursuant to Health and Safety Code 120175-

120255 to issue orders they deem necessary to control the spread of a communicable disease, subject to the control and regulation of CDPH. Districts are therefore obligated to comply with COVID-19 mitigation requirements from multiple jurisdictional authorities including: (1) the California Department of Public Health (CDPH); (2) Cal/OSHA; and (3) local health authorities.

CDPH's COVID-19 Public Health Guidance for K-12 Schools in California, 2021-22 School Year (updated September 1, 2021) provides updated public health guidance applicable to California schools. The CDPH guidance provides that all students must have access to safe and full in-person instruction and to as much instructional time as possible. The guidance includes both mandatory and recommended practices on a range of topics, including: masking; physical distancing; ventilation; protocols for staying home when sick and getting tested; screening testing; case reporting, contact tracing and investigation; quarantining; isolating when sick with COVID-19; hand hygiene; cleaning; vaccination verification; COVID-19 safety planning transparency; school-based extracurricular activities; supporting students with disabilities or other health care needs; and visitors.

On June 11, 2021, the State Public Health Officer issued an order that requires all individuals to follow the CDPH face mask guidance and any amended guidance for K-12 schools. This order went into effect on June 15, 2021 and does not have an expiration date. In a letter dated August 23, 2021, CDPH emphasized that universal masking indoors is mandatory, that districts have no discretion to opt out or not enforce the mandate, and that districts that do not enforce the mandate will be at significant liability risk.

In addition, on August 11, 2021, the State Public Health Officer issued an order that requires workers and volunteers in school settings serving students in transitional kindergarten through grade 12 to either provide proof of vaccination, as specified by CDPH, or submit to regular testing for COVID-19. Schools are also required to have a plan in place by October 15, 2021 for tracking verified worker vaccination status and records must be made available, upon request, to the local health authority for the purposes of case investigation.

Pursuant to 8 CCR 3205, districts must have a Cal/OSHA COVID-19 prevention program that contains the following elements: (1) a system for communicating with and providing notice to employees; (2) identification and evaluation of COVID-19 hazards; (3) investigation and response to COVID-19 cases; (4) procedures for correcting COVID-19 hazards; (5) training and instruction to employees; (6) face coverings; (7) other engineering controls, administrative controls, and personal protective equipment (PPE); (8) reporting, recordkeeping, and access to the written COVID-19 prevention program; (9) exclusion of COVID-19 cases; and (10) return-to-work criteria.

Pursuant to state and federal law, districts are required to create and post COVID-19 safety plans. Specifically, pursuant to Education Code 32091, districts are required to post a completed COVID-19 safety plan that complies with the health guidance of CDPH and Cal/OSHA on the district's web site home page. In addition, districts receiving Elementary and Secondary School Emergency Relief funds are required to adopt and post a Safe Return to In-Person Instruction and Continuity of Services Plan and review it at least every six months for possible revisions, describing how the district will maintain the health and safety of students, educators and other staff, including the extent to which it has adopted policies, and a description of such policies, on each of the safety recommendations provided by the Centers for Disease Control and Prevention (CDC). A template plan for this purpose is available on the California Department of Education's web site.

Due to the evolving nature of the pandemic, health and safety guidance is subject to change.

Districts are strongly encouraged to refer directly to public health orders and guidance and work closely with public health authorities to ensure that COVID-19 mitigation measures stay current.

The Superintendent or designee shall establish, implement, and maintain a COVID-19 safety plan that complies with any mandatory public health guidance of the California Department of Public Health (CDPH), the COVID-19 prevention program ("CPP") consistent with the regulations of the California Division of Occupational Safety and Health, any orders of state or local health authorities, and any other applicable law and/or health order(s). The Superintendent or designee shall ensure, at a minimum, that the COVID-19 safety plan complies with all mandatory guidance and gives priority to recommended practices that are identified as being particularly effective at COVID-19 mitigation. The Superintendent or designee shall regularly review public health guidance to ensure that the district's COVID-19 mitigation strategies are current with public health mandates or recommendations.

The district's COVID-19 safety plan shall be posted on the district's web site.

**CSBA NOTE:** The following list is optional and may be revised to reflect district practice. CDPH recommends that districts consider certain factors when making decisions regarding COVID-19 mitigation strategies, reflected in Items #1-3 below.

To promote transparency and facilitate decision-making regarding COVID-19 mitigation strategies, the Superintendent or designee shall report to the Board on a regular basis regarding the following:

1. Level of community transmission of COVID-19
2. COVID-19 vaccination coverage in the community and among students and staff
3. Any local COVID-19 outbreaks or increasing trends
4. Changes to local, state, and/or federal public health guidance, orders, and laws
5. Any revisions to the district's COVID-19 safety plan

#### Reporting to the Public Health Department

**CSBA NOTE:** The following section reflects reporting obligations pursuant to Education Code 32090-32091, as added by AB 86 (Ch. 10, Statutes of 2021) and amended by AB 130 (Ch. 44, Statutes of 2021).

Upon learning that a school employee or student who has tested positive for COVID-19 was present on campus while infectious, the Superintendent or designee shall immediately, and in no case later than 24 hours after learning of the positive case, notify the local health officer or the local health officer's representative about the positive case. The notification shall be made even if the individual who tested positive has not provided prior consent to the disclosure of personally identifiable information and shall include all of the following information, if known: (Education Code 32090)

Identifying information of the individual who tested positive, including full name, address, telephone number, and date of birth

The date of the positive test, the school(s) at which the individual was present, and the date the individual was last onsite at the school(s)

The name, address, and telephone number of the person making the report

If a school has two or more outbreaks of COVID-19 and is subject to a safety review by CDPH pursuant to Education Code 32090, the Superintendent or designee shall cooperate fully with the review.

### Statewide Instructional Mode Survey

CSBA NOTE: Pursuant to Education Code 32091, as amended by AB 130, districts are required to notify the California Collaborative for Educational Excellence (CCEE) of specified information in a form and adhering to the procedures to be determined by the CCEE.

On or before the second and fourth Monday of each month, the Superintendent or designee shall submit to the California Collaborative for Educational (CCEE) information required under Education Code 32091, in accordance with the form and procedures determined by CCEE.

### Stakeholder Engagement and Community Relations

The district shall solicit input from stakeholders on how to best support students following the learning disruptions of the pandemic through appropriate methods, which may include surveys, community and family meetings, and other methods identified by the Superintendent or designee.

The Superintendent or designee shall collaborate with local health authorities to ensure that parents/guardians are provided with the information needed to ensure that public health guidance is observed in the home as well as in school, such as information about isolation and quarantine requirements, face mask requirements, symptom checks prior to school attendance, and who to contact when students have symptoms and/or were exposed.

The Superintendent or designee shall use a variety of methods to regularly communicate with students, parents/guardians, and the community regarding community transmission levels, district operations, school schedules, and steps the district is taking to promote the health and safety of students. In addition, the members of the Board have a responsibility as community leaders to communicate matters of public interest in a manner that is consistent with Board policies and bylaws regarding public statements.

The district shall continue to collaborate with local health officials and agencies, community organizations, and other stakeholders to ensure that district operations reflect current recommendations and best practices for COVID-19 mitigation strategies. The Superintendent or designee shall keep informed about resources and services available in the community to assist students and families in need.

### Learning Recovery and Social-Emotional Support

CSBA NOTE: Pursuant to Education Code 43520-43525, as added by AB 86 and amended by AB 130, starting in the 2020-21 school year and continuing into the 2022-23 school year, districts are required to provide academic interventions and student supports to address barriers to learning and accelerate progress to closing learning gaps.

The U.S. Department of Education's Office of Special Education Programs (OSEP) has emphasized that districts are required to fully implement the Individuals with Disabilities Education Act (IDEA) during the COVID-19 pandemic, including but not limited to the requirement to meet child find obligations. In Return to School Roadmap: Child Find Under Part B of the Individuals with



Disabilities Education Act, OSEP encourages districts to reexamine the efficacy of existing child find practices in light of the educational disruptions caused by the COVID-19 pandemic. See BP/AR 6164.4 – Identification and Evaluation of Individuals for Special Education for "child find" procedures.

The following paragraph is optional and may be revised to reflect district practice.

The Superintendent or designee shall develop a plan for assessing students' current academic levels early in the school year to ensure that each student is provided with appropriate opportunities for learning recovery based on need. The plan may include:

1. Use of interim or diagnostic assessments
2. Review of available data from assessments within the California Assessment of Student Performance and Progress
3. Review of attendance data from the 2020-2021 school year
4. Review of prior year grades
5. Discussion of student needs and strengths with parents/guardians and former teachers

CSBA NOTE: Pursuant to Education Code 43522, as amended by AB 130, districts that receive Extended Learning Opportunities (ELO) grant funding are required to implement a learning recovery program that provides supplemental instruction, support for social-emotional well-being, and to the maximum extent permissible as specified in U.S. Department of Agriculture guidelines, meals and snacks, to students who are eligible for free or reduced-price meals, English learners, foster youth, homeless students, students with disabilities, students at risk of abuse, neglect, or exploitation, disengaged students, and students who are below grade level, including, but not limited to, those who did not enroll in kindergarten in the 2020-21 school year, credit-deficient students, high school students at risk of not graduating, and other students identified by certificated staff.

The Superintendent or designee shall develop and implement a learning recovery program that, at a minimum, provides supplemental instruction and support for social-emotional well-being, and to the maximum extent permissible meals and snacks, to eligible students. (Education Code 43522)

### **Supplemental Instruction and Support**

The district shall provide students with evidence-based supports and interventions in a tiered framework that bases universal, targeted, and intensive supports on students' needs for academic, social-emotional, and other integrated student supports through a program of engaging learning experiences in a positive school climate. (Education Code 43522)

Targeted and intensive supports may include: (Education Code 43522)

1. Extending instructional learning time based on student learning needs including through summer school or intersessional instructional programs
2. Tutoring or other one-on-one or small group learning supports provided by certificated or classified staff

3. Learning recovery programs and materials designed to accelerate student academic proficiency, English language proficiency, or both
4. Integrated student supports to address other barriers to learning, such as:
  - a. The provision of health, counseling, or mental health services
  - b. Access to school meal programs
  - c. Access to before and after school programs
  - d. Programs to address student trauma and social-emotional learning
  - e. Referrals for support for family or student needs
5. Community learning hubs that provide students with access to technology, high-speed internet, and other academic supports

CSBA NOTE: Pursuant to Education Code 51225, as added by AB 104 (Ch. 41, Statutes of 2021), the district is required to provide a student who was enrolled in the student's third or fourth year of high school during the 2020-21 school year and is not on track to graduate in the 2020-21 or 2021-22 school years the opportunity to complete the statewide coursework required for graduation pursuant to Education Code 51225.3, which may include, but is not limited to, completion of the coursework through a fifth year of instruction, credit recovery, or other opportunity to complete the required coursework. See BP 6146.1 High School Graduation Requirements.

6. Supports for credit deficient students to complete graduation or grade promotion requirements and to increase or improve students' college eligibility
7. Additional academic services for students, such as diagnostic, progress monitoring, and benchmark assessments of student learning
8. Other interventions identified by the Superintendent or designee

CSBA NOTE: Pursuant to Education Code 43522, as added by AB 86 and amended by AB 130, funding from ELO grants may be expended for educating school staff regarding strategies, including trauma-informed practices, to engage students and families in addressing students' social-emotional health and academic needs as well as for accelerated learning and effectively addressing learning gaps.

To ensure schoolwide implementation of the district's tiered framework of supports, the Superintendent or designee shall plan staff development that includes: (Education Code 43522)

1. Accelerated learning strategies and effective techniques for closing learning gaps, including training in facilitating quality learning opportunities for all students
2. Strategies, including trauma-informed practices, to engage students and families in addressing students' social-emotional health needs and academic needs

#### Reengagement for Chronically Absent Students

CSBA NOTE: The U.S. Department of Education (USDOE) recommends that nonpunitive measures be used to reengage students who became chronically absent during the pandemic. See USDOE's

ED COVID-19 Handbook, Volume 2: Roadmap to Reopening Safely and Meeting All Students' Needs (August 2021).

The Superintendent or designee shall implement strategies for identifying, locating, and reengaging students who were chronically absent or disengaged during the 2020-21 school year, including students who were kindergarten-age but who did not enroll in kindergarten. Strategies for reengaging students may include:

1. Personal outreach to families, including by staff who are known to families
2. Door-to-door campaigns
3. The use of social media to spread awareness about the implementation of COVID-19 mitigation strategies
4. Welcoming and supporting students who experienced chronic absenteeism due to the COVID-19 pandemic or who are returning to school after a long absence

### **Student Absence and Attendance**

The Board recognizes that COVID-19 will continue to impact the attendance of students. The Superintendent or designee shall notify students and parents/guardians of expectations regarding school attendance. Such notification shall direct any student who contracts the virus or is subject to a quarantine order to stay home in accordance with state and local health orders.

**CSBA NOTE:** Pursuant to Education Code 51745, as amended by AB 130, for the 2021-22 school year all districts are required to offer independent study to meet the educational needs of students. See BP 6158 – Independent Study and 3516.5 – Emergency Schedules.

The Superintendent or designee shall ensure continuity of instruction for students who may be under a quarantine order to stay home, by offering such students independent study or other instructional delivery channels that allows the student to continue to participate in the instructional program to the greatest extent possible.

### **Nondiscrimination**

The Board prohibits discrimination based on actual or perceived medical condition or disability status. (Government Code 11135)

Individual students and staff shall not be identified as being COVID-positive, nor shall students be shamed, treated differently, or denied access to a free and appropriate public education because of their COVID-19 status or medical condition. Staff shall not disclose confidential or privileged information, including the medical history or health information of students and staff except as allowed by law. (Education Code 49450)

The Superintendent or designee shall investigate any reports of harassment, intimidation, and bullying targeted at any student based on their medical condition or COVID status, exposure, or high-risk status.

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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 11087-11098	<u>California Family Rights Act</u>
5-CCR-202	Exclusion of students with a contagious disease
5-CCR-306	Explanation of absence
5-CCR-420-421	Record of verification of absence due to illness and other causes
8-CCR-3205	COVID-19 prevention
Ed. Code 32096-32096.1	<u>COVID-19 reporting and public health requirements</u>
Ed. Code 43520-43525	In-person instruction and expanded learning opportunities grants
Ed. Code 44978	<u>Sick leave: certificated employees</u>
Ed. Code 45191	<u>Personal illness and injury leave: classified employees</u>
Ed. Code 48205	<u>Excused absences</u>
Ed. Code 48213	<u>Prior parent notification of exclusion; exemption</u>
Ed. Code 48240	<u>Supervisors of attendance</u>
Ed. Code 49451	<u>Physical examinations: parent's refusal to consent</u>
Gov. Code 11135	<u>Prohibition of discrimination</u>
Gov. Code 12945.1-12945.2	<u>California Family Rights Act</u>
Gov. Code 54950-54963	<u>The Ralph M. Brown Act</u>
H&S Code 120175-120255	<u>Functions and duties of local health officers</u>
H&S Code 120230	<u>Exclusion for communicable disease</u>
H&S Code 120275	<u>Violations of quarantine order</u>
H&S Code 131080	<u>Advice to and control of local health authorities</u>
Lab. Code 245-249	<u>Healthy Workplaces, Healthy Families Act of 2014</u>
<b>Federal</b>	<b>Description</b>
29-CFR 825.100-825.702	Family and Medical Leave Act of 1993
<b>Management Resources</b>	<b>Description</b>
CA Collaboration for Educational Excellence Pub	Statewide Instructional Mode Survey Frequently Asked Questions (FAQs), September 14, 2021
CA Div. of Occup. Safety & Health Publication	COVID-19 Prevention Emergency Temporary Standards—Fact Sheets, Model Written Program and Other Resources
California Department of Education Publication	Safe Return to In-Person Instruction and Continuity of Services Plan Template

California Department Of Public Health Publication	State Public Health Officer Order of June 11, 2021
California Department Of Public Health Publication	State Public Health Officer Order of August 11, 2021
California Department Of Public Health Publication	Requirement for Universal Masking Indoors at K-12 Schools, August 23, 2021
California Department of Public Health Publication	COVID-19 Public Health Guidance for K-12 Schools in California, 2021-22 School Year, September 1, 2021
Californians Together Publication	Teaching and Learning During Uncertain Times: A Review of Learning Continuity Plans
CDC and Prevention Publication	Guidance for COVID-19 Prevention in K-12 Schools, August 5, 2021
CSBA Publication	Understanding and Addressing Disruptions to Learning During the COVID-19 Pandemic, May 2021
CSBA Publication	The Resource Guide: Turning Crisis into Opportunity, Delegate Assembly Report, May 2021
CSBA Publication	Sample School Board Resolution on Grading During Emergency School Closures
Institute Of Education Sciences Publication	Addressing Trauma in Educational Settings, Module 1: Impacts and Symptoms of Trauma and Relevant Strategies to Support Students, Webinar, November 2020
Nat'l School Public Relations Assoc. Pub.	Coronavirus Communications Crisis for Public Schools Guide
National Ctr For Learning Disabilities Pub.	Promising Practices to Accelerate Learning for Students with Disabilities During COVID-19 and Beyond
Office of Management and Budget Publication	Administrative Relief for Recipients and Applicants of Federal Financial Assistance Directly Impacted by COVID-19 due to Loss of Operations, Memo M-20-17, March 19, 2020
Office of the Governor Publication	Executive Order N-26-20, March 13, 2020
Office of the Governor Publication	Executive Order N-30-20, March 17, 2020
Policy Analysis For California Education Pub.	Evidence-Based Practices for Assessing Students' Social and Emotional Well-Being, February 2021
U.S. Department Of Education Publication	Long COVID under Section 504 and the IDEA: A Resource to Support Children, Students, Educators, Schools, Service Providers, and Families, July 2021
U.S. Department Of Education Publication	Return to School Roadmap: Child Find Under Part B of the Individuals with Disabilities Education Act, August 2021
U.S. Department Of Education Publication	ED COVID-19 Handbook, Volume 2: Roadmap to Reopening Safely and Meeting All Students' Needs, August 2021
U.S. Department Of Education Publication	ED COVID-19 Handbook, Volume 1: Strategies for Safely Reopening Elementary and Secondary Schools, August 2021

U.S. Department Of Education Publication	<u>Confronting COVID-19-Related Harassment in Schools: August 2021</u>
Website	<u>CSBA District and County Office of Education Legal Services</u>
Website	<u>State of California Safe Schools for All Hub</u>
Website	<u>California Division of Occupational Safety and Health</u>
Website	<u>California Collaborative for Educational Excellence</u>
Website	<u>Office of the Governor</u>
Website	<u>World Health Organization</u>
Website	<u>California Interscholastic Federation</u>
Website	<u>U.S. Department of Labor</u>
Website	<u>California Department of Education</u>
Website	<u>California Department of Public Health</u>
Website	<u>Centers for Disease Control and Prevention</u>
Website	<u>CSBA</u>
Website	<u>Office of Management and Budget</u>

### **Cross References**

<b>Code</b>	<b>Description</b>
0400	<u>Comprehensive Plans</u>
0410	<u>Nondiscrimination In District Programs And Activities</u>
0415	<u>Equity</u>
0450	<u>Comprehensive Safety Plan</u>
0450	<u>Comprehensive Safety Plan</u>
1100	<u>Communication With The Public</u>
1112	<u>Media Relations</u>
1240	<u>Volunteer Assistance</u>
1240	<u>Volunteer Assistance</u>
1250	<u>Visitors/Outsiders</u>
1250	<u>Visitors/Outsiders</u>
1312.3	<u>Uniform Complaint Procedures</u>
1312.3	<u>Uniform Complaint Procedures</u>
1312.3-E(1)	<u>Uniform Complaint Procedures</u>
1312.3-E(2)	<u>Uniform Complaint Procedures</u>
1330	<u>Use Of School Facilities</u>

1330	<u>Use Of School Facilities</u>
1400	<u>Relations Between Other Governmental Agencies And The Schools</u>
1700	<u>Relations Between Private Industry And The Schools</u>
2210	<u>Administrative Discretion Regarding Board Policy</u>
3510	<u>Green School Operations</u>
3514.1	<u>Hazardous Substances</u>
3514.1	<u>Hazardous Substances</u>
3516	<u>Emergencies And Disaster Preparedness Plan</u>
3516	<u>Emergencies And Disaster Preparedness Plan</u>
3540	<u>Transportation</u>
3543	<u>Transportation Safety And Emergencies</u>
3550	<u>Food Service/Child Nutrition Program</u>
3550	<u>Food Service/Child Nutrition Program</u>
3553	<u>Free And Reduced Price Meals</u>
3553	<u>Free And Reduced Price Meals</u>
4030	<u>Nondiscrimination In Employment</u>
4030	<u>Nondiscrimination In Employment</u>
4113	<u>Assignment</u>
4113	<u>Assignment</u>
4113.4	<u>Temporary Modified/Light-Duty Assignment</u>
4113.5	<u>Working Remotely</u>
4119.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4131	<u>Staff Development</u>
4151	<u>Employee Compensation</u>
4157	<u>Employee Safety</u>
4157	<u>Employee Safety</u>
4161.1	<u>Personal Illness/Injury Leave</u>
4161.8	<u>Family Care And Medical Leave</u>
4213.4	<u>Temporary Modified/Light-Duty Assignment</u>
4213.5	<u>Working Remotely</u>
4219.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4231	<u>Staff Development</u>

4251	<u>Employee Compensation</u>
4257	<u>Employee Safety</u>
4257	<u>Employee Safety</u>
4261.1	<u>Personal Illness/Injury Leave</u>
4261.8	<u>Family Care And Medical Leave</u>
4313.4	<u>Temporary Modified/Light-Duty Assignment</u>
4313.5	<u>Working Remotely</u>
4319.23	<u>Unauthorized Release Of Confidential/Privileged Information</u>
4331	<u>Staff Development</u>
4351	<u>Employee Compensation</u>
4357	<u>Employee Safety</u>
4357	<u>Employee Safety</u>
4361.1	<u>Personal Illness/Injury Leave</u>
4361.8	<u>Family Care And Medical Leave</u>
5113	<u>Absences And Excuses</u>
5113	<u>Absences And Excuses</u>
5113.1	<u>Chronic Absence And Truancy</u>
5113.1	<u>Chronic Absence And Truancy</u>
5113.11	<u>Attendance Supervision</u>
5121	<u>Grades/Evaluation Of Student Achievement</u>
5121	<u>Grades/Evaluation Of Student Achievement</u>
5131.2	<u>Bullying</u>
5131.2	<u>Bullying</u>
5141	<u>Health Care And Emergencies</u>
5141	<u>Health Care And Emergencies</u>
5141.22	<u>Infectious Diseases</u>
5141.22	<u>Infectious Diseases</u>
5141.3	<u>Health Examinations</u>
5141.3	<u>Health Examinations</u>
5141.4	<u>Child Abuse Prevention And Reporting</u>
5141.4	<u>Child Abuse Prevention And Reporting</u>
5141.5	<u>Mental Health</u>
5141.52	<u>Suicide Prevention</u>



5141.52	<u>Suicide Prevention</u>
5141.6	<u>School Health Services</u>
5141.6	<u>School Health Services</u>
5142.2	<u>Safe Routes To School Program</u>
5142.2	<u>Safe Routes To School Program</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5147	<u>Dropout Prevention</u>
5148.2	<u>Before/After School Programs</u>
5148.2	<u>Before/After School Programs</u>
5148.3	<u>Preschool/Early Childhood Education</u>
5148.3	<u>Preschool/Early Childhood Education</u>
6020	<u>Parent Involvement</u>
6020	<u>Parent Involvement</u>
6111	<u>School Calendar</u>
6112	<u>School Day</u>
6112	<u>School Day</u>
6120	<u>Response To Instruction And Intervention</u>
6142.8	<u>Comprehensive Health Education</u>
6142.8	<u>Comprehensive Health Education</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145.2	<u>Athletic Competition</u>
6145.2	<u>Athletic Competition</u>
6146.1	<u>High School Graduation Requirements</u>
6146.11	<u>Alternative Credits Toward Graduation</u>
6146.11	<u>Alternative Credits Toward Graduation</u>
6153	<u>School-Sponsored Trips</u>
6153	<u>School-Sponsored Trips</u>
6154	<u>Homework/Makeup Work</u>
6158	<u>Independent Study</u>
6158	<u>Independent Study</u>
6159	<u>Individualized Education Program</u>

6159	<u>Individualized Education Program</u>
6159.1	<u>Procedural Safeguards And Complaints For Special Education</u>
6159.1	<u>Procedural Safeguards And Complaints For Special Education</u>
6164.2	<u>Guidance/Counseling Services</u>
6164.4	<u>Identification And Evaluation Of Individuals For Special Education</u>
6164.4	<u>Identification And Evaluation Of Individuals For Special Education</u>
6164.5	<u>Student Success Teams</u>
6164.5	<u>Student Success Teams</u>
6164.6	<u>Identification And Education Under Section 504</u>
6164.6	<u>Identification And Education Under Section 504</u>
6173	<u>Education For Homeless Children</u>
6173	<u>Education For Homeless Children</u>
6173-E(1)	<u>Education For Homeless Children</u>
6173-E(2)	<u>Education For Homeless Children</u>
6173.1	<u>Education For Foster Youth</u>
6173.1	<u>Education For Foster Youth</u>
6174	<u>Education For English Learners</u>
6174	<u>Education For English Learners</u>
6179	<u>Supplemental Instruction</u>
6184	<u>Continuation Education</u>
6184	<u>Continuation Education</u>
9010	<u>Public Statements</u>
9310	<u>Board Policies</u>

**Policy 3516: Emergencies And Disaster Preparedness Plan**

**Status:** ADOPTED

**Original Adopted Date:** 11/01/2004 | **Last Revised Date:** 05/03/01/2018 **2024** | **Last Reviewed Date:** 05/03/01/2018 **2024**

CSBA NOTE: 5 CCR 560 mandates that the Governing Board adopt policy for use by district schools in formulating individual civil defense and disaster preparedness plans.

The Governing Board recognizes that all district staff and students must be prepared to respond quickly and responsibly to emergencies, disasters, and threats of disaster. The district shall take all reasonable steps to prevent and/or mitigate the impact of a disaster on district students, staff, and schools.

CSBA NOTE: Education Code 32282 requires that emergency disaster procedures, including, but not limited to, earthquake emergency procedures, be incorporated into the comprehensive school safety plan. See BP/AR 0450 - Comprehensive Safety Plan and AR 3516.3 - Earthquake Emergency Procedure System. ~~For districts with an average daily attendance (ADA) over 2,500, the comprehensive safety plan is a school-level plan developed by the school site council or school safety planning committee. Districts with an ADA of 2,500 or less may instead choose to develop a districtwide plan. The following paragraph may be revised to reflect district practice and the individuals or groups responsible for developing the disaster preparedness plan.~~

Pursuant to Education Code 32282, as amended by SB 323 (Ch. 599, Statutes of 2023), schools are required to include in their emergencies and disaster preparedness plan adaptations for students with disabilities in accordance with the federal Individuals with Disabilities Education Act and Section 504 of the federal Rehabilitation Act of 1973.

The Superintendent or designee shall develop and maintain a disaster preparedness plan which contains routine and emergency disaster procedures, including, but not limited to, earthquake emergency procedures, and adaptations for individuals with disabilities in accordance with the Americans with Disabilities Act, the federal Individuals with Disabilities Education Act, and Section 504 of the federal Rehabilitation Act of 1973. Such procedures shall be incorporated into the comprehensive school safety plan. (Education Code 32282)

CSBA NOTE: The following optional paragraph reflects a recommendation from the U.S. Department of Education's, "Guide for Developing High-Quality School Emergency Operations Plans," available on its ~~web site~~ website, and may be revised to reflect district practice.

In developing the disaster preparedness plan, the Superintendent or designee shall involve district staff at all levels, including administrators, district police or security officers, facilities managers, transportation managers, food services personnel, school psychologists, counselors, school nurses, teachers, classified employees, and public information officers. As appropriate, ~~he/she~~ the Superintendent shall also collaborate with law enforcement, fire safety officials, emergency medical services, health and mental health professionals, parents/guardians, and students.

CSBA NOTE: In order to be eligible for reimbursement of response-related personnel costs due to a Governor-proclaimed disaster, each district must follow the Standardized Emergency Management System (SEMS) guidelines (Government Code 8607; 19 CCR 2400-2450) to coordinate multiple-jurisdiction or multiple-agency operations. The guidelines urge districts to formally adopt policy language giving clear direction to staff to meet SEMS requirements. Districts may contact the California Governor's Office of Emergency Services (Cal-OES) for more

information.

In addition, public agencies must comply with the National Incident Management System (NIMS): ~~See the~~ **The Federal Emergency Management Agency's publication, "National Incident Management System,"** provides guidance to all levels of government to prevent, protect against, mitigate, respond to, and recover from threats, hazards, and events ranging from traffic accidents to major disasters. In accordance with the State of California Emergency Plan, Cal OES is the principal coordinator for NIMS implementation statewide and will annually communicate, monitor, and implement NIMS requirements in cooperation with state and local agencies.

The plan shall comply with state-approved Standardized Emergency Management System (SEMS) guidelines established for multiple-jurisdiction or multiple-agency operations and with the National Incident Management System.

The Superintendent or designee shall provide training to employees regarding their responsibilities, including periodic drills and exercises to test and refine staff's responsiveness in the event of an emergency.

**CSBA NOTE: Pursuant to Education Code 32282, a procedure to allow the use of school facilities for mass care and welfare shelters during disasters or other emergencies must be incorporated into the comprehensive school safety plan. See AR 0450 - Comprehensive Safety Plan.**

The Board shall grant the use of school buildings, grounds, and equipment to public agencies, including the American Red Cross, for mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare. The Board shall cooperate with such agencies in furnishing and maintaining whatever services the district may deem necessary to meet the community's needs. (Education Code 32282)

**CSBA NOTE: Pursuant to Government Code 3100, all public employees are declared to be disaster service workers. As such, in the event that a local or state emergency has been proclaimed or a federal disaster declaration has been made, district staff may be directed to perform jobs other than their usual duties for periods of time exceeding their normal working hours. In those cases, their workers' compensation insurance coverage becomes the responsibility of Cal-OES, but their overtime is paid by the district. For further information, see ~~the Cal OES publication~~ OES, "School Emergency Response: Using SEMS at Districts and Sites."**

Government Code 3100-3109 require all disaster service workers to take the oath or affirmation of allegiance to the U.S. Constitution contained in the California Constitution, Article 20, Section 3; see AR/E 4112.3/4212.3/4312.3 - Oath or Affirmation. Although Board members are required to take the same oath upon entering office (see BB 9224 - Oath or Affirmation), they are not considered disaster service workers according to the definition in Government Code 3101.

District employees are considered disaster service workers and are subject to disaster service activities assigned to them. (Government Code 3100)

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

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

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

**State**

**Description**  
**228**

19 CCR 2400-2450	Standardized Emergency Management System
5 CCR 550	Fire drills
5 CCR 560	Civil defense and disaster preparedness plans
CA Constitution Article 20, Section 3	Oath or affirmation
Civ. Code 1714.5	Release from liability for disaster service workers and shelters
Ed. Code 32001	Fire alarms and drills
Ed. Code 32040	Duty to equip school with first aid kit
Ed. Code 32280-32289.5	School safety plans
Ed. Code 32290	Safety devices
Ed. Code 39834	Operating overloaded bus
Ed. Code 46390-46392	Emergency average daily attendance in case of disaster
Ed. Code 49505	Natural disaster; meals for homeless students; reimbursement
Gov. Code 3100-3109	Oath or affirmation of allegiance
<u>Gov. Code 8586.5</u>	<u>California Cybersecurity Integration Center</u>
Gov. Code 8607	Standardized Emergency Management System
<u>Gov. Code 11549</u>	<u>Cybersecurity assessment</u>
<u>Gov. Code 11549.3</u>	<u>Office of information security</u>
<u>Public Utilities Code 2872</u>	<u>Automatic dialing</u>
<b>Federal</b>	<b>Description</b>
<u>20 USC 1400-1482</u>	<u>Individuals with Disabilities Education Act</u>
<u>29 USC 794</u>	<u>Rehabilitation Act of 1973; Section 504</u>
42 USC 12101-12213	Americans with Disabilities Act
<b>Management Resources</b>	<b>Description</b>
<u>Cal OES Publication</u>	<u>California Emergency Management for Schools: A Guide for Districts and Sites</u>
Cal OES Publication	School Emergency Response: -Using SEMS at Districts and Sites, June 1998
Cal OES Publication	State of California Emergency Plan, 2017
Cal OES Publication	Active Shooter Awareness Guidance, February 2018
California Department of Education Publication	Crisis Response Box, 2000
<del>Fed. Emgcy. Mgmt.</del> <u>Federal Emergency Management Agency Pub. Publication</u>	National Incident Management System, 3rd ed., October 2017
U.S. <del>DOE</del> <u>Department of Education</u> Publication	Guide for Developing High-Quality School Emergency Operations Plans, 2013
Website	CSBA District and County Office of Education Legal Services

<u>Website</u>	<u>California Cybersecurity Integration Center</u> ( <a href="https://www.caloes.ca.gov/office-of-the-director/operations/homeland-security/california-cybersecurity-integration-center/">https://www.caloes.ca.gov/office-of-the-director/operations/homeland-security/california-cybersecurity-integration-center/</a> )
<u>Website</u>	<u>California Department of Education, Comprehensive School Safety Plans</u> ( <a href="https://www.cde.ca.gov/ls/ss/vp/cssp.asp">https://www.cde.ca.gov/ls/ss/vp/cssp.asp</a> )
Website	California Department of Education, Crisis Preparedness
Website	Centers for Disease Control and Prevention
<u>Website</u>	<u>California Office of Emergency Services: School Emergency Planning &amp; Safety</u> ( <a href="https://www.caloes.ca.gov/office-of-the-director/operations/planning-preparedness-prevention/planning-preparedness/school-emergency-planning-safety/">https://www.caloes.ca.gov/office-of-the-director/operations/planning-preparedness-prevention/planning-preparedness/school-emergency-planning-safety/</a> )
Website	U.S. Department of Education, Emergency Planning
Website	U.S. Department of Homeland Security
Website	Federal Emergency Management Agency
Website	California Governor's Office of Emergency Services
<u>Website</u>	<u>California Public Utilities Commission</u> ( <a href="https://www.cpuc.ca.gov/">https://www.cpuc.ca.gov/</a> )
Website	California Seismic Safety Commission
Website	American Red Cross
Website	California Attorney General's Office
Website	CSBA

**Cross References**

<b>Code</b>	<b>Description</b>
0400	Comprehensive Plans
0420	School Plans/Site Councils
0420	School Plans/Site Councils
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0470	<del>COVID-19 Mitigation Plan</del>
1100	Communication With The Public
1112	Media Relations

1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
1220	Citizen Advisory Committees
1220	Citizen Advisory Committees
1313	Civility
1330	Use Of School Facilities
1330	Use Of School Facilities
1330.1	Joint Use Agreements
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3513.3	Tobacco-Free Schools
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4112.3-E(1)	Oath Or Affirmation
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4212.3	Oath Or Affirmation
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5141	Health Care And Emergencies
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9321-E(1)	Closed Session
9321-E(2)	Closed Session

**Regulation 3516: Emergencies And Disaster Preparedness Plan**

**Status:** ADOPTED

**Original Adopted Date:** 11/01/2004 | **Last Revised Date:** 05/03/01/2018 **2024** | **Last Reviewed Date:** 05/03/01/2018 **2024**

CSBA NOTE: The following administrative regulation should be modified to reflect district practice. The list below reflects material listed on the California Department of Education's (CDE) website related to comprehensive school safety plans, and the Office of Emergency Services (OES) publication, "California Emergency Management for Schools: A Guide for Districts and Sites".

The Superintendent or designee shall ensure that district and/or school site plans address, at a minimum, the following types of emergencies and disasters:

1. Fire on or off school grounds which endangers students and staff
2. Earthquake, flood, or other natural disasters
3. Environmental hazards, such as leakages or spills of hazardous materials
4. Attack or disturbance, or threat of attack or disturbance, by an individual or group
5. Bomb threat or actual detonation
6. Biological, radiological, chemical, and other activities, or heightened warning of such activities
7. Medical emergencies and quarantines, such as a pandemic influenza outbreak
8. Attack or threat of attack to the district's digital network and technology infrastructure

**CSBA NOTE:** The following list reflects material listed on OES' website related to School Emergency Planning and Safety.

The Superintendent or designee shall ensure that the district's procedures include strategies and actions for prevention/mitigation, preparedness, response, and recovery, including, but not limited to, the following:

1. Regular inspection of school facilities and equipment, identification of risks, and implementation of strategies and measures to increase the safety and security of school facilities

CSBA NOTE: Pursuant to Government Code 8586.5, the California Cybersecurity Integration Center (CSIC) serves as the central organizing hub of the state government's cybersecurity preparedness and response activities and coordinates cyber intelligence and information sharing, and, as amended by AB 1023 (Ch. 555, Statutes of 2023), is required to coordinate information sharing, including cyber threat information, to school districts.

Additionally, Government Code 11549.3 authorizes districts, at district expense, to request the Military Department, in consultation with CSIC, to perform an independent security assessment of the district or an individual district school. Districts are encouraged to consult with OES and utilize resources such as the State Threat Assessment System and Regional Fusion Centers to help assess potential threats. For more information see OES' website.

2. Routine monitoring of the security of the district's digital network and technology infrastructure
3. Instruction for district staff and students regarding emergency plans, including:
- a. Training of staff in first aid and cardiopulmonary resuscitation
  - b. Regular practice of emergency procedures by students and staff
4. Specific determination of roles and responsibilities of staff during a disaster or other emergency, including determination of:
- a. The appropriate chain of command at the district and, if communication between the district and site is not possible, at each site
  - b. Individuals responsible for specific duties
  - c. Designation of the principal for the overall control and supervision of activities at each school during an emergency, including authorization to use his/her discretion in situations which do not permit execution of prearranged plans
  - d. Identification of at least one person at each site who holds a valid certificate in first aid and cardiopulmonary resuscitation
  - e. Assignment of responsibility for identification of injured persons and administration of first aid
5. Personal safety and security, including:
- a. Identification of areas of responsibility for the supervision of students
  - b. Procedures for the evacuation of students and staff, including posting of evacuation routes
  - c. Procedures for the release of students, including a procedure to release students when reference to the emergency card is not feasible
- CSBA NOTE: Although loading a school bus in excess of capacity is generally prohibited, Education Code 39834 allows the Governing Board to adopt a policy or rule permitting such overloading for the evacuation of students in case of an emergency, as provided in the following paragraph.
- d. Identification of transportation needs, including a plan which allows bus seating capacity limits to be exceeded when a disaster or hazard requires students to be moved immediately to ensure their safety
  - e. Provision of a first aid kit to each classroom
  - f. Arrangements for students and staff with special needs
  - g. Upon notification that a pandemic situation exists, adjustment of attendance policies for students and sick leave policies for staff with known or suspected pandemic influenza or other infectious disease

56. Closure of schools, including an analysis of:

- a. The impact on student learning and methods to ensure continuity of instruction
- b. How to provide for continuity of operations for essential central office functions, such as payroll and ongoing communication with students and parents/guardians

67. Communication among staff, parents/guardians, the Governing Board, other governmental agencies, and the media during an emergency, including:

- a. Identification of spokesperson(s)

**CSBA NOTE:** Pursuant to Public Utilities Code 2872, the use of an automatic dialing device by schools for the purpose of contacting parents/guardians of students regarding attendance or the health or safety of students is exempt from the control and regulation of the Public Utilities Commission.

- b. Development and testing of communication platforms, such as hotlines, automatic dialing devices, telephone trees, web sites~~websites~~, social media, and electronic notifications
- c. Development of methods to ensure that communications are, to the extent practicable, in a language and format that is easy for parents/guardians to understand
- d. Distribution of information about district and school site emergency procedures to staff, students, and parents/guardians

78. Cooperation with other state and local agencies, including:

- a. Development of guidelines for law enforcement involvement and intervention
- b. Collaboration with the local health department, including development of a tracking system to alert the local health department of a substantial increase of student or staff absenteeism as indicative of a potential outbreak of an infectious disease

89. Steps to be taken after the disaster or emergency, including:

- a. Inspection of school facilities
- b. Provision of mental health services for students and staff, as needed

**CSBA NOTE:** The following optional paragraph reflects a recommendation of the California Office of the Attorney General and the California Department of Education (CDE) in their joint publication, "Crisis Response Box," which is available on the CDE's web site website.

The Superintendent or designee shall assemble key critical information that would be needed in an emergency. Such information may include, but is not limited to, a list of individuals and organizations who should be contacted for assistance in an emergency, current layouts and blueprints of school buildings, aerial photos of the campus, maps of evacuation routes and alternate routes, a roster of employees with their work locations, student photographs and their emergency contact information, a clearly labeled set of keys, location of first aid supplies, ~~and~~ procedures and locations for turning off fire alarms, sprinklers, utilities, and other systems, information to access the district's technology infrastructure, and insurance information. Such information shall be stored in a

box in a secure, easily accessible location, with a duplicate kept at another location in case the primary location is inaccessible.

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**Policy Reference Disclaimer:**

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<b>State</b>	<b>Description</b>
19 CCR 2400-2450	Standardized Emergency Management System
5 CCR 550	Fire drills
5 CCR 560	Civil defense and disaster preparedness plans
CA Constitution Article 20, Section 3	Oath or affirmation
Civ. Code 1714.5	Release from liability for disaster service workers and shelters
Ed. Code 32001	Fire alarms and drills
Ed. Code 32040	Duty to equip school with first aid kit
Ed. Code 32280-32289.5	School safety plans
Ed. Code 32290	Safety devices
Ed. Code 39834	Operating overloaded bus
Ed. Code 46390-46392	Emergency average daily attendance in case of disaster
Ed. Code 49505	Natural disaster; meals for homeless students; reimbursement
Gov. Code 3100-3109	Oath or affirmation of allegiance
<a href="#"><u>Gov. Code 8586.5</u></a>	<a href="#"><u>California Cybersecurity Integration Center</u></a>
Gov. Code 8607	Standardized Emergency Management System
<a href="#"><u>Gov. Code 11549</u></a>	<a href="#"><u>Cybersecurity assessment</u></a>
<a href="#"><u>Gov. Code 11549.3</u></a>	<a href="#"><u>Office of information security</u></a>
<a href="#"><u>Public Utilities Code 2872</u></a>	<a href="#"><u>Automatic dialing</u></a>
<b>Federal</b>	<b>Description</b>
<a href="#"><u>20 USC 1400-1482</u></a>	<a href="#"><u>Individuals with Disabilities Education Act</u></a>
<a href="#"><u>29 USC 794</u></a>	<a href="#"><u>Rehabilitation Act of 1973; Section 504</u></a>
42 USC 12101-12213	Americans with Disabilities Act
<b>Management Resources</b>	<b>Description</b>
<a href="#"><u>Cal OES Publication</u></a>	<a href="#"><u>California Emergency Management for Schools: A Guide for Districts and Sites</u></a>
Cal OES Publication	School Emergency Response: -Using SEMS at Districts and Sites, June 1998
Cal OES Publication	State of California Emergency Plan, 2017

Cal OES Publication	Active Shooter Awareness Guidance, February 2018
California Department of Education Publication	Crisis Response Box, 2000
<del>Fed. Emgcy. Mgmt.</del> <u>Federal Emergency Management Agency Pub.</u> <u>Publication</u>	National Incident Management System, 3rd ed., October 2017
U.S. <del>DOE</del> <u>Department of Education</u> Publication	Guide for Developing High-Quality School Emergency Operations Plans, 2013
Website	CSBA District and County Office of Education Legal Services
<u>Website</u>	<u>California Cybersecurity Integration Center</u> ( <a href="https://www.caloes.ca.gov/office-of-the-director/operations/homeland-security/california-cybersecurity-integration-center/">https://www.caloes.ca.gov/office-of-the-director/operations/homeland-security/california-cybersecurity-integration-center/</a> )
<u>Website</u>	<u>California Department of Education, Comprehensive School Safety Plans</u> ( <a href="https://www.cde.ca.gov/ls/ss/vp/cssp.asp">https://www.cde.ca.gov/ls/ss/vp/cssp.asp</a> )
Website	California Department of Education, Crisis Preparedness
Website	Centers for Disease Control and Prevention
<u>Website</u>	<u>California Office of Emergency Services: School Emergency Planning &amp; Safety</u> ( <a href="https://www.caloes.ca.gov/office-of-the-director/operations/planning-preparedness-prevention/planning-preparedness/school-emergency-planning-safety/">https://www.caloes.ca.gov/office-of-the-director/operations/planning-preparedness-prevention/planning-preparedness/school-emergency-planning-safety/</a> )
Website	U.S. Department of Education, Emergency Planning
Website	U.S. Department of Homeland Security
Website	Federal Emergency Management Agency
Website	California Governor's Office of Emergency Services
<u>Website</u>	<u>California Public Utilities Commission</u> ( <a href="https://www.cpuc.ca.gov/">https://www.cpuc.ca.gov/</a> )
Website	California Seismic Safety Commission
Website	American Red Cross
Website	California Attorney General's Office
Website	CSBA

**Cross References**

**Code**  
0400

**Description**  
Comprehensive Plans

0420	School Plans/Site Councils
0420	School Plans/Site Councils
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0470	<del>COVID-19 Mitigation Plan</del>
1100	Communication With The Public
1112	Media Relations
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1114	District-Sponsored Social Media
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1220	Citizen Advisory Committees
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3515.2	Disruptions
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9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session

**Policy 3550: Food Service/Child Nutrition Program**

**Status:** ADOPTED

**Original Adopted Date:** 11/01/2007 | **Last Revised Date:** 06/03/01/2022 ~~2022~~ **2024** | **Last Reviewed Date:** 06/03/01/2022 ~~2022~~ **2024**

CSBA NOTE: The following optional policy may be revised to reflect district practice. Beginning in the 2022-23 school year, Education Code 49501.5, as amended by AB 130 SB 348 (Ch. 44-600, Statutes of 2021-2023), requires districts, during each school day, to provide a make available, free of charge, one nutritionally adequate breakfast and one nutritiously adequate lunch free of charge to any student who requests a meal, regardless of the student's eligibility for a federally funded free or reduced-price meal. However, in pursuant to Education Code 49431, as amended by AB 95 (Ch. 318, Statutes of 2023), a school is not prohibited from selling an additional nutritiously adequate meal that qualifies for federal reimbursement from the same meal service to a student who has been provided a free meal.

In order to receive reimbursements for the meals, a district must be required to be approved for participation in the National School Lunch Program (42 USC 1751-1769j) or the School Breakfast Program (42 USC 1773). Additionally, pursuant to Education Code 49531, as amended by SB 348, a district must comply with state and federal guidelines or regulations in order to be eligible for state meal reimbursement. See BP/AR 3552 - Summer Meal Program, AR 5148 - Child Care and Development, and AR 5148.2 - Before/After School Programs for nutrition requirements pertaining to those programs. For food sales outside the district's food service program (e.g., by student and adult organizations, through vending machines, or at student stores), see BP/AR 3554 - Other Food Sales.

Pursuant to Education Code 49495, the California Department of Education (CDE) has developed guidance, "Breakfast and Snacks for Nonschoolaged Children," available on its website, which provides information on the allowability and options for offering nonschoolaged children breakfast or a morning snack at a school site that serves any of grades K-6.

The Governing Board recognizes that adequate, nourishing food is essential to student health and well-being, development, and ability to learn. The Superintendent or designee shall develop strategies to increase students' access to and participation in the district's food service programs and maintain fiscal integrity of the programs in accordance with law.

CSBA NOTE: Education Code 49501.5, as amended by SB 348, requires that a nutritionally adequate breakfast and lunch be made available to any student who requests a meal regardless of the student's eligibility for a free or reduced-price meal. However, the district still must determine student eligibility for free or reduced-price meals under the National School Lunch or School Breakfast Program in order to be reimbursed for such meals, as the funds provided under the California Universal Meal Program are meant to supplement, not supplant, federal funds.

Additionally, pursuant to Education Code 49501.5, as amended by SB 348, if a district offers independent study, the district must make available a nutritionally adequate breakfast and lunch on any school day that a student is scheduled for educational activities, as defined in Education Code

49010, lasting two or more hours, at a school site, resource center, meeting space, or other satellite facility.

Each school day, a nutritionally adequate breakfast and lunch shall be made available at no cost to any student who requests a meal, including a student enrolled in an independent study program on any school day in which the student is scheduled for in-person educational activities of two or more hours. A nutritionally adequate breakfast or lunch is one that qualifies for reimbursement under the most current meal pattern for the federal School Breakfast Program or National School Lunch Program.

CSBA NOTE: Pursuant to Education Code 49431, as amended by SB 95, a school is not prohibited from selling an additional nutritiously adequate meal that qualifies for federal reimbursement from the same meal service to a student who has already been provided a free meal.

After a student has been provided a school meal at no cost, the district may sell the student the entrée from an additional nutritiously adequate meal that qualifies for federal reimbursement, from the same meal service. (Education Code 49431)

Foods and beverages available through the district's food service program shall:

1. Be carefully selected so as to contribute to students' nutritional well-being and the prevention of disease

CSBA NOTE: 42 USC 1758b mandates each district participating in the National School Lunch Program (42 USC 1751-1769j) or any program in the Child Nutrition Act (42 USC 1771-1791), including the School Breakfast Program, to adopt a districtwide school wellness policy which includes nutrition guidelines for all foods available on school campuses; see BP 5030 - Student Wellness for language fulfilling this mandate. In addition, Education Code 49501.5, as added by AB 130, requires that meals provided under the California Universal Meals Program qualify for federal reimbursement. Also see the accompanying administrative regulation for state and federal legal requirements pertaining to nutrition standards.

2. Meet or exceed nutrition standards specified in law
3. Be prepared in ways that will appeal to students, retain nutritive quality, and foster lifelong healthful eating habits
4. Be served in age-appropriate portions

CSBA NOTE: Education Code 49501.5, as added by AB 130, requires that nutritionally adequate meals be provided to any student who requests a meal regardless of the student's eligibility for a free or reduced-price meal. However, the district still must determine student eligibility for free or reduced-price meals under the National School Lunch or School Breakfast Program, in order to be reimbursed for such meals as the funds provided under the California Universal Meal Program are meant to supplement, not supplant, federal funds. CSBA NOTE: The following paragraph is optional and may be revised to reflect district practice. In its, "Food and Nutrition Services Instruction 113-1," the U.S. Department of Agriculture (USDA) states that a district must put in place a public notification system or grassroots effort to inform applicants, participants, and

potentially eligible individuals of program availability, rights and responsibilities, and nondiscrimination policy related to federally funded nutrition programs.

5. Be provided at no cost to students who request a meal

CSBA NOTE: The following paragraph is optional and may be revised to reflect district practice. In its, "Food and Nutrition Services Instruction 113-1," the U.S. Department of Agriculture (USDA) states that a district must put in place a public notification system or grassroots effort to inform applicants, participants, and potentially eligible individuals of program availability, rights and responsibilities, and nondiscrimination policy related to federally funded nutrition programs.

At the beginning of each school year, the Superintendent or designee shall communicate information related to the district's food service programs to the public through available means, including, but not limited to, the district's web sitewebsite, social media, flyers, and school publications.

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. Grant funding may be available through the Fresh Fruit and Vegetable Program (42 USC 1769a) to provide elementary students with a variety of free fresh fruits and vegetables throughout the school day as a supplement to school breakfast and lunch programs. Eligible schools are those that operate the National School Lunch Program and have 50 percent or more of students eligible for free and reduced-price meals.

Additionally, SB 114 (Ch. 48, Statutes of 2023) allocates funds for eligible districts which may be expended on kitchen infrastructure upgrades and implementing any of the following school food best practices: (1) procuring California-grown or produced, sustainably grown, or whole or minimally processed foods to support equity in procurement practices, (2) using California-grown, whole or minimally processed foods in plant-based or restricted diet meals, (3) procuring plant-based or restricted diet food options, and/or (4) freshly preparing meals onsite. Districts that do not receive the above funding are nonetheless encouraged to follow these school food best practices. In addition, grant funding may be available from the California Department of Food and Agriculture's (CDFA) California Farm to School Incubator Grant, which includes a transitional kindergarten-12 Procurement and Education Grant for districts to procure California grown or produced, whole or minimally processed foods for incorporation into school meals and engage students in hands-on food education opportunities. See BP/AR 3551 - Food Service Operations/Cafeteria Fund for information regarding procurement.

The district's food service program shall give priority to serving unprocessed freshly prepared onsite meals, using whole or minimally processed sustainable foods and which are locally grown or produced, including fresh fruits and vegetables, and providing plant-based or restricted diet food options for students.

CSBA NOTE: The following paragraph is optional. Both state and federal law support the concept of using locally grown and/or organic produce in school cafeterias. Consistent with the state meal mandate, the Instructional School Gardens Program, established pursuant to Education Code 51795-~~51797~~51798, encourages the creation of school gardens as a means of providing children an opportunity to learn to make healthier food choices. Pursuant to Education Code 51798, a district that operates a school garden may sell produce grown in the school garden, regardless of whether the school participates in the Instructional School Gardens Program, if the district complies with

applicable federal, state, and local health and safety requirements for the production, processing, and distribution of the produce. For more information about the benefits of farm to school programs, including the increase in student fruit and vegetable consumption associated with these programs, see CDFA's 2022 publication, "Planting the Seed: Farm to School Roadmap for Success." In addition, 42 USC 1769 permits a high poverty school (schools with 50 percent or more students eligible for free and/or reduced-price meals) that runs a community garden to use produce from the garden to supplement food provided at the school. Thus, such use is allowable provided the foods comply with health and sanitation requirements as well as applicable nutrition standards.

District schools are encouraged to establish school gardens and/or farm-to-school projects to increase the availability of safe, fresh, seasonal fruits and vegetables for school meals, positively impact students' knowledge related to food and nutrition, support the district's nutrition education program, and increase students' consumption of these foods and participation in school meals.

**CSBA NOTE:** The following paragraph is optional. Education Code 49534, as amended by AB 486 (Ch. 666, Statutes of 2021), authorizes nutrition education programs to coordinate classroom instruction with the food service program and be of sufficient variety and flexibility to meet the needs of students in the district.

To the extent possible, the school meal program shall be coordinated with the nutrition education program, instructional program for teachers, parents/guardians and food service employees, available community resources, and other related district programs.

To encourage student participation in school meal programs, schools may offer multiple choices of food items within a meal service, provided all food items meet nutrition standards and all students are given an opportunity to select any food item.

The Superintendent or designee may invite students and parents/guardians to participate in the selection of foods of good nutritional quality for school menus.

**CSBA NOTE:** Pursuant to Education Code 49501.5, as amended by SB 348, students must be provided adequate time to eat, as determined by the district in consideration of the recommendations provided by CDE on or before June 30, 2025.

Students shall be allowed adequate time and space to eat meals. (Education Code 49501.5)

To the extent possible, school, recess, and transportation schedules shall be designed to promote participation in school meal programs.

The Superintendent or designee shall periodically review the adequacy of school cafeterias and facilities for food preparation and consumption.

**CSBA NOTE:** The district's food service program is subject to the food safety standards in the California Retail Food Code (Health and Safety Code 113700-114437). In addition, 42 USC 1758 and 7 CFR 210.13 and 220.7 require all schools participating in the National School Lunch and/or Breakfast Program to implement a food safety program for the storage, preparation, and service of school meals. See the accompanying administrative regulation for requirements of the food safety program.

In accordance with law, the Superintendent or designee shall develop and maintain a food safety program in order to reduce the risk of foodborne hazards at each step of the food preparation and service process.

**CSBA NOTE:** The following optional paragraph may be revised to reflect program evaluation indicators and reporting schedules determined by the district. Districts that participate in the National School Lunch Program, School Breakfast Program, Seamless Summer Feeding Option, and/or other federal meal program are subject to a state Administrative Review of district compliance with requirements for federal meal programs, including, but not limited to, a review of nutritional quality, meal patterns, provision of drinking water, school meal environment, and food safety. Each district is reviewed at least once every three years. Also see BP 3551 - Food Service Operations/Cafeteria Fund. However, Education Code 49431, 49431.2, and 49431.5 express legislative intent that the Governing Board annually review the district's compliance with nutrition standards for foods sold outside the National School Lunch or Breakfast Program.

Pursuant to USDA's, "Food and Nutrition Services Instruction 113-1," any district participating in federal meal programs must collect racial and ethnic data on potentially eligible populations, applicants, and program participants; see BP 3555 - Nutrition Program Compliance.

The Superintendent or designee shall annually report to the Board on student participation in the district's nutrition programs and the extent to which the district's food service program meets state and federal nutrition standards for foods and beverages. In addition, the Superintendent or designee shall provide all necessary and available documentation required for the Administrative Review conducted by the California Department of Education (CDE) to ensure the food service program's compliance with federal requirements related to nutrition standards, meal patterns, provision of drinking water, school meal environment, food safety, and other areas as required by the CDE.

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<b>State</b>	<b>Description</b>
5 CCR 15510	Mandatory meals for needy students
5 CCR 15530-15535	Nutrition education
5 CCR 15550-15565	School lunch and breakfast programs
5 CCR 15575-15578	Requirements for foods and beverages outside the federal meals program
Ed. Code 35182.5	Contracts for advertising
Ed. Code 38080-38103	Cafeteria; establishment and use
Ed. Code 45103.5	Contracts for management consulting services; restrictions

Ed. Code 48432.3	Voluntary enrollment in continuation education
Ed. Code 49430-49434	Pupil Nutrition, Health, and Achievement Act of 2001
Ed. Code 49490-49494	School breakfast and lunch programs
Ed. Code <del>49500-49505</del> 49501.5-49506	School meals
Ed. Code 49501.5	<u>California Universal Meals Program</u>
Ed. Code 49510-49520	Nutrition
Ed. Code 49530-49536	Child Nutrition Act
Ed. Code 49540-49546	Child care food program
Ed. Code 49547-49548.3	Comprehensive nutrition services
Ed. Code 49550.3-49562	Meals for needy students
Ed. Code 49570	National School Lunch Act
Ed. Code 51795- <del>51797</del> 51798	School instructional gardens
H&S Code 113700-114437	California Retail Food Code; sanitation and safety requirements

**Federal**

42 USC 1751-1769j

42 USC 1758b

42 USC 1761

42 USC 1769a

42 USC 1771-1793

42 USC 1772

42 USC 1773

7 CFR 210.1-210.33

7 CFR 215.1-215.18

7 CFR 220.2-220.22

7 CFR 245.1-245.13

**Management Resources**

California Department of Education  
Publication

California Department of Education  
Publication

**Description**

School Lunch Program

Local wellness policy

Summer Food Service Program and Seamless Summer Feeding Option

Fresh Fruit and Vegetable Program

Child Nutrition Act

Special Milk Program

School Breakfast Program

National School Lunch Program

Special Milk Program

National School Breakfast Program

Eligibility for free and reduced-price meals and free milk

**Description**

Healthy Children Ready to Learn, January 2005 ~~2006~~  
(<https://www.cde.ca.gov/ls/fa/sf/documents/healthychildren.pdf>)

Professional Standards in the School Nutrition Programs, Management Bulletin SNP-13-2020, Updated January 2022  
(<https://www.cde.ca.gov/ls/nu/sn/mbsnp132020.asp>)

<u>California Department of Food and Agriculture Publication</u>	<u>Planting the Seed: Farm to School Roadmap for Success, February 2022</u> ( <a href="https://www.gov.ca.gov/wp-content/uploads/2022/02/Farm-To-School-Report-2022022-2-small.pdf">https://www.gov.ca.gov/wp-content/uploads/2022/02/Farm To School Report 2022022-2-small.pdf</a> )
California Project Lean Publication	Policy in Action: A Guide to Implementing Your Local School Wellness Policy, October 2006 ( <a href="https://www.californiaprojectlean.org/docuserfiles/policy%20in%20Action%20Guide%20FINAL.pdf">https://www.californiaprojectlean.org/docuserfiles/policy%20in%20Action%20Guide%20FINAL.pdf</a> )
CSBA Publication	Monitoring for Success: Student Wellness Policy Implementation Monitoring Report and Guide, <del>2007</del> 2008 ( <a href="https://www.csba.org/-/~/media/Files/EducationIssues/Wellness/200910_MFS_Guide.ashx">https://www.csba.org/-/~/media/Files/EducationIssues/Wellness/200910_MFS_Guide.ashx</a> )
<u>CSBA Publication</u>	<u>Monitoring for Success: A Guide for Assessing and Strengthening Student Wellness Policies, 2012</u> ( <a href="https://www.csba.org/-/media/CSBA/Files/GovernanceResources/EducationIssues/ConditionsOfChildren/201211MonitoringForSuccess.ashx?la=en&amp;rev=90a8b252b84a4e80b2ebd6c1a6899865">https://www.csba.org/-/media/CSBA/Files/GovernanceResources/EducationIssues/ConditionsOfChildren/201211MonitoringForSuccess.ashx?la=en&amp;rev=90a8b252b84a4e80b2ebd6c1a6899865</a> )
CSBA Publication	Nutrition Standards for Schools: Implications for Student Wellness, Policy Brief, <del>rev.</del> October 2007 ( <a href="https://www.csba.org/-/media/3A78FEAF129D488FA34CFAAA16B38911.ashx">https://www.csba.org/-/media/3A78FEAF129D488FA34CFAAA16B38911.ashx</a> )
CSBA Publication	Building Healthy Communities: A School Leader's Guide to Collaboration and Community Engagement, 2009
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U.S. Department of Agriculture Publication	School Breakfast Toolkit ( <a href="https://www.fns.usda.gov/sbp/toolkit">https://www.fns.usda.gov/sbp/toolkit</a> )
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U.S. Department of Agriculture Publication	Food Buying Guide for Child Nutrition Programs, <del>December 2007</del> May 2022 ( <a href="https://www.fns.usda.gov/tn/food-buying-guide">https://www.fns.usda.gov/tn/food-buying-guide</a> )



U.S. Department of Agriculture Publication	Fresh Fruit and Vegetable Program: Handbook for Schools, December 2010 ( <a href="https://www.fns.usda.gov/ffvp/fresh-fruits-and-vegetable-program-handbook-schools">https://www.fns.usda.gov/ffvp/fresh-fruits-and-vegetable-program-handbook-schools</a> )
U.S. Department of Agriculture Publication	Guidance for School Food Authorities: Developing a School Food Safety Program Based on the Process Approach to HACCP Principles, June 2005 ( <a href="https://www.fns.usda.gov/fs/developing-school-food-safety-program-based-process-approach-haccp">https://www.fns.usda.gov/fs/developing-school-food-safety-program-based-process-approach-haccp</a> )
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<u>Website</u>	<a href="https://cafarmtofork.cdfa.ca.gov/">California Department of Food and Agriculture, Office of Farm to Fork (https://cafarmtofork.cdfa.ca.gov/)</a>
Website	National Alliance for Nutrition and Activity
Website	California Department of Public Health
Website	California Healthy Kids Resource Center
Website	CSBA

**Cross References**

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0470	<del>COVID-19 Mitigation Plan</del>
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3551	Food Service Operations/Cafeteria Fund
3551	Food Service Operations/Cafeteria Fund
3552	Summer Meal Program
3552	Summer Meal Program
3553	Free And Reduced Price Meals
3553	Free And Reduced Price Meals
3554	Other Food Sales
3554	Other Food Sales
3555	Nutrition Program Compliance
3555-E(1)	Nutrition Program Compliance
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4241.6	Concerted Action/Work Stoppage
4241.6	Concerted Action/Work Stoppage
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5141.27	Food Allergies/Special Dietary Needs
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5145.6	Parent/Guardian Notifications

5145.6-E(1)	Parent/Guardian Notifications
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5148	Child Care And Development
5148.2	Before/After School Programs
5148.2	Before/After School Programs
5148.3	Preschool/Early Childhood Education
5148.3	Preschool/Early Childhood Education
6142.8	Comprehensive Health Education
6142.8	Comprehensive Health Education
6173	Education For Homeless Children
6173	Education For Homeless Children
6173-E(1)	Education For Homeless Children
6173-E(2)	Education For Homeless Children
6176	Weekend/Saturday Classes
7110	Facilities Master Plan

**Regulation 3550: Food Service/Child Nutrition Program**

**Status:** ADOPTED

**Original Adopted Date:** 03/01/2011 | **Last Revised Date:** 06/03/01/2022 **2024** | **Last Reviewed Date:** 06/03/01/2022 **2024**

CSBA NOTE: The following optional administrative regulation applies to food sales through the district's food service program, including, California's Universal Meals Program (Education Code 49501.5), the National School Lunch Program (42 USC 1751-1769)), the School Breakfast Program (42 USC 1773), and the Special Milk Program (42 USC 1772). The district should select all sections below that apply to programs offered by the district. See BP/AR 3552 - Summer Meal Program, AR 5148 - Child Care and Development, and AR 5148.2 - Before/After School Programs for nutrition requirements pertaining to those programs. For food sales outside the district's food service program (e.g., by student and adult organizations, through vending machines, or at student stores), see BP/AR 3554 - Other Food Sales.

**Nutrition Standards for School Meals**

CSBA NOTE: The following section is for use by all districts. Education Code 49501.5, as ~~added~~ amended by AB 130 SB 348 (Ch. 44600, Statutes of 2021-2023), requires all schools to provide make available, free of charge, two one nutritiously adequate meals per breakfast and one nutritiously adequate lunch each school day, to any student who requests a meal, regardless of a student's eligibility to participate in any federally-funded free or reduced-price meal. Education Code 49553 defines a "nutritionally adequate meal" as one that qualifies for reimbursement under federal child nutrition program regulations. Schools participating in the National School Lunch and/or Breakfast Program must are required to extend meal service to all students enrolled in the school. However, pursuant to Education Code 49431, as amended by SB 95 (Ch. 318, Statutes of 2023), a school is not prohibited from selling an additional nutritiously adequate meal that qualifies for federal reimbursement from the same meal service to a student who has been provided a free meal.

Meals, food items, and beverages provided through the district's food services program shall: (Education Code 49501.5, 49553; 42 USC 1758, 1773)

1. Comply with National School Lunch and/or Breakfast Program standards for meal patterns, nutrient levels, and calorie requirements for the ages/grade levels served, as specified in 7 CFR 210.10 or 220.8 as applicable

CSBA NOTE: Item #2 below reflects an additional requirement for (1) districts participating in the National School Lunch and/or Breakfast Program which choose to apply for state reimbursements for free and reduced-price meals in addition to their base reimbursement, and (2) districts participating in the State Meal Program. Pursuant to Education Code 49430.7, such districts may not provide foods that are deep fried, par fried, or flash fried. Other districts may delete or use this item at their discretion. Although the new California Universal Meals Program (Education Code 49501.5) is not expressly subject to this requirement, it is recommended that all districts comply with it as a best practice, since only meals that qualify for federal reimbursement are reimbursable by the state under the program.

2. Not be deep fried, par fried, or flash fried, as defined in Education Code 49430 and 49430.7

### Drinking Water

CSBA NOTE: The following section is for use by all districts. Pursuant to 42 USC 1758, schools participating in the National School Lunch Program are required to make free drinking water available for consumption at locations where meals are served during meal service. In addition, Education Code 38086 requires all California schools to make free drinking water available during school meal times. Pursuant to Education Code 38086, a district may be exempted from this requirement only if the Governing Board adopts a resolution, publicly noticed on at least two consecutive meeting agendas, demonstrating that the district is unable to comply due to fiscal constraints or health or safety concerns. Any district whose Board has adopted such a resolution should delete this section.

Pursuant to Education Code 38086, schools may satisfy this requirement by, among other means, providing cups and containers of water or soliciting or receiving donated water. Pursuant to Education Code 38042, a district must allow students to bring and carry water bottles. Recommendations on the California Department of Education's web site (CDE) website include providing chilled water, ensuring that all water fountains are clean and operational, and encouraging water consumption through marketing and advertising. Pursuant to Education Code 38043, districts must encourage water consumption through promotional and educational activities and signage that focus on the benefits of drinking water and highlight water bottle filling stations throughout schools.

The district shall provide access to free, fresh drinking water during meal times in food service areas at all district schools, including, but not limited to, areas where reimbursable meals under the National School Lunch or Breakfast Program are served or consumed. (Education Code 38086; 42 USC 1758)

### Special Milk Program

CSBA NOTE: The following section is optional. The Special Milk Program (42 USC 1772; 7 CFR 215.1-215.18) is a federally funded program which assists in providing milk at reasonable prices to students in schools that do not participate in the National School Lunch or Breakfast Program. Pursuant to 7 CFR 215.7, districts may choose to provide milk at no charge to students who qualify for free meals; see BP 3553 - Free and Reduced Price Meals.

Any school that does not participate in the National School Lunch or Breakfast Program may participate in the Special Milk Program to provide all enrolled students with reasonably priced milk. (7 CFR 215.7)

### Food Safety

CSBA NOTE: Pursuant to Health and Safety Code 113789, school cafeterias are among food facilities subject to the California Retail Food Code.

The Superintendent or designee shall ensure that the district's food service program meets the applicable sanitation and safety requirements of the California Retail Food Code as set forth in Health and Safety Code 113700-114437.

CSBA NOTE: The remainder of this section is for use by any district participating in the National School Lunch and/or Breakfast Program and may be used or revised by other districts at their discretion. 42 USC 1758 requires such participating districts to implement a food safety program applicable to any facility or part of a facility in which food is stored, prepared, or served. Pursuant to 42 USC 1758 and 7 CFR 210.13 and 220.7, the food safety program must comply with Hazard Analysis and Critical Control Point (HACCP) principles, which include establishing measures needed to prevent hazards at each stage of food production. Pursuant to 7 CFR 210.13, districts may implement either the "traditional" HACCP system or the simplified "process approach." Under the process approach, foods are grouped together according to preparation process and the same control measure is applied to all menu items within the group, rather than developing an HACCP plan for each item. These principles are described in USDA's, "Guidance for School Food Authorities: Developing a School Food Safety Program Based on the Process Approach to HACCP Principles".

For all district schools participating in the National School Lunch and/or School Breakfast Program, the Superintendent or designee shall implement a written food safety program for the storage, preparation, and service of school meals which complies with the national Hazard Analysis and Critical Control Point (HACCP) system. The district's HACCP plan shall include, but is not limited to, a determination of critical control points and critical limits at each stage of food production, monitoring procedures, corrective actions, and recordkeeping procedures. (42 USC 1758; 7 CFR 210.13, 220.7)

CSBA NOTE: Pursuant to 7 CFR 210.30, directors, managers, and staff in the food service program must complete annual training on specified topics, including, but not limited to, training on health and safety standards. Based on CDE Management Bulletin SNP-13-2020, districts must ensure that such directors, managers, and staff complete an annual continuing education or training on topics that are job-related, including, but not limited to, food safety standards. In addition, at least one employee at each food facility or site must have successfully passed an approved and accredited food safety certification examination in accordance with Health and Safety Code 113947.2-113947.3.

The Superintendent or designee shall ensure that food service directors, managers, and staff complete an annual continuing education or training as required by law. Each new employee, including a substitute, or volunteer shall complete initial food safety training prior to handling food. For each employee, the Superintendent or designee shall document the date, trainer, and subject of each training.

CSBA NOTE: The following paragraph is optional. USDA's, "Guidance for School Food Authorities: Developing a School Food Safety Program Based on the Process Approach to HACCP Principles," states that districts should maintain the following types of records in order to periodically review the food safety program and, in the event of a foodborne illness, to document that reasonable care was exercised in the operation of the school's food service program.

The Superintendent or designee shall assign staff to maintain records and logs documenting food safety activities, including, but not limited to, records of food deliveries, time and temperature monitoring during food production, equipment temperature (freezer, cooler, thermometer calibration), corrective actions, verification or review of safety efforts, and staff training.

### Inspection of Food Facilities

CSBA NOTE: Health and Safety Code 113725-113725.3 require all food facilities in California to be inspected by the county environmental health agency in accordance with the timelines and procedures established in county regulations. The inspections cover all food service areas, including cafeterias, vending machines, and mobile food carts. Health and Safety Code 113725 specifies findings that would be considered violations, including (1) improper holding temperatures, improper cooling, or inadequate cooking of potentially hazardous foods (i.e., foods that require temperature control); (2) poor personal hygiene of food service employees; (3) contaminated equipment; and (4) food from unapproved sources.

All food preparation and service areas shall be inspected in accordance with Health and Safety Code 113725-113725.1 and applicable county regulations.

CSBA NOTE: The following paragraph is for use by districts participating in the National School Lunch and/or Breakfast Program. Notwithstanding the requirements of county regulations, districts participating in these programs must obtain at least two safety inspections each school year.

Each school participating in the National School Lunch and/or Breakfast Program shall, during each school year, obtain a minimum of two food safety inspections conducted by the county environmental health agency. (42 USC 1758; 7 CFR 210.13, 220.7)

The Superintendent or designee shall retain records from the most recent food safety inspection. All schools shall post a notice indicating that the most recent inspection report is available to any interested person upon request. (Health and Safety Code 113725.1; 42 USC 1758; 7 CFR 210.13, 210.15, 220.7)

**Policy Reference UPDATE Service**

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**Policy Reference Disclaimer:**

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

<b>State</b>	<b>Description</b>
5 CCR 15510	Mandatory meals for needy students
5 CCR 15530-15535	Nutrition education
5 CCR 15550-15565	School lunch and breakfast programs
5 CCR 15575-15578	Requirements for foods and beverages outside the federal meals program
Ed. Code 35182.5	Contracts for advertising
Ed. Code 38080-38103	Cafeteria; establishment and use
Ed. Code 45103.5	Contracts for management consulting services; restrictions
Ed. Code 48432.3	Voluntary enrollment in continuation education
Ed. Code 49430-49434	Pupil Nutrition, Health, and Achievement Act of 2001
Ed. Code 49490-49494	School breakfast and lunch programs

Ed. Code <del>49500-49505</del> <u>49501.5-49506</u>	School meals
Ed. Code 49501.5	<u>California Universal Meals Program</u>
Ed. Code 49510-49520	Nutrition
Ed. Code 49530-49536	Child Nutrition Act
Ed. Code 49540-49546	Child care food program
Ed. Code 49547-49548.3	Comprehensive nutrition services
Ed. Code 49550. <u>3</u> -49562	Meals for needy students
Ed. Code 49570	National School Lunch Act
Ed. Code <del>51795-51797</del> <u>51798</u>	School instructional gardens
H&S Code 113700-114437	California Retail Food Code; sanitation and safety requirements
<b>Federal</b>	<b>Description</b>
42 USC 1751-1769j	School Lunch Program
42 USC 1758b	Local wellness policy
42 USC 1761	Summer Food Service Program and Seamless Summer Feeding Option
42 USC 1769a	Fresh Fruit and Vegetable Program
42 USC 1771-1793	Child Nutrition Act
42 USC 1772	Special Milk Program
42 USC 1773	School Breakfast Program
7 CFR 210.1-210.33	National School Lunch Program
7 CFR 215.1-215.18	Special Milk Program
7 CFR 220.2-220.22	National School Breakfast Program
7 CFR 245.1-245.13	Eligibility for free and reduced-price meals and free milk
<b>Management Resources</b>	<b>Description</b>
California Department of Education Publication	Healthy Children Ready to Learn, January <del>2005</del> <u>2006</u> <a href="https://www.cde.ca.gov/ls/fa/sf/documents/healthychildren.pdf">https://www.cde.ca.gov/ls/fa/sf/documents/healthychildren.pdf</a>
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<u>California Department of Food and Agriculture Publication</u>	<u>Planting the Seed: Farm to School Roadmap for Success, February 2022</u> ( <a href="https://www.gov.ca.gov/wp-content/uploads/2022/02/Farm-To-School-Report-2022022-small.pdf">https://www.gov.ca.gov/wp-content/uploads/2022/02/Farm-To-School-Report-2022022-small.pdf</a> )



California Project Lean Publication	Policy in Action: A Guide to Implementing Your Local School Wellness Policy, October 2006 ( <a href="https://www.californiaprojectlean.org/docuserfiles/policy%20in%20Action%20Guide%20FINAL.pdf">https://www.californiaprojectlean.org/docuserfiles/policy%20in%20Action%20Guide%20FINAL.pdf</a> )
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<https://www.fns.usda.gov/fs/developing-school-food-safety-program-based-process-approach-haccp>

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<a href="https://cafarmtofork.cdfa.ca.gov/">Website</a>	<a href="https://cafarmtofork.cdfa.ca.gov/">California Department of Food and Agriculture, Office of Farm to Fork</a> ( <a href="https://cafarmtofork.cdfa.ca.gov/">https://cafarmtofork.cdfa.ca.gov/</a> )
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7110	Facilities Master Plan

**Policy 3551: Food Service Operations/Cafeteria Fund**

**Status:** ADOPTED

**Original Adopted Date:** 03/01/2018 | **Last Revised Date:** 09/03/01/2023 2024 | **Last Reviewed Date:** 09/03/01/2023 2024

CSBA NOTE: The following conditionally mandated policy may be revised to reflect district practice. Pursuant to U.S. Department of Agriculture's (USDA) Memorandum SP 46-2016, districts participating in the National School Lunch and/or Breakfast Program (42 USC 1751-1769j, 1773) are mandated to adopt policy addressing meal charges; see the section "Meal Sales" below and the accompanying administrative regulation. However, with the establishment of the California Universal Meal Program pursuant to Education Code 49501.5, as amended by SB 348 (Ch. 600, Statutes of 2023), all public schools in California must provide make available free of charge, a one nutritionally adequate breakfast and one nutritionally adequate lunch each school day, to any student who requests a meal, regardless of the student's free or reduced-price meal eligibility status. Consequently, certain program requirements may no longer be applicable. For example, the California Department of Education (CDE) which, by law, provides guidance and oversight on the use of federal funding in nutrition programs, clarifies in Nutrition Services Division Management Bulletin SNP-04-2023 that districts that which operate a non-pricing program such as the California Universal Meals Program, the Community Eligibility Program, or Provision 2 at all sites are not required to establish a meal charge policy because no students are charged for meals.

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

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

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

CSBA NOTE: The following paragraph applies to all districts. Pursuant to Education Code 49503, as amended by SB 348, district funds may also be used for the purchase of school meals for students as provided in Education Code 49501.5.

At the Board's discretion, district funds other than the cafeteria fund may be used for the purchase of school meals.

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

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

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

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

## Meal Sales

CSBA NOTE: ~~In accordance with Education Code 49501.5, as amended by SB 348, requires each district is required to provide a~~ make available one ~~nutritiously adequate~~ nutritiously adequate ~~lunch each school day free of charge to any student who requests a meal, regardless of the student's eligibility for participation in the federal free or reduced-price meal program. Consequently, only nonprogram foods may be sold to students.~~ Education Code 49501.5, as amended by SB 348, makes several other changes, including requiring a district that offers independent study to make such nutritiously adequate breakfast and lunch available to an independent study student on any school day that the student is scheduled for educational activities as defined in Education Code 49010, and, to the extent CDE receives approval from USDA, make available during a school day lasting four hours or less a nutritiously adequate breakfast or lunch in a noncongregate manner.

Furthermore, pursuant to Education Code 49431, as amended by AB 95 (Ch. 318, Statutes of 2023), a school is not prohibited from selling an additional nutritiously adequate meal that qualifies for federal reimbursement from the same meal service to a student who has been provided a free meal. For further information, see BP 3553 - Free and Reduced Price Meals.

Pursuant to Education Code 49495, as added by AB 558 (Ch. 905, Statutes of 2022), CDE has developed guidance, "Breakfast and Snacks for Nonschoolaged Children," available on its website, which provides information on the allowability and options for offering nonschoolaged children breakfast or a morning snack at a school site., that serves any of grades K-6.

Any student who requests a meal shall be served Each school day, a nutritionally adequate breakfast and lunch shall be made available at no cost to any student who requests a meal, including a student enrolled in an independent study program on any school day in which the student is scheduled for in-person educational activities of charge, each school day: two or more hours. After such school meals have been made available to a student, the district may sell the student the entrée from an additional nutritiously adequate meal that qualifies for federal reimbursement, from the same meal service. (Education Code 49431, 49501.5)

As permitted by law, ~~additional or second meals~~, adult meals, and other nonprogram foods, such as smart snack compliant food and beverages sold in vending machines, may be sold to students. (Education Code 38082, 49431, 49501.5)

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

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

In addition, meals may be sold to nonstudents, including parents/guardians, volunteers, students' siblings, or other individuals, who are authorized by the Superintendent or designee to be on campus. Any meals served to nonstudents shall not be subsidized by federal or state reimbursements, food service revenues, or U.S. Department of Agriculture (USDA) foods.

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

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

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

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

### Cafeteria Fund and Account

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

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

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. 2 CFR Part 200, Appendix VII and USDA Memorandum SP60-2016 provide information regarding allowable indirect costs that may be charged to the nonprofit school food service account. Also see the accompanying administrative regulation.

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

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

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

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

**OPTION 1 ENDS HERE**

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

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

**OPTION 2 ENDS HERE**

**Contracts with Outside Services**

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

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

**Procurement of Foods, Equipment, and Supplies**



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

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

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

Pursuant to Education Code 49563, CDE has made information available on its website; see the, "Buy American Provision," section in, "Procurement in the CNPs Frequently Asked Questions".

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

CSBA NOTE: The following optional paragraph may be revised to reflect district practice. SB 114 (Ch. 48, Statutes of 2023) allocates funds for eligible districts which may be expended on kitchen infrastructure upgrades and implementing any of the following school food best practices: (1) procuring California-grown or produced, sustainably grown, or whole or minimally processed foods to support equity in procurement practices, (2) using California-grown, whole or minimally processed foods in plant-based or restricted diet meals, (3) procuring plant-based or restricted diet food options, and/or (4) freshly preparing meals onsite. Districts that do not receive the above funding are nonetheless encouraged to follow these school food best practices. Additionally, grant funding may be available from the California Department of Food and Agriculture's (CDFA) California Farm to School Incubator Grant, which includes a transitional kingergarten-12 Procurement and Education Grant for districts to procure California grown or produced, whole or minimally processed foods for incorporation into school meals and engage students in hands-on food education opportunities.

The district's food service program shall give priority to serving freshly prepared onsite meals, using whole or minimally processed sustainable foods which are locally grown or produced, including fresh fruits and vegetables, and to providing plant-based or restricted diet food options for students.

CSBA NOTE: The following paragraph reflects requirements for districts participating in the National School Lunch and/or Breakfast Program. Pursuant to Food and Agriculture Code 58596.3; as added by SB 490 (Ch. 602, Statutes of 2022), commencing on January 1, 2024,

districts participating in the National School Lunch and/or Breakfast Program, except those with annual reimbursement of less than \$1,000,000, are also required to comply with the requirements specified in the following paragraph. Districts that have an annual reimbursement of less than \$1,000,000 may delete the following paragraph.

When soliciting for bids and contracts for the purchase of an agricultural food product, the district shall specify in the solicitation that only the purchase of agricultural food products grown, packed, or processed domestically is authorized, unless a specific exception applies. A nondomestic food product may be purchased for use in the district's food service program only as a last resort when the product is not produced or manufactured in the United States in sufficient and reasonably available quantities of a satisfactory quality, the quality of the domestic product is inferior to the quality of the nondomestic product, or the bid or price of the nondomestic product is more than 25 percent lower than the bid or price of the domestic product. In such cases, the Superintendent or designee shall retain documentation justifying the use of the exception for three years from the date of purchase. (Food and Agriculture Code 58596.3)

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

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

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

SB 114 allocates funds for eligible districts to expend on kitchen infrastructure upgrades, such as cooking or service equipment, refrigeration, storage, transportation, and training and professional development, that will increase a school's capacity to provide freshly prepared onsite meals, to serve fresh and nutritious school meals using minimally processed, locally grown, and sustainable food, or for expanding meal options for students with restricted diets.

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

### Program Monitoring and Evaluation

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

CSBA NOTE: The following paragraph is for use by districts that have one or more schools participating in the National School Lunch Program, School Breakfast Program, Seamless Summer Feeding Option, and/or other federal meal program. The state monitoring process (the Administrative Review) includes a review of district compliance with requirements for federal meal programs, including a review of resource management in the food service program as provided in the following paragraph. CDE performs an administrative review of participating districts every three years. See CDE's nutrition services website for a current list of documents that may be requested for the review.

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

**Policy Reference UPDATE Service**

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**Policy Reference Disclaimer:**

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

<b>State</b>	<b>Description</b>
12 CCR 18928-18998.4	Short-lived climate pollutants
5 CCR 15550-15565	School lunch and breakfast programs
Ed. Code 38080-38086	<u>School meals</u>
Ed. Code 38090-38095	<u>Cafeterias; funds and accounts</u>
Ed. Code 38100-38103	<u>Cafeterias; allocation of charges</u>
Ed. Code 42646	<u>Alternate payroll procedure</u>
Ed. Code 45103.5	<u>Contracts for management consulting services; restrictions</u>
<u>Ed. Code 49010</u>	<u>Educational activity; definition</u>
<u>Ed. Code 49431</u>	<u>The Pupil Nutrition, Health, and Achievement Act of 2001</u>
Ed. Code 49490-49494	School breakfast and lunch programs
Ed. Code <del>49500-49505</del> <u>49501.5-49506</u>	School meals
Ed. Code 49550.3-49564.5	Meals for needy students
Ed. Code 49554	Contract for services
Ed. Code 49580-49581	Food recovery program
F&A Code 58595	Preference for California-grown agricultural products
F&A Code 58596.1-58596.5	Buy American Food Act; purchase of nondomestic agricultural food products
H&S Code 113700-114437	California Retail Food Code; sanitation and safety requirements

Pub. Cont. Code 2000-2002	Responsive bidders
Pub. Cont. Code 20111	Contracts over \$50,000; contracts for construction; award to lowest responsible bidder
Pub. Cont. Code 3410	U.S. produce and processed foods
<b>Federal</b>	<b>Description</b>
2 CFR 200	Appendix VII Indirect cost proposals
2 CFR 200.318-200.326	Procurement standards
2 CFR 200.400-200.475	Cost principles
2 CFR 200.56	Indirect costs; definition
42 USC 1751-1769j	School Lunch Program
42 USC 1771-1793	Child Nutrition Act
42 USC 1773	School Breakfast Program
7 CFR 210.1-210.33	National School Lunch Program
7 CFR 245.8	Nondiscrimination practices for students eligible for free and reduced price meal and free milk
7 CFR 250.1-250.70	USDA foods
<b>Management Resources</b>	<b>Description</b>
CA Department of Education Publication	California School Accounting Manual
CA Dept of Social Services Publication	Food Distribution Program Administrative Manual
California Department of Education Publication	Food Service Management Company Contract Preapproval, NSD Management Bulletin, SNP-05-2023, March 2023
California Department of Education Publication	Unpaid Meal Charges: Local Meal Charge Policies, Clarification on Collection of Delinquent Meal Payments, and Excess Student Account Balances, NSD Management Bulletin, SNP-04-2023, July 2023
California Department of Education Publication	Excess Net Cash Resources – Revised to Increase Limitation, NSD Management Bulletin, SNP-04-2022, May 2022
California Department of Education Publication	Pricing of Adult Meals in the National School Lunch and School Breakfast Programs, NSD Management Bulletin, SNP-04-2021, August 2021
California Department of Education Publication	Procuring and Monitoring of Food Service Management Contracts, NSD Management Bulletin, SNP-13-2015, January 2015
California Department of Education Publication	Storage and Inventory Management of U.S. Department of Agriculture Foods, NSD Management Bulletin, FDP-01-2018, January 2018

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Publication

U.S. Department of Agriculture  
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**Cross References**

**Code**

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Professional Standards in the SNPs, NSD Management  
Bulletin, SNP-13-2020, rev. January 2022  
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Buy American and the Agriculture Improvement Act of 2018,  
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Procuring Local Foods for Child Nutrition Programs, January  
2022

Unpaid Meal Charges: Local Meal Charge Policies, SP 46-  
2016, July 2016

Compliance with and Enforcement of the Buy American  
Provision in the National School Lunch Program, SP-38-2017,  
June 2017

Discretionary Elimination of Reduced Price Charges in the  
School Meal Programs, SP 17-2014, January 2014

Indirect Costs: Guidance for State Agencies and School Food  
Authorities, SP 60-2016, September 2016

School Meals - FAQs

CalRecycle, Resources for Local Education Agencies: K-12  
Public Schools and School Districts

California Department of Education, Accounting

California Department of Social Services  
(<https://www.cdss.ca.gov/>)

CSBA District and County Office of Education Legal Services

U.S. Department of Agriculture, Food and Nutrition Service

California Department of Education, Nutrition Services  
Division California Department of Education, School Nutrition  
(<https://www.cde.ca.gov/ls/nu/sn/>)

California School Nutrition Association

**Description**

Nondiscrimination In District Programs And Activities

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District And School Websites

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1340	Access To District Records
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5145.6-E(1)	Parent/Guardian Notifications

**Regulation 3551: Food Service Operations/Cafeteria Fund**

**Status:** ADOPTED

**Original Adopted Date:** 03/01/2018 | **Last Revised Date:** 09/03/01/20232024 | **Last Reviewed Date:** 09/03/01/20232024

CSBA NOTE: With the establishment of the California Universal Meal Program pursuant to Education Code 49501.5, as amended by SB 348 (Ch. 600, Statutes of 2023), all public schools in California must provide make available, free of charge, a one nutritionally adequate breakfast and one nutritionally adequate lunch each school day, to any student who requests a meal, regardless of the student's free or reduced-price meal eligibility status. To receive state reimbursement for the two meals, districts must participate in both the National School Lunch Program and the School Breakfast Program and comply with the requirement to have a written and clearly communicated meal charge policy as mandated pursuant to U.S. Department of Agriculture's (USDA) Memorandum SP 46-2016. However, some requirements of the National School Lunch Program and/or School Breakfast Program are no longer applicable.

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

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

The district may revise the following paragraphs accordingly.

**Payments for Meals**

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

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

1. Explaining the meal charge policy within registration materials provided to parents/guardians at the start of the school year
2. Including the policy in print versions of student handbooks, if provided to parents/guardians annually



3. Providing the policy whenever parents/guardians are notified regarding the application process for free and reduced-price meals, such as in the distribution of eligibility forms at the start of the school year
4. Posting the policy on the district's website

### Reimbursement Claims

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

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

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

### **Donation of Leftover Food** Minimizing Food Waste and Reducing Food Insecurity

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

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

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

The district may also provide sharing tables where students and staff may return appropriate unused cafeteria food items to be made available to students during the course of a regular school meal time. If food on the sharing tables is not taken by a student, the school cafeteria may donate

the food to a food bank or any other nonprofit charitable organization. (Health and Safety Code 114079)

Food that may be donated includes prepackaged, nonpotentially hazardous food with the packaging still intact and in good condition, whole uncut produce that complies with Health and Safety Code 113992, unopened bags of sliced fruit, unopened containers of milk that are immediately stored in a cooling bin maintained at 41 degrees Fahrenheit or below, and perishable prepackaged food if it is placed in a proper temperature-controlled environment. The preparation, safety, and donation of food shall be consistent with Health and Safety Code 113980. (Health and Safety Code 114079)

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

### Cafeteria Fund and Account

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

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

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

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

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

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

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

**CSBA NOTE: The following optional paragraph may be revised to reflect district practice. 2 CFR Part 200 Appendix VII, USDA's guidance, "SP 60-2016," and CDE's website, "Frequently Asked Questions about Indirect Costs," provide information regarding allowable indirect costs that may be charged to the nonprofit school food service account. Indirect costs are those that are incurred for the benefit of multiple programs or objectives and typically support administrative overhead**

functions (e.g., accounting, payroll, purchasing, utilities, janitorial services). Each program or objective that benefits from the indirect cost bears a commensurate portion of the cost. Costs may be charged to the nonprofit food service account only if properly documented.

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

CSBA NOTE: Pursuant to 7 CFR 210.14 and 220.7, net cash resources (i.e., all monies that have accrued to the nonprofit school food service at any given time, less cash payable) should not exceed three months' average expenditures or such other amount as may be approved by CDE. If there is a surplus, then according to USDA's guidance, "Indirect Costs: Guidance for State Agencies and School Food Authorities," the district must lower the price of paid lunches, improve food quality, or make other improvements to school meal operations. CDE's Nutrition Services Division Management Bulletin SNP-04-2022 states that in an effort to provide flexibility to districts affected by various natural disasters and recovery from the COVID-19 pandemic, CDE has increased the excess net cash resources limitation to six months' average operating expenditures.

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

### **U.S. Department of Agriculture Foods**

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

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

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

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

### **Contracts with Outside Services**

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

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

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

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

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

**Policy Reference UPDATE Service**

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**Policy Reference Disclaimer:**

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

<b>State</b>	<b>Description</b>
12 CCR 18928-18998.4	Short-lived climate pollutants
5 CCR 15550-15565	School lunch and breakfast programs
Ed. Code 38080-38086	<u>School meals</u>
Ed. Code 38090-38095	<u>Cafeterias; funds and accounts</u>
Ed. Code 38100-38103	<u>Cafeterias; allocation of charges</u>
Ed. Code 42646	<u>Alternate payroll procedure</u>
Ed. Code 45103.5	<u>Contracts for management consulting services; restrictions</u>
Ed. Code 49010	<u>Educational activity; definition</u>
Ed. Code 49431	<u>The Pupil Nutrition, Health, and Achievement Act of 2001</u>
Ed. Code 49490-49494	School breakfast and lunch programs

Ed. Code <del>49500-49505</del> 49501.5-49506	School meals
Ed. Code 49550,3-49564.5	Meals for needy students
Ed. Code 49554	Contract for services
Ed. Code 49580-49581	Food recovery program
F&A Code 58595	Preference for California-grown agricultural products
F&A Code 58596.1-58596.5	Buy American Food Act; purchase of nondomestic agricultural food products
H&S Code 113700-114437	California Retail Food Code; sanitation and safety requirements
Pub. Cont. Code 2000-2002	Responsive bidders
Pub. Cont. Code 20111	Contracts over \$50,000; contracts for construction; award to lowest responsible bidder
Pub. Cont. Code 3410	U.S. produce and processed foods
<b>Federal</b>	<b>Description</b>
2 CFR 200	Appendix VII Indirect cost proposals
2 CFR 200.318-200.326	Procurement standards
2 CFR 200.400-200.475	Cost principles
2 CFR 200.56	Indirect costs; definition
42 USC 1751-1769j	School Lunch Program
42 USC 1771-1793	Child Nutrition Act
42 USC 1773	School Breakfast Program
7 CFR 210.1-210.33	National School Lunch Program
7 CFR 245.8	Nondiscrimination practices for students eligible for free and reduced price meal and free milk
7 CFR 250.1-250.70	USDA foods
<b>Management Resources</b>	<b>Description</b>
CA Department of Education Publication	California School Accounting Manual
CA Dept of Social Services Publication	Food Distribution Program Administrative Manual
California Department of Education Publication	Food Service Management Company Contract Preapproval, NSD Management Bulletin, SNP-05-2023, March 2023
California Department of Education Publication	Unpaid Meal Charges: Local Meal Charge Policies, Clarification on Collection of Delinquent Meal Payments, and Excess Student Account Balances, NSD Management Bulletin, SNP-04-2023, July 2023

California Department of Education Publication	Excess Net Cash Resources – Revised to Increase Limitation, NSD Management Bulletin, SNP-04-2022, May 2022
California Department of Education Publication	Pricing of Adult Meals in the National School Lunch and School Breakfast Programs, NSD Management Bulletin, SNP-04-2021, August 2021
California Department of Education Publication	Procuring and Monitoring of Food Service Management Contracts, NSD Management Bulletin, SNP-13-2015, January 2015
California Department of Education Publication	Storage and Inventory Management of U.S. Department of Agriculture Foods, NSD Management Bulletin, FDP-01-2018, January 2018
<a href="#"><u>California Department of Education Publication</u></a>	<a href="#"><u>Professional Standards in the SNPs, NSD Management Bulletin, SNP-13-2020, rev. January 2022</u></a> <a href="https://www.cde.ca.gov/ls/nu/sn/mbsnp132020.asp"><u>(https://www.cde.ca.gov/ls/nu/sn/mbsnp132020.asp)</u></a>
California Department of Education Publication	Cafeteria Funds - Allowable Uses, NSD Management Bulletin, SNP-05-2020, February 2020
U.S. Department of Agriculture Publication	Buy American and the Agriculture Improvement Act of 2018, SP-32-2019, August 2019
U.S. Department of Agriculture Publication	Procuring Local Foods for Child Nutrition Programs, January 2022
U.S. Department of Agriculture Publication	Unpaid Meal Charges: Local Meal Charge Policies, SP 46-2016, July 2016
U.S. Department of Agriculture Publication	Compliance with and Enforcement of the Buy American Provision in the National School Lunch Program, SP-38-2017, June 2017
U.S. Department of Agriculture Publication	Discretionary Elimination of Reduced Price Charges in the School Meal Programs, SP 17-2014, January 2014
<a href="#"><u>U.S. Department of Agriculture Publication</u></a>	<a href="#"><u>Indirect Costs: Guidance for State Agencies and School Food Authorities, SP 60-2016, September 2016</u></a>
U.S. Dept of Agriculture Publication	School Meals - FAQs
Website	CalRecycle, Resources for Local Education Agencies: K-12 Public Schools and School Districts
Website	California Department of Education, Accounting
<a href="#"><u>Website</u></a>	<a href="#"><u>California Department of Social Services</u></a> <a href="https://www.cdss.ca.gov/"><u>(https://www.cdss.ca.gov/)</u></a>
Website	CSBA District and County Office of Education Legal Services
Website	U.S. Department of Agriculture, Food and Nutrition Service

Website

California Department of Education, Nutrition Services  
Division California Department of Education, School Nutrition  
(<https://www.cde.ca.gov/ls/nu/sn/>)

Website

California School Nutrition Association

### **Cross References**

<b>Code</b>	<b>Description</b>
0410	Nondiscrimination In District Programs And Activities
1113	District And School Websites
1113	District And School Websites
1113-E(1)	District And School Websites
1340	Access To District Records
1340	Access To District Records
3100	Budget
3100	Budget
3110	Transfer Of Funds
3230	Federal Grant Funds
3230	Federal Grant Funds
3260	Fees And Charges
3260	Fees And Charges
3300	Expenditures And Purchases
3311	Bids
3311	Bids
3312	Contracts
3314.2	Revolving Funds
3400	Management Of District Assets/Accounts
3400	Management Of District Assets/Accounts
3460	Financial Reports And Accountability
3460	Financial Reports And Accountability
3510	Green School Operations
3511	Energy And Water Management
3511	Energy And Water Management

3512	Equipment
3512-E(1)	Equipment
3515.6	Criminal Background Checks For Contractors
3550	Food Service/Child Nutrition Program
3550	Food Service/Child Nutrition Program
3552	Summer Meal Program
3552	Summer Meal Program
3553	Free And Reduced Price Meals
3553	Free And Reduced Price Meals
3554	Other Food Sales
3554	Other Food Sales
3555	Nutrition Program Compliance
3555-E(1)	Nutrition Program Compliance
3580	District Records
3580	District Records
4112.4	Health Examinations
4212	Appointment And Conditions Of Employment
4212.1	Health Examinations
4231	Staff Development
4312.4	Health Examinations
4331	Staff Development
5030	Student Wellness
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications



**Policy 3553: Free And Reduced Price Meals**

**Status:** ADOPTED

**Original Adopted Date:** 03/01/2016 | **Last Revised Date:** 06/03/01/2022 2024 | **Last Reviewed Date:** 06/03/01/2022 2024

CSBA NOTE: In addition to the requirement, pursuant to Education Code 49550, that all districts provide at least one nutritionally adequate meal during each school day to needy students, as defined in Education Code 49552, commencing June 1, 2022, all districts are required pursuant to Education Code 49501.5, as added amended by AB 130 SB 348 (Ch. 44 600, Statutes of 2021), to provide a 2023), requires districts, during each school day, to make available, free, of charge, one nutritionally adequate breakfast and one nutritionally adequate breakfast and lunch each school day, to any student who requests a meal, regardless of the student's free or reduced-price meal eligibility. To be eligible for state reimbursement for provision of meals under Education Code 49501.5, a district must participate in the National School Lunch and/or School Breakfast Programs. Consequently, the and comply with state and federal rules and guidelines or regulations governing these programs are applicable to districts that may want to seek state reimbursement for the cost of meals required pursuant to Education Code 49501.5., as amended by SB 348.

Pursuant to 42 USC 1758 and 1773, districts that participate in the National School Lunch and/or Breakfast Program (42 USC 1751-1769), 1773) may receive a higher reimbursement rate for free and reduced-price meals than that provided for meals for noneligible students. In addition, state funding may be available through the State Breakfast and Lunch Program (Education Code 49490-49494). The district may apply to the California Department of Education (CDE) for available state and federal funds.

The requirement to provide make available at least one nutritionally adequate meal breakfast and one nutritionally adequate lunch to needy students applies during summer school sessions unless the district receives a waiver from the State Board of Education (SBE) under the conditions described in Education Code 49548. In order to receive a waiver, the district is required to submit a waiver request no later than 60 days before the last regular meeting of the SBE before the start of the summer school session for which the waiver is sought. However, pursuant to Education Code 49547.5, as amended by SB 348, the provision of one free breakfast and one free lunch, as described above, does not apply to the Summer Food Service Program. Funding to support the provision of summer school meals is available through the Seamless Summer Feeding Option and/or Summer Food Service Program (Education Code 49547.5; 42 USC 1761); see BP/AR 3552 - Summer Meal Program.

Pursuant to Education Code 49506, as added by SB 348, CDE is required to work with the California Department of Social Services to maximize participation in the federal Summer Electronic Benefit Transfer for Children (Summer EBT) program, which, beginning in summer 2024, will provide families with \$40 per eligible child per month. For more information about the Summer EBT program, see the U.S. Department of Agriculture's (USDA), "Summer EBT," available on its website.

Additionally, pursuant to Education Code 49501.5, as amended by SB 348, to the extent CDE receives approval from USDA, a district may make available one meal in a school day lasting four

hours or less to be served in a noncongregate manner.

Student eligibility for free and reduced-price meals serves as the basis for identifying students as low income for a variety of purposes, including, but not limited to, state allocations of supplemental and concentration funding within the local control funding formula. Districts must use such funding to increase or improve services for low-income students and other populations of "unduplicated students" (see BP/AR 3100 - Budget) and must establish goals and specific actions for low-income students in the local control and accountability plan (see BP/AR 0460 - Local Control and Accountability Plan).

The following policy is mandated for any district that authorizes employee access to students' free and reduced-price meal eligibility information for the disaggregation of academic achievement data and other specified purposes; see section "Confidentiality/Release of Records" below.

The Governing Board recognizes that adequate nutrition is essential to the development, health and well-being, and learning of all students. The Superintendent or designee shall facilitate and encourage the participation of all students in the district's food service program.

Each school day, the district shall provide make available, free of charge, a one nutritionally adequate breakfast and one nutritionally adequate lunch for any student who requests a meal. (Education Code 49501.5)

CSBA NOTE: Pursuant to Education Code 49431, as amended by AB 95 (Ch. 318, Statutes of 2023), a school is not prohibited from selling an additional nutritiously adequate meal that qualifies for federal reimbursement from the same meal service to a student who has already been provided a free meal.

After a student has been provided a school meal at no cost, the district may sell the student the entrée from an additional nutritiously adequate meal that qualifies for federal reimbursement, from the same meal service. (Education Code 49431)

CSBA NOTE: Education Code 49564.3, as added by AB 130, requires districts with a "high poverty school," defined as a school that is eligible to operate the Community Eligibility Provision (CEP) pursuant to 42 USC 1759a, to adopt a universal meal service provision such as the CEP or Provision 2 no later than June 30, 2022.

To provide optimal nutrition and ensure that schools receive maximum federal meal reimbursement, the Superintendent or designee shall assess the eligibility of district schools to operate a federal universal meal service provision, such as Provision 2 or the Community Eligibility Provision, pursuant to 42 USC 1759a. The Superintendent or designee shall submit an application to operate a federal universal meal provision to the California Department of Education (CDE) on behalf of any district school that meets the definition of a "high poverty school." (Education Code 49564.3)

CSBA NOTE: In order to be reimbursed for the California Universal Meal Program established pursuant to Education Code 49501.5, as added amended by AB 130, or for free SB 348, a school must participate in and reduced-price meals under meet the requirements of the federal School Breakfast Program or National School Lunch or School Breakfast Program; a school must meet and any applicable state and/or federal nutritional guidelines in Education Code 49430 laws and 49430.7 and 7 CFR 210.10 and 220.8, as described in AR 3550 - Food Service/Child Nutrition Program regulations.

The Superintendent or designee shall ensure that meals served under the school nutrition program meet applicable state and/or federal nutritional standards, as specified in accordance with law, Board policy, and administrative regulation-district-adopted guidelines.

CSBA NOTE: Education Code 49557 requires the district to develop a plan ensuring that students eligible to receive free and reduced-price meals are not treated differently in the implementation of the food services program. See the accompanying administrative regulation for plan requirements.

The Board shall approve, and shall submit to CDE for approval, a plan that ensures that students eligible to receive free or reduced-price meals are not treated differently from other students and that meets other requirements specified in Education Code 49557.

### Confidentiality/Release of Records

All applications and records related to eligibility for the free and reduced-price meal program shall be confidential and may not be disclosed except as provided by law and authorized by the Board or pursuant to a court order. (Education Code 49558)

CSBA NOTE: The remainder of this section should be revised to reflect the purposes for sharing free and reduced-price eligibility information that are authorized by the Governing Board. Districts wishing to use free and reduced-price meal records for the following purposes are mandated by Education Code 49558 to adopt a policy authorizing employee access. See the accompanying administrative regulation for additional requirements applicable to districts that authorize such access.

The Board authorizes designated employees to use records pertaining to an individual student's eligibility for the free and reduced-price meal program for the following purposes: (Education Code 49558)

1. Disaggregation of academic achievement data

CSBA NOTE: Education Code 49558 allows districts to use the name and eligibility status of students participating in the free and reduced-price meal program to identify students eligible for school choice and supplemental educational services (SES) in Title I schools identified for program improvement. However, the Every Student Succeeds Act (P.L. 114-95) repealed 20 USC 6316 which had required the provision of student transfers and SES.

Although Education Code 49558 has not yet been amended to reflect the repeal of 20 USC 6316, CSBA believes that the use of free and reduced-price eligibility data would be necessary to implement Title I, Part A of the Elementary and Secondary Education Act, which provides financial assistance to meet the needs of students from low-income families, as well as other federal programs. The district should consult CSBA's District and County Office of Education Legal Services or district legal counsel if it has questions about the use of free and reduced-price meal information for these or other purposes.

2. Identification of students eligible for services under the federal Elementary and Secondary Education Act pursuant to 20 USC 6301-6576

CSBA NOTE: In its Management Bulletin SNP-02-2018, CDE clarified that designated school officials authorized to administer the free and reduced-price meal program may share the name and eligibility status of a student with other school officials within the district for purposes not directly related to the free and reduced-price meal program, such as to facilitate the provision of educational services and support to students who participate in the free and reduced-price meal program on a targeted basis rather than on a schoolwide or districtwide basis, in accordance with the local control accountability plan.

3. Facilitation of targeted educational services and supports to individual students based on the local control accountability plan

CSBA NOTE: According to CDE's Management Bulletin SNP-12-2015, Education Code 49558 does not prohibit the sharing of free and reduced-price meal application information to other districts/schools for the purpose of determining student eligibility. For this purpose, the district may provide only a student's name and eligibility status unless the applicant consents to the sharing of additional information.

If a student transfers from the district to another district, charter school, county office of education program, or private school, the Superintendent or designee may share the student's meal eligibility information to the other educational agency to assist that other educational agency in ensuring that the student continues to receive school meals.

The Superintendent or designee may release the name and eligibility status of a student participating in the free or reduced-price meal program to another school district, charter school, or county office of education that is serving a student living in the same household for purposes related to program eligibility and data used in local control funding formula (LCFF) calculations. (Education Code 49558)

The Superintendent or designee may release the name and eligibility status of a student participating in the free or reduced-price meal program to the Superintendent of Public Instruction for purposes of determining allocations under the LCFF and for assessing accountability of that funding. (Education Code 49558)

The Superintendent or designee may release information on the school lunch program application to the local agency that determines eligibility for participation in the Medi-Cal program if the student has been approved for free meals or, if included in the agreement with the local agency, for reduced-price meals. The Superintendent or designee also may release information on the school lunch application to the local agency that determines eligibility for CalFresh or another nutrition assistance program authorized under 7 CFR 210.1 if the student has been approved for free or reduced-price meals. Information may be released for these purposes only if the student's parent/guardian consents to the sharing of information and the district has entered into a memorandum of understanding with the local agency which, at a minimum, includes the roles and responsibilities of the district and local agency and the process for sharing the information. After sharing information with the local agency for purposes of determining eligibility for that program, no further information shall be shared unless otherwise authorized by law. (Education Code 49557.2, 49557.3, 49558)

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<b>State</b>	<b>Description</b>
5 CCR 15510	Mandatory meals for needy students
5 CCR 15530-15535	Nutrition education
5 CCR 15550-15565	School lunch and breakfast programs
Ed. Code 48980	Parent/Guardian notifications
Ed. Code 49430-49434	Pupil Nutrition, Health, and Achievement Act of 2001
Ed. Code 49490-49494	School breakfast and lunch programs
Ed. Code <del>49500-49505</del> <u>49501.5-49506</u>	School meals
Ed. Code <del>49501.5</del>	<u>California Universal Meals Program</u>
Ed. Code 49510-49520	Nutrition
Ed. Code 49530-49536	Child Nutrition Act
Ed. Code 49547-49548.3	Comprehensive nutrition services
Ed. Code 49550. <del>3</del> -49564.5	Meals for needy students
Ed. Code 49564.3	High-poverty schools; universal meal service
<b>Federal</b>	<b>Description</b>
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 6301-6576	Title I Improving the Academic Achievement of the Disadvantaged
42 USC 1751-1769j	School Lunch Program
42 USC 1771-1791	Child nutrition
42 USC 1773	School Breakfast Program
7 CFR 210.1-210.33	National School Lunch Program
7 CFR 220.10-220.21	National School Breakfast Program
7 CFR 245.1-245.13	Eligibility for free and reduced-price meals and free milk
<b>Management Resources</b>	<b>Description</b>
California Department of Education Publication	Clarification on the Sharing of Individual Student Eligibility Information for Local Control and Accountability Plan Purposes, Management Bulletin SNP-02-2018, May 2018 <a href="https://www.cde.ca.gov/ls/nu/sn/mbsnp022018.asp">https://www.cde.ca.gov/ls/nu/sn/mbsnp022018.asp</a>
<u>California Department of Education Publication</u>	<u>Updated Guidance on Sharing of School Meal Applications and the Passing of Assembly Bill 1599, Management Bulletin SNP-</u>

	<a href="https://www.cde.ca.gov/ls/nu/sn/mbsnp122015.asp">12-2015, July 2015</a> <a href="https://www.cde.ca.gov/ls/nu/sn/mbsnp122015.asp">(https://www.cde.ca.gov/ls/nu/sn/mbsnp122015.asp)</a>
CSBA Publication	<u>Monitoring for Success: A Guide for Assessing and Strengthening Student Wellness Policies, rev. 2012</u> <a href="https://www.csba.org/-/media/CSBA/Files/GovernanceResources/EducationIssues/ConditionsofChildren/201211MonitoringForSuccess.ashx?la=en&amp;rev=90a8b252b84a4e80b2ebd6c1a6899865">https://www.csba.org/-/media/CSBA/Files/GovernanceResources/EducationIssues/ConditionsofChildren/201211MonitoringForSuccess.ashx?la=en&amp;rev=90a8b252b84a4e80b2ebd6c1a6899865</a>
CSBA Publication	Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide, <del>2012</del> <u>April 2006</u> <a href="https://www.csba.org/~/-/media/B5947DF3DE58432C9B038C9C38360684.ashx">https://www.csba.org/~/-/media/B5947DF3DE58432C9B038C9C38360684.ashx</a>
U.S. Department of Agriculture Publication	Provision 2 Guidance: National School Lunch and School Breakfast Programs, Summer 2002 <a href="https://www.fns.usda.gov/cn/provision-2-guidance-national-school-lunch-and-school-breakfast-programs">https://www.fns.usda.gov/cn/provision-2-guidance-national-school-lunch-and-school-breakfast-programs</a>
U.S. Dept of Agriculture Publication	Eligibility Manual for School Meals: Determining and Verifying Eligibility, July 2017 ( <a href="https://www.fns.usda.gov/cn/eligibility-manual-school-meals">https://www.fns.usda.gov/cn/eligibility-manual-school-meals</a> )
Website	CSBA District and County Office of Education Legal Services
Website	U.S. Department of Agriculture, Food and Nutrition Service
Website	Nourish California
Website	California Project LEAN (Leaders Encouraging Activity and Nutrition)
Website	California Department of Education, Nutrition Services Division
Website	CSBA

**Cross References**

<b>Code</b>	<b>Description</b>
0200	Goals For The School District
0410	Nondiscrimination In District Programs And Activities
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
0470	<del>COVID-19 Mitigation Plan</del>
1340	Access To District Records
1340	Access To District Records

1400	Relations Between Other Governmental Agencies And The Schools
3100	Budget
3100	Budget
3250	Transportation Fees
3250	Transportation Fees
3260	Fees And Charges
3260	Fees And Charges
3550	Food Service/Child Nutrition Program
3550	Food Service/Child Nutrition Program
3551	Food Service Operations/Cafeteria Fund
3551	Food Service Operations/Cafeteria Fund
3552	Summer Meal Program
3552	Summer Meal Program
3554	Other Food Sales
3554	Other Food Sales
3555	Nutrition Program Compliance
3555-E(1)	Nutrition Program Compliance
4119.23	Unauthorized Release Of Confidential/Privileged Information
4219.23	Unauthorized Release Of Confidential/Privileged Information
4319.23	Unauthorized Release Of Confidential/Privileged Information
5030	Student Wellness
5117	Interdistrict Attendance
5117	Interdistrict Attendance
5125	Student Records
5125	Student Records
5141.6	School Health Services
5141.6	School Health Services
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications

5145.6-E(1)	Parent/Guardian Notifications
5148	Child Care And Development
5148	Child Care And Development
5148.2	Before/After School Programs
5148.2	Before/After School Programs
6162.51	State Academic Achievement Tests
6162.51	State Academic Achievement Tests
6171	Title I Programs
6171	Title I Programs
6173	Education For Homeless Children
6173	Education For Homeless Children
6173-E(1)	Education For Homeless Children
6173-E(2)	Education For Homeless Children
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
6175	Migrant Education Program
6175	Migrant Education Program
6176	Weekend/Saturday Classes
6177	Summer Learning Programs



**Regulation 3553: Free And Reduced Price Meals**

**Status:** ADOPTED

**Original Adopted Date:** 03/01/2016 | **Last Revised Date:** 06/03/01/2022 2024 | **Last Reviewed Date:** 06/03/01/2022 2024

CSBA NOTE: In addition to the requirement pursuant to Education Code 49550, that all districts provide at least one nutritionally adequate meal during each school day to needy students, as defined in Education Code 49552, commencing June 1, 2022, all districts are required pursuant to Education Code 49501.5, as added Education Code 49501.5, as amended by AB ~~130~~ SB 348 (Ch. 44600, Statutes of 2021), to provide a 2023, requires districts, during each school day, to make available, free, of charge, one nutritionally adequate breakfast and one nutritionally adequate breakfast and lunch each school day to any student who requests a meal, regardless of the student's free or reduced-price meal eligibility. To be eligible for state reimbursement for provision of meals under Education Code 49501.5, a district must participate in the National School Lunch and/or School Breakfast Programs. Consequently, the federal rules and comply with state and federal guidelines or regulations governing these programs are applicable to districts that may want to seek state reimbursement for the cost of meals required pursuant to Education Code 49501.5., as amended by SB 348.

The following administrative regulation is for use by all districts, regardless of whether they receive reimbursement for free and reduced-price meals through the National School Lunch and/or Breakfast Program (42 USC 1751-1769j, 1773) and/or the State Meal Program (Education Code 49490-49494).

**Applications**

CSBA NOTE: The California Department of Education's (CDE), "Universal Meals Program Frequently Asked Questions and Answers," clarifies that districts participating in the National School Lunch and/or Breakfast Program must continue to collect meal applications, as meal counts for reimbursement purposes need to be claimed in accordance with the amount of free, reduced-price, and paid meals served.

The Superintendent or designee shall ensure that the district's application form for free and reduced-price meals and related materials include the statements specified in Education Code 49557 and 7 CFR 245.5. The district's application packet shall include the notifications and information listed in Education Code 49557.2.

The application form and related information shall be distributed in paper form to all parents/guardians at the beginning of each school year and shall be available to students at all times during the school day. (Education Code 48980, 49520, 49557; 42 USC 1758; 7 CFR 245.5)

CSBA NOTE: The following paragraph is optional. In addition to the paper application form described above, Education Code 49557 authorizes districts to make the application for free or reduced-price meals available online, provided that it complies with specified requirements.

In addition, the district application form for free and reduced price meals shall be available online. The online application form shall require completion of only those questions necessary for determining eligibility, contain clear instructions for families that are ~~homeless or migrant~~ **experiencing homelessness or who are migratory** and comply with other requirements specified in Education Code 49557.

CSBA NOTE: According to the U.S. Department of Agriculture's (USDA), "Eligibility Manual for School Meals: Determining and Verifying Eligibility," households enrolling a new student after the start of the school year must also be provided an application and related materials.

An application form and related information shall also be provided whenever a new student is enrolled.

At the beginning of each school year, the Superintendent or designee shall send a public release, containing the same information supplied to parents/guardians and including eligibility criteria, to local media, the local unemployment office, and any major employers in the district attendance area contemplating large layoffs. Copies of the public release shall be made available upon request to any interested person. (7 CFR 245.5)

### Eligibility

CSBA NOTE: Districts are responsible for determining students' eligibility for free and reduced-price meals in accordance with criteria established by CDE consistent with 42 USC 1758 and 1773 and 7 CFR 245.3. Family income levels that qualify for free or reduced-price meals, by household size, are annually posted on CDE's ~~web site~~ **website**.

Pursuant to 42 USC 1769c, a district that has demonstrated a high level of, or a high risk for, administrative error may be required to implement a second-level, independent review of the eligibility determination for each application. Such districts also will be subject to additional CDE reporting requirements.

The Superintendent or designee shall determine students' eligibility for the free and reduced-price meal program based on the criteria specified in 42 USC 1758 and 1773 and 7 CFR 245.1-245.13 and made available by the California Department of Education.

CSBA NOTE: In accordance with law, participants in certain state and federal programs are deemed to have met the income eligibility requirements of the free and reduced-price meal program and therefore may be directly certified as eligible without further action or additional application. For purpose of direct certification, districts may obtain data through the California Longitudinal Pupil Achievement Data System (CALPADS) or may enter into a local agreement with the county department of social or welfare services to match enrollment data.

Pursuant to 42 USC 1758 and 7 CFR 245.6, districts must directly certify for enrollment in the free and reduced-price meal program students who participate in the CalFresh program or California Work Opportunity and Responsibility to Kids (CalWORKs) program. 42 USC 1758 and 7 CFR 245.6 also authorize, but do not require, districts to directly certify any student who is ~~homeless~~ **experiencing homelessness**, migratory, a foster youth, or enrolled in a Head Start program. Education Code 49562, also requires districts to use participation data in the Medi-Cal program to directly certify students as eligible for free and reduced-price meals; **beginning with participation data from the 2017-18 school year as provided by CDE.**

Further information about direct certification and eligibility is available in the USDA's "Eligibility Guidance for School Meals Manual."

Pursuant to 42 USC 1759a, certain districts located in high poverty areas may be eligible to participate in alternative processes for annual determinations of student eligibility for free and reduced-price meals (Provisions 1, 2, 3, and 4). Districts participating in these alternative processes should revise the following section to reflect district practice.

Participants in the CalFresh, California Work Opportunity and Responsibility to Kids (CalWORKS), and Medi-Cal programs shall be directly certified for enrollment in the free and reduced-price meal program without further application. Participants in other state or federal programs may be directly certified when authorized by law. (Education Code 49561, 49562; 42 USC 1758; 7 CFR 245.6)

### **Verification of Eligibility**

Not later than November 15 of each year, the Superintendent or designee shall verify the eligibility of a sample of household applications approved for the school year in accordance with the sample sizes and procedures specified in 42 USC 1758 and 7 CFR 245.6a. (42 USC 1758; 7 CFR 245.6a)

If the review indicates that the initial eligibility determination is correct, the Superintendent or designee shall verify the approved household application. If the review indicates that the initial eligibility determination is incorrect, the Superintendent or designee shall: (42 USC 1758; 7 CFR 245.6a)

1. If the eligibility status changes from reduced price to free, make the increased benefits immediately available and notify the household of the change in benefits
2. If the eligibility status changes from free to reduced price, first verify the application, then notify the household of the correct eligibility status, and, when required by law, send a notice of adverse action as described below
3. If the eligibility status changes from free or reduced price to paid, send the household a notice of adverse action as described below

If, as a result of verification activities, the eligibility of a household that is receiving free or reduced-price benefits cannot be confirmed, or if the household fails to cooperate with verification efforts, the Superintendent or designee shall reduce or terminate benefits, as applicable, and shall properly document and retain on file in the district the reasons for the household's ineligibility. At least 10 days prior to the actual reduction or termination, the Superintendent or designee shall send a notice of adverse action to the household. The notice shall advise the household of: (7 CFR 245.6a)

1. The change and the reasons for the change
2. The right to appeal, when the appeal must be filed to ensure continued benefits while awaiting a hearing and decision, and instructions on how to appeal
3. The right to reapply at any time during the school year

### **Confidentiality/Release of Records**



3. The students shall not be required to work for their meals.
4. The students shall not be required to use a separate dining area, go through a separate serving line or entrance, or consume their meals at a different time.

**Policy Reference UPDATE Service**

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**Policy Reference Disclaimer:**

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

<b>State</b>	<b>Description</b>
5 CCR 15510	Mandatory meals for needy students
5 CCR 15530-15535	Nutrition education
5 CCR 15550-15565	School lunch and breakfast programs
Ed. Code 48980	Parent/Guardian notifications
Ed. Code 49430-49434	Pupil Nutrition, Health, and Achievement Act of 2001
Ed. Code 49490-49494	School breakfast and lunch programs
Ed. Code <del>49500-49505</del> <u>49501.5-49506</u>	School meals
Ed. Code <del>49501.5</del>	<u>California Universal Meals Program</u>
Ed. Code 49510-49520	Nutrition
Ed. Code 49530-49536	Child Nutrition Act
Ed. Code 49547-49548.3	Comprehensive nutrition services
Ed. Code 49550.3-49564.5	Meals for needy students
Ed. Code 49564.3	High-poverty schools; universal meal service
<b>Federal</b>	<b>Description</b>
20 USC 1232g	Family Educational Rights and Privacy Act (FERPA) of 1974
20 USC 6301-6576	Title I Improving the Academic Achievement of the Disadvantaged
42 USC 1751-1769j	School Lunch Program
42 USC 1771-1791	Child nutrition
42 USC 1773	School Breakfast Program
7 CFR 210.1-210.33	National School Lunch Program
7 CFR 220.10-220.21	National School Breakfast Program
7 CFR 245.1-245.13	Eligibility for free and reduced-price meals and free milk
<b>Management Resources</b>	<b>Description</b>

California Department of Education Publication	Clarification on the Sharing of Individual Student Eligibility Information for Local Control and Accountability Plan Purposes, Management Bulletin SNP-02-2018, May 2018 <a href="https://www.cde.ca.gov/ls/nu/sn/mbsnp022018.asp">https://www.cde.ca.gov/ls/nu/sn/mbsnp022018.asp</a>
<a href="#">California Department of Education Publication</a>	<a href="#">Updated Guidance on Sharing of School Meal Applications and the Passing of Assembly Bill 1599, Management Bulletin SNP-12-2015, July 2015</a> <a href="https://www.cde.ca.gov/ls/nu/sn/mbsnp122015.asp">https://www.cde.ca.gov/ls/nu/sn/mbsnp122015.asp</a>
CSBA Publication	<a href="#">Monitoring for Success: A Guide for Assessing and Strengthening Student Wellness Policies, rev-2012</a> <a href="https://www.csba.org/-/media/CSBA/Files/GovernanceResources/EducationIssues/ConditionsofChildren/201211MonitoringForSuccess.ashx?la=en&amp;rev=90a8b252b84a4e80b2e6bd6c1a6899865">https://www.csba.org/-/media/CSBA/Files/GovernanceResources/EducationIssues/ConditionsofChildren/201211MonitoringForSuccess.ashx?la=en&amp;rev=90a8b252b84a4e80b2e6bd6c1a6899865</a>
CSBA Publication	Student Wellness: A Healthy Food and Physical Activity Policy Resource Guide, <del>2012</del> April 2006 <a href="https://www.csba.org/-/media/B5947DF3DE58432C9B038C9C38360684.ashx">https://www.csba.org/-/media/B5947DF3DE58432C9B038C9C38360684.ashx</a>
U.S. Department of Agriculture Publication	Provision 2 Guidance: National School Lunch and School Breakfast Programs, Summer 2002 <a href="https://www.fns.usda.gov/cn/provision-2-guidance-national-school-lunch-and-school-breakfast-programs">https://www.fns.usda.gov/cn/provision-2-guidance-national-school-lunch-and-school-breakfast-programs</a>
U.S. Dept of Agriculture Publication	Eligibility Manual for School Meals: Determining and Verifying Eligibility, July 2017 <a href="https://www.fns.usda.gov/cn/eligibility-manual-school-meals">https://www.fns.usda.gov/cn/eligibility-manual-school-meals</a>
Website	CSBA District and County Office of Education Legal Services
Website	U.S. Department of Agriculture, Food and Nutrition Service
Website	Nourish California
Website	California Project LEAN (Leaders Encouraging Activity and Nutrition)
Website	California Department of Education, Nutrition Services Division
Website	CSBA

**Cross References**

<b>Code</b>	<b>Description</b>
0200	Goals For The School District
0410	Nondiscrimination In District Programs And Activities
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan

0470	COVID-19 Mitigation Plan
1340	Access To District Records
1340	Access To District Records
1400	Relations Between Other Governmental Agencies And The Schools
3100	Budget
3100	Budget
3250	Transportation Fees
3250	Transportation Fees
3260	Fees And Charges
3260	Fees And Charges
3550	Food Service/Child Nutrition Program
3550	Food Service/Child Nutrition Program
3551	Food Service Operations/Cafeteria Fund
3551	Food Service Operations/Cafeteria Fund
3552	Summer Meal Program
3552	Summer Meal Program
3554	Other Food Sales
3554	Other Food Sales
3555	Nutrition Program Compliance
3555-E(1)	Nutrition Program Compliance
4119.23	Unauthorized Release Of Confidential/Privileged Information
4219.23	Unauthorized Release Of Confidential/Privileged Information
4319.23	Unauthorized Release Of Confidential/Privileged Information
5030	Student Wellness
5117	Interdistrict Attendance
5117	Interdistrict Attendance
5125	Student Records
5125	Student Records
5141.6	School Health Services
5141.6	School Health Services

5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E(1)	Parent/Guardian Notifications
5148	Child Care And Development
5148	Child Care And Development
5148.2	Before/After School Programs
5148.2	Before/After School Programs
6162.51	State Academic Achievement Tests
6162.51	State Academic Achievement Tests
6171	Title I Programs
6171	Title I Programs
6173	Education For Homeless Children
6173	Education For Homeless Children
6173-E(1)	Education For Homeless Children
6173-E(2)	Education For Homeless Children
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
6175	Migrant Education Program
6175	Migrant Education Program
6176	Weekend/Saturday Classes
6177	Summer Learning Programs



**Policy 4111: Recruitment And Selection**

**Status:** ADOPTED

**Original Adopted Date:** 07/01/2012 | **Last Revised Date:** 03/01/2018 2024 | **Last Reviewed Date:** 03/01/2018 2024

CSBA NOTE: The following optional policy may be revised to reflect district practice and related should be aligned with relevant collective bargaining agreement provisions of collective bargaining agreements.

The Additionally, the Governing Board should ensure that district hiring procedures are designed to avoid liability for negligent hiring. aligned with law, Board policy, and collective bargaining agreements. In *C.A. v. William S. Hart Union High School District*, the California Supreme Court held that a district can be held vicariously liable for the negligence of its administrators and supervisors in the hiring, retention, and supervision of a counselor who sexually harassed and/or abused a student.

The following paragraph reflects concepts from the California Department of Education's (CDE) publication, "How to Increase the Diversity of California's Educator Workforce," and the California Commission on Teacher Credentialing's (CTC) publication, "Strategic Plan: Ensuring Educator Excellence," related to the benefits students receive when staff reflects the racial, ethnic, linguistic, and cultural diversity of the district.

The Governing Board is committed to employing suitable, qualified individuals to effectively carry out the district's vision, mission, and goals, and believes that students benefit when district staff reflects the racial, ethnic, linguistic, and cultural diversity of the district.

The Superintendent or designee shall develop equitable, fair, and transparent recruitment and selection processes and procedures that ensure individuals are selected for employment in the district based on demonstrated knowledge, skills, and competence and not on any bias, personal preference, or unlawful discrimination.

Additionally, the Superintendent or designee shall, through the recruitment and selection processes and procedures, seek to establish and maintain a diverse staff, including the active recruitment from institutions and organizations that serve populations underrepresented among district employees.

When a vacancy occurs, the Superintendent or designee shall review, as appropriate, the job description for the position to ensure that it accurately describes the major functions and duties of the position. He/she The Superintendent or designee shall also disseminate job announcements to ensure a wide range of candidates.

CSBA NOTE: Pursuant to Labor Code 432.3, an employer with 15 or more employees is required to include the pay scale for a position in any job posting.

The district's selection procedures When posting an employment opportunity, the Superintendent or designee shall include screening processes, interviews, recommendations from previous employers, the pay scale for the open position. (Labor Code 432.2)

The Superintendent shall develop and observations when maintain appropriate, as necessary hiring procedures to identify the best possible candidate candidates for a position.

The Superintendent or designee may establish In doing so, an interview committee may be established to rank candidates and recommend finalists. During job interviews, applicants may be asked to describe or demonstrate how they will be able to perform the duties of the job. All discussions and recommendations shall be confidential in accordance with law.

No inquiry shall be made with regard to any information prohibited by state or federal nondiscrimination laws and consistent with law.

No inquiry shall be made about any information prohibited by state or federal nondiscrimination laws.

CSBA NOTE: Pursuant to Government Code 12954, the district may not discriminate against a person in hiring based on the person's use of cannabis when off the job or away from the workplace. Additionally, Government Code 12954, as amended by SB 700 (Ch. 408, Statutes of 2023), prohibits the district from requesting information from an applicant related to the applicant's prior use of cannabis, apart from the person's criminal history, unless the district is otherwise legally permitted to consider or inquire about that information. However, Government Code 12954 does not interfere with the district's right to maintain drug-free schools or to prohibit employees from possessing, being impaired by, or using cannabis while at work. Government Code 12954 does not preempt state or federal laws requiring applicants to be tested for controlled substances as a condition of employment or to applicants in the building and construction trades or for positions requiring a federal background investigation. The district may utilize drug screenings that do not rely on nonpsychoactive cannabis metabolite results. Districts with questions about applicant cannabis use or screening should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

Unless otherwise provided for in law, the district may not discriminate against a person in hiring based on the person's use of cannabis off the job and away from the workplace, including that the district may not request information from an applicant related to the applicant's prior use of cannabis, apart from the applicant's criminal history, or penalize an applicant based on a drug screening which finds that the applicant has nonpsychoactive cannabis metabolites in the applicant's hair, blood, urine, or other bodily fluid. (Government Code 12954)

However, the district retains the right to maintain drug-free schools or prohibit employees from possessing, being impaired by, or using cannabis while on the job. (Government Code 12954)

CSBA NOTE: Labor Code 432.3, as added by AB 168 (Ch. 688, Statutes of 2017), prohibits districts from seeking a job applicant's salary history information and from relying on salary history as a factor in determining whether to offer employment to an applicant or the salary to offer. However, if the applicant discloses salary history information voluntarily and without prompting, the district is not prohibited from considering or relying on such information in determining the salary for that applicant. Labor Code 432.3 is not applicable to salary history information that is disclosable pursuant to the California Public Records Act (Government Code 7920.000 - 7930.170) or the Freedom of Information Act (5 USC 552).

The Superintendent or designee shall not inquire, orally or in writing, in regard to about an applicant's salary history information, including compensation and benefits. He/she Additionally, the Superintendent or designee shall also not rely on salary history information as a factor in determining whether to offer employment to an applicant or the salary to offer. However, the Superintendent or designee may consider salary information that is disclosable under state or federal law or that the applicant discloses voluntarily and without prompting. Upon request, the Superintendent or designee shall provide the applicant the pay scale for the position to which he/she is applying. (Labor Code 432.3)

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

For each position, the Superintendent or designee shall present to the Board one candidate who meets all qualifications established by law and the Board for the position. No person shall be employed by the Board without the recommendation or endorsement of the Superintendent or designee.

### Incentives

CSBA NOTE: ~~The~~ Consistent with any applicable collective bargaining agreements, the district may offer incentives (e.g., signing bonuses, assistance with beginning teacher induction costs, assistance with the process of obtaining a clear credential including covering credential costs, a mentoring program, additional compensation, and/or subsidized housing) to recruit teachers, administrators, or other employees in accordance with district needs.

~~AB 99~~ SB 114 (Ch. ~~1548~~, Statutes of ~~2017~~2023) establishes the California Educator Development (CalED) grant program Diverse Education Leaders Pipeline Initiative to assist districts with attracting, train, place, and supporting the preparation, retain culturally responsive school administrators to improve student outcomes and continued learning meet the needs of teachers, principals, and other school leaders California's education workforce.

Health and Safety Code 53573 permits districts to establish and implement programs that address the housing needs of teachers and other district employees who face challenges in securing affordable housing. Health and Safety Code 53574 enables housing projects on district property restricted to rentals for district employees to qualify for both federal and state low-income housing tax credits. For more information regarding housing for district employees, see the Center for Cities + Schools (UC Berkeley), cityLAB (UCLA), and the Turner Center for Housing Innovation's (UC Berkeley), "Education Workforce Housing Handbook."

The following optional section may be revised to reflect local incentive programs.

With Board approval and in accordance with district needs and any applicable collective bargaining agreements, the district may provide incentives to recruit teachers, administrators, or other employees, such as signing bonuses, assistance with beginning teacher induction and/or credential costs, mentoring, additional compensation, and/or subsidized housing.

### Policy Reference UPDATE Service

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#### Policy Reference Disclaimer:

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 200-262.4	Prohibition of discrimination
Ed. Code 35035	Powers and duties of the superintendent; transfer authority
Ed. Code 44066	Limitations on certification requirements
Ed. Code 44259	Teaching credential, exception; designated subjects; minimum requirements
Ed. Code 44750	Teacher recruitment resource center

Ed. Code 44830-44831	Employment of certificated persons
Ed. Code 44858	Age or marital status in certificated positions
Ed. Code 44859	Prohibition against certain rules and regulations <del>re: regarding</del> residency
Ed. Code 45103-45139	Employment (i classified employees)
Ed. Code 49406	Examination for tuberculosis
Gov. Code 12900-12996	Fair Employment and Housing Act
Gov. Code 12940-12957	<del>Discrimination prohibited; unlawful practices</del>
Gov. Code 7920.000-7930.170 <del>215</del>	California Public Records Act
Gov. Code 815.2	Liability of public entities and public employees
H&S Code 53570-53574	Teacher Housing Act of 2016
Lab. Code 432.3	Salary information

**Federal**

20 USC 1681-1688

**Description**

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

28 CFR 35.101-35.190

Americans with Disabilities Act

34 CFR 106.51-106.61

Nondiscrimination on the basis of sex in employment in education program or activities

42 USC 12101-12213

Americans with Disabilities Act

42 USC 2000d-2000d-7

Title VI, Civil Rights Act of 1964

42 USC 2000e-2000e-17

Title VII, Civil Rights Act of 1964, as amended

5 USC 552

Freedom of Information Act

8 USC 1324a

Unlawful employment of aliens

8 USC 1324b

Unfair immigration related employment practices

**Management Resources**

~~CCSESA~~ California County Superintendents Publication

**Description**

Teacher Recruitment in California: An Analysis of Effective Strategies, Research Brief, Veritas Research and Evaluation Group, October 2017

California Department of Education Publication

How to Increase the Diversity of California's Educator Workforce, April 2022  
(<https://www.cde.ca.gov/pd/ee/documents/dtwcouncilreportapril22.pdf>)

California Commission on Teacher Credentialing Publication

Strategic Plan: Ensuring Educator Excellence, 2023  
([https://www.ctc.ca.gov/docs/default-source/commission/files/ctc-strategic-plan.pdf?sfvrsn=baef20b1\\_12](https://www.ctc.ca.gov/docs/default-source/commission/files/ctc-strategic-plan.pdf?sfvrsn=baef20b1_12))

<a href="#"><u>Center for Cities + Schools, cityLAB, and Turner Center for Housing Innovation Publication</u></a>	<a href="https://citylab.ucla.edu/education-workforce-housing-research-report"><u>Education Workforce Housing Handbook, 2022 (https://citylab.ucla.edu/education-workforce-housing-research-report)</u></a>
<a href="#"><u>Center for Cities + Schools, cityLAB, and Turner Center for Housing Innovation Publication</u></a>	<a href="https://citylab.ucla.edu/education-workforce-housing-research-report"><u>Education Workforce Housing in California: Developing the 21st Century Campus, 2021 (https://citylab.ucla.edu/education-workforce-housing-research-report)</u></a>
Court Decision	C.A. v William S. Hart Union High School District et al., (2012) 138 Cal.Rptr.3d 1
Website	CSBA District and County Office of Education Legal Services
<a href="#"><u>Website</u></a>	<a href="https://www.cde.ca.gov/"><u>California Department of Education (https://www.cde.ca.gov/)</u></a>
Website	Commission on Teacher Credentialing
Website	Education Job Opportunities Information Network
Website	Teach USA
Website	California County Superintendents
Website	California Civil Rights Department
Website	U.S. Department of Education
Website	U.S. Equal Employment Opportunity Commission
<a href="#"><u>Website</u></a>	<a href="https://citiesandschools.berkeley.edu/"><u>University of California Berkeley, Center for Cities + Schools (https://citiesandschools.berkeley.edu/)</u></a>
<a href="#"><u>Website</u></a>	<a href="https://turnercenter.berkeley.edu/"><u>University of California Berkeley, Turner Center for Housing Innovation (https://turnercenter.berkeley.edu/)</u></a>
<a href="#"><u>Website</u></a>	<a href="https://www.citylab.ucla.edu/"><u>University of California Los Angeles, cityLAB (https://www.citylab.ucla.edu/)</u></a>

**Cross References**

<b>Code</b>	<b>Description</b>
0000	Vision
0200	Goals For The School District
0410	Nondiscrimination In District Programs And Activities
2230	Representative And Deliberative Groups
3542	School Bus Drivers
4000	Concepts And Roles
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4032	Reasonable Accommodation
4100	Certificated Personnel

4111.2	Legal Status Requirement
4111.2	Legal Status Requirement
4112	Appointment And Conditions Of Employment
4112.2	Certification
4112.2	Certification
4112.21	Interns
4112.21	Interns
4112.22	Staff Teaching English Learners
4112.23	Special Education Staff
4112.61	Employment References
4112.8	Employment Of Relatives
4113	Assignment
4113	Assignment
4117.14	Postretirement Employment
4200	Classified Personnel
4200	Classified Personnel
4211.2	Legal Status Requirement
4211.2	Legal Status Requirement
4212	Appointment And Conditions Of Employment
4212.61	Employment References
4212.8	Employment Of Relatives
4300	Administrative And Supervisory Personnel
4300	Administrative And Supervisory Personnel
4311.2	Legal Status Requirement
4311.2	Legal Status Requirement
4312.1	Contracts
4312.61	Employment References
4312.8	Employment Of Relatives
4317.14	Postretirement Employment
4331	Staff Development
6141.4	International Baccalaureate Program
6141.5	Advanced Placement
6171	Title I Programs

6171

Title I Programs

9000

Role Of The Board

**Regulation 4112.5: Criminal Record Check**

**Status:** ADOPTED

**Original Adopted Date:** 10/01/1998 | **Last Revised Date:** ~~1203~~/01/2014~~2024~~ | **Last Reviewed Date:** ~~1203~~/01/2014~~2024~~

CSBA NOTE: Education Code 44830.1, 44836, 45122.1, and 45123 prohibit the district from hiring or retaining in employment, in a certificated or classified position, a person who has been convicted of or pleads no contest to a violent or serious felony, sex offense, or controlled substance offense, as defined. Exceptions specified in law are reflected in ~~items~~Items #1-5 below.

These requirements apply to job applicants, temporary employees, substitute employees, and probationary employees serving before March 15 of their second year. Employees with permanent status may only be suspended or dismissed in accordance with the grounds and procedures specified in BP/AR 4118 - Dismissal/Suspension/Disciplinary Action or BP/AR 4218 - Dismissal/Suspension/Disciplinary Action, as applicable.

However, pursuant to Government Code 12954, the district may not discriminate against a person in hiring, termination, or any term or condition of employment based on the person's use of cannabis when off the job or away from the workplace. Additionally, Government Code 12954, as amended by SB 700 (Ch. 408, Statutes of 2023), prohibits the district from requesting information from an applicant related to the applicant's prior use of cannabis, apart from the person's criminal history, unless the district is otherwise legally permitted to consider or inquire about that information. Certain employees may be subject to stricter laws related to drug testing. Districts with questions about drug testing employees should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

The Superintendent or designee shall not hire or retain in employment, in a certificated or classified position, a person who has been convicted of a violent or serious felony as defined in Penal Code 667.5(c) or 1192.7(c), a controlled substance offense as defined in Education Code 44011, or a sex offense as defined in Education Code 44010. However, the Superintendent or designee shall not deny or terminate employment ~~if~~solely on the basis that the person has been: (Education Code 44830.1, 44836, 45122.1, 45123)

1. ~~The conviction for~~Convicted of a violent or serious felony, controlled substance offense, or sex offense, and the conviction is reversed and the person is acquitted of the offense in a new trial or the charges against the person are dismissed, unless the sex offense for which the conviction is dismissed pursuant to Penal Code 1203.4 involves a victim who was a minor;
2. ~~A person convicted~~Convicted of a violent or serious felony and has obtained a certificate of rehabilitation or a pardon;
3. ~~A person who has been convicted~~Convicted of a serious felony, that is not also a violent felony, proves and has proven to the sentencing court that he/she has been rehabilitatedrehabilitation for purposes of school employment has been attained for at least one year;
4. ~~A person who has been convicted~~Convicted of a controlled substance offense and is applying for or is employed in a certificated position and has a credential issued by the



Commission on Teacher Credentialing-

5. ~~A person who has been convicted~~ **Convicted** of a controlled substance offense **and** is applying for or is employed in a classified position and has been determined by the Governing Board, from the evidence presented, to have been rehabilitated for at least five years-

A certificated employee may be hired by the district without obtaining a criminal record summary if that employee is employed as a certificated employee in another California school district and became a permanent employee of another California school district as of October 1, 1997. (Education Code 44830.1, 44836)

**CSBA NOTE:** The following optional paragraph is for use by districts that issue temporary certificates pursuant to Education Code 44332.5 to authorize salary payments while a certificated employee's credential application is being processed. If the issuance of temporary certificates is handled by the county office of education, the following paragraph should be deleted.

The Superintendent or designee shall not issue a temporary certificate of clearance to a person whose application for a credential, certificate, or permit is being processed by the Commission on Teacher Credentialing if that person has been convicted of a violent or serious felony, unless the person is otherwise exempt pursuant to Education Code 44332.6 or 44830.1. (Education Code 44332.5, 44332.6)

#### **Pre-Employment Record Check**

**CSBA NOTE:** The following section may be revised to reflect district practice. To fulfill the requirement for a criminal record check through the California Department of Justice (DOJ) and Federal Bureau of Investigation, the applicant ~~must~~ **is required to** submit fingerprints using the electronic Live Scan process. Locations offering the Live Scan service are listed on the DOJ's ~~web site~~ **website**. The DOJ provides the results to the district via email, or by U.S. mail if no email is available.

**While the DOJ normally does not provide notice of a conviction for which relief has been granted, pursuant to Penal Code 11105, the Commission on Teacher Credentialing will receive every conviction rendered against an applicant, retroactive to January 1, 2020, regardless of relief granted. However, notwithstanding the above, pursuant to Penal Code 1203.425, information for a conviction for a controlled substance offense listed in Health and Safety Code 11350 or 11377, or former Health and Safety Code 11500 or 11500.5, that is more than five years old, for which relief is granted, is prohibited from being disseminated.**

The Superintendent or designee shall require each person to be employed by the district to submit his/her fingerprints electronically through the Live Scan system so that a criminal record check may be conducted by the Department of Justice (DOJ). -The Superintendent or designee shall provide the applicant with a Live Scan request form and a list of nearby Live Scan locations.

When a person is applying for a classified position, the Superintendent or designee shall request that the DOJ also obtain a criminal record check through the Federal Bureau of Investigation whenever the applicant meets one of the following conditions: (Education Code 45125)

1. The applicant has not resided in California for at least one year immediately preceding the application for employment.
2. The applicant has resided in California for more than one year, but less than seven years, and the DOJ has ascertained that the person was convicted of a sex offense where -the victim

was a minor or a drug offense where an element of the offense is either the distribution to or the use of a controlled substance by a minor.

The Superintendent or designee shall immediately notify the DOJ when an applicant who has submitted his/her fingerprints to the DOJ is not subsequently employed by the district. (Penal Code 11105.2)

### Subsequent Arrest Notification

CSBA NOTE: Pursuant to Education Code 44830.1 and 45125, the district ~~must~~ is required to sign up for "subsequent arrest notification" from the DOJ in accordance with Penal Code 11105.2. Forms available for this purpose are available on DOJ's ~~web site~~ website.

The Superintendent or designee shall enter into a contract with the DOJ to receive notification of subsequent arrests resulting in conviction of any person whose fingerprints have been submitted to the DOJ. (Education Code 44830.1, 45125; Penal Code 11105.2)

Upon telephone or email notification by the DOJ that a current temporary employee, substitute employee, or probationary employee serving before March 15 of his/her ~~the employee's~~ second probationary year has been convicted of a violent or serious felony, the Superintendent or designee shall immediately place that employee on leave without pay. (Education Code 44830.1, 45122.1)

When the district receives written electronic notification by the DOJ of the fact of conviction, the temporary employee, substitute employee, or probationary employee serving before March 15 of his/her ~~the employee's~~ second probationary year shall be terminated automatically unless the employee challenges the DOJ record and the DOJ withdraws its notification in writing. Upon receipt of the written withdrawal of notification by the DOJ, the Superintendent or designee shall immediately reinstate ~~that~~ the employee with full restoration of salary and benefits for the period of time from the suspension without pay to the reinstatement if the employee is still employed by the district. (Education Code 44830.1, 45122.1)

The Superintendent or designee shall immediately notify the DOJ whenever a person whose fingerprints are maintained by the DOJ is terminated. (Penal Code 11105.2)

### Notification of Applicant/Employee

The Superintendent or designee shall expeditiously furnish a copy of any DOJ notification to the applicant or employee to whom it relates if the information is a basis for an adverse employment decision. The copy shall be delivered in person or to the last contact information provided by the applicant or employee. (Penal Code 11105, 11105.2)

### Maintenance of Records

CSBA NOTE: To be qualified to obtain Criminal Record Offender Information (CORI) for the purpose of employment decisions, the district ~~must~~ is required to apply to the DOJ for authorization and ~~must~~ is required to designate at least one custodian of records who is responsible for the security, storage, dissemination, and destruction of criminal records furnished to the district.

The Superintendent shall designate at least one custodian of records who shall be responsible for the security, storage, dissemination, and destruction of all Criminal Offender Record Information (CORI) furnished to the district and shall serve as the primary contact for the DOJ for any related issues. (Penal Code 11102.2)

An employee designated as custodian of records shall receive a criminal background check clearance from the DOJ prior to serving in that capacity. (Penal Code 11102.2)

**CSBA NOTE:** The DOJ requires every person with access to CORI, including the custodian of records, to complete an Employee Statement Form acknowledging an understanding of the law governing CORI. The custodian of records is required to return ~~his/her own~~ such form to the DOJ and to retain any forms completed by other district staff. The Employee Statement Form is reproduced in the accompanying Exhibit.

The custodian of records shall sign and return to the DOJ the Employee Statement Form acknowledging ~~his/her an~~ understanding of the laws prohibiting misuse of CORI.- In addition, the custodian of records shall ensure that any individual with access to CORI has on file a signed Employee Statement Form.

To ensure its confidentiality, CORI shall be accessible only to the custodian of records and shall be kept in a locked file separate from other files. -CORI shall be used only for the purpose for which it is requested and its contents shall not be disclosed or reproduced. (Education Code 44830.1, 45125)

Once a hiring determination is made, the applicant's CORI shall be destroyed to the extent that the identity of the individual can no longer be reasonably ascertained. (Education Code 44830.1, 45125; 11 CCR 708)

**CSBA NOTE:** ~~SB 1461 (Ch. 54, Statutes of 2014) amended Penal Code 11102.2 to delete the requirement to annually notify DOJ of the district's custodian of records. Pursuant to Penal Code 11102.2, districts are now only required to notify the DOJ when the custodian of records ceases to serve in that capacity.~~

The Superintendent or designee shall immediately notify the DOJ whenever a designated custodian of records ceases to serve in that capacity. (Penal Code 11102.2)

### Interagency Agreement

**CSBA NOTE:** The following optional section is for use by any district that has been designated to act on behalf of other school districts within the same county or in contiguous counties to share CORI as authorized by Education Code 44830.2 and 45125.01. Districts that have not entered into an agreement to share such information, or for whom another district or the County Superintendent of Schools has been designated to receive and share the information, should delete this section.

Pursuant to Education Code 45125.01, any district that participates in such an interagency agreement may use this arrangement to conduct criminal background checks for a noncertificated candidate for a paid or volunteer position in a student activity program pursuant to Education Code 49024; see BP/AR 1240 - Volunteer Assistance and BP/AR 4127/4227/4327 - Temporary Athletic Team Coaches.

Subject to an interagency agreement with other school districts, the district shall submit and receive CORI on behalf of all participating districts. (Education Code 44830.2, 45125.01)

Upon receipt from the DOJ of a report of conviction of a serious or violent felony, the district shall communicate that fact to participating districts and shall remove the affected employee from the common list of persons eligible for employment. (Education Code 44830.2, 45125.01)

In addition, upon receipt from the DOJ of a ~~criminal~~ **307** history record or report of subsequent arrest

for any person on a common list of persons eligible for employment, the district shall give notice to the superintendent of any participating district, or the person designated in writing by that superintendent, that the report is available for inspection on a confidential basis by the superintendent or the authorized designee. The report shall be made available at the district office for 30 days following the receipt of the notice. (Education Code 44830.2, 45125.01)

The district shall not release a copy of that information to any participating district or any other person. In addition, the district shall retain or dispose of the information in the manner specified in law and in this administrative regulation after all participating districts have had an opportunity to inspect it in accordance with law. (Education Code 44830.2, 45125.01)

The district shall maintain a record of all persons to whom the information has been shown and shall make this record available to the DOJ. (Education Code 44830.2, 45125.01)

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**Policy Reference Disclaimer:**

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>
11 CCR 701-708	Criminal offender record information
11 CCR 720-724	Incomplete criminal history information
11 CCR 994-994.15	Certification of individuals who take fingerprint impressions
Ed. Code 44010	Sex offense; definitions
Ed. Code 44011	Controlled substance offense
Ed. Code 44332-44332.6	Temporary certificate of clearance
Ed. Code 44346.1	Applicants for credential; conviction of a violent or serious felony
Ed. Code 44830.1	Criminal record summary certificated employees
Ed. Code 44830.2	Certificated employees; interagency agreement for sharing criminal record information
Ed. Code 44836	Employment of certificated persons convicted of <u>sex offense</u> or <u>controlled substance offenses</u>
Ed. Code 44932	Grounds for dismissal of permanent employees
Ed. Code 45122.1	Classified employees; conviction of a violent or serious felony
Ed. Code 45125	Use of personal identification cards to ascertain conviction of crime
Ed. Code 45125.01	Interagency agreements for criminal record information
Ed. Code 45125.5	Automated records check
Ed. Code 45126	Duty of Department of Justice to furnish information

Ed. Code 49024	Activity Supervisor Clearance Certificate
<u>Gov. Code 12954</u>	<u>Employment discrimination: cannabis use</u>
<u>H&amp;S Code 11350</u>	<u>Offenses Involving Controlled Substances Formerly Classified as Narcotics</u>
<u>H&amp;S Code 11377</u>	<u>Offenses Involving Controlled Substances Formerly Classified as Restricted Dangerous Drugs</u>
Pen. Code 11075-11081	Criminal record dissemination
Pen. Code 11102.2	Maintenance of criminal offender records; custodian of records
Pen. Code 11105	Access to criminal history information
Pen. Code 11105.2	Subsequent arrest notification
Pen. Code 11105.3	Record of conviction involving sex crimes, drug crimes, or crimes of violence
Pen. Code 11140-11144	Furnishing of state criminal history information
Pen. Code 1192.7	Plea bargaining limitation
Pen. Code 1203.4	Dismissal of conviction
<u>Pen. Code 1203.425</u>	<u>Conviction relief</u>
Pen. Code 13300-13305	Local summary criminal history information
Pen. Code 667.5	Prior prison terms; enhancement of prison terms

**Management Resources**

Court Decision

Website

Website

Website

**Description**

Central Valley Chapter of the 7th Step Foundation Inc. v. Evelle J. Younger, (1989) 214 Cal. App. 3d 145

CSBA District and County Office of Education Legal Services

Office of the Attorney General, Department of Justice, Background Checks

CSBA

**Cross References**

**Code**

1240

1240

1340

1340

2120

3515.3

3515.3

**Description**

Volunteer Assistance

Volunteer Assistance

Access To District Records

Access To District Records

Superintendent Recruitment And Selection

District Police/Security Department

District Police/Security Department

3542	School Bus Drivers
3580	District Records
3580	District Records
4112	Appointment And Conditions Of Employment
4112.2	Certification
4112.2	Certification
4112.6	Personnel Files
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4116	Probationary/Permanent Status
4116	Probationary/Permanent Status
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.23	Unauthorized Release Of Confidential/Privileged Information
4121	Temporary/Substitute Personnel
4121	Temporary/Substitute Personnel
4127	Temporary Athletic Team Coaches
4127	Temporary Athletic Team Coaches
4200	Classified Personnel
4200	Classified Personnel
4212	Appointment And Conditions Of Employment
4212.6	Personnel Files
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4218.1	Dismissal/Suspension/Disciplinary Action (Merit System)
4219.23	Unauthorized Release Of Confidential/Privileged Information
4227	Temporary Athletic Team Coaches
4227	Temporary Athletic Team Coaches
4312.6	Personnel Files
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications

4319.23	Unauthorized Release Of Confidential/Privileged Information
4327	Temporary Athletic Team Coaches
4327	Temporary Athletic Team Coaches
5148	Child Care And Development
5148	Child Care And Development
5148.2	Before/After School Programs
5148.2	Before/After School Programs
5148.3	Preschool/Early Childhood Education
5148.3	Preschool/Early Childhood Education
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
9011	Disclosure Of Confidential/Privileged Information

**Exhibit 4112.5-E(1): Criminal Record Check**

**Status:** ADOPTED

**Original Adopted Date:** 10/01/1997 | **Last Revised Date:** ~~12/03/01/2014~~ 2024 | **Last Reviewed Date:** ~~12/03/01/2014~~ 2024

CSBA NOTE: The following is based on the sample Employee Statement Form provided by the California Department of Justice. Such a form must be signed by an employee designated as custodian of records of criminal history information and any other individual granted access to this information by the custodian of records; see the accompanying administrative regulation.

**SAMPLE EMPLOYEE STATEMENT FORM  
USE OF CRIMINAL JUSTICE INFORMATION**

As an employee/volunteer of [REDACTED] School District, you may have access to confidential criminal record information which is controlled by state and federal statutes. Misuse of such information may adversely affect the individual's civil rights and violate constitutional rights of privacy. Penal Code 502 prescribes the penalties relating to computer crimes. Penal Code 11105 and 13300 identify who has access to criminal history information and under what circumstances it may be disseminated. Penal Code 11140-11144 and 13301-13305 prescribe penalties for misuse of criminal history information. Government Code 6200 prescribes felony penalties for misuse of public records. Penal Code 11142 and 13300 state:

**"Any person authorized by law to receive a record or information obtained from a record who knowingly furnishes the record or information to a person not authorized by law to receive the record or information is guilty of a misdemeanor."**

Civil Code 1798.53, Invasion of Privacy, states:

**"Any person who intentionally discloses information, not otherwise public, which they know or should reasonably know was obtained from personal or confidential information maintained by a state agency or from records within a system of records maintained by a federal government agency, shall be subject to a civil action, for invasion of privacy, by the individual."**

**CIVIL, CRIMINAL, AND ADMINISTRATIVE PENALTIES:**

- Penal Code 11141: DOJ furnishing to unauthorized person (misdemeanor)
- Penal Code 11142: Authorized person furnishing to other (misdemeanor)
- Penal Code 11143: Unauthorized person in possession (misdemeanor)
- California Constitution, Article I, Section 1 (Right to Privacy)
- Civil Code 1798.53, Invasion of Privacy



- Title 18 USC 641, 1030, 1951, and 1952

Any employee who is responsible for such misuse may be subject to immediate dismissal. Violations of this law may result in criminal and/or civil action.

**I HAVE READ THE ABOVE AND UNDERSTAND THE POLICY REGARDING MISUSE OF CRIMINAL RECORD INFORMATION.**

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

Printed Name \_\_\_\_\_ Title \_\_\_\_\_

Name of District \_\_\_\_\_

PLEASE NOTE: Do not return this form to the DOJ. Your Custodian of Records should maintain these forms.

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**State**

**Description**

11 CCR 701-708	Criminal offender record information
11 CCR 720-724	Incomplete criminal history information
11 CCR 994-994.15	Certification of individuals who take fingerprint impressions
Ed. Code 44010	Sex offense; definitions
Ed. Code 44011	Controlled substance offense
Ed. Code 44332-44332.6	Temporary certificate of clearance
Ed. Code 44346.1	Applicants for credential; conviction of a violent or serious felony
Ed. Code 44830.1	Criminal record summary certificated employees
Ed. Code 44830.2	Certificated employees; interagency agreement for sharing criminal record information
Ed. Code 44836	Employment of certificated persons convicted of <u>sex offense</u> or controlled substance <u>offenses</u> <u>offense</u>
Ed. Code 44932	Grounds for dismissal of permanent employees
Ed. Code 45122.1	Classified employees; conviction of a violent or serious felony
Ed. Code 45125	Use of personal identification cards to ascertain conviction of crime
Ed. Code 45125.01	Interagency agreements for criminal record information

Ed. Code 45125.5	Automated records check
Ed. Code 45126	Duty of Department of Justice to furnish information
Ed. Code 49024	Activity Supervisor Clearance Certificate
<a href="#"><u>Gov. Code 12954</u></a>	<a href="#"><u>Employment discrimination; cannabis use</u></a>
<a href="#"><u>H&amp;S Code 11350</u></a>	<a href="#"><u>Offenses Involving Controlled Substances Formerly Classified as Narcotics</u></a>
<a href="#"><u>H&amp;S Code 11377</u></a>	<a href="#"><u>Offenses Involving Controlled Substances Formerly Classified as Restricted Dangerous Drugs</u></a>
Pen. Code 11075-11081	Criminal record dissemination
Pen. Code 11102.2	Maintenance of criminal offender records; custodian of records
Pen. Code 11105	Access to criminal history information
Pen. Code 11105.2	Subsequent arrest notification
Pen. Code 11105.3	Record of conviction involving sex crimes, drug crimes, or crimes of violence
Pen. Code 11140-11144	Furnishing of state criminal history information
Pen. Code 1192.7	Plea bargaining limitation
Pen. Code 1203.4	Dismissal of conviction
<a href="#"><u>Pen. Code 1203.425</u></a>	<a href="#"><u>Conviction relief</u></a>
Pen. Code 13300-13305	Local summary criminal history information
Pen. Code 667.5	Prior prison terms; enhancement of prison terms
<b>Management Resources</b>	<b>Description</b>
Court Decision	Central Valley Chapter of the 7th Step Foundation Inc. v. Evelle J. Younger, (1989) 214 Cal. App. 3d 145
Website	CSBA District and County Office of Education Legal Services
Website	Office of the Attorney General, Department of Justice, Background Checks
Website	CSBA

**Cross References**

<b>Code</b>	<b>Description</b>
1240	Volunteer Assistance
1240	Volunteer Assistance
1340	Access To District Records
1340	Access To District Records
2120	Superintendent Recruitment And Selection

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5148.3	Preschool/Early Childhood Education
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
9011	Disclosure Of Confidential/Privileged Information

**Policy 4118: Dismissal/Suspension/Disciplinary Action**

**Status:** ADOPTED

**Original Adopted Date:** 07/01/2000 | **Last Revised Date:** 09/03/01/20222024 | **Last Reviewed Date:** 09/03/01/20222024

CSBA NOTE: The following optional policy and accompanying administrative regulation are subject to collective bargaining and ~~may be deleted or revised by any district whose agreement covers certificated employee suspension and discipline.~~ should be revised in accordance with any applicable collective bargaining agreement. To the extent that this policy is inconsistent with provisions of the collective bargaining agreement, the collective bargaining agreement would prevail, so long as the provision is consistent with law. Pursuant to Government Code 3543.2, the district and the bargaining unit representing certificated employees must, upon request of either party, negotiate causes and procedures for disciplinary action, other than dismissal and suspension beyond 15 days.

For information about dismissal of substitute or temporary employees, see BP 4121 - Temporary/Substitute Personnel.

The Governing Board expects all employees to perform their jobs satisfactorily, exhibit professional and appropriate conduct, and serve as positive role models both at school and in the community. A certificated employee may be disciplined for conduct or performance in accordance with law, the applicable collective bargaining agreement, Board policy, ~~and~~or administrative regulation.

CSBA NOTE: When disciplining an employee, the district must ensure that all of the surrounding facts and circumstances are considered and analyzed within the parameters of any applicable constitutional or legal framework. ~~In Kennedy v. Bremerton School District, the U.S. Supreme Court held that the district violated the employee's protected free exercise and free speech rights when the district did not rehire the employee, a coach, for refusing to follow the district's direction to refrain from kneeling and praying at the 50-yard line immediately after each football game. The district's direction was based on a concern that the employee's prayer violated the district's religious practices policy and could subject the district to an Establishment Clause violation. Notwithstanding that the prayer occurred at a school event and in the presence of students, the court reasoned that the timing and circumstances indicated that the coach's prayers were offered as a private citizen rather than as a district employee. According to the Court, since the prayer, a religious activity, occurred during a period when employees would ordinarily be free to engage in personal secular activities such as speaking with friends, checking email, calling for restaurant reservations, etc., the district's concerns about a possible Establishment Clause violation did not justify restricting the employee's free exercise and free speech rights to engage in a personal religious activity such as offering a prayer. In Morrison v. State Board of Education, the court articulated multiple factors to determine fitness to teach; see the accompanying administrative regulation for these factors.~~

Employee discipline, especially with respect to suspension and dismissal, involves complex legal considerations and districts are advised to consult ~~CSBA~~CSBA's District and County Office of Education Legal Services or ~~the district's~~district legal counsel, accordingly.

Disciplinary action shall be based on the particular facts and circumstances involved and the severity of the conduct or performance. ~~An employee's private exercise of personal beliefs and activities, including religious, political, cultural, social, or other beliefs or activities, or lack thereof,~~

shall not be grounds for disciplinary action against the employee, provided that the beliefs or activities do not involve coercion of students or any other violation of law, Board policy, or administrative regulation.

CSBA NOTE: In *Kennedy v. Bremerton School District*, the U.S. Supreme Court held that the district could not discipline an employee for non-coercive religious conduct while the employee was acting as a private citizen. For more information see the U.S. Department of Education's May 2023, "Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools." Also see BP/AR 4030 - Nondiscrimination in Employment and BP 4119.1 - Civil and Legal Rights.

In *Visalia Unified School District v. Public Employment Relations Board (PERB)*, the Fifth District Court of Appeal upheld PERB's determination that service as a union officer constitutes protected activity under the Educational Employment Relations Act for purposes of the employee's complaint of retaliation for union activities and that the district retaliated against the employee. However, the court ultimately held in favor of the district, finding that the district proved it would have terminated the employee for poor performance regardless of the protected union activity. Districts with questions about disciplining an officer of an employee organization are encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel.

The Superintendent or designee shall ensure that disciplinary actions are appropriately documented and taken in a consistent, nondiscriminatory manner. In addition, an employee shall not be suspended, disciplined, reassigned, transferred, dismissed, or otherwise retaliated against solely for engaging in protected activities, or for acting to protect a student engaged in exercising any free speech or press right authorized by, or for refusing to infringe upon a student's conduct protected pursuant to, Education Code 48907 or 48950. \_

Disciplinary actions may include, but are not limited to, verbal ~~warnings~~, and written warnings, ~~reassignment~~, suspension, freezing or ~~reduction of wages~~, compulsory leave without pay, or dismissal.

~~The Superintendent or designee shall ensure that disciplinary actions are taken in a consistent, nondiscriminatory manner and are appropriately documented.~~

### Suspension/Dismissal Procedures

CSBA NOTE: Education Code 44932 and 44933 specify the causes for which a certificated employee may be suspended without pay or dismissed; see the accompanying administrative regulation.

The Superintendent shall notify the Board whenever there is cause to suspend or dismiss an employee pursuant to Education Code 44932 or 44933.

When the Board finds that there is cause to suspend or dismiss an employee pursuant to Education Code 44932 or 44933, it may formulate a written statement of charges specifying instances of behavior and the acts or omissions constituting the charge, the statutes and rules that the employee is alleged to have violated when applicable, and the facts relevant to each charge. The Board shall also review any duly signed and verified written statement of charges filed by any other person. -(Education Code 44934, 44934.1)

CSBA NOTE: Pursuant to Education Code 44934 and 44934.1, upon the formulation or receipt of a written statement of charges, the Governing Board may notify the employee of the Board's intent to suspend or dismiss the employee.-

Based on the written statement of charges, the Board may, upon majority vote, give notice to the employee of the Board's intention to suspend or dismiss the employee at the expiration of 30 days from the date the notice is served. -(Education Code 44934, 44934.1)

CSBA NOTE: Prior to serving the notice of suspension or dismissal, Education Code 44938 requires that, when the charge involves unsatisfactory performance or unprofessional conduct, the employee must be given time to correct the performance or conduct as provided in the following two paragraphs. According to *Crowl v. Commission on Professional Competence*, when the employee fully remediates the misconduct specified in the written notice, no disciplinary action may be taken. The *Crowl* decision did not address what could be done when the misconduct specified in the notice reoccurs. Because the lack of further misconduct may not necessarily be equal to full remediation, appropriate disciplinary action should be determined on a case-by-case basis in consultation with CSBA's District and County Office of Education Legal Services or district legal counsel and the collective bargaining agreement.

Prior to serving a suspension or dismissal notice that includes a charge of unsatisfactory performance, the district shall give the employee written notice of the unsatisfactory performance that specifies the nature of the unsatisfactory performance with such specific instances of behavior and with such particularity as to furnish the employee an opportunity to correct the faults and overcome the grounds for any unsatisfactory performance charges and, if applicable, that includes the evaluation made pursuant to Education Code 44660-44665. -The written notice of the unsatisfactory performance shall be provided at least 90 days prior to the filing of the suspension or dismissal notice or prior to the last one-fourth of the school days in the year. -(Education Code 44938)

Prior to serving a suspension or dismissal notice that includes a charge of unprofessional conduct, the district shall give the employee written notice that describes the nature of the unprofessional conduct with such specific instances of behavior and with such particularity as to furnish the employee an opportunity to correct the faults and overcome the grounds for any unprofessional conduct charges and, if applicable, that includes the evaluation made pursuant to Education Code 44660-44665. The written notice of the unprofessional conduct shall be provided at least 45 days prior to the filing of the suspension or dismissal notice. -(Education Code 44938)

~~CSBA NOTE: Education Code 44936 allows a suspension or dismissal notice to be given at any time of year, except when the charge is unsatisfactory performance in which case the notice must be given during the instructional year. Education Code 44936 also requires any written notice given during the instructional year to be served personally or by mail, whereas notices outside of the instructional year must be served personally upon the employee.~~

Except for notices that only include charges of unsatisfactory performance, the written suspension or dismissal notice may be served at any time of year. Such notice shall be served upon the employee personally if given outside of the instructional year or, if given during the instructional year, may be served personally or by registered mail to the employee's last known address. Notices with a charge of unsatisfactory performance shall be given only during the instructional year of the school site where the employee is physically employed and may be served personally or by registered mail to the employee's last known address. -(Education Code 44936)

If an employee has been served notice and demands a hearing pursuant to Government Code 11505 and 11506, the Board shall either rescind its action or schedule a hearing on the matter. -(Education Code 44941, 44941.1, 44944)

CSBA NOTE: Pursuant to Education Code 44939, ~~and 44939.1, and 44940~~, the Board may immediately suspend an employee from performing assigned duties pending suspension or dismissal proceedings for specified causes. -

Pursuant to Education Code 44939, an employee who is immediately suspended for a charge other than egregious misconduct may, within 30 days of receiving the suspension notice, serve the Board and file a motion with the Office of Administrative Hearings to seek reversal of the suspension. The review will be limited to whether the facts as alleged in the statement of charges would be a sufficient basis for immediate suspension. A hearing will be held no later than 30 days after the motion is filed, and the administrative law judge will issue a decision no later than 15 days after the hearing. During the review of the motion or while dismissal charges are pending, the Board retains the authority to determine the physical placement and assignment of the employee.

Pending suspension or dismissal proceedings for an employee who is charged with egregious misconduct, immoral conduct, conviction of a felony or of any crime involving moral turpitude, incompetency due to mental disability, or willful refusal to perform regular assignments without reasonable cause as prescribed by district rules and regulations, the Board may, if it deems it necessary, immediately suspend the employee from assigned duties. If the employee files a motion with the Office of Administrative Hearings for immediate reversal of the suspension based on a cause other than egregious misconduct, the Board may file a written response before or at the time of the hearing. -(Education Code 44939, 44939.1, ~~44940~~)

CSBA NOTE: If an employee has requested a hearing upon receiving notice of suspension or dismissal, the hearing will be conducted by the Commission on Professional Competence or an administrative law judge pursuant to Education Code 44944 or 44944.1; see the accompanying administrative regulation. The hearing before the Commission on Professional Competence must begin within six months of the employee's request for the hearing, unless extended due to extraordinary circumstances. The Commission on Professional Competence consists of an administrative law judge of the Office of Administrative Hearings, a member appointed by the Board, and a member appointed by the employee. When a suspension or dismissal hearing is to be conducted by a Commission on Professional Competence, the Board shall, no later than 45 days before the date set for the hearing, select one person with a currently valid credential to serve on the Commission. The appointee shall not be an employee of the district and shall have at least three years' experience within the past 10 years at the same grade span or assignment as the employee, as defined in Education Code 44944. -(Education Code 44944)

### Compulsory Leave of Absence

CSBA NOTE: Pursuant to Education Code 44940 and 44940.5, the district is required to place an employee charged with a "mandatory leave of absence offense" on a compulsory leave of absence; see the accompanying administrative regulation.

Upon being informed that a certificated employee has been charged with a mandatory leave of absence offense, the Superintendent or designee shall immediately place the employee on a compulsory leave of absence. (Education Code 44940, 44940.5)

### Policy Reference UPDATE Service

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These references are not 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 a additional resources for those interested in the subject matter of the policy.

<b>State</b>	<b>Description</b>
5 CCR 80303	Reports of change in employment status; alleged misconduct
5 CCR 80304	Notice of sexual misconduct
CA Constitution Article 1, Section 1	Inalienable rights
Ed. Code 44008	Effect of termination of probation
Ed. Code 44009	Conviction of specified crimes
Ed. Code 44010	Sex offense; definitions
Ed. Code 44011	Controlled substance offense
Ed. Code 44242.5	Reports and review of alleged misconduct
Ed. Code 44425	Conviction of a sex or narcotic offense
Ed. Code 44660-44665	Evaluation and assessment of performance of certificated employees
Ed. Code 44830.1	Criminal record summary; certificated employees
Ed. Code 44929.21	Notice of reelection decision; districts with 250 ADA or more
Ed. Code 44929.23	Districts with less than 250 ADA
Ed. Code 44930-44988	Resignations, dismissals, and leaves of absence
Ed. Code 45055	Drawing of warrants for teachers
Ed. Code 48907	Exercise of free expression; time, place, and manner rules and regulations
Ed. Code 48950	Speech and other communication
Ed. Code 51530	Advocacy or teaching of communism
Gov. Code 1028	Advocacy of communism
Gov. Code 11505-11506	Hearing
<u>Gov. Code 12954</u>	<u>Employment discrimination: cannabis use</u>
Gov. Code 3543.2	Scope of representation
H&S Code 11054	Schedule I; substances included
H&S Code 11055	Schedule II; substances included
H&S Code 11056	Schedule III; substances included
H&S Code 11357-11361	Marijuana
H&S Code 11363	Peyote
H&S Code 11364	Opium

H&S Code 11370.1	Possession of controlled substances with a firearm
Pen. Code 11165.2-11165.6	Child abuse or neglect; definitions
Pen. Code 1192.7	Plea bargaining limitation
Pen. Code 187	Murder
Pen. Code 291	School employees arrest for sex offense
Pen. Code 667.5	Prior prison terms; enhancement of prison terms

**Federal**

U.S. Constitution, [First Amendment](#)

**Description**

~~Amendment 1~~; Free exercise, free speech, and establishment clauses

**Management Resources**

Commission on Teacher Credentialing Publication

**Description**

California's Laws and Rules Pertaining to the Discipline of Professional Certificated Personnel, 2007

[U.S. Department of Education Publication](#) [Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools. May 2023](#)  
([https://www2.ed.gov/policy/gen/guid/religionandschools/prayer\\_guidance.html](https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html))

Court Decision

Kennedy v. Bremerton (2022) 142 S.Cl. 2407

[Court Decision](#)

[Visalia Unified School District v. Public Employment Relations Board \(2024\) 98 Cal.App.5th 844](#)

Court Decision

Crowl v. Commission on Professional Competence, (1990) 225 Cal. App. 3d 334

Court Decision

Morrison v. State Board of Education (1969) 1 Cal.3d 214

Website

Office of the Attorney General

Website

Office of Administrative Hearings

Website

Department of General Services, About Teacher Dismissal Case Type

Website

CSBA District and County Office of Education Legal Services

Website

Commission on Teacher Credentialing

Website

CSBA

[Website](#)

[U.S. Department of Education \(https://www.ed.gov/\)](https://www.ed.gov/)

**Cross References**

**Code**

1114

**Description**

District-Sponsored Social Media

1114

District-Sponsored Social Media

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1312.3	Uniform Complaint Procedures
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1312.3-E(2)	Uniform Complaint Procedures
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4000	Concepts And Roles
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4112.42	Drug And Alcohol Testing For School Bus Drivers
4112.5	Criminal Record Check
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4112.6	Personnel Files
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4113.5	Working Remotely

4114	Transfers
4115	Evaluation/Supervision
4115	Evaluation/Supervision
4117.7	Employment Status Reports
4119.1	Civil And Legal Rights
4119.11	Sexual Harassment
4119.11	Sexual Harassment
4119.12	Title IX Sexual Harassment Complaint Procedures
4119.12-E(1)	Title IX Sexual Harassment Complaint Procedures
4119.21	Professional Standards
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4119.22	Dress And Grooming
4119.23	Unauthorized Release Of Confidential/Privileged Information
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4141	Collective Bargaining Agreement
4141.6	Concerted Action/Work Stoppage
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4154	Health And Welfare Benefits
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4157	Employee Safety
4157	Employee Safety
4158	Employee Security
4158	Employee Security
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4161	Leaves
4161	Leaves
4212.4	Health Examinations

4212.42	Drug And Alcohol Testing For School Bus Drivers
4212.42	Drug And Alcohol Testing For School Bus Drivers
4212.5	Criminal Record Check
4212.5-E(1)	Criminal Record Check
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4212.9-E(1)	Employee Notifications
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4219.12	Title IX Sexual Harassment Complaint Procedures
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4261	Leaves
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4312.42	Drug And Alcohol Testing For School Bus Drivers
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5145.2	Freedom Of Speech/Expression
5145.3	Nondiscrimination/Harassment
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5145.7	Sexual Harassment
5145.7	Sexual Harassment
5145.71	Title IX Sexual Harassment Complaint Procedures
5145.71-E(1)	Title IX Sexual Harassment Complaint Procedures
5145.9	Hate-Motivated Behavior
6145.2	Athletic Competition
6145.2	Athletic Competition
6162.54	Test Integrity/Test Preparation
9000	Role Of The Board
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session

**Regulation 4118: Dismissal/Suspension/Disciplinary Action**

**Status:** ADOPTED

Original Adopted Date: 07/01/2000 | Last Revised Date: 09/03/01/2022 2024 | Last Reviewed Date: 09/03/01/2022 2024

CSBA NOTE: The following optional administrative regulation is subject to collective bargaining and should be revised to reflect provisions in accordance with any applicable to the size of the district as well as any related provisions of collective bargaining agreements. To the extent that this policy is inconsistent with provisions of the collective bargaining agreement, the collective bargaining agreement would prevail, so long as the provision is consistent with law.

Pursuant to Government Code 3543.2, the district and certificated employee bargaining unit must, upon request of either party, negotiate causes and procedures for disciplinary action, other than dismissal and suspension beyond 15 days. If the Governing Board has adopted a collective bargaining agreement ~~which that~~ includes such procedures, then, pursuant to Education Code 44932, the authorization to suspend an employee for up to 15 days pursuant to the procedures specified in Education Code 44933, 44934, 44934.1, 44935, 44936, 44937, 44943, and 44944 would not apply. The suspension procedures specified in Education Code 44934 and 44939 are explicitly for use only by districts that do not have ~~a~~such a provision in their collective bargaining agreement.

Because Education Code provisions pertaining to employee suspension and dismissal are complex, districts are advised to consult with CSBA's District and County Office of Education Legal Services or district legal counsel before instituting such proceedings.

**Causes for Suspension or Dismissal**

CSBA NOTE: Education Code 44932 lists causes for which a certificated employee may be suspended without pay or dismissed.

The causes listed in Education Code 44932 have been found to be so broad as to be sometimes difficult to apply. However, the California Supreme Court, in *Morrison v. State Board of Education*, has articulated a seven-part test to determine fitness to teach, including (1) likelihood of recurrence of the questioned conduct or performance, (2) extenuating or aggravating circumstances, (3) effect of notoriety and publicity, (4) impairment of teacher-student relationships, (5) disruption of the education process, (6) motive, and (7) proximity or remoteness in time of conduct or performance. multiple factors to determine fitness to teach, which is the relevant inquiry under most of the causes for dismissal or suspension. The factors include: (1) the likelihood that the conduct may have adversely affected others and the degree of such adversity anticipated, (2) the proximity or remoteness in time of the conduct, (3) the type of certification held by the party involved, (4) the extenuating or aggravating circumstances, if any, surrounding the conduct, (5) the praiseworthiness or blameworthiness of the motives resulting in the conduct, (6) the likelihood of the recurrence of the questioned conduct, (7) the extent to which disciplinary action may inflict an adverse impact or chilling effect upon the constitutional rights of the teacher involved or other teachers, and (8) the notoriety associated with the conduct or behavior. The conduct or performance that gives rise to the need to suspend or dismiss need not occur on or involve district property: but there must be some nexus to employment.



A certificated employee with permanent status may be suspended without pay or dismissed only for one or more of the following causes: (Education Code 44932)

CSBA NOTE: Pursuant to Government Code 12954, the district may not discriminate against a person in termination or any term or condition of employment, based on the person's use of cannabis when off the job or away from the workplace, and consequently, districts may be prohibited from disciplining employees in certain circumstances. However, certain employees may be subject to stricter laws related to drug testing. Districts with questions about drug testing employees should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

1. Immoral conduct including, but not limited to, egregious misconduct that is the basis for a sex offense or controlled substance offense described in Education Code 44010 or 44011 or child abuse and neglect as described in Penal Code 11165.2-11165.6
2. Unprofessional conduct
3. Commission, aiding, or advocating the commission of acts of criminal syndicalism
4. Dishonesty
5. Unsatisfactory performance
6. Evident unfitness for service
7. Physical or mental condition unfitting the employee to instruct or associate with children
8. Persistent violation of or refusal to obey the school laws or reasonable regulations of the state or district
9. Conviction of a felony or of any crime involving moral turpitude
10. Violation of Education Code 51530 or Government Code 1028 prohibiting the advocacy or teaching of communism
11. Alcoholism or other drug abuse that makes the employee unfit to instruct or associate with children

An employee may be suspended or dismissed on grounds of unprofessional conduct consisting of acts or omissions not listed above if the charge specifies instances of behavior deemed to constitute unprofessional conduct. (Education Code 44933)

#### **Suspension/Dismissal of Permanent Employees**

CSBA NOTE: Procedures for the suspension or dismissal of permanent employees are addressed in Education Code 44932-44947.

See the accompanying Board policy for information about Board responsibilities related to reviewing the statement of charges, providing notice to the employee of the Board's intent to suspend or dismiss the employee, and, when applicable, appointing a member of the Commission on Professional Competence that will conduct a hearing on the matter.

When a permanent certificated employee is charged with one or more of the offenses specified in the section "Causes for Suspension or Dismissal" above, the following procedures shall apply:

1. The person preparing a written statement of charges that there is cause to suspend or dismiss an employee shall submit the signed statement to the Governing Board, or a written statement of charges shall be formulated by the Board that cause to suspend or dismiss the permanent employee exists. (Education Code 44934, 44934.1)
2. The employee, upon receiving notice of the Board's intent to suspend or dismiss, may request a hearing on the matter. The hearing shall be conducted by the Commission on Professional Competence, except that any case involving only egregious misconduct shall be heard instead by an administrative law judge and, in any other case, the hearing may be conducted by an administrative law judge when both the district and the employee so stipulate. (Education Code 44943, 44944, 44944.05, 44944.1, 44944.3)
3. Except when the employee is charged solely with egregious misconduct, the district may amend the charges less than 90 days before the hearing only upon showing of good cause and upon approval of the administrative law judge. (Education Code 44934)
4. The employee shall be suspended or dismissed when the Commission on Professional Competence or administrative law judge has issued its decision ~~supporting~~upholding suspension or dismissal or, if the employee did not request a hearing, at the expiration of 30 days after service of the notice of intent to suspend or dismiss. (Education Code 44941, 44943, 44944)

The Superintendent or designee shall notify the Commission on Teacher Credentialing when the employment status of a certificated employee has been changed as a result of alleged misconduct or while an allegation of misconduct is pending. (Education Code 44030.5, 44242.5, 44940; 5 CCR 80303)

### **Suspension/Dismissal of Probationary Employees**

CSBA NOTE: With proper notice, the district may choose not to rehire probationary employees for the following year without giving a statement of reasons; see BP 1116 - Probationary/Permanent Status. However, during the school year, probationary employees may only be suspended without pay or dismissed for cause and in accordance with the applicable procedures specified in law.

The district may choose not to rehire probationary employees for the following school year without giving a statement of reasons, if proper notice is provided by March 15 of the employee's second, complete, consecutive year of employment. (Education Code 44929.21, 44929.23)

CSBA NOTE: Districts with average daily attendance (ADA) of 250 or more may dismiss probationary employees during the school year in accordance with the procedures contained in Education Code 44948.3, in which case the decision whether to dismiss an employee rests with the Board rather than the Commission on Professional Competence (Option 1 below).

Districts with less than 250 ADA should select the appropriate option below depending on how the district grants permanent status to certificated employees in accordance with BP/AR 4116 - ~~Permanent/~~ Probationary/Permanent Status. Districts with less than 250 ADA that have not adopted a collective bargaining agreement may elect to use the procedures in Education Code 44934 and 44934.1 for dismissal of probationary employees (Option 2 below), as reflected in the section "Suspension/Dismissal of Permanent Employees" above. Alternatively, Education Code 44948.2 authorizes districts with less than 250 ADA to elect to dismiss probationary employees during the school year pursuant to Education Code 44948.3 (Option 1 below). When districts with less than 250 ADA decide to use the procedures in Education Code 44948.3, their employees will become permanent employees if they are not served with a notice of non-reelection before March 15 of their second year. Since Education Code 44948.3 applies only to dismissal of probationary

employees in districts with 250 ADA or more or to districts of less than 250 ADA that elect to use Education Code 44948.3, it is not appropriate for use by districts that either grant permanent status after three consecutive years or that reelect employees from year to year without granting permanent status.

**OPTION 1: (Districts with ADA of 250 or more, or districts with less than 250 ADA that have elected to use the dismissal procedures in Education Code 44948.3)**

During the school year, a probationary employee who is in the first or second year of service may be dismissed only for one or more of the causes listed in Items #1-11 in the section "Causes for Suspension or Dismissal" above or for unsatisfactory performance determined pursuant to Education Code 44660-44665. (Education Code 44948.2, 44948.3)

Whenever a first- or second-year probationary employee is so charged, the following procedures shall apply for dismissing the employee during the school year: (Education Code 44948.3)

1. The Superintendent or designee shall give 30 days' prior written notice of dismissal, not later than March 15 in the case of second-year probationary employees. The notice shall include a statement of the reasons for the dismissal, notice of the opportunity to appeal, and, if the cause is unsatisfactory performance, a copy of the evaluation conducted pursuant to Education Code 44664.

**CSBA NOTE:** Pursuant to Education Code 44948.3, the probationary employee may request a hearing as provided below. The employee's failure to request a hearing within 15 days from receipt of the dismissal notice constitutes a waiver of the right to a hearing.

2. Upon receipt of the notice of dismissal, the employee may be dismissed if no request for a hearing is submitted to the Board within 15 days.

**CSBA NOTE:** Education Code 44948.3 authorizes the district to establish procedures for the appointment of an administrative law judge to conduct the hearing and submit a recommended decision to the Board. Item #3 may be revised to reflect any such procedures established by the district.

3. If a hearing is requested, the district may arrange for the appointment of an administrative law judge to conduct the hearing and to recommend a decision to the Board.

A probationary employee may be suspended without pay for a specified period of time as an alternative to dismissal. (Education Code 44948.3)

**OPTION 1 ENDS HERE**

**OPTION 2: (Districts with less than 250 ADA that do not grant permanent status after two years and do not elect to use the procedures in Education Code 44948.3)**

During the school year, probationary employees may be dismissed only for one or more of the causes listed in Items #1-11 in the section "Causes for Suspension or Dismissal" above. (Education Code 44948)

Whenever a probationary employee is so charged, dismissal procedures shall be those set forth in Education Code 44934 and 44934.1 as described in the section "Suspension/Dismissal of Permanent Employees" above.

## OPTION 2 ENDS HERE

### Compulsory Leave of Absence

CSBA NOTE: Whenever a certificated employee is charged with a "mandatory leave of absence offense" as defined in Education Code 44940, the district is required to place the employee on a compulsory leave of absence. Penal Code 291 requires law enforcement, including the local police, sheriff, or California Highway Patrol, to telephone the Superintendent when a school employee has been arrested for a sex offense and provide written notice to the County Superintendent of Schools and the Commission on Teacher Credentialing (CTC).

Pursuant to Education Code 44009 and 44425, CTC will revoke the credential of an individual who has been convicted of a mandatory leave of absence offense.

Upon being informed by law enforcement that a certificated employee has been charged with a "mandatory leave of absence offense," the Superintendent or designee shall immediately place the employee on a leave of absence. A mandatory leave of absence offense includes: (Education Code 44830.1, 44940)

1. Any sex offense as defined in Education Code 44010
2. Violation or attempted violation of Penal Code 187, prohibiting murder or attempted murder
3. Any offense involving the unlawful sale, use, or exchange to minors of controlled substances as listed in Health and Safety Code 11054, 11055, and 11056

CSBA NOTE: Education Code 44940 permits the Board to require compulsory place certificated employees on leave for certain "optional leave of absence offenses" as defined below.

The following optional paragraph should be revised to reflect offenses which the Board has determined will require a compulsory leave of absence.

The Superintendent or designee may place on an immediate compulsory leave of absence a certificated employee who is charged with an "optional leave of absence offense," defined as a controlled substance offense specified in Education Code 44011 and Health and Safety Code 11357-11361, 11363, 11364, and 11370.1, except as it relates to marijuana, mescaline, peyote, or ~~tetrahydrocannabinols~~ tetrahydrocannabinol. (Education Code 44940)

If an employee is charged with an offense that falls into both the mandatory and optional leave of absence definitions, the offense shall be treated as a mandatory leave of absence offense. (Education Code 44940)

An employee's compulsory leave for a mandatory or optional leave of absence offense may extend for not more than 10 days after the entry of judgment in the criminal proceedings. However, the compulsory leave may be extended if the Board gives notice, within 10 days after the entry of judgment in the proceedings, that the employee will be dismissed within 30 days from the date of service of the notice unless a hearing is demanded. (Education Code 44940, 44940.5)

CSBA NOTE: Pursuant to Education Code 44940.5, while on compulsory leave, the employee's salary may be paid if the employee provides a suitable bond or other acceptable security as a guarantee that the leave-period salary will be repaid if the employee is convicted of the charges or fails to return to district service. If the employee is acquitted or the charges are dismissed, the district must reimburse the employee for the cost of the bond upon return to service in the district. If an employee who does not furnish 332 bond or other security is acquitted or the charges

are dismissed, the district must pay the employee's salary for the time spent on leave upon return to service.

Education Code 44940.5 specifies that, if the charges against an employee are dismissed as a result of the employee's successful completion of a drug diversion program and the employee returns to service, the employee may elect to receive payment for any accrued leave and differential pay for the length of the employee's leave of absence.

During the period of compulsory leave, the employee shall be compensated in accordance with Education Code 44940.5.

Upon receipt of telephone or electronic notification from the Department of Justice that a current temporary, substitute, or probationary employee serving before March 15 of the second probationary year has been convicted of a violent or serious felony, the Superintendent or designee shall immediately place the employee on leave without pay. Upon receipt of electronic notification of the conviction from the Department of Justice, such employee shall be automatically terminated and without regard to any other termination procedure. (Education Code 44830.1)

**Policy Reference UPDATE Service**

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**Policy Reference Disclaimer:**

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Ed. Code 44011	Controlled substance offense
Ed. Code 44242.5	Reports and review of alleged misconduct
Ed. Code 44425	Conviction of a sex or narcotic offense
Ed. Code 44660-44665	Evaluation and assessment of performance of certificated employees
Ed. Code 44830.1	Criminal record summary; certificated employees
Ed. Code 44929.21	Notice of reelection decision; districts with 250 ADA or more
Ed. Code 44929.23	Districts with less than 250 ADA
Ed. Code 44930-44988	Resignations, dismissals, and leaves of absence
Ed. Code 45055	Drawing of warrants for teachers
Ed. Code 48907	Exercise of free expression; time, place, and manner rules and regulations

Ed. Code 48950	Speech and other communication
Ed. Code 51530	Advocacy or teaching of communism
Gov. Code 1028	Advocacy of communism
Gov. Code 11505-11506	Learning
<u>Gov. Code 12954</u>	<u>Employment discrimination: cannabis use</u>
Gov. Code 3543.2	Scope of representation
H&S Code 11054	Schedule I; substances included
H&S Code 11055	Schedule II; substances included
H&S Code 11056	Schedule III; substances included
H&S Code 11357-11361	Marijuana
H&S Code 11363	Peyote
H&S Code 11364	Opium
H&S Code 11370.1	Possession of controlled substances with a firearm
Pen. Code 11165.2-11165.6	Child abuse or neglect; definitions
Pen. Code 1192.7	Plea bargaining limitation
Pen. Code 187	Murder
Pen. Code 291	School employees arrest for sex offense
Pen. Code 667.5	Prior prison terms; enhancement of prison terms

**Federal**

U.S. Constitution, First Amendment

**Description**

Amendment 1; Free exercise, free speech, and establishment clauses

**Management Resources**

Commission on Teacher Credentialing Publication

**Description**

California's Laws and Rules Pertaining to the Discipline of Professional Certificated Personnel, 2007

U.S. Department of Education Publication Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023  
[https://www2.ed.gov/policy/gen/guid/religionandschools/prayer\\_guidance.html](https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html)

Court Decision

Kennedy v. Bremerton (2022) 142 S.Ct. 2407

Court Decision

Visalia Unified School District v. Public Employment Relations Board (2024) 98 Cal.App.5th 844

Court Decision

Crowl v. Commission on Professional Competence, (1990) 225 Cal. App. 3d 334

Court Decision

Morrison v. State Board of Education (1969) 1 Cal.3d 214

Website

Office of the Attorney General

Website	Office of Administrative Hearings
Website	Department of General Services, About Teacher Dismissal Case Type
Website	CSBA District and County Office of Education Legal Services
Website	Commission on Teacher Credentialing
Website	CSBA
<u>Website</u>	<u>U.S. Department of Education (<a href="https://www.ed.gov/">https://www.ed.gov/</a>)</u>

### **Cross References**

<b>Code</b>	<b>Description</b>
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
1312.1	Complaints Concerning District Employees
1312.1	Complaints Concerning District Employees
1312.3	Uniform Complaint Procedures
1312.3	Uniform Complaint Procedures
1312.3-E(1)	Uniform Complaint Procedures
1312.3-E(2)	Uniform Complaint Procedures
3230	Federal Grant Funds
3230	Federal Grant Funds
3512	Equipment
3512-E(1)	Equipment
3513.3	Tobacco-Free Schools
3513.3	Tobacco-Free Schools
3513.4	Drug And Alcohol Free Schools
3515.2	Disruptions
3515.2	Disruptions
3515.21	Unmanned Aircraft Systems (Drones)
3516.2	Bomb Threats
4000	Concepts And Roles
4020	Drug And Alcohol-Free Workplace
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4040	Employee Use Of Technology

4040-E(1)	Employee Use Of Technology
4112	Appointment And Conditions Of Employment
4112.1	Contracts
4112.4	Health Examinations
4112.42	Drug And Alcohol Testing For School Bus Drivers
4112.42	Drug And Alcohol Testing For School Bus Drivers
4112.5	Criminal Record Check
4112.5-E(1)	Criminal Record Check
4112.6	Personnel Files
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4113.5	Working Remotely
4114	Transfers
4115	Evaluation/Supervision
4115	Evaluation/Supervision
4117.7	Employment Status Reports
4119.1	Civil And Legal Rights
4119.11	Sexual Harassment
4119.11	Sexual Harassment
4119.12	Title IX Sexual Harassment Complaint Procedures
4119.12-E(1)	Title IX Sexual Harassment Complaint Procedures
4119.21	Professional Standards
4119.21-E(1)	Professional Standards
4119.22	Dress And Grooming
4119.23	Unauthorized Release Of Confidential/Privileged Information
4119.25	Political Activities Of Employees
4119.25	Political Activities Of Employees
4127	Temporary Athletic Team Coaches
4127	Temporary Athletic Team Coaches
4131.1	Teacher Support And Guidance
4131.1	Teacher Support And Guidance
4136	Nonschool Employment
4141	Collective Bargaining Agreement



4141.6	Concerted Action/Work Stoppage
4141.6	Concerted Action/Work Stoppage
4154	Health And Welfare Benefits
4154	Health And Welfare Benefits
4157	Employee Safety
4157	Employee Safety
4158	Employee Security
4158	Employee Security
4159	Employee Assistance Programs
4161	Leaves
4161	Leaves
4212.4	Health Examinations
4212.42	Drug And Alcohol Testing For School Bus Drivers
4212.42	Drug And Alcohol Testing For School Bus Drivers
4212.5	Criminal Record Check
4212.5-E(1)	Criminal Record Check
4212.6	Personnel Files
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4213.5	Working Remotely
4219.1	Civil And Legal Rights
4219.11	Sexual Harassment
4219.11	Sexual Harassment
4219.12	Title IX Sexual Harassment Complaint Procedures
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4219.21	Professional Standards
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4219.22	Dress And Grooming
4219.23	Unauthorized Release Of Confidential/Privileged Information
4219.25	Political Activities Of Employees
4219.25	Political Activities Of Employees
4227	Temporary Athletic Team Coaches
4227	Temporary Athletic Team Coaches

4236	Nonschool Employment
4241	Collective Bargaining Agreement
4241.6	Concerted Action/Work Stoppage
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4254	Health And Welfare Benefits
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4257	Employee Safety
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4258	Employee Security
4258	Employee Security
4259	Employee Assistance Programs
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4261	Leaves
4312.4	Health Examinations
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4312.42	Drug And Alcohol Testing For School Bus Drivers
4312.5	Criminal Record Check
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4313.5	Working Remotely
4317.7	Employment Status Reports
4319.1	Civil And Legal Rights
4319.11	Sexual Harassment
4319.11	Sexual Harassment
4319.12	Title IX Sexual Harassment Complaint Procedures
4319.12-E(1)	Title IX Sexual Harassment Complaint Procedures
4319.21	Professional Standards
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4319.22	Dress And Grooming
4319.23	Unauthorized Release Of Confidential/Privileged Information
4319.25	Political Activities Of Employees

4319.25	Political Activities Of Employees
4327	Temporary Athletic Team Coaches
4327	Temporary Athletic Team Coaches
4336	Nonschool Employment
4354	Health And Welfare Benefits
4354	Health And Welfare Benefits
4357	Employee Safety
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4361	Leaves
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5144.2	Suspension And Expulsion/Due Process (Students With Disabilities)
5145.2	Freedom Of Speech/Expression
5145.2	Freedom Of Speech/Expression
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.7	Sexual Harassment
5145.7	Sexual Harassment
5145.71	Title IX Sexual Harassment Complaint Procedures
5145.71-E(1)	Title IX Sexual Harassment Complaint Procedures
5145.9	Hate-Motivated Behavior
6145.2	Athletic Competition
6145.2	Athletic Competition
6162.54	Test Integrity/Test Preparation
9000	Role Of The Board
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session

Policy 4140: Bargaining Units

Status: ADOPTED

Original Adopted Date: 11/01/2011 | Last Revised Date: 06/03/01/2023 2024 | Last Reviewed Date: 06/03/01/2023 2024

CSBA NOTE: Pursuant to Government Code 3544, an employee organization may become the employees' employees' exclusive representative for negotiations by filing a request with the district providing proof that a majority of the specified employees in an appropriate unit wish to be represented by that organization. Notice of such request must be immediately posted conspicuously on all employee bulletin boards in each district facility in which members of the unit employees to be represented by that organization are employed. Government Code 3544.1 requires the district to grant the request for recognition unless (1) the district doubts the appropriateness of the unit organization, (2) another employee organization files a challenge to the appropriateness of the unit organization or submits a competing claim of representation within 15 work days of the posting of notice of the written request, or (3) the district currently has a lawful written agreement with another employee organization representing the same employees.

"Exclusive representative," as defined in Government Code 3540.1,

While the terms "employee organization," "exclusive representative," "recognized employee organization," and "bargaining unit" are similar, the differences are important for purposes of understanding the rights and obligations of each one. As defined by Government 3540.1, "employee organization" means an organization that includes district employees that represents those employees in their relations with the district as one of its primary purposes; "exclusive representative" means an employee organization recognized or certified as the exclusive negotiating representative for all district employees other than management and confidential employees.; and "recognized employee organization" means an employee organization that has been recognized by a district as the exclusive representative. "Bargaining unit" is not defined in statute but is used in this policy to referred to the entity with which the district is required to bargain regarding compensation and working conditions for a represented group of district employees.

Government Code 3543 provides that public school employees have the right to represent themselves individually in their employment relations with the district except that, once an exclusive representative has been recognized, an employee in that bargaining unit is prohibited from meeting and negotiating with the district.

The Governing Board recognizes the right of district employees to form a bargaining unit and to select an employee organization as the exclusive representative to represent for the employees in the employees' employment relationship with the district. The Board is committed to negotiating in good faith with recognized employee organizations the exclusive representative and respecting the rights of employees and employee organizations.

The district shall not dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it. (Government Code 3543.5)

CSBA NOTE: In East Whittier School District, the The Public Employment Relations Board (PERB) uses a case-by-case approach to determine whether a district's policy restricting the wearing of

union buttons, insignia, or other pictorial or written messages by employees is justified by special circumstances. In East Whittier School District, PERB found that the district's policy limiting the wearing of union buttons that favor or oppose any matter that is the subject of negotiations in the classroom or in other instructional areas in the presence of students violated the Educational Employment Relations Act (EERA), as there was no finding of special circumstances which would limit the established right of employees to wear union buttons in the workplace, nor was there a finding that wearing the union buttons was a political activity. PERB continues to use a case-by-case approach to determine whether a district's policy restricting the wearing of union buttons by employees is justified by special circumstances, as seen in PERB's ruling in City of Sacramento with regard to union insignia on employees' hardhats. Due to the legal uncertainty in this area, districts are encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to limiting the wearing of union buttons that support the union's position in collective bargaining, insignia, or other pictorial or written messages.

Employees shall not be prohibited from wearing union buttons, insignia, or other items pictorial or written messages that favor or oppose the formation of a bargaining unit or any matter that is the subject of negotiations.

### Formation of Bargaining Units

**CSBA NOTE:** The following section contains legal requirements for the certification or recognition of bargaining units for different categories of employees.

Certificated and classified employees shall not be included in the same bargaining unit. (Government Code 3545)

A bargaining unit of certificated or classified supervisory employees may only be recognized if the bargaining unit includes all certificated or classified supervisory employees, respectively, and is not represented by an the same employee organization that represents district employees who are supervised by the supervisory employees. (Government Code 3545)

For this purpose, supervisory employee means any employee, regardless of job description, having authority, in the interest of the district, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to assign work to, direct, or adjust grievance of other employees, or effectively recommend that action, when the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment. (Government Code 3540.1)

**CSBA NOTE:** Pursuant to Government Code 3543.4, management (including senior management) and confidential employees, as defined in Government Code 3540.1, are excluded from the right to be represented in negotiations by an employee organization. exclusive representative. Certain management positions designated by the Board under state law such as Education Code 45100.5 may be subject to review by PERB ultimately determines, based upon the duties of the position. For questions regarding which positions qualify as "management" or "confidential", districts are encouraged to consult CSBA's District and thus are excluded from bargaining County Office of Education Legal Services or district legal counsel.

Employees serving in management, senior management, or confidential positions shall not be represented by an exclusive representative. In the employment relationship with the district, such employees employees who serve in a management, senior management, or confidential position may represent themselves or be represented by an employee organization whose membership is

composed entirely of employees designated as holding those positions. ~~An~~ **However, an** employee organization representing management, **senior management**, or confidential employees shall not be permitted to meet and negotiate with the district on behalf of the employees. (**Education Code 45100.5**, Government Code 3543.4)

*Management employee* means an employee in a position having significant responsibilities for formulating district policies or administering district programs. ~~Management positions shall be designated by the Board which may be subject to review by the Public Employment Relations Board.~~ (Government Code 3540.1)

*Confidential employee* means any employee who is required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information that is used to contribute significantly to the development of management positions. (Government Code 3540.1)

### **Membership**

CSBA NOTE: Government Code 3550 prohibits districts from deterring or discouraging district employees or job applicants from becoming or remaining members of an employee organization, authorizing representation by an employee organization, or authorizing dues or fee deductions to an employee organization. Pursuant to Government Code 3551.5, **as added by SB 931 (Ch. 823, Statutes of 2022)**, any district found by PERB to be in violation of this prohibition may be subject to civil penalties of \$1,000 for each affected employee, up to a maximum of \$100,000 in total, and may be ordered to pay attorney's fees and costs to the employee organization.

The district shall not deter or discourage employees or job applicants from becoming or remaining members of an employee organization, authorizing representation by an employee organization, or authorizing dues or fee deductions to an employee organization. In addition, the district shall not impose or threaten to impose reprisals on employees, discriminate or threaten to discriminate against employees, or otherwise interfere with, restrain, or coerce employees because of their membership or nonmembership in an employee organization. (Government Code 3543.5, 3550, 3551.5)

### **District Communications to Employees**

CSBA NOTE: ~~The remainder of this~~ **This section is optional and may be revised to reflect district practice.** Government Code 3553 establishes requirements for districts that choose to disseminate a mass communication regarding employees' rights to join, support, or refrain from joining or supporting an employee organization. A "mass communication" means any written document, including a script for an oral or recorded presentation or message, intended for multiple employees.

Districts should exercise caution and consult with CSBA's District and County Office of Education Legal Services or district legal counsel before communicating with employees about their rights to join or not join an employee organization to avoid violating the law against unfair labor practices. When an employee approaches the district with questions specifically about the benefits of ~~the~~ membership in an employee organization, the employee should be referred to the employee organization.

The Superintendent or designee may communicate with district employees regarding their rights to

join and/or support an officially recognized employee organization or to refrain from joining or supporting an officially recognized employee organization. Such communications shall be factual and accurate, and may not promise a benefit, threaten a reprisal, or in any way deter or discourage employees from joining an employee organization or paying dues.

However, before disseminating

The district may disseminate written documents, recorded messages, or other mass communications to multiple actual or perspective employees any mass communication represented by an exclusive representative concerning employees' their rights under the law, such as a written document or script for oral or recorded presentation to join and/or message, support, or refrain from joining and/or supporting, an employee organization only after the Superintendent or designee shall meet/meets and confer/confers with the employees' exclusive representative regarding concerning the content of the mass communication. If the district and exclusive representative do not come to agreement on the content of the mass communication and the district still chooses to disseminate it, the Superintendent or designee may disseminate the district's mass communication, provided shall request that at the same time, copies of the exclusive representative's representative provide a communication, which shall be of reasonable length, are also distributed. to the district that shall be disseminated to the employees at the same time as the district's own mass communication. (Government Code ~~3553~~3556)

#### Access to New Employee Orientations

The district shall permit employee organizations each exclusive representative access to new employee orientation or onboarding process where newly hired employees represented by the exclusive representative are advised, whether in person, online, or through other means or mediums, of their employment status, rights, benefits, duties, responsibilities, or any other employment-related matters. The district shall provide employee organizations the exclusive representative at least 10 days' notice in advance of an orientation, except that a shorter notice may be provided if where there is an unforeseeable, urgent need critical to the district's operation prevents the required 10 days' notice. district's operations that was not reasonably foreseeable. (Government Code 3555.5, 3556)

Following a request to negotiate by either party, the structure, time, and manner of access to new employee orientations shall be determined by mutual agreement of the district and the exclusive representative. If the district and exclusive representative fail to reach an agreement, matters related to the structure, time, and manner of access to the new employee orientation shall be subject to compulsory interest arbitration. The district and employee organization the exclusive representative may mutually agree to submit any dispute to compulsory interest arbitration at any time. In addition, if any dispute arises during negotiations and is not resolved within 45 days after the first meeting or within 60 days after the initial request to negotiate, whichever is earlier, either party may make a demand for compulsory interest arbitration. The arbitrator selection process shall commence within 14 days of a party's demand for compulsory interest arbitration. When any such dispute arises during the summer when the district's administrative office is closed, the timeline shall commence on the first day the administrative office reopens. The arbitrator's decision of the arbitrator shall be issued within 10 days and shall be final and binding on the parties. (Government Code 3556, 3557)

The date, time, and place of a new employee orientation shall not be disclosed to anyone other than employees, the exclusive representative, or a vendor that is contracted to provide a service for purposes of the orientation. (Government Code 3556)

CSBA NOTE: The following paragraph applies until June 30, 2025; unless the date is extended by law. Government Code 3556, as amended by SB 191 (Ch. 67, Statutes of 2022), provides additional obligations for public employers under the conditions specified in the following paragraph.

Until June 30, 2025, in addition to above provisions regarding new employee orientations, unless the district shall ensure and the following: (Government Code 3556)

1. When an inperson new employee orientation exclusive representative have agreed otherwise, when the district has not been conducted an in-person orientation within 30 days of hiring any new employee who is working in person, the Superintendent or designee shall permit the exclusive representative to schedule an inperson in-person meeting which newly hired employees shall have an opportunity to attend, at the employee's worksite and during employment hours. Each newly hired employee within the bargaining unit shall be provided at least 30 minutes of paid time to attend the meeting at the new employee's worksite, during which the exclusive representative shall be permitted to communicate directly with the newly hired employees.

Within seven days of an exclusive representative's request to schedule such an inperson meeting, the Superintendent or designee new employee shall have the opportunity to attend and shall be relieved of other duties for the purpose of attending the meeting. The district shall provide an appropriate on-site meeting space.

2. When, by reason of a state or local public health order limiting the size of gatherings, at the district is prohibited worksite within seven calendar days of receiving a request from organizing a new employee orientation, an the exclusive representative may schedule multiple meetings to ensure that newly hired employees have an opportunity to attend without exceeding the maximum allowable number of people. If such an order prohibits all gatherings, the exclusive representative may schedule a meeting(s) once the order is lifted or modified to permit gatherings.

Alternative access to these meetings shall be determined through mutual agreement between the district and the exclusive representative. (Government Code 3556, 3557)

CSBA NOTE: Pursuant to Government Code 3556, the district must provide at least 30 minutes of paid time for new employees to attend the meeting. However, nothing prohibits the district and the exclusive representative from providing more than 30 minutes of paid time.

During this meeting, the exclusive representative shall be permitted to communicate directly with the new employees for up to 30 minutes of paid time. (Government Code 3556)

#### Access to Employee Contact Information

CSBA NOTE: Pursuant to Government Code 3558, and 7928.300, which implemented the decision by the California Supreme Court in County of Los Angeles v. Los Angeles County Employee Relations Commission, districts are required to provide recognized employee organization each exclusive representative with specified contact information for new employees in the bargaining unit, as provided below. The information required by Government Code 3558 must be provided in a manner consistent with Government Code 7928.300, which authorizes disclosure of an employee's the



home address, home telephone number(s), and personal cell phone number to an of every employee organization represented by the exclusive representative unless the district receives a written request by the employee to not disclose the information. Pursuant to Government Code 7928.300, the personal email address of an employee is not disclosable unless used by the employee to conduct public business. The following paragraph should be revised if districts have an agreement with their employee organization(s) requiring more frequent or more detailed contact lists:

In County of Los Angeles v. Los Angeles County Employee Relations Commission, the California Supreme Court held that (1) an employer has a duty to provide information relevant to collective bargaining to the applicable bargaining unit and failure to do so is a violation of the employer's obligation to bargain in good faith; (2) the disclosure of an employee's home address and phone number(s) by an employer to the union is presumptively relevant to the union's role as bargaining agent and does not violate the employee's constitutional right of privacy; and (3) other avenues for implementing privacy safeguards are available, such as bargaining for a notice and opt-out procedure or drafting employment contracts that will notify employees that their home contact information is subject to disclosure to the union and that they may request nondisclosure.

The Superintendent or designee shall provide an exclusive representative with the name, job title, department, work location, telephone numbers (work, home, and personal cell phone), personal email address(es) of all employees represented by the exclusive representative on file with the district; and home address of any newly hired. An employee's personal email address shall only be disclosed if it used by the employee within 30 days of hire or by the first pay period of the month following hire to conduct district business.

CSBA NOTE: Pursuant to Government Code 3558, specified contact information is required to be provided for all employees every 120 days and within 30 days of the date of hire or by the first pay period of the month following the date of hire for new employees. The following paragraph should be revised if districts have an agreement with an exclusive representative requiring more frequent disclosure.

Such information shall be provided within 30 days of hire or by the first pay period of the month following hire for all new employees represented by the exclusive representative, unless the exclusive representative has agreed to a different interval for the provision of the information. In addition Additionally, the Superintendent or designee shall provide the exclusive representative with the same information in regard to for all employees in the bargaining unit at least represented by the exclusive representative every 120 days, unless more frequent or detailed lists are disclosure is required by agreement with the exclusive representative. (Government Code 3558, 7928.300)

However, the Superintendent or designee shall not disclose: (Government Code 3558, ~~6207~~6205-6210, 6215; ~~6215.2-6216~~, 7928.300)

1. The home address and any phone numbers on file for employees performing law enforcement-related functions

CSBA NOTE: The Safe at Home address confidentiality program has been in existence pursuant to Government Code ~~6207~~6205-6210 and 6215-6216 to protect victims of domestic violence, sexual assault, and stalking. This type of protection has been extended, pursuant to Government Code 6215, human trafficking, and 6215.2 elder or dependent adult abuse, and members of their households, as amended by SB 1131 (Ch. 554, Statutes of 2022); to well as district employees who face threats of violence, or violence or

harassment from the public because of the employee's work for the district. This type of protection has been extended, pursuant to Government Code 6205-6210, as amended by AB 243 (Ch. 642, Statutes of 2023), to victims of child abduction and members of their households.

2. The home address, home telephone or personal cell phone number(s), or personal email address(es) of any employee who is a participant in the Safe at Home address confidentiality program pursuant to Government Code ~~6207~~6205-6210 and 6215-16
3. The employee's home address, home telephone and personal cell phone numbers, and personal email address of an employee not performing law enforcement related functions if the employee has submitted a written request to the district to keep such information private. In such instances, the Superintendent or designee shall also remove the employee's home address, and home telephone number, and personal cell phone ~~numbers~~number from any mailing list maintained by the district unless the list is only used by the district to contact the employee.

CSBA NOTE: Pursuant to Government Code 3558, an employee organization is authorized, after notifying the district of a violation of the district's employee information disclosure obligations, to file a special unfair labor practice charge with PERB. If the alleged violation involves the provision of an inaccurate or incomplete list of employees, Government Code 3558 allows the district 20 calendar days to cure the alleged violation and to give the exclusive representative written notice of the actions taken. The opportunity to cure is limited to not more than three times in any 12-month period. If a violation is found, PERB is required to assess against the district a civil penalty of at most \$10,000 and payment of the exclusive representative's attorney's fees and costs in addition to any other remedy provided by law.

Within 20 calendar days after an exclusive representative notifies the Superintendent or designee that a list of employees provided by the district is inaccurate or incomplete, the Superintendent or designee shall take steps to correct the list and provide a new list of employees to the exclusive representative. (Government Code 3558)

CSBA NOTE: Government Code 3558 limits to three times within any 12-month period a district's opportunity to cure when an inaccurate or incomplete list has been provided to an exclusive representative. The following paragraph offers a way to avoid or minimize possible ~~violation~~violations and may be revised to reflect district practice.

~~To provide accurate information, the~~The Superintendent or designee shall review the list of contact information for district employees at the beginning of each school year, or more often as appropriate.

### Communications with Employees by Employee Organizations

CSBA NOTE: Pursuant to Government Code 3543.1, districts are required, subject to "reasonable regulation" set forth by the district and at "reasonable times," to provide an employee organization with access to the work areas of employees represented by the employee organization and district facilities for the purpose of meetings with employees represented by the employee organization. Similarly, Government Code 3543.1 requires the district, subject to "reasonable regulation" by the district, to provide an employee organization with the use of institutional bulletin boards, mailboxes, and other means of communication to communicate with employees represented by the employee organization. In Desert Community College District, PERB held that the district must show that a

regulation is "reasonable" if it is (1) necessary to the efficient operation of the district's business and/or safety of its employees and others and (2) narrowly drawn to avoid overboard, unnecessary interference with the exercise of statutory rights. Such regulation is also subject to bargaining with the exclusive representative, if applicable. Districts are encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel prior to adopting or implementing such regulations.

Subject to reasonable regulation by the district, employee organizations may shall have access at reasonable times to areas in which employees work and may use district facilities, at reasonable times for the purpose of meetings. Subject to reasonable regulation, to the work areas of employees represented by the employee organization and to district facilities for the purpose of meeting with employees represented by the employee organization. Access may be limited in instances where it would be disruptive to district operations. (Government Code 3543.1)

Additionally, subject to reasonable regulation by the district, employee organizations may also shall have the ability to use institutional bulletin boards, mailboxes, and other means of communication to communicate with employees: represented by the employee organization. (Government Code 3543.1)

Access to district means of communication shall be limited in cases where such access would be disruptive to district operations.

#### Membership Dues or Other Payments to an Employee Organization

CSBA NOTE: Bargaining unit employees ~~Employees~~ who choose to join the ~~become members of an~~ employee organization pay membership dues, which are required to be deducted from the employee's salary or wage payment as provided below. Pursuant to the U.S. Supreme Court's decision in *Janus v. American Federation of State, County, and Municipal Employees*, bargaining unit employees who choose not to join ~~become members of~~ an employee organization cannot be required to pay any fees to the employee organization. However, pursuant to Education Code 45060 and 45168, an employee who chooses not to join an employee organization may be charged fees for applicable services, programs, or committees provided to the employee by the employee organization if that nonmember employee first affirmatively and voluntarily consents to pay those fees to the employee organization, as required by *Janus v. AFSCME*.

Education Code 45060 and 45168 set forth the process for handling authorizations, changes, and cancellations for dues or other payments, and provide safeguards for districts that rely on information provided by an employee organization concerning such payroll deductions (i.e., the employee organization's indemnification of the district against any employee's claim based on such reliance).

When drawing an order for the salary or wage payment of a bargaining unit employee of an employee organization, the district shall deduct any amount ~~which that~~ has been requested by the employee in a revocable written authorization for the purpose of paying dues or other payments for any service, program, or committee provided or sponsored by the employee organization. (Education Code 45060, 45168)

An ~~When an~~ employee organization that certifies ~~has certified to the district~~ that it has and will maintain individual employee authorizations shall handle and process employee written authorizations for payroll deductions. ~~When an~~ employee organization provides such a certification

to the district, the district shall rely on information from the employee organization regarding the amounts of such payroll deductions and from ~~which~~the employees. ~~The~~ to whom they apply and shall not handle or process employee written authorizations for the employees represented by such employee organization shall ~~not~~ be required to submit to the ~~.~~ The district also shall not require a copy of the written authorization in order for the payroll deductions to be effective. ~~However, to be submitted by the employee organization, except~~ when there is a dispute about the existence or terms of the written authorization, a copy of the employee's written authorization shall be submitted to the district. The employee organization shall indemnify the district for any employee claims regarding payroll deductions made by the district in reliance on notification from the employee organization. (Education Code 45060, 45168)

~~When an employee organization which has declined to certify that it will handle and process employee written authorizations makes a request for payroll deductions, the district shall request a copy of the employee's written authorization before making the payroll deductions. .~~ (Education Code 45060, 45168)

A written authorization shall remain in effect until expressly revoked in writing by the employee and pursuant to the terms of the written authorization. Employee requests to cancel or change authorizations for payroll deductions for employee organizations shall be directed to the employee organization that represents the employee rather than the district. The employee organization shall be responsible for processing these requests. The district shall rely on the information provided by the employee organization regarding whether deductions for an employee organization were properly canceled or changed. The employee organization shall be required to indemnify the district for any claims made by an employee for deductions made by the district in reliance on information from the employee organization. (Education Code 45060, 45168) (Education Code 45060, 45168)

When an employee organization has declined to certify that it will handle and process written authorizations from employee(s) represented by the employee organization and makes a request for payroll deductions, the district shall request a copy of the written authorization for an employee before making the payroll deductions for that employee. (Education Code 45060, 45168)

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<b>State</b>	<b>Description</b>
8 CCR 33015-33490	Recognition of exclusive representative; proceedings
8 CCR 33700-33710	Severance of established unit
Ed. Code 45060-45061.5	Deduction of fees from salary or wage payment; certificated employees
Ed. Code 45100.5	Senior classified management positions
Ed. Code 45104.5	Abolishment of senior classified management positions

Ed. Code 45108.5	Definition of senior classified management employees
Ed. Code 45108.7	Waiver of provisions of <a href="#">Education Code</a> 45108.5
Ed. Code 45168	Deduction of fees from salary or wage payment; classified employees
Ed. Code 45220-45320	Merit system; classified employees
<a href="#">Gov. Code 3500-3511</a>	<a href="#">Local public employee organizations</a>
<a href="#">Gov. Code 3507.7</a>	<a href="#">Representation of temporary employees</a>
Gov. Code 3540-3549.3	Educational Employment Relations Act
Gov. Code 3540.1	Public employment; definitions
Gov. Code 3543.4	Management and confidential positions; representation
Gov. Code 3545	Appropriateness of unit; basis
Gov. Code 3550-3552	Prohibition on public employers deterring or discouraging union membership
Gov. Code 3555-3559	Public employee communication, information, and orientation
Gov. Code 53260-53264	Employment contracts
Gov. Code 6205-6210	<a href="#">Confidentiality of addresses for victims of domestic violence, sexual assault, or stalking, or child abduction</a>
Gov. Code 6215-6216	Address confidentiality for individuals who face threats or violence because of work for a public entity
Gov. Code 6503.5	Joint powers agencies; agreement
Gov. Code 7928.300	Disclosure of employee contact information to employee organization
<b>Management Resources</b>	<b>Description</b>
Court Decision	County of Los Angeles v. Los Angeles County Employee Relations Commission (2013) 56 Cal. 4th 905
Court Decision	Friedrichs v. California Teachers Association, et al. (2016) 136 S.Ct. 1083
Court Decision	Janus v. American Federation of State, County and Municipal Employees, Council 31 (2018) 138 S.Ct. 2448
Public Employment Relations Board Ruling	East Whittier School District (2004) PERB Dec. No. 1727
Public Employment Relations Board Ruling	City of Sacramento (2019) PERB Dec. No. <del>2702m</del> <a href="#">2702</a>
<a href="#">Public Employment Relations Board Ruling</a>	<a href="#">Desert Community College District (2007) PERB Dec. No. 1921</a>

Public Employment Relations Board Ruling

Website

Website

Website

Website

Website

Website

Website

Regents of the University of California (2004) PERB Dec. No. 1700-H.

CSBA District and County Office of Education Legal Services

California Federation of Teachers

California Public Employment Relations Board

California School Employees Association

California Teachers Association

Association of California School Administrators

CSBA

### **Cross References**

#### **Code**

0450

0450

0460

0460

1340

1340

1431

4113

4113

4115

4115

4119.1

4119.25

4119.25

4121

4121

4141

4143

4151

#### **Description**

Comprehensive Safety Plan

Comprehensive Safety Plan

Local Control And Accountability Plan

Local Control And Accountability Plan

Access To District Records

Access To District Records

Waivers

Assignment

Assignment

Evaluation/Supervision

Evaluation/Supervision

Civil And Legal Rights

Political Activities Of Employees

Political Activities Of Employees

Temporary/Substitute Personnel

Temporary/Substitute Personnel

Collective Bargaining Agreement

Negotiations/Consultation

Employee Compensation

4154	Health And Welfare Benefits
4154	Health And Welfare Benefits
<u>4158</u>	<u>Employee Security</u>
4161.2	Personal Leaves
4219.1	Civil And Legal Rights
4219.25	Political Activities Of Employees
4219.25	Political Activities Of Employees
4241	Collective Bargaining Agreement
4243	Negotiations/Consultation
4251	Employee Compensation
4254	Health And Welfare Benefits
4254	Health And Welfare Benefits
4261.2	Personal Leaves
4300	Administrative And Supervisory Personnel
4300	Administrative And Supervisory Personnel
4301	Administrative Staff Organization
4312.1	Contracts
4315	Evaluation/Supervision
4319.1	Civil And Legal Rights
4319.25	Political Activities Of Employees
4319.25	Political Activities Of Employees
4351	Employee Compensation
4354	Health And Welfare Benefits
4354	Health And Welfare Benefits
4361.2	Personal Leaves
9000	Role Of The Board
9321	Closed Session
9321-E(1)	Closed Session
9321-E(2)	Closed Session

**Policy 4157: Employee Safety**

**Status:** ADOPTED

**Original Adopted Date:** 06/01/1991 | **Last Revised Date:** ~~10/03/01/2020~~ 2024 | **Last Reviewed Date:** ~~10/03/01/2020~~ 2024

CSBA NOTE: The following optional policy and accompanying administrative regulation may be subject to collective bargaining agreements and should be modified to reflect district practice. Pursuant to Government Code 3543.2, safety conditions of employment are within the scope of bargaining.

The Governing Board is committed to maximizing employee safety and believes that workplace safety is the responsibility of every employee. -Working conditions and equipment shall comply with standards prescribed by federal, state, and local laws and regulations.

No employee shall be required or permitted to be in any place of employment which is unsafe or unhealthful. (Labor Code 6402)

The Superintendent or designee shall promote safety and correct any unsafe work practices through education and enforcement.

All employees are expected to use safe work practices and, to the extent possible, correct any unsafe conditions which **that** may occur. If an employee is unable to correct an unsafe condition, the employee shall immediately report the problem to the Superintendent or designee.

CSBA NOTE: Labor Code 6401.7, as amended by SB 553 (Ch. 289, Statutes of 2023), requires the district to establish, implement, and maintain an effective **district's** injury prevention program. ~~See the accompanying administrative regulation for required program elements.~~ to include a workplace violence prevention plan.

Additionally, 8 CCR 3203, as amended by Register 2020, No. 10, requires the district to provide employees with access to the district's injury and illness prevention program.

See the accompanying administrative regulation for required injury prevention program elements and specific requirements related to employee access.

The Superintendent or designee shall establish and implement a written injury and illness prevention program, that includes a workplace violence prevention plan and ~~provide~~ that provides employees with access to such program, in accordance with law. (Labor Code 6401.7; 8 CCR 3203)

CSBA NOTE: 8 CCR 3400 requires districts to make provisions in advance to ensure that employees receive prompt medical treatment for serious injury or illness. -See the accompanying administrative regulation for specific requirements.

The Superintendent or designee shall make first aid materials readily available at district workplaces and shall make effective provisions to prepare for prompt medical treatment in the event of an employee's serious injury or illness. (8 CCR 3400)



No employee shall be discharged or discriminated against for exercising any right regarding employee safety or health specified in Labor Code 6310, including:

1. Making a report or complaint
2. Instituting proceedings or causing proceedings to be instituted
3. Testifying with regard to employee safety or health
4. Participating in any occupational health and safety committee established pursuant to Labor Code 6401.7
5. Requesting access to injury or illness reports and records
6. Exercising any other right protected by the Occupational Safety and Health Act

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<b>State</b>	<b>Description</b>
17 CCR 2508	Reporting of communicable diseases
8 CCR 14000-14316	Occupational injury or illness reports and records
8 CCR 3203	Injury and illness prevention program
8 CCR 3204	Access to employee exposure and medical records
8 CCR 3400	Medical services and first aid
8 CCR 5095-5100	Control of noise exposure
8 CCR 5193	Bloodborne pathogens
Ed. Code 32030-32034	Eye safety
Ed. Code 32225-32226	Communications devices in classrooms
Ed. Code 32280-32289.5	School safety plans
Ed. Code 44984	Required rules for industrial accident and illness leave
Gov. Code 3543.2	Scope of representation
Lab. Code 132a	Workers' compensation; nondiscrimination
<u>Lab. Code 1139</u>	<u>Worker's rights in emergencies</u>

Lab. Code 3300	Definition of employer
Lab. Code 6305	Occupational safety and health standards; special order
Lab. Code 6310	Retaliation for filing complaint prohibited
<u>Lab. Code 6325</u>	<u>Prohibition of entry into place of employment</u>
Lab. Code 6400-6413.5	Responsibilities and duties of employers and employees
Lab. Code 6401.7	Injury and illness prevention program
<u>Lab. Code 6401.9</u>	<u>Workplace violence prevention plans</u>

**Federal**

17 CFR 2508

29 CFR 1910.1030

29 CFR 1910.95

29 CFR 651-678

8 CFR 14000-14316

**Management Resources**

CA Department of Industrial Relations  
Publication

Website

Website

Website

Website

Website

Website

Website

**Cross References**

**Code**

0450

0450

~~0470~~

3514

3514

**Description**

Reporting of communicable diseases

Bloodborne pathogens

Noise standards

Occupational safety and health

Occupational injury or illness reports and records

**Description**

Guide to Developing Your Workplace Injury and Illness  
Prevention Program, rev. August ~~2011~~2005

CSBA District and County Office of Education Legal Services

National Institute for Occupational Safety and Health

U.S. Department of Labor, Occupational Safety and Health  
Administration

California Department of Industrial Relations, Occupational  
Safety and Health

National Hearing Conservation Association

Centers for Disease Control and Prevention

CSBA

**Description**

Comprehensive Safety Plan

Comprehensive Safety Plan

~~COVID-19 Mitigation Plan~~

Environmental Safety

Environmental Safety

3514.1	Hazardous Substances
3514.1	Hazardous Substances
3516	Emergencies And Disaster Preparedness Plan
3516	Emergencies And Disaster Preparedness Plan
3516.5	Emergency Schedules
3530	Risk Management/Insurance
3530	Risk Management/Insurance
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4113.5	Working Remotely
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.41	Employees With Infectious Disease
4119.42	Exposure Control Plan For Bloodborne Pathogens
4119.42	Exposure Control Plan For Bloodborne Pathogens
4119.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4119.43	Universal Precautions
4119.43	Universal Precautions
4131	Staff Development
4156.2	Awards And Recognition
4157.1	Work-Related Injuries
4157.2	Ergonomics
4158	Employee Security
4158	Employee Security
4161.11	Industrial Accident/Illness Leave
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4213.5	Working Remotely
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.41	Employees With Infectious Disease

4219.42	Exposure Control Plan For Bloodborne Pathogens
4219.42	Exposure Control Plan For Bloodborne Pathogens
4219.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4219.43	Universal Precautions
4219.43	Universal Precautions
4231	Staff Development
4256.2	Awards And Recognition
4257.1	Work-Related Injuries
4257.2	Ergonomics
4258	Employee Security
4258	Employee Security
4261.11	Industrial Accident/Illness Leave
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4313.5	Working Remotely
4319.41	Employees With Infectious Disease
4319.42	Exposure Control Plan For Bloodborne Pathogens
4319.42	Exposure Control Plan For Bloodborne Pathogens
4319.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4319.43	Universal Precautions
4319.43	Universal Precautions
4331	Staff Development
4356.2	Awards And Recognition
4357.1	Work-Related Injuries
4357.2	Ergonomics
4358	Employee Security
4358	Employee Security
4361.11	Industrial Accident/Illness Leave
5141.22	Infectious Diseases
5141.22	Infectious Diseases
5141.6	School Health Services

5141.6

School Health Services

6142.93

Science Instruction

**Regulation 4157: Employee Safety**

Status: ADOPTED

Original Adopted Date: 06/01/1991 | Last Revised Date: ~~10/3/01/2020~~ 2024 | Last Reviewed Date: ~~10/3/01/2020~~ 2024

The Superintendent or designee shall provide safety devices and implement safeguards, methods, and processes that are reasonably necessary for the safety and health of employees in the workplace. (Labor Code 6401)

CSBA NOTE: Pursuant to Labor Code 6325, the Department of Industrial Relations Division of Occupational Safety and Health (Cal/OSHA) may prohibit entry into a place of employment when, in its opinion, the place of employment exposes employees to an imminent hazard. In such cases, Cal/OSHA will provide a notice that must be posted in a conspicuous place at the place of employment.

If the Department of Industrial Relations Division of Occupational Safety and Health (Cal/OSHA) prohibits entry into any district workplace or performance of a district operation or process based on a determination that the workplace exposes employees to the risk of an imminent hazard, including a machine, device, apparatus, or equipment that is in a dangerous condition or is dangerously placed, the Superintendent or designee shall post a notice of the hazard provided by Cal/OSHA in a conspicuous place at the work site. This notice shall not be removed except by an authorized representative of Cal/OSHA and only when the workplace, operation, or process is made safe, and the required safeguards, safety appliances, or devices are provided. (Labor Code 6325)

**Injury and Illness Prevention Program**

CSBA NOTE: The following section reflects the requirements of Labor Code 6401.7, as amended by SB 553 (Ch. 289, Statutes of 2023), and 8 CCR 3203 for a written injury and illness prevention program. -When developing such a program, districts are encouraged to review the Department of Industrial Relations' Cal/OSHA's, "Guide to Developing Your Workplace Injury and Illness Prevention Program-:"

The district's injury and illness prevention program shall cover all district employees and all other workers whom the district controls or directs and directly supervises on the job to the extent that the workers are exposed to hazards specific to their worksite and job assignment. The obligation of contractors or other employers who control or direct and supervise their own employees on the job shall not be affected by the district's injury and illness prevention program. (Labor Code 6401.7)

The district's injury and illness prevention program shall include: (Labor Code 6401.7; 8 CCR 3203)

1. The name/position of the person(s) with authority and responsibility for implementing the program:
2. A system for ensuring that employees comply with safe and healthful work practices, which may include, but are not be limited to:

- a. Recognition of employees who follow safe and healthful work practices
- b. Training and retraining programs
- c. Disciplinary actions

CSBA NOTE: Pursuant to 8 CCR 3203, districts with fewer than 10 employees may fulfill the communication requirements of ~~item~~ ~~item~~ #3 below by providing oral instruction in general safe work practices and the hazards unique to the employees' assignments.

- 3. A system for communicating with employees, in a form readily understandable by all employees on matters related to occupational health and safety, including provisions designed to encourage employees to report hazards at the worksite without fear of reprisal. The communications system may include, but is ~~is not~~ be limited to:
  - a. Meetings
  - b. Training programs
  - c. Posting
  - d. Written communications
  - e. A system of anonymous notification by employees about hazards

CSBA NOTE: Districts may use a labor/management safety and health committee to communicate the contents of the injury and illness prevention program, as long as the committee satisfies the requirements specified below in the section on "Labor/Management Safety and Health Committee."

- f. A labor/management safety and health committee
- 4. Procedures for identifying and evaluating workplace hazards, including scheduled periodic inspections to identify unsafe conditions and work practices. Such inspections shall be made:
  - a. Whenever new substances, processes, procedures, or equipment that represents a new occupational safety or health hazard is introduced into the workplace
  - b. Whenever the district is made aware of a new or previously unrecognized hazard
- 5. A procedure for investigating occupational injury or illness.
- 6. Methods and/or procedures for correcting unsafe or unhealthful conditions, work practices, and work procedures in a timely manner, based on the severity of the hazard, when the hazard is observed or discovered.

When an imminent hazard exists ~~which that~~ cannot be immediately abated without endangering employee(s) and/or property, these procedures shall call for the removal of all exposed staff from the area except those necessary to correct the hazardous condition.

Employees needed to correct the condition shall be provided with the necessary safeguards.

7. Provision of training and instruction as follows:

- a. To all new employees
- b. To all employees given new job assignments for which training has not previously been received
- c. Whenever new substances, processes, procedures, or equipment is are introduced into the workplace and ~~represents~~represent a new hazard
- d. Whenever the district is made aware of a new or previously unrecognized hazard
- e. To supervisors, to familiarize them with the safety and health hazards to which employees under their immediate direction and control may be exposed

**CSBA NOTE: Pursuant to Labor Code 6401.7, as amended by SB 553, districts are required to establish, implement, and maintain a workplace violence prevention plan as specified in Labor Code 6401.9, as added by AB 553.**

**8. A written workplace violence prevention plan developed and implemented in accordance with Labor Code 6401.9 (Labor Code 6401.7)**

The plan, which shall be easily accessible to all employees at all times, shall be in effect at all times and in all work areas, and be specific to the hazards and corrective measures for each work area and operation. (Labor Code 6401.9)

The Superintendent or designee shall provide training to all employees when the plan is first established and annually thereafter in accordance with Labor Code 6401.9. Training materials shall be appropriate in content and vocabulary to employees' educational level, literacy, and language. (Labor Code 6401.9)

**CSBA NOTE: Pursuant to 8 CCR 3203, ~~as amended by Register 2020, No. 10~~, employees or their designated representatives have the right to examine and receive a copy of the district's injury and illness prevention program, and districts are required to provide access as described below. 8 CCR 3203 defines "designated representative" as any individual or organization to whom an employee gives written authorization to exercise a right of access. A recognized or certified collective bargaining agent is, by definition, treated automatically as a designated representative.**

Districts are not required to include records of steps taken to implement and maintain the injury and illness prevention program. However, access to such information, or any other information in addition to that required by 8 CCR 3203, may be subject to collective bargaining.

The Superintendent or designee shall provide employees, or their representative designated pursuant to 8 CCR 3203, with either of the following: (8 CCR 3203)

1. Access to the district's injury and illness prevention program in a reasonable time, place, and manner, but in no event later than five business days after the request for access is received from an employee or a designated representative of the employee.



When an employee or designated representative requests a copy of the district's injury and illness prevention program, the Superintendent or designee shall provide the requester a printed copy unless the employee or designated representative agrees to receive an electronic copy.

The Superintendent or designee shall provide one printed copy free of charge. If the employee or designated representative requests additional copies within one year of the previous request and the district's injury and illness prevention program has not been updated with new information since the prior copy was provided, the district may charge reasonable reproduction costs pursuant to 8 CCR 3204 for the additional copies.

CSBA NOTE: Pursuant to 8 CCR 3203, an employee has unobstructed access if, as part of the employee's regular work duties, the employee predictably and routinely uses the electronic means to communicate with management or coworkers.

2. Unobstructed access to the district's injury and illness prevention program through the district's server or web site, which website that allows an employee to review, print, and email the current version of the district's injury and illness prevention program.

The Superintendent or designee shall communicate the right and procedure to access the district's injury and illness prevention program to all employees. (8 CCR 3203)

#### **Labor/Management Safety and Health Committee**

CSBA NOTE: The following optional section is for use by districts that choose to use a labor/management safety and health committee to comply with the requirements of 8 CCR 3203 regarding communication with employees as specified in ~~item~~ Item #3 above in the section title "Injury and Illness Prevention Program."- Pursuant to 8 CCR 3203, if the committee adheres to the following practices, the district shall be deemed to be in substantial compliance with the communications requirements of the law.

The district's labor/management safety and health committee shall: (8 CCR 3203)

1. Meet regularly, but not less than quarterly.
2. Prepare and make available to affected employees written records of the safety and health issues discussed at committee meetings and maintained for review by the California Department of Industrial Relations' Division of Occupational Safety and Health (Cal/OSHA) upon request.- These records shall be maintained for at least one year.
3. Review results of the periodic, scheduled worksite inspections.
4. Review investigations of occupational accidents and causes of incidents resulting in occupational injury or illness or exposure to hazardous substances. -As appropriate, the committee may submit suggestions to the Superintendent or designee regarding the prevention of future incidents.
5. Review investigations of alleged hazardous conditions brought to the attention of any committee member. When determined necessary by the committee, it may conduct its own inspection and investigation to assist in remedial solutions.

6. Submit recommendations to assist in the evaluation of employee safety suggestions.
7. Upon request of Cal/OSHA, verify abatement action taken by the district to abate citations issued by Cal/OSHA.

### Hearing Protection

Whenever employee noise exposure equals or exceeds the standards specified ~~in~~<sup>by</sup> law, the Superintendent or designee shall implement a hearing conservation program in accordance with state and federal regulations, including, when required, monitoring of sound levels, audiogram evaluation and audiometric testing of affected employees, the provision of hearing protectors, and employee training. (8 CCR 5095-5100; 29 CFR 1910.95)

### Eye Safety Devices

~~Eye~~ Employees shall wear eye safety devices ~~shall be worn by employees~~ whenever they are engaged in or observing an activity involving hazards or hazardous substances likely to cause eye injury to the eyes. (Education Code 32030-32034)

### First Aid and Medical Services

The Superintendent or designee shall ensure the ready availability of medical personnel for advice and consultation on matters of industrial health or injury. ~~Whenever a district facility or district grounds are not in close proximity to an infirmary, clinic, or hospital where all injured employees may be treated, the Superintendent or designee shall ensure that at least one employee is adequately trained to provide first aid.~~ (8 CCR 3400)

CSBA NOTE: Pursuant to 8 CCR 3400, if ambulance service is not available within 30 minutes under normal conditions, the district may be required by ~~the California Department of Industrial Relations' Division of Occupational Safety and Health~~ Cal/OSHA to provide stretchers, blankets, or other adequate warm covering.

The Superintendent or designee shall make adequate first aid materials readily available for employees at every worksite. Such materials shall be approved by a consulting physician and shall be kept in a sanitary and usable condition. ~~The Superintendent or designee shall frequently inspect all first aid materials and replenish them as necessary.~~ (8 CCR 3400)

The Superintendent or designee shall ensure that suitable facilities for quick drenching or flushing of the eyes and body are provided within the work area for immediate emergency use when the eyes or body or any person may be exposed to injurious corrosive materials. (8 CCR 3400)

CSBA NOTE: 8 CCR 3400 requires districts to make provisions in advance, using one or a combination of the provisions specified in ~~items~~<sup>Items</sup> #1-3 below, to ensure that employees receive prompt medical treatment for serious injury or illness. ~~Districts should select the provision(s) that reflect district practice.~~

To avoid unnecessary delay in medical treatment in the event of an employee's serious injury or illness, the Superintendent or designee shall use one or more of the following: (8 CCR 3400)

1. A communication system for contacting a physician or emergency medical service, such as access to 911 or equivalent telephone system. -The communication system or the employees using the system shall have the ability to direct emergency services to the location of the injured or ill employee.
2. Readily accessible and available on-site treatment facilities suitable for treatment of reasonably anticipated injury and illness.
3. Proper equipment for prompt medical transport when transportation of injured or ill employees is necessary and appropriate.

### Protection from Communicable Diseases and Infections

CSBA NOTE: The following section contains general information in regard to bloodborne pathogens and infectious diseases as it relates to employee safety. For more information regarding bloodborne pathogens, see BP/AR 4119.42/4219.42/4319.42 - Exposure Control Plan for Bloodborne Pathogens and BP/AR 4119.43/4219.43/4319.43 - Universal Precautions. For more information regarding infectious diseases, see BP 4119.41/4219.41/4319.41 - Employees with Infectious Disease.

The Superintendent or designee shall develop an exposure control plan for bloodborne pathogens that is consistent with the district's injury and illness prevention program. -The plan shall include a determination of which job classifications have occupational exposure to blood or other potentially infectious materials; precautions to be implemented, including universal precautions, engineering and work practice controls, and personal protective equipment; availability of the hepatitis B vaccination; provision of information and training to employees; and follow-up actions to be taken if exposure occurs. -The district shall ensure that a copy of the exposure control plan is accessible to employees in accordance with law. (8 CCR 5193; 29 CFR 1910.1030)

Strategies to prevent and mitigate the outbreak or spread of infectious diseases shall be followed for diseases that are communicated through airborne transmission, skin-to-skin contact, foodborne transmission, or other casual or noncasual means. Such strategies shall include, but are not limited to, communication and training about the disease(s); campus closures and alternative means of instruction when necessary; preventative measures, such as social distancing, personal protective equipment, temperature checks, and/or any other health screening allowed by law; and cleaning and sanitization of district facilities and equipment.

The Superintendent ~~of~~ designee shall immediately report to the local health officer the presence or suspected presence of any communicable disease. (17 CCR 2508)

### COVID-19 Exposure

CSBA NOTE: Pursuant to Labor Code 6409.6, as added by AB 685 (Ch. 84, Statutes of 2020), the district is required to take the following actions whenever it receives notice of potential exposure to COVID-19. If the district receives notice of potential exposure to COVID-19, the Superintendent or designee shall, within one business day of the notice, take all of the following actions: (Labor Code 6409.6)

1. ~~Provide a written notice to all employees, and the employers of subcontracted employees, who were on the premises at the same worksite as the qualifying individual within the infectious period that they may have been exposed to COVID-19. The notice shall be provided in a manner normally used to communicate employment-related information, which may include, but is not limited to, personal service, email, or text message if it can reasonably be anticipated to be received by the employee within one business day of sending.~~
2. ~~Provide a written notice to the exclusive representative, if any, of employees who were on the premises within the infectious period~~
3. ~~Provide all employees who may have been exposed and the exclusive representative, if any, with information regarding:
 
  - a. ~~COVID-19-related benefits to which the employee may be entitled under applicable federal, state, or local laws, including, but not limited to, workers' compensation~~
  - b. ~~Available leave options for exposed employees~~
  - c. ~~Antiretaliation and antidiscrimination protections of the employee~~~~
4. ~~Notify all employees, and the employers of subcontracted employees and the exclusive representative, if any, of the disinfection and safety plan that the district plans to complete in accordance with Centers for Disease Control and Prevention guidelines~~

The above notifications shall be maintained for a period of at least three years. (Labor Code 6409.6)

CSBA NOTE: Labor Code 6409.6, as amended by AB 685, requires the district to provide specified information to the local health agency when a COVID-19 outbreak occurs, as provided below. This notice must contain the same information as would be required in an incident report to the California Department of Industrial Relations' Division of Occupational Safety and Health (Cal/OSHA) Form 300 injury and illness log unless inapplicable or unknown. If the district is notified of the number of cases that meet the definition of a COVID-19 outbreak, as defined by the California Department of Public Health, within 48 hours, the Superintendent or designee shall, within 48 hours of the notice, notify the local public health agency of the names, number, occupation, and worksite of employees who meet the definition of a qualifying individual. The Superintendent or designee shall continue to give notice to the local health department of any subsequent laboratory-confirmed cases of COVID-19 at the worksite. (Labor Code 6409.6)

CSBA NOTE: Pursuant to Labor Code 6325, as amended by AB 685, until January 1, 2023, Cal/OSHA may prohibit entry into a place of employment when, in its opinion, the place of employment exposes employees to the risk of COVID-19 infection and constitutes an imminent hazard to employees. In such cases, Cal/OSHA will provide a notice that must be posted in a conspicuous place at the place of employment.

In the event that Cal/OSHA prohibits entry into any district workplace or performance of a district operation or process based on a determination that the workplace exposes employees to the risk of COVID-19 infection and constitutes an imminent hazard to employees, the district shall post a notice thereof provided by Cal/OSHA in a conspicuous place at the work site. This notice shall not be removed except by an authorized representative of Cal/OSHA and only when the place of employment, operation, or process is made safe and the required safeguards or safety appliances or devices are provided.

**Policy Reference UPDATE Service**

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<b>State</b>	<b>Description</b>
17 CCR 2508	Reporting of communicable diseases
8 CCR 14000-14316	Occupational injury or illness reports and records
8 CCR 3203	Injury and illness prevention program
8 CCR 3204	Access to employee exposure and medical records
8 CCR 3400	Medical services and first aid
8 CCR 5095-5100	Control of noise exposure
8 CCR 5193	Bloodborne pathogens
Ed. Code 32030-32034	Eye safety
Ed. Code 32225-32226	Communications devices in classrooms
Ed. Code 32280-32289.5	School safety plans
Ed. Code 44984	Required rules for industrial accident and illness leave
Gov. Code 3543.2	Scope of representation
Lab. Code 132a	Workers' compensation; nondiscrimination
<u>Lab. Code 1139</u>	<u>Worker's rights in emergencies</u>
Lab. Code 3300	Definition of employer
Lab. Code 6305	Occupational safety and health standards; special order
Lab. Code 6310	Retaliation for filing complaint prohibited
<u>Lab. Code 6325</u>	<u>Prohibition of entry into place of employment</u>
Lab. Code 6400-6413.5	Responsibilities and duties of employers and employees
Lab. Code 6401.7	Injury and illness prevention program

Lab. Code 6401.9

**Federal**

17 CFR 2508

29 CFR 1910.1030

29 CFR 1910.95

29 CFR 651-678

8 CFR 14000-14316

**Management Resources**

CA Department of Industrial Relations  
Publication

Website

Website

Website

Website

Website

Website

Website

**Cross References**

**Code**

0450

0450

0470

3514

3514

3514.1

3514.1

3516

3516

3516.5

3530

Workplace violence prevention plans

**Description**

Reporting of communicable diseases

Bloodborne pathogens

Noise standards

Occupational safety and health

Occupational injury or illness reports and records

**Description**

Guide to Developing Your Workplace Injury and Illness  
Prevention Program, rev. August ~~2011~~2005

CSBA District and County Office of Education Legal Services

National Institute for Occupational Safety and Health

U.S. Department of Labor, Occupational Safety and Health  
Administration

California Department of Industrial Relations, Occupational  
Safety and Health

National Hearing Conservation Association

Centers for Disease Control and Prevention

CSBA

**Description**

Comprehensive Safety Plan

Comprehensive Safety Plan

~~COVID-19 Mitigation Plan~~

Environmental Safety

Environmental Safety

Hazardous Substances

Hazardous Substances

Emergencies And Disaster Preparedness Plan

Emergencies And Disaster Preparedness Plan

Emergency Schedules

Risk Management/Insurance

3530	Risk Management/Insurance
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4113.5	Working Remotely
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.41	Employees With Infectious Disease
4119.42	Exposure Control Plan For Bloodborne Pathogens
4119.42	Exposure Control Plan For Bloodborne Pathogens
4119.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4119.43	Universal Precautions
4119.43	Universal Precautions
4131	Staff Development
4156.2	Awards And Recognition
4157.1	Work-Related Injuries
4157.2	Ergonomics
4158	Employee Security
4158	Employee Security
4161.11	Industrial Accident/Illness Leave
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4213.5	Working Remotely
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4219.41	Employees With Infectious Disease
4219.42	Exposure Control Plan For Bloodborne Pathogens
4219.42	Exposure Control Plan For Bloodborne Pathogens
4219.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4219.43	Universal Precautions
4219.43	Universal Precautions
4231	Staff Development

4256.2	Awards And Recognition
4257.1	Work-Related Injuries
4257.2	Ergonomics
4258	Employee Security
4258	Employee Security
4261.11	Industrial Accident/Illness Leave
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4313.5	Working Remotely
4319.41	Employees With Infectious Disease
4319.42	Exposure Control Plan For Bloodborne Pathogens
4319.42	Exposure Control Plan For Bloodborne Pathogens
4319.42-E(1)	Exposure Control Plan For Bloodborne Pathogens
4319.43	Universal Precautions
4319.43	Universal Precautions
4331	Staff Development
4356.2	Awards And Recognition
4357.1	Work-Related Injuries
4357.2	Ergonomics
4358	Employee Security
4358	Employee Security
4361.11	Industrial Accident/Illness Leave
5141.22	Infectious Diseases
5141.22	Infectious Diseases
5141.6	School Health Services
5141.6	School Health Services
6142.93	Science Instruction



**Regulation 4157.1: Work-Related Injuries**

**Status:** ADOPTED

**Original Adopted Date:** 10/01/1995 | **Last Revised Date:** ~~10/03/01/2020~~ 2024 | **Last Reviewed Date:** ~~10/03/01/2020~~ 2024

In order to provide medical benefits, temporary or permanent disability benefits, wage replacement, retraining or skill enhancement, and/or death benefits in the event that an employee becomes injured or ill in the course of employment, the district shall provide all employees with insurance and workers' compensation benefits in accordance with law. The Superintendent or designee shall develop an efficient claims handling process that reduces costs and facilitates employee recovery.

The Superintendent or designee shall notify every new employee, at the time of hire or by the end of the first pay period, of the employee's right to receive workers' compensation benefits if injured at work. (Labor Code 3551; 8 CCR 15596)

In addition, a notice regarding workers' compensation benefits shall be posted in a conspicuous location frequented by employees, where the notice may be easily read during the workday. (Labor Code 3550)

In the event that an employee is injured or becomes ill in the course of employment, the employee shall report the work-related injury or illness to the Superintendent or designee as soon as practicable. The employee and appropriate district staff shall also promptly document the date and time of any incident, a description of the incident, and any persons present.

Within one working day of receiving notice or knowledge of any injury to an employee in the course of employment, the Superintendent or designee shall provide a claim form and notice of potential eligibility for workers' compensation benefits to the employee or, in the case of the employee's death, to the employee's dependents. The claim form and notice shall be provided personally or by first class mail. (Labor Code 5401)

**CSBA NOTE: Pursuant to Labor Code 3550, 3551, and 5401, all employee notices described above (i.e., the notice that must be posted in a conspicuous place, the notice provided to all employees at the time of hire, and the notice and claim form provided when an employee is injured) must be in a form prescribed by the California Department of Industrial Relations (DIR) Division of Workers' Compensation (DWC). These notices are available on the DWC's website or through the district's insurer. For districts that employ Spanish-speaking employees, the information must be made available in English and Spanish.**

**The Superintendent or designee shall ensure that all employee notices described above are in the form prescribed by the Department of Industrial Relations (DIR), Division of Workers Compensation.**

The Superintendent or designee shall additionally ensure that any employee who is a victim of a crime that occurred at the place of employment is given written notice personally or by first class mail within one working day of the crime, or when the district reasonably should have known of the crime, that the employee is eligible for workers' compensation benefits for injuries, including psychiatric injuries, that may have resulted from the crime. (Labor Code 3553)

CSBA NOTE: Pursuant to Labor Code 3550, 3551, and 5401, all employee notices described above (i.e., the notice that must be posted in a conspicuous place, the notice provided to all employees at the time of hire, and the notice and claim form provided when an employee is injured) must be in a form prescribed by the California Department of Industrial Relations (DIR) Division of Workers' Compensation (DWC). These notices are available on the DWC's web site or through the district's insurer. For districts that employ Spanish-speaking employees, the information must be made available in English and Spanish. CSBA NOTE: Pursuant to Labor Code 6409.1, the district must file a report concerning any injury or illness which has, or is alleged to have, arisen out of and in the course of employment. The report is required to be filed with DIR, or if the district is insured through a third party insurer, with the insurer. The following paragraph may be revised to reflect district practice.

The Superintendent or designee shall ensure that all employee notices described above are in the form prescribed by the Department of Industrial Relations (DIR), Division of Workers Compensation.

CSBA NOTE: Pursuant to Labor Code 6409.1, the district must file a report concerning any injury or illness which has, or is alleged to have, arisen out of and in the course of employment. The report is required to be filed with DIR or, if the district is insured through a third party insurer, with the insurer. The following paragraph may be revised to reflect district practice:

Upon learning of a work-related injury or illness, or injury or illness alleged to have arisen out of and in the course of employment, the Superintendent or designee shall report the incident to the district's insurance carrier or DIR, as applicable, within five days after obtaining knowledge of the injury or illness. If a subsequent death arises as a result of the reported injury or illness, an amended report indicating the death shall be filed within five days after being notified of or learning about the death. (Labor Code 6409.1)

CSBA NOTE: Pursuant to Labor Code 6409.1, ~~as amended by AB 1804 (Ch. 199, Statutes of 2019)~~, in addition to the report described above, a report of death or serious injury or illness is required to be immediately reported to the Division of Occupational Safety and Health (Cal/OSHA) by telephone or through an online mechanism established by Cal/OSHA. Labor Code 6409.1 permits districts to make the report by telephone or email until Cal/OSHA has an online mechanism available.

Labor Code 6302, ~~as amended by AB 1805 (Ch. 200, Statutes of 2019)~~, redefines "serious injury or illness" as provided below.

In addition, in every case involving death or serious injury or illness, the Superintendent or designee shall immediately make a report to the Division of Occupational Safety and Health (Cal/OSHA) by telephone or through an online mechanism made available by Cal/OSHA. (Labor Code 6409.1)

For the purpose of this report, serious injury or illness means any injury or illness occurring in a place of employment or in connection with any employment that requires inpatient hospitalization for other than medical observation or diagnostic testing, or in which an employee suffers an amputation, the loss of an eye, or any serious degree of permanent disfigurement. (Labor Code 6302)

### Claims Related to COVID-19

CSBA NOTE: Until January 1, 2023, Labor Code 3212.86 and 3212.88, as added by SB 1159 (Ch. 85, Statutes of 2020), define "injury" for purposes of workers' compensation as including COVID-19 related illness or death when a positive COVID-19 diagnosis was made within 14 days after the employee performed labor or services at the district's place of employment. Labor Code 3212.86

applies when the diagnosis was made between March 19, 2020 and July 5, 2020, and confirmed by a COVID-19 test within 30 days of the diagnosis. Labor Code 3212.88 applies when the diagnosis was made after July 6, 2020, and the positive test occurred during a period of an outbreak, as defined, at the employee's specific place of employment. Pursuant to Labor Code 3212.86 and 3212.88, a positive diagnosis as specified above creates a presumption that the injury arose out of and in the course of employment. Unless disputed by the district within 30 or 45 days, as applicable, the Workers' Compensation Appeals Board is bound to find, in accordance with the presumption, that COVID-19 was contracted within the course and scope of employment.

Because of the large number of workers' compensation claims that districts may receive due to COVID-19 infection, districts are encouraged to consult legal counsel as appropriate to determine its impact on the district, including about the use of paid sick leave and eligibility for temporary disability benefits.

Until January 1, 2023, an employee is presumed to be entitled to workers' compensation benefits for illness or death resulting from COVID-19 if the diagnosis was made within 14 days after the employee performed labor or services at the place of employment and if the employee contracted COVID-19 during an outbreak at the employee's specific place of employment. (Labor Code 3212.86, 3212.88)

For this purpose, an outbreak means that, within 14 calendar days, one of the following occurs at a specific place of employment: (Labor Code 3212.88)

1. If a specific place of employment has 100 employees or fewer, four employees test positive for COVID-19.
2. If a specific place of employment has more than 100 employees, four percent of the number of employees who reported to the specific place of employment test positive for COVID-19.
3. A specific place of employment is ordered to close by a local public health department, the California Department of Public Health, Cal/OSHA, or the Superintendent due to a risk of infection with COVID-19.

The Superintendent or designee may rebut a presumption that COVID-19 was contracted during the course and scope of employment by offering evidence to the Workers' Compensation Appeals Board, such as the measures that were in place at the employee's specific place of employment to reduce potential transmission of COVID-19 and evidence of an employee's nonoccupational risk of contracting COVID-19. (Labor Code 3212.86, 3212.88)

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#### State

8 CCR 15596

Ed. Code 44984

Ed. Code 45192

#### Description

Notice of employee rights to workers' compensation benefits

Required rules for industrial accident and illness leave

Industrial accident and illness leave for classified employees

371

Lab. Code 3200-4856	Workers' compensation
<del>Lab. Code 3212.86</del>	<del>COVID-19: critical workers pre July 5, 2020</del>
<del>Lab. Code 3212.88</del>	<del>COVID-19: critical workers post July 5, 2020</del>
Lab. Code 3550-3553	Notifications <u>re:regarding</u> workers' compensation benefits
Lab. Code 3600-3605	Conditions of liability
Lab. Code 3760	Report of injury to insurer
Lab. Code 4600	Provision of medical and hospital treatment by employer
Lab. Code 4906	Disclosures and statements
Lab. Code 5400-5413	Notice of injury or death
Lab. Code 6302	Definition of serious injury or illness
Lab. Code 6409.1	Reports
<b>Management Resources</b>	<b>Description</b>
CA Department of Industrial Relations Publication	Workers' Compensation Claim Form (DWC 1) & Notice of Potential Eligibility
CA Department of Industrial Relations Publication	Workers' Compensation in California: A Guidebook for Injured Workers, 2016
CA Department of Industrial Relations Publication	Notice to Employees - Injuries Caused by Work
CA Department of Industrial Relations Publication	Time of Hire Pamphlet
Website	CSBA District and County Office of Education Legal Services
Website	California Department of Industrial Relations, Division of Workers Compensation
Website	California Department of Industrial Relations, Occupational Safety and Health
Website	California Department of Public Health
Website	CSBA

**Cross References**

<b>Code</b>	<b>Description</b>
1240	Volunteer Assistance
1240	Volunteer Assistance
3320	Claims And Actions Against The District
3320	Claims And Actions Against The District
3530	Risk Management/Insurance
3530	Risk Management/Insurance
4032	Reasonable Accommodation

4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4113.4	Temporary Modified/Light-Duty Assignment
4113.5	Working Remotely
4154	Health And Welfare Benefits
4154	Health And Welfare Benefits
4157	Employee Safety
4157	Employee Safety
4157.2	Ergonomics
4161.1	Personal Illness/Injury Leave
4161.11	Industrial Accident/Illness Leave
4161.9	Catastrophic Leave Program
4161.9	Catastrophic Leave Program
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4213.4	Temporary Modified/Light-Duty Assignment
4213.5	Working Remotely
4254	Health And Welfare Benefits
4254	Health And Welfare Benefits
4257	Employee Safety
4257	Employee Safety
4257.2	Ergonomics
4261.11	Industrial Accident/Illness Leave
4261.9	Catastrophic Leave Program
4261.9	Catastrophic Leave Program
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4313.4	Temporary Modified/Light-Duty Assignment
4313.5	Working Remotely
4354	Health And Welfare Benefits
4354	Health And Welfare Benefits
4357	Employee Safety
4357	Employee Safety

4357.2	Ergonomics
4361.1	Personal Illness/Injury Leave
4361.11	Industrial Accident/Illness Leave
4361.9	Catastrophic Leave Program
4361.9	Catastrophic Leave Program

**Policy 4211: Recruitment And Selection**

**Status:** ADOPTED

**Original Adopted Date:** 07/01/2012 | **Last Revised Date:** 03/01/2018 2024 | **Last Reviewed Date:** 03/01/2018 2024

CSBA NOTE: The following optional policy may be revised to reflect district practice and related should be aligned with relevant collective bargaining agreement provisions of collective bargaining agreements.

~~The~~ Additionally, the Governing Board should ensure that district hiring procedures are designed to ~~avoid liability for negligent hiring.~~ aligned with law, Board policy, and collective bargaining agreements. In *C.A. v. William S. Hart Union High School District*, the California Supreme Court held that a district can be held vicariously liable for the negligence of its administrators and supervisors in the hiring, retention, and supervision of a counselor who sexually harassed and/or abused a student.

The following paragraph reflects concepts from the California Department of Education's (CDE) publication, "How to Increase the Diversity of California's Educator Workforce," and the California Commission on Teacher Credentialing's (CTC) publication, "Strategic Plan: Ensuring Educator Excellence," related to the benefits students receive when staff reflects the racial, ethnic, linguistic, and cultural diversity of the district.

The Governing Board is committed to employing suitable, qualified individuals to effectively carry out the district's vision, mission, and goals, and believes that students benefit when district staff reflects the racial, ethnic, linguistic, and cultural diversity of the district.

The Superintendent or designee shall develop equitable, fair, and transparent recruitment and selection processes and procedures that ensure individuals are selected for employment in the district based on demonstrated knowledge, skills, and competence and not on any bias, personal preference, or unlawful discrimination.

Additionally, the Superintendent or designee shall, through the recruitment and selection processes and procedures, seek to establish and maintain a diverse staff, including the active recruitment from institutions and organizations that serve populations underrepresented among district employees.

When a vacancy occurs, the Superintendent or designee shall review, as appropriate, the job description for the position to ensure that it accurately describes the major functions and duties of the position. ~~He/she~~ The Superintendent or designee shall also disseminate job announcements to ensure a wide range of candidates.

CSBA NOTE: Pursuant to Labor Code 432.3, an employer with 15 or more employees is required to include the pay scale for a position in any job posting.

~~The district's selection procedures~~ When posting an employment opportunity, the Superintendent or designee shall include screening processes, interviews, recommendations from previous employers, the pay scale for the open position. (Labor Code 432.2)

The Superintendent shall develop and observations when maintain appropriate, as necessary hiring procedures to identify the best possible candidate candidates for a position.

The Superintendent or designee may establish In doing so, an interview committee may be established to rank candidates and recommend finalists. During job interviews, applicants may be asked to describe or demonstrate how they will be able to perform the duties of the job. All discussions and recommendations shall be confidential in accordance with law.

No inquiry shall be made with regard to any information prohibited by state or federal nondiscrimination laws and consistent with law.

No inquiry shall be made about any information prohibited by state or federal nondiscrimination laws.

CSBA NOTE: Pursuant to Government Code 12954, the district may not discriminate against a person in hiring based on the person's use of cannabis when off the job or away from the workplace. Additionally, Government Code 12954, as amended by SB 700 (Ch. 408, Statutes of 2023), prohibits the district from requesting information from an applicant related to the applicant's prior use of cannabis, apart from the person's criminal history, unless the district is otherwise legally permitted to consider or inquire about that information. However, Government Code 12954 does not interfere with the district's right to maintain drug-free schools or to prohibit employees from possessing, being impaired by, or using cannabis while at work. Government Code 12954 does not preempt state or federal laws requiring applicants to be tested for controlled substances as a condition of employment or to applicants in the building and construction trades or for positions requiring a federal background investigation. The district may utilize drug screenings that do not rely on nonpsychoactive cannabis metabolite results. Districts with questions about applicant cannabis use or screening should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

Unless otherwise provided for in law, the district may not discriminate against a person in hiring based on the person's use of cannabis off the job and away from the workplace, including that the district may not request information from an applicant related to the applicant's prior use of cannabis, apart from the applicant's criminal history, or penalize an applicant based on a drug screening which finds that the applicant has nonpsychoactive cannabis metabolites in the applicant's hair, blood, urine, or other bodily fluid. (Government Code 12954)

However, the district retains the right to maintain drug-free schools or prohibit employees from possessing, being impaired by, or using cannabis while on the job. (Government Code 12954)

CSBA NOTE: Labor Code 432.3, as added by AB 168 (Ch. 688, Statutes of 2017), prohibits districts from seeking a job applicant's salary history information and from relying on salary history as a factor in determining whether to offer employment to an applicant or the salary to offer. However, if the applicant discloses salary history information voluntarily and without prompting, the district is not prohibited from considering or relying on such information in determining the salary for that applicant. Labor Code 432.3 is not applicable to salary history information that is disclosable pursuant to the California Public Records Act (Government Code 7920.000 - 7930.170) or the Freedom of Information Act (5 USC 552).

The Superintendent or designee shall not inquire, orally or in writing, in regard ~~to about~~ an applicant's salary history information, including compensation and benefits. ~~He/she~~ Additionally, the Superintendent or designee shall also not rely on salary history information as a factor in determining whether to offer employment to an applicant or the salary to offer. However, the Superintendent or designee may consider salary information that is disclosable under state or federal law or that the applicant discloses voluntarily and without prompting. Upon request, the



Superintendent or designee shall provide the applicant the pay scale for the position to which he/she is applying. (Labor Code 432.3)

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

For each position, the Superintendent or designee shall present to the Board one candidate who meets all qualifications established by law and the Board for the position. No person shall be employed by the Board without the recommendation or endorsement of the Superintendent or designee.

### Incentives

CSBA NOTE: The Consistent with any applicable collective bargaining agreements, the district may offer incentives (e.g., signing bonuses, assistance with beginning teacher induction costs, assistance with the process of obtaining a clear credential including covering credential costs, a mentoring program, additional compensation, and/or subsidized housing) to recruit teachers, administrators, or other employees in accordance with district needs.

AB 99 SB 114 (Ch. 1548, Statutes of 2017-2023) establishes the California Educator Development (CalED) grant program Diverse Education Leaders Pipeline Initiative to assist districts with attracting train, place, and supporting the preparation retain culturally responsive school administrators to improve student outcomes and continued learning meet the needs of teachers, principals, and other school leaders California's education workforce.

Health and Safety Code 53573 permits districts to establish and implement programs that address the housing needs of teachers and other district employees who face challenges in securing affordable housing. Health and Safety Code 53574 enables housing projects on district property restricted to rentals for district employees to qualify for both federal and state low-income housing tax credits. For more information regarding housing for district employees, see the Center for Cities + Schools (UC Berkeley), cityLAB (UCLA), and the Turner Center for Housing Innovation's (UC Berkeley), "Education Workforce Housing Handbook."

The following optional section may be revised to reflect local incentive programs.

With Board approval and in accordance with district needs and any applicable collective bargaining agreements, the district may provide incentives to recruit teachers, administrators, or other employees, such as signing bonuses, assistance with beginning teacher induction and/or credential costs, mentoring, additional compensation, and/or subsidized housing.

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### State

Ed. Code 200-262.4

Ed. Code 35035

Ed. Code 44066

### Description

Prohibition of discrimination

Powers and duties of the superintendent; transfer authority

Limitations on certification requirements

Ed. Code 44259	Teaching credential, exception; designated subjects; minimum requirements
Ed. Code 44750	Teacher recruitment resource center
Ed. Code 44830-44831	Employment of certificated persons
Ed. Code 44858	Age or marital status in certificated positions
Ed. Code 44859	Prohibition against certain rules and regulations <del>re:</del> <u>regarding</u> residency
Ed. Code 45103-45139	Employment (classified employees)
Ed. Code 49406	Examination for tuberculosis
Gov. Code 12900-12996	Fair Employment and Housing Act
<del>Gov. Code 12940-12957</del>	<del>Discrimination prohibited; unlawful practices</del>
Gov. Code 7920.000-7930.170 <u>215</u>	California Public Records Act
Gov. Code 815.2	Liability of public entities and public employees
H&S Code 53570-53574	Teacher Housing Act of 2016
Lab. Code 432.3	Salary information

**Federal**

20 USC 1681-1688	<b>Description</b> Title IX of the Education Amendments of 1972; discrimination based on sex
28 CFR 35.101-35.190	Americans with Disabilities Act
34 CFR 106.51-106.61	Nondiscrimination on the basis of sex in employment in education program or activities
42 USC 12101-12213	Americans with Disabilities Act
42 USC 2000d-2000d-7	Title VI, Civil Rights Act of 1964
42 USC 2000e-2000e-17	Title VII, Civil Rights Act of 1964, as amended
5 USC 552	Freedom of Information Act
8 USC 1324a	Unlawful employment of aliens
8 USC 1324b	Unfair immigration related employment practices

**Management Resources**

CCSESA California County Superintendents Publication

California Department of Education Publication

California Commission on Teacher Credentialing Publication

**Description**

Teacher Recruitment in California: An Analysis of Effective Strategies, Research Brief, Veritas Research and Evaluation Group, October 2017

How to Increase the Diversity of California's Educator Workforce, April 2022  
(<https://www.cde.ca.gov/pd/ee/documents/dtwcouncilreportapril22.pdf>)

Strategic Plan: Ensuring Educator Excellence, 2023  
(<https://www.ctc.ca.gov/docs/default->

	<a href="https://www.citylab.ucla.edu/education-workforce-housing-research-report">source/commission/files/ctc-strategic-plan.pdf?sfvrsn=baef20b1_12)</a>
<a href="#">Center for Cities + Schools, cityLAB, and Turner Center for Housing Innovation Publication</a>	<a href="https://citylab.ucla.edu/education-workforce-housing-research-report">Education Workforce Housing Handbook, 2022 (https://citylab.ucla.edu/education-workforce-housing-research-report)</a>
<a href="#">Center for Cities + Schools, cityLAB, and Turner Center for Housing Innovation Publication</a>	<a href="https://citylab.ucla.edu/education-workforce-housing-research-report">Education Workforce Housing in California: Developing the 21st Century Campus, 2021 (https://citylab.ucla.edu/education-workforce-housing-research-report)</a>
Court Decision	C.A. v William S. Hart Union High School District et al., (2012) 138 Cal.Rptr.3d 1
Website	CSBA District and County Office of Education Legal Services
<a href="#">Website</a>	<a href="https://www.cde.ca.gov/">California Department of Education (https://www.cde.ca.gov/)</a>
Website	Commission on Teacher Credentialing
Website	Education Job Opportunities Information Network
Website	Teach USA
Website	California County Superintendents
Website	California Civil Rights Department
Website	U.S. Department of Education
Website	U.S. Equal Employment Opportunity Commission
<a href="#">Website</a>	<a href="https://citiesandschools.berkeley.edu/">University of California Berkeley, Center for Cities + Schools (https://citiesandschools.berkeley.edu/)</a>
<a href="#">Website</a>	<a href="https://turnercenter.berkeley.edu/">University of California Berkeley, Turner Center for Housing Innovation (https://turnercenter.berkeley.edu/)</a>
<a href="#">Website</a>	<a href="https://www.citylab.ucla.edu/">University of California Los Angeles, cityLAB (https://www.citylab.ucla.edu/)</a>

**Cross References**

<b>Code</b>	<b>Description</b>
0000	Vision
0200	Goals For The School District
0410	Nondiscrimination In District Programs And Activities
2230	Representative And Deliberative Groups
3542	School Bus Drivers
4000	Concepts And Roles
4030	Nondiscrimination In Employment
4030	Nondiscrimination In Employment
4032	Reasonable Accommodation

4100	Certificated Personnel
4111.2	Legal Status Requirement
4111.2	Legal Status Requirement
4112	Appointment And Conditions Of Employment
4112.2	Certification
4112.2	Certification
4112.21	Interns
4112.21	Interns
4112.22	Staff Teaching English Learners
4112.23	Special Education Staff
4112.61	Employment References
4112.8	Employment Of Relatives
4113	Assignment
4113	Assignment
4117.14	Postretirement Employment
4200	Classified Personnel
4200	Classified Personnel
4211.2	Legal Status Requirement
4211.2	Legal Status Requirement
4212	Appointment And Conditions Of Employment
4212.61	Employment References
4212.8	Employment Of Relatives
4300	Administrative And Supervisory Personnel
4300	Administrative And Supervisory Personnel
4311.2	Legal Status Requirement
4311.2	Legal Status Requirement
4312.1	Contracts
4312.61	Employment References
4312.8	Employment Of Relatives
4317.14	Postretirement Employment
4331	Staff Development
6141.4	International Baccalaureate Program
6141.5	Advanced Placement

6171

Title I Programs

6171

Title I Programs

9000

Role Of The Board

**Regulation 4212.5: Criminal Record Check**

**Status:** ADOPTED

**Original Adopted Date:** 10/01/1998 | **Last Revised Date:** ~~12/03/01/2014~~ 2024 | **Last Reviewed Date:** ~~12/03/01/2014~~ 2024

CSBA NOTE: Education Code 44830.1, 44836, 45122.1, and 45123 prohibit the district from hiring or retaining in employment, in a certificated or classified position, a person who has been convicted of or pleads no contest to a violent or serious felony, sex offense, or controlled substance offense, as defined. Exceptions specified in law are reflected in ~~items~~ Items #1-5 below.

These requirements apply to job applicants, temporary employees, substitute employees, and probationary employees serving before March 15 of their second year. Employees with permanent status may only be suspended or dismissed in accordance with the grounds and procedures specified in BP/AR 4118 - Dismissal/Suspension/Disciplinary Action or BP/AR 4218 - Dismissal/Suspension/Disciplinary Action, as applicable.

However, pursuant to Government Code 12954, the district may not discriminate against a person in hiring, termination, or any term or condition of employment based on the person's use of cannabis when off the job or away from the workplace. Additionally, Government Code 12954, as amended by SB 700 (Ch. 408, Statutes of 2023), prohibits the district from requesting information from an applicant related to the applicant's prior use of cannabis, apart from the person's criminal history, unless the district is otherwise legally permitted to consider or inquire about that information. Certain employees may be subject to stricter laws related to drug testing. Districts with questions about drug testing employees should consult CSBA's District and County Office of Education Legal Services or district legal counsel.

The Superintendent or designee shall not hire or retain in employment, in a certificated or classified position, a person who has been convicted of a violent or serious felony as defined in Penal Code 667.5(c) or 1192.7(c), a controlled substance offense as defined in Education Code 44011, or a sex offense as defined in Education Code 44010. However, the Superintendent or designee shall not deny or terminate employment if solely on the basis that the person has been: (Education Code 44830.1, 44836, 45122.1, 45123)

1. ~~The conviction for~~ Convicted of a violent or serious felony, controlled substance offense, or sex offense, and the conviction is reversed and the person is acquitted of the offense in a new trial or the charges against the person are dismissed, unless the sex offense for which the conviction is dismissed pursuant to Penal Code 1203.4 involves a victim who was a minor;
2. ~~A person convicted~~ Convicted of a violent or serious felony and has obtained a certificate of rehabilitation or a pardon;
3. ~~A person who has been convicted~~ Convicted of a serious felony, that is not also a violent felony, ~~proves~~ and has proven to the sentencing court that he/she has been ~~rehabilitated~~ rehabilitation for purposes of school employment has been attained for at least one year;
4. ~~A person who has been convicted~~ Convicted of a controlled substance offense and is applying for or is employed in a certificated position and has a credential issued by the

Commission on Teacher Credentialing-

5. ~~A person who has been convicted~~ **Convicted** of a controlled substance offense **and** is applying for or is employed in a classified position and has been determined by the Governing Board, from the evidence presented, to have been rehabilitated for at least five years-

A certificated employee may be hired by the district without obtaining a criminal record summary if that employee is employed as a certificated employee in another California school district and became a permanent employee of another California school district as of October 1, 1997. (Education Code 44830.1, 44836)

CSBA NOTE: The following optional paragraph is for use by districts that issue temporary certificates pursuant to Education Code 44332.5 to authorize salary payments while a certificated employee's credential application is being processed. If the issuance of temporary certificates is handled by the county office of education, the following paragraph should be deleted.

The Superintendent or designee shall not issue a temporary certificate of clearance to a person whose application for a credential, certificate, or permit is being processed by the Commission on Teacher Credentialing if that person has been convicted of a violent or serious felony, unless the person is otherwise exempt pursuant to Education Code 44332.6 or 44830.1. (Education Code 44332.5, 44332.6)

#### Pre-Employment Record Check

CSBA NOTE: The following section may be revised to reflect district practice. To fulfill the requirement for a criminal record check through the California Department of Justice (DOJ) and Federal Bureau of Investigation, the applicant ~~must~~ **is required to** submit fingerprints using the electronic Live Scan process. Locations offering the Live Scan service are listed on the DOJ's ~~web site~~ **website**. The DOJ provides the results to the district via email, or by U.S. mail if no email is available.

While the DOJ normally does not provide notice of a conviction for which relief has been granted, pursuant to Penal Code 11105, the Commission on Teacher Credentialing will receive every conviction rendered against an applicant, retroactive to January 1, 2020, regardless of relief granted. However, notwithstanding the above, pursuant to Penal Code 1203.425, information for a conviction for a controlled substance offense listed in Health and Safety Code 11350 or 11377, or former Health and Safety Code 11500 or 11500.5, that is more than five years old, for which relief is granted, is prohibited from being disseminated.

The Superintendent or designee shall require each person to be employed by the district to submit his/her fingerprints electronically through the Live Scan system so that a criminal record check may be conducted by the Department of Justice (DOJ). -The Superintendent or designee shall provide the applicant with a Live Scan request form and a list of nearby Live Scan locations.

When a person is applying for a classified position, the Superintendent or designee shall request that the DOJ also obtain a criminal record check through the Federal Bureau of Investigation whenever the applicant meets one of the following conditions: (Education Code 45125)

1. The applicant has not resided in California for at least one year immediately preceding the application for employment.

2. The applicant has resided in California for more than one year, but less than seven years, and the DOJ has ascertained that the person was convicted of a sex offense where the victim was a minor or a drug offense where an element of the offense is either the distribution to or the use of a controlled substance by a minor.

The Superintendent or designee shall immediately notify the DOJ when an applicant who has submitted his/her fingerprints to the DOJ is not subsequently employed by the district. (Penal Code 11105.2)

### Subsequent Arrest Notification

CSBA NOTE: Pursuant to Education Code 44830.1 and 45125, the district ~~must~~ is required to sign up for "subsequent arrest notification" from the DOJ in accordance with Penal Code 11105.2. Forms available for this purpose are available on DOJ's ~~web site~~ website.

The Superintendent or designee shall enter into a contract with the DOJ to receive notification of subsequent arrests resulting in conviction of any person whose fingerprints have been submitted to the DOJ. (Education Code 44830.1, 45125; Penal Code 11105.2)

Upon telephone or email notification by the DOJ that a current temporary employee, substitute employee, or probationary employee serving before March 15 of his/her ~~the employee's~~ second probationary year has been convicted of a violent or serious felony, the Superintendent or designee shall immediately place that employee on leave without pay. (Education Code 44830.1, 45122.1)

When the district receives written electronic notification by the DOJ of the fact of conviction, the temporary employee, substitute employee, or probationary employee serving before March 15 of his/her ~~the employee's~~ second probationary year shall be terminated automatically unless the employee challenges the DOJ record and the DOJ withdraws its notification in writing. Upon receipt of the written withdrawal of notification by the DOJ, the Superintendent or designee shall immediately reinstate ~~that~~ the employee with full restoration of salary and benefits for the period of time from the suspension without pay to the reinstatement if the employee is still employed by the district. (Education Code 44830.1, 45122.1)

The Superintendent or designee shall immediately notify the DOJ whenever a person whose fingerprints are maintained by the DOJ is terminated. (Penal Code 11105.2)

### Notification of Applicant/Employee

The Superintendent or designee shall expeditiously furnish a copy of any DOJ notification to the applicant or employee to whom it relates if the information is a basis for an adverse employment decision. The copy shall be delivered in person or to the last contact information provided by the applicant or employee. (Penal Code 11105, 11105.2)

### Maintenance of Records

CSBA NOTE: To be qualified to obtain Criminal Record Offender Information (CORI) for the purpose of employment decisions, the district ~~must~~ is required to apply to the DOJ for authorization and ~~must~~ is required to designate at least one custodian of records who is responsible for the security, storage, dissemination, and destruction of criminal records furnished to the district.

The Superintendent shall designate at least one custodian of records who shall be responsible for the security, storage, dissemination, and destruction of all Criminal Offender Record Information (CORI) furnished to the district and shall serve ~~as~~ 384 the primary contact for the DOJ for any related



issues. (Penal Code 11102.2)

An employee designated as custodian of records shall receive a criminal background check clearance from the DOJ prior to serving in that capacity. (Penal Code 11102.2)

**CSBA NOTE:** The DOJ requires every person with access to CORI, including the custodian of records, to complete an Employee Statement Form acknowledging an understanding of the law governing CORI. The custodian of records is required to return ~~his/her own~~ such form to the DOJ and to retain any forms completed by other district staff. The Employee Statement Form is reproduced in the accompanying Exhibit.

The custodian of records shall sign and return to the DOJ the Employee Statement Form acknowledging ~~his/her an~~ understanding of the laws prohibiting misuse of CORI.- In addition, the custodian of records shall ensure that any individual with access to CORI has on file a signed Employee Statement Form.

To ensure its confidentiality, CORI shall be accessible only to the custodian of records and shall be kept in a locked file separate from other files. -CORI shall be used only for the purpose for which it is requested and its contents shall not be disclosed or reproduced. (Education Code 44830.1, 45125)

- Once a hiring determination is made, the applicant's CORI shall be destroyed to the extent that the identity of the individual can no longer be reasonably ascertained. (Education Code 44830.1, 45125; 11 CCR 708)

**CSBA NOTE:** SB 1461 (Ch. 54, Statutes of 2014) amended Penal Code 11102.2 to delete the requirement to annually notify DOJ of the district's custodian of records. Pursuant to Penal Code 11102.2, districts are now only required to notify the DOJ when the custodian of records ceases to serve in that capacity.

The Superintendent or designee shall immediately notify the DOJ whenever a designated custodian of records ceases to serve in that capacity. (Penal Code 11102.2)

### Interagency Agreement

**CSBA NOTE:** The following optional section is for use by any district that has been designated to act on behalf of other school districts within the same county or in contiguous counties to share CORI as authorized by Education Code 44830.2 and 45125.01. Districts that have not entered into an agreement to share such information, or for whom another district or the County Superintendent of Schools has been designated to receive and share the information, should delete this section.

Pursuant to Education Code 45125.01, any district that participates in such an interagency agreement may use this arrangement to conduct criminal background checks for a noncertificated candidate for a paid or volunteer position in a student activity program pursuant to Education Code 49024; see BP/AR 1240 - Volunteer Assistance and BP/AR 4127/4227/4327 - Temporary Athletic Team Coaches.

Subject to an interagency agreement with other school districts, the district shall submit and receive CORI on behalf of all participating districts. (Education Code 44830.2, 45125.01)

Upon receipt from the DOJ of a report of conviction of a serious or violent felony, the district shall communicate that fact to participating districts and shall remove the affected employee from the common list of persons eligible for employment. (Education Code 44830.2, 45125.01)

In addition, upon receipt from the DOJ of a criminal history record or report of subsequent arrest for any person on a common list of persons eligible for employment, the district shall give notice to the superintendent of any participating district, or the person designated in writing by that superintendent, that the report is available for inspection on a confidential basis by the superintendent or the authorized designee. The report shall be made available at the district office for 30 days following the receipt of the notice. (Education Code 44830.2, 45125.01)

The district shall not release a copy of that information to any participating district or any other person. In addition, the district shall retain or dispose of the information in the manner specified in law and in this administrative regulation after all participating districts have had an opportunity to inspect it in accordance with law. (Education Code 44830.2, 45125.01)

The district shall maintain a record of all persons to whom the information has been shown and shall make this record available to the DOJ. (Education Code 44830.2, 45125.01)

**Policy Reference UPDATE Service**

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**Policy Reference Disclaimer:**

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

<b>State</b>	<b>Description</b>
11 CCR 701-708	Criminal offender record information
11 CCR 720-724	Incomplete criminal history information
11 CCR 994-994.15	Certification of individuals who take fingerprint impressions
Ed. Code 44010	Sex offense; definitions
Ed. Code 44011	Controlled substance offense
Ed. Code 44332-44332.6	Temporary certificate of clearance
Ed. Code 44346.1	Applicants for credential; conviction of a violent or serious felony
Ed. Code 44830.1	Criminal record summary certificated employees
Ed. Code 44830.2	Certificated employees; interagency agreement for sharing criminal record information
Ed. Code 44836	Employment of certificated persons convicted of <u>sex offense</u> or controlled substance <u>offenses</u>
Ed. Code 44932	Grounds for dismissal of permanent employees
Ed. Code 45122.1	Classified employees; conviction of a violent or serious felony

Ed. Code 45125	Use of personal identification cards to ascertain conviction of crime
Ed. Code 45125.01	Interagency agreements for criminal record information
Ed. Code 45125.5	Automated records check
Ed. Code 45126	Duty of Department of Justice to furnish information
Ed. Code 49024	Activity Supervisor Clearance Certificate
<u>Gov. Code 12954</u>	<u>Employment discrimination; cannabis use</u>
<u>H&amp;S Code 11350</u>	<u>Offenses Involving Controlled Substances Formerly Classified as Narcotics</u>
<u>H&amp;S Code 11377</u>	<u>Offenses Involving Controlled Substances Formerly Classified as Restricted Dangerous Drugs</u>
Pen. Code 11075-11081	Criminal record dissemination
Pen. Code 11102.2	Maintenance of criminal offender records; custodian of records
Pen. Code 11105	Access to criminal history information
Pen. Code 11105.2	Subsequent arrest notification
Pen. Code 11105.3	Record of conviction involving sex crimes, drug crimes, or crimes of violence
Pen. Code 11140-11144	Furnishing of state criminal history information
Pen. Code 1192.7	Plea bargaining limitation
Pen. Code 1203.4	Dismissal of conviction
<u>Pen. Code 1203.425</u>	<u>Conviction relief</u>
Pen. Code 13300-13305	Local summary criminal history information
Pen. Code 667.5	Prior prison terms; enhancement of prison terms
<b>Management Resources</b>	<b>Description</b>
Court Decision	Central Valley Chapter of the 7th Step Foundation Inc. v. Evelle J. Younger, (1989) 214 Cal. App. 3d 145
Website	CSBA District and County Office of Education Legal Services
Website	Office of the Attorney General, Department of Justice, Background Checks
Website	CSBA
<b>Cross References</b>	
<b>Code</b>	<b>Description</b>
1240	Volunteer Assistance
1240	Volunteer Assistance

1340	Access To District Records
1340	Access To District Records
2120	Superintendent Recruitment And Selection
3515.3	District Police/Security Department
3515.3	District Police/Security Department
3542	School Bus Drivers
3580	District Records
3580	District Records
4112	Appointment And Conditions Of Employment
4112.2	Certification
4112.2	Certification
4112.6	Personnel Files
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4116	Probationary/Permanent Status
4116	Probationary/Permanent Status
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.23	Unauthorized Release Of Confidential/Privileged Information
4121	Temporary/Substitute Personnel
4121	Temporary/Substitute Personnel
4127	Temporary Athletic Team Coaches
4127	Temporary Athletic Team Coaches
4200	Classified Personnel
4200	Classified Personnel
4212	Appointment And Conditions Of Employment
4212.6	Personnel Files
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4218.1	Dismissal/Suspension/Disciplinary Action (Merit System)
4219.23	Unauthorized Release Of Confidential/Privileged Information

4227	Temporary Athletic Team Coaches
4227	Temporary Athletic Team Coaches
4312.6	Personnel Files
4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4319.23	Unauthorized Release Of Confidential/Privileged Information
4327	Temporary Athletic Team Coaches
4327	Temporary Athletic Team Coaches
5148	Child Care And Development
5148	Child Care And Development
5148.2	Before/After School Programs
5148.2	Before/After School Programs
5148.3	Preschool/Early Childhood Education
5148.3	Preschool/Early Childhood Education
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
9011	Disclosure Of Confidential/Privileged Information

**Exhibit 4212.5-E(1): Criminal Record Check**

**Status:** ADOPTED

**Original Adopted Date:** 10/01/1997 | **Last Revised Date:** ~~12/03/01/2014~~ 2024 | **Last Reviewed Date:** ~~12/03/01/2014~~ 2024

CSBA NOTE: The following is based on the sample Employee Statement Form provided by the California Department of Justice. Such a form must be signed by an employee designated as custodian of records of criminal history information and any other individual granted access to this information by the custodian of records; see the accompanying administrative regulation.

**SAMPLE EMPLOYEE STATEMENT FORM  
USE OF CRIMINAL JUSTICE INFORMATION**

As an employee/volunteer of [REDACTED] School District, you may have access to confidential criminal record information which is controlled by state and federal statutes. Misuse of such information may adversely affect the individual's civil rights and violate constitutional rights of privacy. Penal Code 502 prescribes the penalties relating to computer crimes. Penal Code 11105 and 13300 identify who has access to criminal history information and under what circumstances it may be disseminated. Penal Code 11140-11144 and 13301-13305 prescribe penalties for misuse of criminal history information. Government Code 6200 prescribes felony penalties for misuse of public records. Penal Code 11142 and 13300 state:

**"Any person authorized by law to receive a record or information obtained from a record who knowingly furnishes the record or information to a person not authorized by law to receive the record or information is guilty of a misdemeanor."**

Civil Code 1798.53, Invasion of Privacy, states:

**"Any person who intentionally discloses information, not otherwise public, which they know or should reasonably know was obtained from personal or confidential information maintained by a state agency or from records within a system of records maintained by a federal government agency, shall be subject to a civil action, for invasion of privacy, by the individual."**

**CIVIL, CRIMINAL, AND ADMINISTRATIVE PENALTIES:**

- Penal Code 11141: DOJ furnishing to unauthorized person (misdemeanor)
- Penal Code 11142: Authorized person furnishing to other (misdemeanor)
- Penal Code 11143: Unauthorized person in possession (misdemeanor)
- California Constitution, Article I, Section 1 (Right to Privacy)
- Civil Code 1798.53, Invasion of Privacy

- Title 18 USC 641, 1030, 1951, and 1952

Any employee who is responsible for such misuse may be subject to immediate dismissal. Violations of this law may result in criminal and/or civil action.

**I HAVE READ THE ABOVE AND UNDERSTAND THE POLICY REGARDING MISUSE OF CRIMINAL RECORD INFORMATION.**

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

Printed Name \_\_\_\_\_ Title \_\_\_\_\_

Name of District \_\_\_\_\_

PLEASE NOTE: Do not return this form to the DOJ. Your Custodian of Records should maintain these forms.

**Policy Reference UPDATE Service**

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11 CCR 720-724	Incomplete criminal history information
11 CCR 994-994.15	Certification of individuals who take fingerprint impressions
Ed. Code 44010	Sex offense; definitions
Ed. Code 44011	Controlled substance offense
Ed. Code 44332-44332.6	Temporary certificate of clearance
Ed. Code 44346.1	Applicants for credential; conviction of a violent or serious felony
Ed. Code 44830.1	Criminal record summary certificated employees
Ed. Code 44830.2	Certificated employees; interagency agreement for sharing criminal record information
Ed. Code 44836	Employment of certificated persons convicted of <u>sex offense</u> or controlled substance <u>offenses offense</u>
Ed. Code 44932	Grounds for dismissal of permanent employees
Ed. Code 45122.1	Classified employees; conviction of a violent or serious felony
Ed. Code 45125	Use of personal identification cards to ascertain conviction of crime
Ed. Code 45125.01	Interagency agreements for criminal record information

Ed. Code 45125.5	Automated records check
Ed. Code 45126	Duty of Department of Justice to furnish information
Ed. Code 49024	Activity Supervisor Clearance Certificate
<u>Gov. Code 12954</u>	<u>Employment discrimination; cannabis use</u>
<u>H&amp;S Code 11350</u>	<u>Offenses Involving Controlled Substances Formerly Classified as Narcotics</u>
<u>H&amp;S Code 11377</u>	<u>Offenses Involving Controlled Substances Formerly Classified as Restricted Dangerous Drugs</u>
Pen. Code 11075-11081	Criminal record dissemination
Pen. Code 11102.2	Maintenance of criminal offender records; custodian of records
Pen. Code 11105	Access to criminal history information
Pen. Code 11105.2	Subsequent arrest notification
Pen. Code 11105.3	Record of conviction involving sex crimes, drug crimes, or crimes of violence
Pen. Code 11140-11144	Furnishing of state criminal history information
Pen. Code 1192.7	Plea bargaining limitation
Pen. Code 1203.4	Dismissal of conviction
<u>Pen. Code 1203.425</u>	<u>Conviction relief</u>
Pen. Code 13300-13305	Local summary criminal history information
Pen. Code 667.5	Prior prison terms; enhancement of prison terms
<b>Management Resources</b>	<b>Description</b>
Court Decision	Central Valley Chapter of the 7th Step Foundation Inc. v. Evelle J. Younger, (1989) 214 Cal. App. 3d 145
Website	CSBA District and County Office of Education Legal Services
Website	Office of the Attorney General, Department of Justice, Background Checks
Website	CSBA

**Cross References**

<b>Code</b>	<b>Description</b>
1240	Volunteer Assistance
1240	Volunteer Assistance
1340	Access To District Records
1340	Access To District Records
2120	Superintendent Recruitment And Selection



3515.3	District Police/Security Department
3515.3	District Police/Security Department
3542	School Bus Drivers
3580	District Records
3580	District Records
4112	Appointment And Conditions Of Employment
4112.2	Certification
4112.2	Certification
4112.6	Personnel Files
4112.9	Employee Notifications
4112.9-E(1)	Employee Notifications
4116	Probationary/Permanent Status
4116	Probationary/Permanent Status
4118	Dismissal/Suspension/Disciplinary Action
4118	Dismissal/Suspension/Disciplinary Action
4119.23	Unauthorized Release Of Confidential/Privileged Information
4121	Temporary/Substitute Personnel
4121	Temporary/Substitute Personnel
4127	Temporary Athletic Team Coaches
4127	Temporary Athletic Team Coaches
4200	Classified Personnel
4200	Classified Personnel
4212	Appointment And Conditions Of Employment
4212.6	Personnel Files
4212.9	Employee Notifications
4212.9-E(1)	Employee Notifications
4218	Dismissal/Suspension/Disciplinary Action
4218	Dismissal/Suspension/Disciplinary Action
4218.1	Dismissal/Suspension/Disciplinary Action (Merit System)
4219.23	Unauthorized Release Of Confidential/Privileged Information
4227	Temporary Athletic Team Coaches
4227	Temporary Athletic Team Coaches
4312.6	Personnel Files

4312.9	Employee Notifications
4312.9-E(1)	Employee Notifications
4319.23	Unauthorized Release Of Confidential/Privileged Information
4327	Temporary Athletic Team Coaches
4327	Temporary Athletic Team Coaches
5148	Child Care And Development
5148	Child Care And Development
5148.2	Before/After School Programs
5148.2	Before/After School Programs
5148.3	Preschool/Early Childhood Education
5148.3	Preschool/Early Childhood Education
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
9011	Disclosure Of Confidential/Privileged Information

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**Policy 4218: Dismissal/Suspension/Disciplinary Action**

**Status:** ADOPTED

**Original Adopted Date:** 07/01/2019 | **Last Revised Date:** 03/01/2023 2024 | **Last Reviewed Date:** 03/01/2023 2024

CSBA NOTE: The following optional policy is and accompanying administrative regulation are for use by districts that have not incorporated the merit system for classified employees pursuant to Education Code 45240-45320. For procedures applicable to districts that have incorporated the merit system, see BP/AR 4218.1 - Dismissal/Suspension/Disciplinary Action (Merit System).

The following optional policy is and accompanying administrative regulation are subject to collective bargaining and may should be deleted or revised by in accordance with any district whose applicable collective bargaining agreement covers classified employee dismissal, suspension, and other disciplinary action. To the extent that this policy is inconsistent with provisions of the collective bargaining agreement, the collective bargaining agreement would prevail, so long as the provision is consistent with law.

The Governing Board expects all employees to perform their jobs satisfactorily and, to exhibit professional and appropriate conduct, and serve as positive role models both at school and in the community. A classified employee may be disciplined for unprofessional conduct or unsatisfactory performance in accordance with law or any applicable collective bargaining agreement, Board policy, or administrative regulation.

CSBA NOTE: When disciplining an employee, the district must ensure that all of the surrounding facts and circumstances are considered and analyzed within the parameters of any applicable constitutional or legal framework. In Kennedy v. Bremerton School District, the U.S. Supreme Court held that the district violated the employee's protected free exercise and free speech rights when the district did not rehire the employee, a coach, for refusing to follow the district's direction to refrain from kneeling and praying at the 50-yard line immediately after each football game. The district's direction was based on a concern that the employee's prayer violated the district's religious practices policy and could subject the district to an Establishment Clause violation. Notwithstanding that the prayer occurred at a school event and in the presence of students, the court reasoned that the timing and circumstances indicated that the coach's prayers were offered as a private citizen rather than as a district employee. According to the Court, since the prayer, a religious activity, occurred during a period when employees would ordinarily be free to engage in personal secular activities such as speaking with friends, checking email, calling for restaurant reservations, etc., the district's concerns about a possible Establishment Clause violation did not justify restricting the employee's free exercise and free speech rights to engage in a personal religious activity such as offering a prayer.

Employee discipline, especially with respect to suspension and dismissal, involves complex legal considerations and districts are advised to consult CSBA's District and County Office of Education Legal Services or district legal counsel, accordingly.

Disciplinary actions shall be based on the particular facts and circumstances involved and the severity of the employee's conduct or performance. An employee's private exercise of personal

beliefs and activities, including religious, political, cultural, social, or other beliefs or activities, or lack thereof, shall not be grounds for disciplinary action against the employee, provided that the beliefs or activities do not involve coercion of students or any other violation of law, Board policy, or administrative regulation.

CSBA NOTE: In *Kennedy v. Bremerton School District*, the U.S. Supreme Court held that the district could not discipline an employee for non-coercive religious conduct while the employee was acting as a private citizen. For more information, see the U.S. Department of Education's May 2023, "Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools." Also see BP/AR 4030 - Nondiscrimination in Employment and BP 4119.1 - Civil and Legal Rights.

In *Visalia Unified School District v. Public Employment Relations Board (PERB)*, the Fifth District Court of Appeal upheld PERB's determination that service as a union officer constitutes protected activity under the Educational Employment Relations Act for purposes of the employee's complaint of retaliation for union activities and that the district retaliated against the employee. However, the court ultimately held in favor of the district, finding that the district proved it would have terminated the employee for poor performance regardless of the protected union activity. Districts with questions about terminating an officer of an employee organization are encouraged to consult CSBA's District and County Office of Education Legal Services or district legal counsel.

The Superintendent or designee shall ensure that disciplinary actions are taken in a consistent, nondiscriminatory manner. In addition, an employee shall not be suspended, disciplined, reassigned, transferred, dismissed, or otherwise retaliated against solely for engaging in protected activities, or for acting to protect a student engaged in exercising any free speech or press right authorized by, or for refusing to infringe upon a student's conduct protected pursuant to, Education Code 48907 or 48950.

Disciplinary actions may include, but are not limited to, verbal and written warnings, involuntary reassignment, demotion, suspension or leave without pay, reduction of pay step in class, compulsory leave, and wages, or dismissal.

~~The Superintendent or designee shall ensure that disciplinary actions are taken in a consistent, nondiscriminatory manner and are appropriately documented.~~

A probationary classified employee may be dismissed without cause at any time prior to the expiration of anytime before the probationary period expires.

CSBA NOTE: Education Code 45113 mandates districts not incorporating the merit system to prescribe, by written rule or regulation, causes and procedures for disciplinary action against permanent classified employees. Also, see the accompanying administrative regulation.

Permanent classified employees shall be subject to disciplinary action only for cause as specified in the accompanying administrative regulation. (Education Code 45113)

#### Procedures for Serious Disciplinary Proceedings

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

In *Skelly v. State Personnel Board*, the California Supreme Court held that permanent public employees have a right to certain due process protections prior to any punitive disciplinary action, such as termination, suspension, or demotion. These procedural rights include notice of the proposed materials upon which the action is based and the right to respond, either orally or in writing, to the individual recommending that discipline be imposed. These procedural rights are designed to protect an employee who may be wrongfully disciplined, without necessitating a full evidentiary hearing before the Governing Board. Therefore, CSBA recommends that the Superintendent or designee appoint a Skelly officer to evaluate whether there are reasonable grounds for believing that the employee engaged in the alleged misconduct and whether the proposed discipline is justified.

The Superintendent or designee shall develop disciplinary procedures for use when dismissal, suspension, demotion, involuntary reassignment, or other serious disciplinary action is contemplated against an employee. The procedures for such discipline shall include an opportunity for an employee for whom any such disciplinary action is recommended to meet with, or respond in writing to, a designated district official ("Skelly officer") who will determine whether the recommended discipline should proceed further or be modified or withdrawn.

CSBA NOTE: Pursuant to Education Code 45113 and 45116, a permanent classified employee must be given notice of any disciplinary action against the employee, including a time period during which the employee may request a Board hearing on the charges. See the section "Initiation and Notification of Charges" in the accompanying administrative regulation.

Pursuant to Education Code 45113, the Board may delegate its authority to determine whether sufficient cause exists for disciplinary action against classified employees, excluding peace officers as defined in Penal Code 830.32, to an impartial third-party hearing officer. Hearings conducted by the Board or a hearing officer are not subject to the procedures used by the Office of Administrative Hearings pursuant to Government Code 11500-11529. Districts that refer all ~~serious~~ disciplinary matters to a third-party hearing officer rather than holding Board hearings should revise the remainder of this section accordingly.

Education Code 45113 requires the Board to delegate its authority to an administrative law judge in cases involving allegations of egregious misconduct with a minor. Egregious misconduct is defined as immoral conduct leading to an allegation of a sex offense pursuant to Education Code 44010, a controlled substance offense pursuant to Education Code 44011, or child abuse or neglect pursuant to Penal Code 11165.2-11165.6.

After meeting with the employee or considering the employee's written response, if the Skelly officer determines that the recommended discipline should proceed, the Superintendent or designee shall send the employee a notice of the recommended disciplinary action, a statement of charges, and the results of the Skelly review process. The notice shall include a statement advising the employee of the right to request a Board hearing on the matter. (Education Code 45113, 45116)

If the employee fails to request a hearing within the time specified in the notice, the employee is deemed to have waived the right to do so, and the Board may order the recommended disciplinary action into effect immediately.

If a timely request is submitted, a hearing shall be conducted by the Board, or by a third-party hearing officer, in accordance with law. (Education Code 45113, 45312)

CSBA NOTE: ~~Subject to the exception described below, Education Code 45113, as amended by AB 2413 (Ch. 913, Statutes of 2022), prohibits a district from suspending without pay, suspending or demoting with a reduction in pay, or dismissing a permanent classified employee who timely requests a hearing pending discipline, unless excepted by law. To the extent Education Code 45113, as amended by AB 2413, conflicts with any collective bargaining agreement the district entered into before January 1, 2023, the new requirements described above would not apply until the expiration or renewal of the agreement. See the section "Employment Status Pending a Disciplinary Hearing" in the accompanying administrative regulation.~~

A classified employee who timely requests a hearing may only be suspended, demoted, or dismissed pending the outcome of the hearing in accordance with Education Code 45113; and as specified in the accompanying administrative regulation.

The hearing shall be held at the earliest convenient date, taking into consideration the established schedule of the Board and the availability of legal counsel and witnesses. The employee shall be notified of the time and place of the hearing.

The hearing shall be held in closed session; unless the employee requests that the matter be heard in an open session meeting. (Government Code 54957)

The employee shall be entitled to appear personally, produce evidence, and be represented by legal counsel.

The Board may use the services of its legal counsel in ruling upon procedural questions, objections to evidence, and issues of law. The Board may review and consider the records of any prior personnel action proceedings against the employee in which a disciplinary action was ultimately sustained, and any records contained in the employee's personnel files and introduced into evidence at the hearing. The Board shall not be bound by rules of evidence used in California courts. Informality in any such hearing shall not invalidate any order or decision made by the Board.

At any time before a matter is submitted to the Board for decision, the Superintendent or designee may, with the consent of the Board, serve on the employee and file with the Board an amended or supplemental recommendation of disciplinary action. If the amended or supplemental recommendation includes new causes or allegations, the employee shall be afforded a reasonable opportunity to prepare a defense. Any new causes or allegations shall be deemed controverted and any objections to the amended or supplemental causes or allegations may be made orally at the hearing and shall be noted on the record.

Following the hearing or, if the employee has not requested a hearing, after reviewing the Superintendent or designee's recommendation for disciplinary action, the Board shall affirm, modify, or reject the recommended disciplinary action. The decision of the Board shall be in writing and shall contain findings of fact and the disciplinary action approved, if any. The decision of the Board shall be final.

Within 10 working days of the Board's final decision, a copy of the decision shall be delivered to the employee and/or designated representative personally or by registered mail.

Except for an allegation of egregious misconduct in which a minor is involved, the Board may delegate the authority to determine whether sufficient cause exists for disciplinary action to an impartial third-party hearing officer. When a matter is heard by a third-party hearing officer, the Board shall review the determination and adopt or reject the recommended decision. (Education Code 45113)

**CSBA NOTE:** Pursuant to Education Code 44990, an administrative law judge in a suspension or dismissal hearing is required to preserve the integrity of the truth-finding function by balancing the right of a classified employee against the need to protect a minor witness.

When any matter involves an allegation of egregious misconduct as defined in Education Code 44932 and involves a witness who is a minor, the matter shall be referred to an administrative law judge to determine whether sufficient cause exists for disciplinary action against the employee. In such cases, the ruling of the administrative law judge shall be binding on the district and the employee. (Education Code 45113)

**Compulsory Leave of Absence**

**CSBA NOTE:** Pursuant to Education Code 44940, 44940.5 and 45304, the district is required to place an employee charged with a "mandatory leave of absence offense" on a compulsory leave of absence; see the accompanying administrative regulation.

Upon being informed that a classified employee has been charged with a mandatory leave of absence offense, the Superintendent or designee shall immediately place the employee on a compulsory leave of absence. (Education Code 44940, 44940.5, 45304)

**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>
CA Constitution Article 1, Section 1	Inalienable rights
Ed. Code 35161	Board delegation of any powers or duties
Ed. Code 44009	Conviction of specified crimes
Ed. Code 44010	Sex offense; definitions
Ed. Code 44011	Controlled substance offense
Ed. Code 44940	Compulsory leave of absence for certificated persons
Ed. Code 44940.5	Procedures when employees are placed on compulsory leave of absence
Ed. Code 45101	Definitions; disciplinary action and cause

Ed. Code 45109	Fixing of duties
Ed. Code 45113	Notification of charges; classified employees
<a href="#">Ed. Code 45116</a>	<a href="#">Notice of disciplinary action</a>
Ed. Code 45123	Employment after conviction of controlled substance offense
Ed. Code 45302	Demotion and removal from permanent classified service
Ed. Code 45303	Additional cause for suspension or dismissal of employee <del>charge</del> <a href="#">charged</a> with mandatory or optional leave of absence offense
Ed. Code 45304	Compulsory leave of absence for classified persons
<a href="#">Gov. Code 12954</a>	<a href="#">Employment discrimination; cannabis use</a>
Veh. Code 1808.8	School bus drivers; dismissal for safety-related cause
<b>Federal</b>	<b>Description</b>
42 USC 12101-12213	Americans with Disabilities Act
U.S. Constitution, <a href="#">First Amendment</a>	<del>Amendment 1</del> - Free exercise, free speech, and establishment clauses

**Management Resources**

Court Decision	Kennedy v. Bremerton (2022) 142 S.Ct. 2407
<a href="#">Court Decision</a>	<a href="#">Visalia Unified School District v. Public Employment Relations Board (2024) 98 Cal.App.5th 844</a>
Court Decision	California School Employees v. Livingston Union School District (2007) 149 Cal. App. 4th 391
Court Decision	CSEA v. Foothill Community College District (1975) 52 Cal. App. 3rd 150
Court Decision	Skelly v. California Personnel Board (1975) 15 Cal.3d 194
<a href="#">U.S. Department of Education Publication</a>	<a href="#">Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools, May 2023</a> ( <a href="https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html">https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html</a> )
Website	Office of the Attorney General
Website	Office of Administrative Hearings
Website	Department of General Services, About Teacher Dismissal Case Type
Website	CSBA District and County Office of Education Legal Services
<a href="#">Website</a>	<a href="#">U.S. Department of Education</a> ( <a href="https://www.ed.gov/">https://www.ed.gov/</a> )